

EXPLANATORY NOTES

ELECTRONIC TRANSACTIONS BILL

1. The Bill for consideration is the Electronic Transactions Bill.
2. The purpose of the Bill is to promote the development of e-commerce by reducing uncertainty about the legal effect of electronic information and electronic communications by allowing certain paper based legal requirements to be satisfied by electronic means.
3. Part 2 of the Bill (*clauses 5 to 11*) contains provisions intended to give the legal effect of information that is in electronic form, or that is communicated by electronic means, and to provide some default rules in relation to the time and place of dispatch and receipt of electronic communications.
4. *Clause 5* ensures that, if there is no other impediment to giving legal effect to a communication or other information, the fact that it was in electronic form, communicated by electronic means or referred to in electronic communication that is intended to give rise to that legal effect will not of itself prevent it being given legal effect.
5. *Clause 6* makes it clear that *clauses 7 to 10* of the Bill set out default rules that do not apply if the parties to a communication agree otherwise, or if an enactment provides otherwise.
6. *Clause 7* provides that an electronic communication is treated as being dispatched at the time it first enters an information system outside the control of the originator. That is, as soon as the originator ceases to have control of the communication (and so ceases to be able to prevent it being transmitted), it is dispatched.
7. *Clause 8* provides a default rule in relation to the time of receipt of an electronic communication. An electronic communication is taken to be received at the time the electronic communication enters an information system designated by the addressee for that purpose or, if no particular information system has been so designated, at the time the electronic communication comes to the attention of the addressee.
8. *Clause 9* sets out default rules in relation to the place from which an electronic communication is taken to be dispatched. Where an originator does not have a place of business, the communication is treated as dispatched from the originator's ordinary place of residence. Where the originator has a place of business, the electronic communication is treated as dispatched from that place of business or, if there is more than one, the place of business that has the closest relationship with the underlying transaction.

If there is no one place of business that has a closest relationship with the underlying transaction, the communication is treated as dispatched from the originator's principal place of business.

9. *Clause 10* provides a corresponding rule in relation to the place of receipt of electronic communications. An addressee who does not have a place of business is treated as receiving electronic communications at that addressee's ordinary place of residence. Where the addressee has a place of business, the communication is treated as being received at that place of business. Where the addressee has more than one place of business, the place of receipt is treated as being the place of business that has the closest connection with the underlying transaction or, if there is no one such place of business, the addressee's principal place of business.
10. In Part 3 of the Bill *clauses 12 to 37* contain provisions that enable a range of legal requirements in enactments to be satisfied using information technology that is functionally equivalent to the paper-based technology contemplated by those laws.
11. *Clauses 12 to 15* contain a number of preliminary provision. *Clause 12* sets out exclusions from Part 3. These exclusions are enactments that require use of particular information technology, or a particular kind of data storage device, or a particular kind of electronic communication and the enactments or parts of enactments to be specified in the Schedule to the Bill.
12. *Clause 13* sets out the basic requirements that must be satisfied in order to use information technology to meet legal requirements.
13. *Clause 14(1)* is intended to make it clear that nothing in Part 3 of the Bill requires any person to use, provide, or accept information in an electronic form without that person's consent. *Clause 14(2)(a)* makes it clear that where the Bill requires a person to consent to the use or provision of information in electronic form, that consent may be conditional on use of particular technology, or format, or other similar requirements. This is implicit in the consent requirement, but is set out in paragraph (a) to avoid any doubt on the matter. *Clause 14(2)(b)* of the Bill makes it clear that consent to receipt of electronic information may be inferred, and need not be expressed in every case.
14. *Clauses 16 to 32* indicate the way in which certain legal requirements (e.g. for writing, or a signature) can be satisfied by electronic means.
15. *Clauses 16 to 18* are concerned with legal requirements in relation to written information. They address requirements for information to be in writing (*clause 16*), to be recorded in writing (*clause 17*), and to be given in writing (*clause 18*).

