

## COMODO CERTIFICATE SUBSCRIBER AGREEMENT

This Subscriber Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (“Effective Date”), by and between Comodo CA, Ltd. (“Comodo”), with its principal business location located at 3rd Floor, Office Village, Exchange Quay, Trafford Road, Salford, Manchester, M5 3EQ, United Kingdom and \_\_\_\_\_ (the “Subscriber”), which shall individually be known as a “Party” or collectively as the “Parties”.

WHEREAS, Subscriber wishes to purchase, and Comodo agrees to provide if possible, digital certificates for use on Subscriber’s domain names.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### 1. Definitions and Interpretations

- 1.1. In this Agreement, unless the context requires otherwise, the following terms and expressions shall have the following meanings:

“Application Software Vendor” means a developer of Internet browser software or other software that displays or uses certificates and distributes root certificates, such as KDE, Microsoft Corporation, Mozilla Corporation, Opera Software ASA, and Red Hat, Inc.

“Comodo CPS” or “Certificate Practice Statement” means a document setting forth the working practices that Comodo uses to perform its certificate processes and Repository operations, as set forth at [www.comodogroup.com/repository](http://www.comodogroup.com/repository) and as may be amended from time to time by Comodo in its sole and absolute discretion.

“Confidential Information” means all material, data, systems and other information concerning the operation, business, projections, market goals, strategies, techniques, financial affairs, products, services, research and development, customer and vendor-related data, services and/or support, and intellectual property rights of a Party that is not accessible or known to the general public. Confidential Information shall include, but not be limited to, (a) any and all information regarding or related to any software utilized by the Parties to create, operate or perform their respective obligations hereunder, including, but not limited to, all Private Keys, personal identification numbers and passwords; and (b) any information which concerns technical details of operation of any of the Comodo services and products offered hereunder.

“CRL” means a certificate revocation list that contains details of Digital Signatures that have been revoked by Comodo.

“Certificate” means a digitally signed electronic data file (conforming to the X509 version 3 ITU standard) issued by Comodo in order to identify a person or entity seeking to conduct business over a communications network using a Digital Signature and which contains the identity of the person authorized to use the Digital Signature and a copy of their Public Key, a serial number, a time period during which the Certificate may be used and a Digital Signature issued by Comodo.

“Certificate Beneficiaries” means the Subscriber, the Subject named in the Certificate, all Application Software Vendors with whom Comodo has entered into a contract for inclusion of its root certificate in software distributed by such Application Software Vendors, and all Relying Parties that actually rely on such Certificate during the period when it is valid.

“Digital Signature” means an encrypted electronic data file which is attached to or logically associated with other electronic data and which identifies and is uniquely linked to the signatory of the electronic data, is created using the signatory’s Private Key and is linked in a way so as to make any subsequent changes to the electronic data detectable.

“Effective Date” means the date when Comodo receives the Subscriber's request for the Subscription Service set out in the Enrollment Form and sent to Comodo via the online registration process.

“Enrollment Form” means an electronic form on Comodo's website completed by the Subscriber by providing the Subscriber Data and which identifies the requirements for the Subscription Service. The data submitted with the Enrollment Form is considered part of this Agreement and is incorporated herein.

“EV Certificate” means a Certificate designed for installation within the Subscriber's SSL enabled web server software and for use with an SSL v3 or TLS v 1.0 enabled web browser and that complies with the EV Guidelines.

“EV Guidelines” means the official, adopted guidelines established by the CA/Browser Forum that set forth certain minimum requirements that must be met in order to issue EV Certificates and which are available online at <http://www.cabforum.org>.

“EV Policies” means EV Certificate practices, policies and procedures, such as a certification practice statement (CPS) and certificate policy (CP), as further defined in Section 4 of the EV Guidelines.

“EV Enhancer™” means the process and related software used by Comodo to enable EV functionality on web browsing computers by pointing the web browser on the web browsing computer to a beacon website designed to download and install a new EV root certificate.

“EV AUTO-Enhancer™” means the patent-pending process and related software used by Comodo to enable EV functionality on web browsing computers using a modified Apache configuration file or the Comodo developed IIS plug-in.

“Force Majeure Event” means, in relation to any Party any circumstances beyond the reasonable control of that Party including without prejudice to the generality of the foregoing any natural disaster, act or regulation of any governmental or supra-national authority, lack or shortage of materials supplied by a third Party (other than where such circumstances arise due to lack of reasonable planning), war or natural emergency, accident, epidemic, fire or riot.

“Insolvency Event” means, in respect of any company that is Party to this Agreement, that such company has ceased to trade, been dissolved, suspended payment of its debts or is unable to meet its debts as they fall due, has become insolvent or gone into liquidation (unless such liquidation is for the purposes of a solvent reconstruction or amalgamation), entered into administration, administrative receivership, receivership, a voluntary arrangement, a scheme of arrangement with creditors or taken any steps for its winding-up.

“Issue Date” means the date of issue of a Certificate to the Subscriber.

“Place of Business” means the location of any facility (such as a factory, retail store, warehouse, etc) where the Applicant's business is conducted.

