

Employer Agreement – ROE Web

This Agreement is made on the _____ day of _____, 200__

BETWEEN:

The Canada Employment Insurance Commission (hereinafter referred to as the “Commission”)

and

_____, a corporation in the province of _____
(hereinafter referred to as the “Employer”)

Whereas the Employer has an obligation to submit Records of Employment to the Commission in accordance with the *Employment Insurance Act and Regulations*;

And Whereas the Commission has developed a secure Internet-based application, ROE Web Program, permitting the Employer to submit Records of Employment using the Government of Canada’s Government On Line Public Key Infrastructure (GOL PKI) technology,

The Parties agree as follows:

1. Purpose of the Agreement

1.1 This Agreement sets out the terms and conditions under which the Commission will make the Internet-based application, known as the “ROE Web Program”, available to the Employer and to persons authorized by the Employer for the purpose of submitting Records of Employment (hereinafter referred to as “ROE”) by using the Government of Canada’s Government On Line Public Key Infrastructure (GOL PKI) technology.

1.2 Since it is unlikely that the officer signing this Agreement on behalf of the Employer will be submitting the ROE, this Agreement will set out the terms and conditions under which:

(1) the Employer will identify and authenticate persons, acting on its behalf, who will be authorized by it to use Epasses to submit ROE on behalf of the Employer or to perform any other transactions as authorized by the Commission; and

(2) the Employer will be responsible for the use of the Epasses in respect to the ROE WEB Program or any other program with the Commission for which the employees or authorized individuals have been enrolled to use their Epasses.

2. Definitions

“Designated Officer” means an employee or individual authorized by the Employer to represent it and to act on its behalf for the purpose of applying for the issuance of Epasses and for identifying and authenticating any employee, who is issued an Epass and enrolled in the ROE

Web Program; and for greater certainty, a Designated Officer may be a ROE Web Issuer for purposes of this Agreement.

“Epass” means the unique electronic credentials, which can be used to authenticate the identity of the user when the user sends information or signs an on line document, and:

- (i) permits the user to access on line Government of Canada programs and services that require enhanced security measures,
- (ii) acts as a secure electronic signature, and
- (iii) ensures that messages or documents are not altered while transmitted on line.

“Primary Officer” is an officer, employee, or agent of the Employer, who has been authenticated in person by an official of the Commission, and is duly authorized to sign this Agreement on behalf of the Employer, and to designate a Designated Officer for purposes of the ROE Web Program; and for greater certainty, the Primary Officer may act as a Designated Officer for purposes of this Agreement.

“Program Enrolment” is the process by which an employee, agent or contractor of the Employer is authorized by the Commission to use their Epass to receive services or make transactions with the Commission for the ROE Web Program or for any other program as authorized by the Commission.

“Record of Employment” refers to the information relating to employment history as is required by section 19 of the *Employment Insurance Regulations*.

“ROE Web Issuer” means an employee, agent or contractor acting on behalf of the Employer who has been identified and authenticated by the Designated Officer and is authorized to use an Epass to submit Records of Employment to the Commission pursuant to the ROE Web Program.

“ROE Web Program” means the secure Internet-based application developed by the Commission for Employers to submit Records of Employment electronically in compliance with the *Employment Insurance Act* and *Regulations* in a secure and confidential fashion using an Epass.

3. Availability of ROE Web Program

3.1 The Commission will make available the ROE Web Program to the Employer for the purpose of submitting ROE seven days a week twenty-four hours a day, except during periods regularly scheduled for maintenance or repair. The Commission will make available Service Delivery Support (Helpdesk) Monday to Friday, 0800 to 2030 Atlantic Time.

3.2 The Commission makes no representations and warranties about the availability of ROE Web Program because of events outside its control, or that the Commission could not have reasonably prevented by means of controls, compromise, disaster recovery procedures, business continuity procedures, and that occurred without the fault of the Commission.

3.3 The Commission makes no representations or warranties and disclaims all liability in regard to the availability of the GOL PKI services or related technology or of any other intermediary Internet services, systems or the related technology of the intermediary.

4. Program Enrolment

Upon notification by the Employer to the Commission that the identity of an individual has been authenticated and the individual is thereby authorized by the Employer to act on its behalf for purposes of the ROE Web program, the Commission may enrol the individual into the ROE Web Program.

5. No charge to use ROE Web Program and Epasses

The Commission will provide the ROE Web Program and the Epasses for that purpose to the Employer free of charge.

6. Responsibilities of the Employer

6.1 The Employer is fully responsible for any use of an Epass that is in breach of this agreement or the E-pass user agreement by the Primary Officer, Designated Officer, the ROE Web Issuers or any other person acting on its behalf, whether said use is within or outside the course of their employment.