35. *Clause 36* makes it clear that nothing in Part 3 of the Bill affects any legal requirement that relates to the substance of information. The Bill permits the same information to be provided in electronic form. It does not permit any information that must be retained or provided etc. to be omitted or altered, where information technology is used.
22. The records that a business is required to retain or produce under the law in force may, in some cases, be the subject of copyright held by some other person. *Clause 37* provides that copyright in any work is not infringed where an electronic form of a document is generated, or information is produced by means of an electronic communication, if this is done for the purposes of meeting a legal requirement by electronic means. Very importantly, the scope of the protection conferred is limited to that necessary to enable information technology to be used to meet some legal requirement.
23. Part 4 of the Bill (*clauses 38-43*) provides for the formation of contracts using information technology.
24. *Clause 43* in Part 5 of the Bill provides for liability of intermediaries or internet service providers who provide a conduit for electronic communications.
25. The Regulation making power of the Minister is contained in Part 6 of the Bill (*clause 44*). Pursuant to that clause the Minister has the power to make regulations for giving effect to the provisions of the Bill.

SAINT LUCIA

No. of 2007

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY

1. Short title and commencement
2. Interpretation
3. [Exclusions /Non-Application]
4. [State/Crown] to be bound

PART 2

TRANSMISSION OF ELECTRONIC COMMUNICATIONS

5. Validity of information
6. Application of sections 7-10
7. Time of dispatch
8. Time of receipt
9. Place of dispatch
10. Place of receipt
11. Attribution of electronic communication

PART 3

APPLICATION OF LEGAL REQUIREMENTS TO ELECTRONIC TRANSACTIONS

12. Application of Part 3
13. Satisfaction of legal requirements through use of information technology
14. Consent
15. When integrity of information maintained
16. Requirement that information be in writing
17. Requirement to record information in writing
18. Requirement to give information in writing
19. Prescribed forms
20. Electronic signature
21. Requirement for signature
22. Requirement that signature or seal be witnessed
23. Presumption about reliability of electronic signatures
24. Requirement to retain document or information in paper form
25. Requirement to keep information in writing

26. Requirement to retain information in electronic form
27. Additional conditions for electronic communications
28. Requirement to provide or produce information in paper form
29. Requirement to provide or produce information in electronic form
30. Requirement to provide access to information in paper form
31. Requirement where integrity of information cannot be assessed
32. Requirement to produce an original document
33. Comparison with originals
34. Recognition of foreign electronic documents and signatures
35. Use of electronic information by public bodies
36. Content requirements
37. Copyright

PART 4

ELECTRONIC CONTRACTS

38. Contracts
39. Formation of electronic contracts
40. Information requirements relating to electronic contracts
41. Automated contracts
42. Mistakes in partly automated transactions
43. Declaration of will

PART 5

INTERMEDIARIES AND INTERNET SERVICE PROVIDERS

44. Liability of intermediaries and internet service providers

PART 6

MISCELLANEOUS

45. Regulations

No.] *Electronic Transactions Act* [2007.

I ASSENT

Governor-General.

SAINT LUCIA

No. of 2007

AN ACT to give legal effect to and otherwise provide for the regulation of electronic communication and for related matters.

[]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

PART 1
PRELIMINARY

Short title and commencement

1.— (1) This Act may be cited as the Electronic Transactions Act 200[].

(2) This Act shall come into force on a day to be fixed by the Minister by Order published in the *Gazette*.

Interpretation

2. In this Act —

["consumer" in relation to —

- (a) goods, means any person who acquires or wishes to acquire goods for his own private use or consumption;
- (b) services, means any person who employs or wishes to be provided with the services otherwise than for the purposes of any business of that person;
- (c) any accommodation, means any person who wishes to occupy the accommodation otherwise than for the purposes of any business of that person;]

"electronic" includes electrical, digital, magnetic, optical, electromagnetic, biosatisfiedric and photonic;

"electronic communication" means information generated, communicated, processed, sent, received, recorded, stored, or displayed by electronic means;

"electronic signature" means information that —

- (a) is contained in, attached to or logically associated with, an electronic document; and
- (b) is used by a signatory to indicate his adoption of the content of that document,

but does not include any signature produced by a facsimile machine or by an electronic scanning device;

"encrypted signature" means an electronic signature that is encrypted by means of a private key or other encrypted signature creation device;

“encrypted signature creation device” means unique data, including codes or private cryptographic keys, or a uniquely configured physical device, used by a signatory in creating an encrypted signature;]

“information” includes information, whether in its original form or otherwise, that is in the form of a document, a signature, a seal, data, text, images, sound or speech;

“information system” means a system for generating, producing, sending, receiving, recording, processing, storing, displaying, or otherwise processing electronic communications;

“information technology” means the capability to input, process, store, output, transmit, and receive data and information as well as the ability to control machines of all kinds, electronically;

“legal requirement” means a requirement specified in a law in force in Saint Lucia;

“Minister” means the Minister responsible for Information;

[“Regulations” means Regulations made pursuant to section 52];

“signatory” means a person who by means of an encrypted signature creation device has (whether acting himself or through another person, or an automated communications device, acting on his behalf) affixed his encrypted signature to an electronic document;

“transaction” includes —

- (a) a transaction of a non-commercial nature;
- (b) a single communication; and
- (c) the outcome of multiple related communications.

Non-Application

3. This Act does not apply to —

- (a) the creation or transfer of interests in immovable] property;
- (b) negotiable instruments;
- (c) documents of title;
- (d) wills;

- (e) trusts created by will; and
- (f) any class of documents or transactions excluded by the Regulations.

State/Crown] to be bound

- 4. This Act binds the State.

PART 2**TRANSMISSION OF ELECTRONIC COMMUNICATIONS****Validity of information**

5. Information shall not be denied legal effect solely because it is —

- (a) in electronic form;
- (b) [communicated by electronic means;] or
- (c) referred to in an electronic communication that is intended to give rise to that legal effect.

Application of sections 7-10

6. Sections 7 to 10 apply to an electronic communication except to the extent that the parties to the electronic communication otherwise agree or an enactment provides otherwise.

[Time of dispatch

7.— (1) Where an electronic communication enters one information system outside the control of the originator, the electronic communication is taken to be dispatched at the time the electronic communication first enters that information system.

[(2) Where an electronic communication enters two or more information systems outside the control of the originator, the electronic communication is taken to be dispatched at the time the electronic communication enters the first of these information systems.]

or

Time of dispatch

An electronic communication is taken to be dispatched at the time the electronic communication first enters an information system that is outside the control of the originator.]

Time of receipt

- 8.** An electronic communications is taken to be received —
- (a) in the case of an addressee who has designated an information system for the purpose of receiving electronic communications, at the time the electronic communication enters that information system; or
 - (b) in any other case, at the time the electronic communication comes to the attention of the addressee.

Place of dispatch

- 9.** An electronic communication is taken to be dispatched from—
- (a) the originator's place of business; or
 - (b) if the originator has more than one place of business;
 - (i) the place of business that has the closest relationship with the underlying transaction; or
 - (ii) if there is no place of business to which subparagraph (i) applies, the originator's principal place of business; or
 - (c) in the case of an originator who does not have a place of business, the originator's ordinary place of residence.

Place of receipt

- 10.** An electronic communication is taken to be received at—
- (a) the addressee's place of business; or
 - (b) if the addressee has more than one place of business,-
 - (i) the place of business that has the closest relationship with the underlying transaction; or
 - (ii) if there is no place of business to which subparagraph (i) applies, the addressee's principal place of business; or
 - (c) in the case of an addressee who does not have a place of business, the addressee's ordinary place of residence.

Attribution of electronic communication

11.— (1) Unless otherwise agreed between the originator and the addressee of an electronic communication, the originator of an

electronic communication is bound by that communication only if the communication was sent by him or under his authority.

(2) Subsection (1) shall not affect the operation of any law in force in Saint Lucia that makes provision for—

- (a) the conduct engaged by a person within the scope of the person's actual or apparent authority to be attributed to another person; or
- (b) a person to be bound by conduct engaged in by another person within the scope of the other person's actual or apparent authority.

(3) An electronic communication between an originator and an addressee shall be deemed to be of the originator if it was sent by an information system programmed to operate automatically by or on behalf of the originator.

(4) An addressee shall consider each electronic communication received by him as a separate electronic communication and to act on that assumption, except to the extent that such communication is a duplicate of another electronic communication and the addressee knew or should have known, had he exercised reasonable care or used any agreed procedure, that the electronic communication was a duplicate.