6.2 The Employer will, from time to time, name and confirm the identity of one or more individuals authorized to act on its behalf as Designated Officers, and give notice to the Commission.

6.3 By notifying the Commission as set out in section 6.2, the Employer certifies that the Designated Officer(s) is authorized to use the ROE Web Program and to authenticate an employee or any individual acting on behalf of the Employer, for purposes of Program Enrolment, and who will be known as "ROE Web Issuers."

6.4 The Employer certifies that information provided to the Designated Officer by ROE Web Issuers for purposes of ROE Web Program enrolment will be accurate and complete. The Employer will further certify to the Commission that, in seeking enrolment to the ROE Web Program for its Primary Officer, Designated Officer(s) or ROE Web Issuers, that it has no information or knowledge that the identity of the Primary Officer, any Designated Officer or ROE Web Issuer is inaccurate, incomplete or has changed or altered, and they are authorized to be enrolled accordingly.

6.5 The Employer will maintain, for audit purposes, records linking an assigned Epass throughout the period that the Epass is so assigned to the Primary Officer, the Designated Officer or ROE Web Issuer and is so enrolled in the ROE Web Program. Such records will be maintained for the same period of time that any other record is required to be maintained by the Employer as set out in the *Employment Insurance Act* and *Regulations*, and will be produced upon request of the Commission. The Employer will provide such records, including a list of the names of the Primary Officer, Designated Officer and ROE Web Issuers to the Commission upon request.

7. Protection of Username and Password

The Employer agrees to ensure that prior to Program Enrolment, the Primary Officer, the Designated Officer and ROE Web Issuers, as the case may be, have read and understood the “Terms and Conditions of Use” for the Epass and further understand and agree that their username(s) and password(s) are unique to them, issued subject to the “Terms and Conditions of Use”, and that they must maintain their confidentiality at all times and must not let any other person use them in order to preserve the security of their electronic communications.

8. Deemed Signature

When the Primary Officer, Designated Officer or the ROE Web Issuer uses their Epass to submit ROE or bulk transfer of ROE, and presses the “submit” button, the Primary Officer, Designated Officer or ROE Web Issuer is deemed to have signed and issued the ROE, or all ROE contained in that bulk transfer, as the case may be, and is deemed to do so on behalf of and authorized by the Employer.

9. Protection of Employer’s Computer Networks

The Employer warrants that it will operate the ROE Web Program on computer equipment that is regularly scanned for viruses and use of malicious programs, and agrees to accept responsibility for any and all use of its computer networks in regard to the ROE Web Program.

10. Notification of the Commission

The Employer agrees to notify the Commission in the manner set out in section 20 if it has reason to believe that there has been a breach in the terms and conditions of this Agreement, or any act or omission of the Primary Officer, Designated Officer or ROE Web Issuer that would be in breach of this Agreement.

11. Suspension or Revocation of Program Enrolment to ROE Web Program

11.1 The Employer will suspend or revoke the enrolment of the Epass to the ROE Web Program, and will so notify the Commission:

- a) if the Employer’s relationship with a Primary Officer, Designated Officer or with a ROE Web Issuer has changed,
- b) if there is any change in the Primary Officer’s, Designated Officer’s or the ROE Web Issuer’s identification or authentication information or authorization to act on behalf of the Employer,
- c) if the username or password of the Primary Officer, Designated Officer or ROE Web Issuer is compromised or insecure, or suspected of being compromised or insecure; or
- d) if the Employer, the Primary Officer, Designated Officer or ROE Web Issuer fails to meet the obligations under this Agreement, or under any law or regulation.

11.2 For greater certainty, the revocation or suspension of the enrolment of an Epass to the ROE Web Program does not affect the enrolment of other Epasses enrolled in the ROE Web Program, and does not terminate this Agreement. If the Employer revokes or suspends the enrolment of the Primary Officer from the ROE Web Program, the Employer will replace the Primary Officer and will notify the Commission of the new Primary Officer, and will certify the name and the authority of the replacement Primary Officer to act on behalf of the Employer.

11.3 The Employer hereby confirms the authority of the Primary Officer, the Designated Officer and the ROE Web Issuers and will inform them that they will revoke the enrolment of their Epass to the ROE Web Program where they have reason to believe that their username or password has been compromised or insecure, and will so advise their Employer of the revocation.

11.4 The Commission may of its own initiative without prior notice, or will on request of the Employer, Primary Officer, Designated Officer or ROE Web Issuer, suspend or revoke the enrolment of an Epass to the ROE Web Program if any of the circumstances set out in section 11.1 occur.