PART 3

APPLICATION OF LEGAL REQUIREMENTS TO ELECTRONIC TRANSACTIONS

Application of Part 3

12. This Part does not apply to a law in force in Saint Lucia that—

- (a) expressly authorizes, prohibits or regulates the use of information in electronic form including a method of electronic signature;
- (b) requires information to be recorded, given, produced, or retained, or a signature to be given, or a signature or seal to be witnessed-
 - (i) in accordance with particular information technology requirements;
 - (ii) on a particular kind of data storage device; or

- (iii) by means of a particular kind of electronic communications.

Satisfaction of legal requirements through use of information technology

13. A legal requirement can be satisfied using information technology where sections 16 to 32 and the conditions in the Regulations are satisfied.

Consent

14.— (1) This Part does not require a person to use, provide, or accept information in an electronic form without that person's consent.

(2) For the purposes of this Part and subject to subsection (3),—

- (a) a person may consent to use, provide, or accept information in an electronic form subject to conditions regarding the form of the information or the means by which the information is produced, sent, received, processed, stored, or displayed;
- (b) consent may be inferred from a person's conduct.

(3) The consent of a public body to accept information in electronic form may not be inferred from its conduct but must be expressed by communication accessible to the public or to those most likely to communicate with it for particular purposes.

(4) This Part does not authorise a public body to require any person to give, provide or accept information in electronic form without consent.

When integrity of information maintained

15. For the purposes of this Part, the integrity of information is maintained only if the information has remained complete and unaltered, other than the addition of any endorsement, or any [immaterial change], that arises in the normal course of communication, storage, or display.

Requirement that information be in writing

16. A legal requirement that information be in writing is satisfied by information that is in electronic form if the information is accessible so as to be usable for subsequent reference.

Requirement to record information in writing

17. A legal requirement that information be recorded in writing is satisfied by recording the information in electronic form if the information is accessible so as to be useable for subsequent reference.

Requirement to give information in writing

18.— (1) A legal requirement to give information in writing is satisfied by giving the information in electronic form, whether by means of an electronic communication or otherwise, if —

- (a) the information is accessible so as to be usable for subsequent reference; and
- (b) [the person to whom the information is required to be given consents to the information being given in electronic form and by means of an electronic communication, if applicable;] and
- (c) the information is capable of being retained by the person to whom it is given.

(2) Where subsection (1) applies, a legal requirement to provide multiple copies of the information to the same person at the same time is satisfied by providing a single electronic version of the information.

(3) In subsection (1) giving information includes but is not limited to the following:

- (a) making an application;
- (b) filing, making or lodging a claim;
- (c) giving, sending, or serving a notification;
- (d) filing or lodging a return;
- (e) making a request;
- (f) making a declaration;
- (g) filing, lodging or issuing a certificate;
- (h) making, varying, or canceling an election;
- (i) filing or lodging an objection; and
- (j) giving a statement of reasons.

Prescribed forms

19. A legal requirement that a person provides information in a prescribed non-electronic form to another person is satisfied by the provision of the information in an electronic form that is —

- (a) organized in the same or substantially the same way as the prescribed non-electronic form;
- (b) accessible to the other person so as to be usable for subsequent reference; and
- (c) capable of being retained by the other person.

Electronic signature

20. Unless otherwise provided by a law in force in Saint Lucia, parties to a transaction may agree to the use of a particular method or form of electronic signature.

Requirement for signature

21.— (1) Subject to subsection (2), a legal requirement for a signature other than the signature of a witness is satisfied by means of an electronic signature if the electronic signature —

- (a) adequately identifies the signatory and adequately indicates the signatory's approval of the information to which the signature relates; and
- (b) is as reliable as is appropriate given the purpose for which, and the circumstances in which, the signature is required.

(2) A legal requirement for a signature is not satisfied by means of an electronic signature unless, in the case of a signature on information that is required to be given to a person, that person consents to receiving the electronic signature.

Requirement that signature or seal be witnessed

22.— (1) Subject to subsection (2), a legal requirement for a signature or a seal to be witnessed is satisfied by means of an electronic signature of a witness where —

- (a) in the case of the witnessing of a signature, the signature is an electronic signature that complies with section 18;

- (b) in the case of the witnessing of a signature or a seal, the electronic signature of the witness adequately—
 - (i) identifies the witness; and
 - (ii) indicates that the signature or seal has been witnessed; and
- (c) is as reliable as is appropriate given the purpose for which, and the circumstances in which, the signature of the witness is required.

(2) A legal requirement for a signature or seal to be witnessed is not satisfied by means of an electronic signature of a witness unless, the person receiving the electronic signature consents.

Presumption about reliability of electronic signatures

23.— (1) For the purposes of sections 21 and 22, it is presumed that an electronic signature is as reliable as is appropriate where —

- (a) the means of creating the electronic signature is linked to the signatory and to no other person;
- (b) the means of creating the electronic signature was under the control of the signatory and of no other person;
- (c) if any alteration to the electronic signature made after the time of signing is detectable; and
- (d) where the purpose of the legal requirement for a signature is to provide assurance as to the integrity of the information to which it relates, any alteration made to that information after the time of signing is detectable.

(2) Subsection (1) does not prevent any person from proving on other grounds or by other means that an electronic signature —

- (a) is as reliable as is appropriate; or
- (b) is not as reliable as is appropriate.

Requirement to retain document or information in paper form

24.— (1) A legal requirement to retain information that is in paper or other non electronic form is satisfied by retaining an electronic form of the information if —

- (a) the electronic form provides a reliable means of assuring the maintenance of the integrity of the information; and
- (b) the information is readily accessible so as to be usable for subsequent reference.

(2) Where information is retained in electronic form in accordance with sub-section (1), the paper or other non-electronic form of that information need not be retained.

Requirement to retain information in writing

25. A legal requirement that a person retains information that is in writing, is satisfied by retaining the information in electronic form, and —

- (a) having regard to all the relevant circumstances when the electronic form of the information was generated, the Clause 28 provides for a requirement that information required to be provided or produced in paper form or other non-electronic form to be satisfied by providing or producing the information electronically of generating the electronic form of the document provided a reliable means of assuring the maintenance of the integrity of the information; and
- (b) when the electronic form of the information is generated, the information contained in the electronic form is accessible so as to be usable for subsequent reference to any person entitled to have access to the information or to require its production.

Requirement to retain information in electronic form

26. Subject to section 27, a legal requirement to retain information that is in electronic form is satisfied by retaining the information —

- (a) in paper or other non-electronic form if the form provides a reliable means of assuring the maintenance of the integrity of the information; or
- (b) in electronic form if —
 - (i) the electronic form provides a reliable means of assuring the maintenance of the integrity of the information; and
 - (ii) the information is readily accessible so as to be usable for subsequent reference.

Additional conditions for electronic communications

27. In addition to the conditions specified in section 26, where a person is required to retain information that is contained in an electronic communication,—

- (a) the person must also retain such information obtained by that person as enables the identification of-
 - (i) the origin of the electronic communication;
 - (ii) the destination of the electronic communication; and
 - (iii) the time when the electronic communication was sent and the time when it was received; and
- (b) the information referred to in paragraph (a) must be accessible so as to be usable for subsequent reference.

Requirement to provide or produce information in paper form or non-electronic form

28. A legal requirement to provide or produce information that is in paper or other non-electronic form is satisfied by providing or producing the information in electronic form, whether by means of an electronic communication or otherwise, where —

- (a) the form and means of the provision or production of the information reliably assures the maintenance of the integrity of the information, given the purpose for which, and the circumstances in which, the information is required to be provided or produced;
- (b) the information is accessible so as to be usable for subsequent reference; and
- (c) the person to whom the information is required to be provided or produced consents to the information being provided or produced in an electronic form and, if applicable, by means of an electronic communication.

Requirement to provide or produce information in electronic form

29.— (1) Subject to subsection (2), a legal requirement to provide or produce information that is in electronic form is satisfied by providing or producing the information on paper or other non-electronic form.

(2) Where the maintenance of the integrity of the information cannot be assured, the person who is required to provide or produce the information shall —

- (a) notify every person to whom the information is required to be provided or produced of that fact; and
- (b) if requested to do so, provide or produce the information in electronic form in accordance with subsection (3).

(3) A legal requirement to provide or produce information that is in electronic form is satisfied by providing or producing the information in electronic form, whether by means of an electronic communication or otherwise, where —

- (a) the form and means of the provision or production of the information reliably assures the maintenance of the integrity of the information, given the purpose for which, and the circumstances in which, the information is required to be provided or produced;
- (b) the information is readily accessible so as to be usable for subsequent reference; and
- (c) the person to whom the information is required to be provided or produced consents to the provision or production of the information in an electronic form and, if applicable, by means of an electronic communication.