12. Disclaimer

12.1 The Employer will not hold Canada liable for, and will indemnify and save Canada harmless from, any damages, direct or indirect, or consequential, for any conduct of the Employer, the Primary Officer, Designated Officer, ROE Web Issuer or anyone acting on behalf of the Employer giving rise to liability in tort (including negligence), contract or any other theory of liability, arising from:

- a. any breach by the Employer of this Agreement, or other conduct of the Employer;
- b. any breach by the Employer, whether deliberate or negligent, of the obligations set out in section 7 "Protection of Username and Password";
- c. The Primary Officer's, Designated Officer's or the ROE Web Issuer's unauthorized or unreasonable use or reliance on ROE Web Program, or unauthorized or unreasonable use or reliance on Epasses enrolled for the ROE Web Program;
- d. The Employer's, Primary Officer's, Designated Officer's or the ROE Web Issuer's failure to request revocation in accordance with section 11 "Suspension or Revocation of Program Enrolment to ROE Web Program";
- e. a determination, judgment or award finding the Commission to be liable with the Employer or a relying party as a partner of, joint venturer with, principal or agent of, or trustee or fiduciary for him, in respect of the ROE Web Program, under section 17 "No Partnership";

- f. any breach by the Employer of the "Employer Responsibilities" (section 6); or,
- g. inaccurate or incomplete information or documents submitted by the Employer, or contained in the certificate(s), of which the Employer has knowledge.

12.2 The Employer will not hold the Commission liable for any damages, direct or indirect, or consequential, arising from any lack of availability, or delay in providing the ROE Web Program.

13. Liability

13.1 The ROE Web Program is offered as a service for communications and transactions between the Commission and the Employer. The Commission therefore states that it has no relationship and owes no duty whatsoever to anyone who is not the Employer under this Agreement. The Commission will not be liable and expressly disclaims all liability whatsoever to anyone or to any entity who is not the Employer under this Agreement, for any claims, actions, loss, damages, awards, including, without limitation, loss of revenue or profit or savings, lost or damaged data, or other commercial or economic loss, or any indirect or incidental, special or consequential damages, whatsoever, even if the Commission has been advised of the possibility of such damages, or for claims by a third party, nor shall the Commission's contractors, suppliers, agents, employees or representatives have such liability. This section shall apply whether or not the liability results from tort (including negligence), contract (including breach of fundamental terms or conditions, a fundamental breach of this Agreement), criminal or otherwise from any other theory of responsibility or liability.

13.2 The Commission makes no warranties or representations, express or implied, with respect to the ROE Web Program, Epasses or the GOL Public Key Infrastructure, nor to the operations which will be conducted using or relying on the ROE Web Program, Epasses or the GOL Public Key Infrastructure. The ROE Web Program provided by the Commission is provided without warranties, representations, and conditions, express or implied, including, without limitation, warranties or conditions of accuracy, completeness, currency, merchantable quality, fitness for a particular purpose, or those arising by law or by statute, or by usage of trade or course of dealing.

13.3 Notwithstanding anything in this Agreement the Commission's maximum aggregate liability to an Employer under this Agreement for the ROE Web Program, or any third party, who reasonably uses or relies on the ROE Web Program, for any claim whatsoever related to any service associated with the ROE Web program, shall not exceed \$50,000.00 per award, judgement or negotiated settlement, even if the Commission has been advised of the possibility of such damages, or for claims by a third party, nor shall the Commission's contractors, suppliers, agents, employees or representatives have such liability. This section shall apply whether or not the liability results from tort (including negligence), contract (including breach of fundamental terms or conditions, a fundamental breach of this Agreement), criminal or otherwise from any other theory of responsibility or liability.

14. Dispute Resolution

The Parties hereby undertake to use their best efforts to resolve in an amicable and expeditious manner any dispute or difference that may arise between them under this Agreement, first by negotiation and, failing resolution, then through an independent mediator. Any dispute or difference which has not been resolved by either of these means shall be referred to binding arbitration under the *Commercial Arbitration Act*.

15. Criminal Offence

The Employer acknowledges and will ensure that the Primary Officer, Designated Officer and ROE Web Issuers understand that penalties may be imposed under Section 39 of the *EI Act*, and that it is an offence under Section 135 of the *EI Act* to knowingly make false or misleading entries on a Record of Employment. It is also a criminal offence under the *Criminal Code* to make false or misleading entries on a Record of Employment, to use an EPass to gain unauthorized access to any computer networks and systems, or to cause any mischief to any computer networks and systems or to any data contained in the networks or systems.