Requirement to provide access to information in paper form

30. A legal requirement to provide access to information that is in paper or other non-electronic form is satisfied by providing access to the information in electronic form where —

- (a) the form and means of access to the information reliably assures the maintenance of the integrity of the information, given the purpose for which, and the circumstances in which, access to the information is required to be provided; and
- (b) the person to whom access is required to be provided consents to accessing the information in that electronic form.

Requirement where integrity of information cannot be assessed

31.— (1) A legal requirement to provide access to information that is in electronic form is satisfied by providing access to the information in paper or other non-electronic form.

(2) Where the maintenance of the integrity of the information cannot be assured, the person who is to provide access to the information shall —

- (a) notify every person to whom access is required to be provided of that fact; and
- (b) if requested to do so, provide access to the information in electronic form in accordance with subsection(3).

(3) A legal requirement to provide access to information that is in electronic form is satisfied by providing access to the information in electronic form, whether by means of an electronic communication or otherwise, where —

- (a) the form and means of access to the information reliably assures the maintenance of the integrity of the information, given the purpose for which, and the circumstances in which, access to the information is required to be provided; and
- (b) the person to whom access is required to be provided consents to accessing the information in that electronic form.

Requirement to produce an original document

32. A legal requirement that a person produces, examines or retains an original document is satisfied if the person produced, examined or retained the document in electronic form, where —

- (a) having regard to all the relevant circumstances, the method of generating the electronic form of the document provides a reliable means of assuring the maintenance of the integrity of the information contained in the document; and
- (b) in a case where an original document is to be given to a person, the document given to the person in electronic form is accessible so as to be usable for subsequent reference and capable of being retained by the person.

Comparison with originals

33. A legal requirement to compare a document with an original document may be satisfied by comparing that document with an electronic form of the original document if the electronic form reliably assures the maintenance of the integrity of the document.

Recognition of electronic documents and signatures

34.— (1) In determining whether or to what extent information in electronic form is legally effective, regard shall not be given to the location where the information was created or used, or to the place of business of its creator.

(2) An electronic signature created or used outside Saint Lucia shall have the same legal effect in Saint Lucia as an electronic signature created or used in Saint Lucia if it offers a substantially equivalent level of reliability.

(3) In determining whether a certificate or an electronic signature offers a substantially equivalent level of reliability for the purposes of subsection (2) or (3), regard shall be given to recognized international standards and to any other relevant factors.

Use of electronic information by public bodies

35.— (1) Where a public body has power to create, collect, receive, store, transfer, distribute, publish, issue or otherwise deal with information and documents, it has the power to do so using information technology.

(2) Subsection (1) is subject to any law in force in Saint Lucia that expressly prohibits the use of information technology or expressly requires information technology to be used in a specified manner.

(3) For the purposes of subsection (2), a reference to writing or signature does not in itself constitute an express prohibition of the use of electronic means.

(4) Where a public body consents to receive any information in electronic form, it may specify —

- (a) the manner and format in which the information shall be communicated to it;
- (b) the type or method of electronic signature required, if any;
- (c) control processes and procedures to ensure integrity, security and confidentiality of the information;
- (d) any other attributes for the information that are currently specified for corresponding information on paper.

(5) The requirements of subsections 18 (1) and section 19 also apply to information described in subsection (4).

(6) [A public body may make or receive payment in electronic form by any manner specified by the public body [and approved by the Minister responsible for Finance.]

Substance requirements

36. This Part does not affect any legal requirement to the extent that the requirement relates to the substance of information.

Copyright

37. The copyright in a work is not infringed by any of the following acts if they are carried out for the purposes of meeting a legal requirement by electronic means —

- (a) the generation of an electronic form of a document;
- (b) the production of information by means of an electronic communication.

PART 4 CONTRACTS

[Contracts

38.— (1) A contract shall not be denied legal effect, validity or enforceability solely on the grounds that it is wholly or partly in electronic form or has been entered into wholly or partly by means of electronic communication or otherwise.