16. Privacy and Confidentiality

16.1 The Employer consents to and accepts that the Commission may collect and use identifying information, being the name of the Employer and its province of operation, and if required, its Business Number, issued by the Canada Revenue Agency, for the purposes of communicating securely with the Commission and identifying any ROE submitted by the Employer using the ROE Web Internet application.

16.2 The Employer will inform the Primary Officer, Designated Officer(s) or ROE Web Issuers that identifying information of the Primary Officer, Designated Officer(s) or ROE Web Issuers collected and used by the Employer for purposes of Program Enrolment to the ROE Web Program or for purposes of suspension or revocation of Program Enrolment, may be provided to the Commission upon request, and the Employer warrants that the Primary Officer, Designated Officer(s) or ROE Web Issuers have consented to any such disclosure of identifying information prior to Program Enrolment. The Employer further warrants that any contractor acting on its behalf as a Primary Officer, Designated Officer or ROE Web Issuer has consented to the disclosure of identifying information to the Commission.

16.3 It is understood that the Employer has the right to access and request correction of any identifying information from the records maintained by the Commission, and that the Primary Officer, Designated Officer(s) and ROE Web Issuers have a right to access to their identifying information in accordance with the *Privacy Act*.

16.4 It is understood that the Employer, Primary Officer, Designated Officer(s) and ROE Web Issuers may, at any time, by signed written notice, either electronically and digitally signed, in writing, or by facsimile, withdraw their consent as set out in sections 16.1 and 16.2, and if they do so, the Commission may not be able to provide them, or continue to provide them, with enrolment with the ROE Web Program, in which case ROE may be submitted by other means by those individuals. Until receipt of such notification, the Commission is entitled to rely on section 16.2.

17. No Partnership

The Commission and the Employer expressly disclaim any intention to create a partnership, employer/employee relationship, joint venture, joint enterprise or fiduciary relationship. It is understood, acknowledged and agreed that nothing contained in this Agreement nor any acts of the Commission or the Employer or any relying party shall constitute or be deemed to constitute the Commission and the Employer (or any relying party) as partners, employer and employee, joint venturers, principal and agent, trustee and beneficiary, or as in a fiduciary relationship of any kind, in any way or for any purpose.

18. Assignment

The Employer may not assign this Agreement, in whole or in part. The Commission may assign any part or all of this Agreement, and may contract out any or all of its services.

19. Term of Agreement

19.1 Either party may terminate this Agreement for any reason upon thirty days' notice.

19.2 The Commission may terminate this Agreement without notice in the event that the Employer fails to comply with its obligations under this Agreement.

19.3 In the event of termination of this Agreement, any Epasses issued to the Primary Officer, Designated Officer and ROE Web Issuers shall no longer be enrolled with the Commission for the ROE Web Program or any other Commission program without notice.

20. Notice

20.1 Where this Agreement calls for notice by either party, unless specified otherwise, such notice may be delivered by hand, by mail, by courier, by facsimile, or by digitally signed electronic mail. A notice shall be deemed to have been received on the fifth business day after mailing if sent by regular mail, on the date of delivery if sent by courier and on the first business day after the date of transmission if sent by facsimile or electronic mail.

20.2 Notice shall be given to the Commission at:

to the attention of:
Director, Employer Services
Operations Branch
Service Canada
10th. Floor, Place du Portage
Gatineau, QC K1A0J9
Telephone: 819 994-6309
jay.khosla@servicecanada.gc.ca

20.3 Notice shall be given to the Employer at:

to the attention of:

insert name, postal and e-mail addresses, and telephone number of Employer contact

21. Severability

If any provision of this Agreement is declared by an arbitrator or a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be severed from the Agreement and all other provisions of the Agreement shall remain in full force and effect.

22. Successors and Assigns

Subject to section 16, this Agreement shall enure to the benefit of, and be binding upon, the successors and any permitted assigns of the Commission and of the Employer, except that Epasses (subject to the Epass “Terms of Use”) are personal to the Primary Officer, Designated Officer and ROE Web Issuers and are not transferable.

23. Survival

Notwithstanding the termination of this Agreement, provisions concerning indemnity, liability, and dispute resolution shall survive.

24. Entire Agreement

This Agreement, as amended from time to time, constitutes the entire and sole agreement between the parties with respect to ROE Web Program and supersedes all previous negotiations, communications and other agreements, whether written or oral, relating to it, unless they are incorporated by reference in the Agreement. There are no terms, covenants, representations, statements or conditions binding on the parties other than those contained in this Agreement.

25. Governing Laws

This Agreement shall be governed and construed in accordance with the laws of Canada and any applicable laws of the Province of _____ exclusive of their conflicts-of-laws principles.

Date

Signature of the Employer

Date

Canada Employment Insurance Commission