(2) For the purposes of any law in force in Saint Lucia relating to contracts, an offer, an acceptance of an offer and any related communication, including any subsequent amendment, cancellation or revocation of the offer, the acceptance of the contract made, unless otherwise agreed to by the contracting parties, may be communicated by means of electronic communications.]

Formation of [electronic] contracts

[39.— (1) Subject to subsection (2) and unless otherwise agreed by parties who are not consumers, where the addressee of an electronic communication is required to give his consent through technological means, in accepting the originator's offer, an electronic contract is

concluded when the addressee has received from the originator, electronically, an acknowledgement of receipt of the addressee's consent.

(2) When an order is placed by electronic communication, the originator has to acknowledge the receipt of the addressee's order without undue delay and by electronic means.]

(3) For the purposes of subsection (1), an acknowledgement of receipt is deemed to be received when the addressee is able to access it.

(4) Unless otherwise agreed by parties who are not consumers, the originator shall provide the addressee with effective and accessible means to identify and correct handling errors and accidental transactions prior to the conclusion of the contract.

(5) Subsections (1) and (3) shall not apply to contracts concluded exclusively by electronic mail or by any other similar technological means].

Information requirements relating to [electronic] contracts

40.— (1) Subject to subsection (2) and unless otherwise agreed by parties who are not consumers, and without prejudice to any consumer rights [under the provisions of any other law in force in Saint Lucia, the originator shall provide information in clear, comprehensive and unambiguous terms regarding the matters set out in the Regulations.

(2) Information pursuant to subsection (1) shall be provided to the addressee, prior to the placement of the order by the addressee.

(3) Unless parties who are not consumers have agreed otherwise, an originator shall indicate which relevant codes of conduct the originator subscribes to and provide information as to how those codes can be accessed electronically.

(4) Where the originator provides terms and conditions applicable to the addressee contract to the addressee, the originator shall make them available to the addressee in a way that allows the addressee to store and reproduce them.

(5) Subsections (1) and (2) shall not apply to contracts concluded exclusively by exchange of electronic mail or by equivalent individual communications.

Automated contracts

41. A contract may be formed by the interaction of computer programs or other electronic means used to initiate an act or to respond to electronic information, in whole or in part, without review by an individual at the time of the response or act.

Mistakes in partly automated transactions

42.— (1) An electronic transaction between an individual and another person's automated source of information has no legal effect if —

- (a) the individual makes a material error in electronic information or an electronic document used in the transaction;
- (b) the automated source of information does not give the individual an opportunity to prevent or correct the error;
- (c) on becoming aware of the error, the individual promptly notifies the other person; and
- (d) in a case where consideration is received as a result of the error, the individual, returns or destroys the consideration in accordance with the other person's instructions or, if there are no instructions, deals with the consideration in a reasonable manner, and does not benefit materially by receiving the consideration.

(2) This section does not limit the operation of any other law in force in Saint Lucia relating to mistake.

Declaration of will

43. As between the originator and the addressee of a communication in electronic form, a declaration of will or other statement shall not be denied legal effect, validity or enforceability solely on the grounds that it is in electronic form.

PART 5**INTERMEDIARIES AND INTERNET SERVICE PROVIDERS****Liability of intermediaries and internet service providers**

43. An intermediary or an internet service provider, who provides a conduit shall not be liable for the content of electronic records if the intermediary or internet service provider has no actual knowledge or is not aware of facts that would to a reasonable person indicate a likelihood of civil or criminal liability in respect of material on the intermediary network or who, on acquiring actual knowledge or becomes aware of such facts, follows the procedures required by the Regulations as soon as possible.

PART 6**MISCELLANEOUS****Regulations**

- 44.** The Minister may make Regulations —
- (a) provide that electronic signatures for specified purposes shall be as reliable as appropriate for those purposes;
 - (b) to provide that electronic signatures for specified purposes shall be created by specified means;
 - (c) to provide formats by which information may be communicated electronically, whether or not there exist prescribed non-electronic forms.
 - (d) to exclude any class of documents or transactions from the application of this Act; and
 - (e) for any other purpose for the more effective achievement of the objects of the Act.

No.] *Electronic Transactions Act* [2007.

Passed in the House of Assembly this day of ,
2007.

Speaker of the House of Assembly.

Passed in the Senate this day of , 2007.

President of the Senate.