“Private Key” means a confidential encrypted electronic data file designed to interface with a Public Key using the same encryption algorithm and which may be used to create Digital Signatures, and decrypt files or messages which have been encrypted with a Public Key.

“Public Key” means a publicly available encrypted electronic data file designed to interface with a Private Key using the same encryption algorithm and which may be used to verify Digital Signatures and encrypt files or messages.

“Relying Party” shall mean an individual or organization that acts in reliance on a Certificate or a Digital Signature.

“Repository” means a publicly available collection of databases for storing and retrieving Certificates, CRLs, OCSP and other information relating to Certificates and which may be accessed via the Comodo website.

“Server” means the Subscriber’s server operating at the IP address identified by a domain name provided by the Subscriber to Comodo and which is cryptographically bound to the public key set out in the EV Certificate.

“Software” means any software provided by Comodo to enable the Subscriber to access or use the Subscription Service.

“Subject” means the entity identified as the Subject in the EV Certificate, whose identity is unambiguously bound to a Public Key also specified in the EV Certificate.

“Subscriber” means the entity named on the Enrollment Form during the online registration process and identified as the Subject in of the EV Certificates issued hereunder pursuant to this Agreement and the EV Guidelines.

“Subscriber Data” means information about the Subscriber required by Comodo to provide the Subscription Service, including without limitation, the information set out in the Comodo CPS which must be provided by the Subscriber on the Enrollment Form during the online registration process.

“Subscription Service” means the Certificate subscription services and any products (including Certificates, Public Keys, Software, and Private Keys) and related services.

“Subscription Service Period” means the time period during which a Certificate remains valid and may be used, depending on the Certificate ordered. All EV Certificates shall have a maximum Subscription Service Period of twenty-seven (27) months.

- 1.2. Subject to Section 16, references to “indemnifying” any person against any circumstance include indemnifying and holding that person harmless from all actions, claims, and proceedings from time to time made against that person and all loss, damage, payments, cost, or expenses suffered, made, or incurred by that person as a consequence of that circumstance;

## **2. Provisioning the Subscription Service**

- 2.1. Provided that Comodo is able to validate, to its satisfaction, the Subscriber Data, and that Comodo accepts a Subscriber's application for the Subscription Service (as such application is set out in the Enrollment Form), Comodo shall provide to the Subscriber the Subscription Service in accordance with the terms of this Agreement and the EV Guidelines. Notwithstanding the foregoing, Comodo reserves the right to refuse a Subscriber's application at its sole discretion and for any reason.
- 2.2. Depending on the Subscription Service selected during the enrollment process, this Agreement may cover multiple future Certificate requests made on Subscriber's behalf by an authorized agent and the resulting Certificates. The terms and conditions of this Agreement shall apply to each Certificate requested or issued regardless of when the actual request or issuance was performed.

## **3. Use of the Subscription Service**

- 3.1. License. Comodo grants to Subscriber a revocable, non-exclusive, non-transferable license to use any Certificates provided to Subscriber by Comodo in accordance with the Subscription Service, any Digital Signature generated using the Subscriber's Public Key and Private Key, and any manuals or other documents relating to the above insofar as is necessary for the Subscriber to

utilize the Subscription Service. The Subscription Service is provided by Comodo for the Subscriber's sole use. Comodo also grants the Subscriber a revocable, non-exclusive, non-transferable license to install and use EV Enhancer and EV AUTO-Enhancer to assist Subscriber's customers in installing and using EV Certificates. Subscriber may reproduce, copy, and duplicate any Software provided by Comodo to the extent required to enable EV Certificates on Subscriber's customers' computers.

3.2. Subscriber Obligations. Subscriber agrees and warrants that, as related to and for the benefit of Comodo and the Certificate Beneficiaries, it shall:

- (i) use or access the Subscription Service only for its intended purpose as set forth in the Comodo CPS;
- (ii) install each issued Certificate only on the server accessible at the domain name listed on the Certificate, and use each Certificate solely in compliance with all applicable laws, solely for authorized company business, and solely in accordance with the terms and conditions of this Agreement;
- (iii) be responsible, at its own expense, for access to the Internet and all other communications networks (if any) required in order to use the Subscription Service and Certificate, and for the provision of all computer and telecommunications equipment and software required to use the Subscription Service, except where expressly provided otherwise herein;
- (iv) obtain and keep in force any authorization, permission or license necessary for the Subscriber to use the Subscription Service, except where Comodo expressly agrees to obtain the same under the terms of this Agreement;
- (v) bind each and every Relying Party using the Subscriber's Comodo Certificate(s) to the following terms:

"By relying upon a Comodo Certificate, the user agrees to be bound by the Comodo Relying Party Agreement, which is incorporated herein in its entirety, and which can be found at [https://www.Comodo.com/repository/relying\\_Party.html](https://www.Comodo.com/repository/relying_Party.html)";
- (vi) be responsible for the generation of any Private Key belonging to the Subscriber, and take all reasonable measures, either by itself or through a subcontractor (e.g. hosting provider), to maintain sole control of, keep confidential, properly protect at all times, and ensure the proper use of the Private Key that corresponds to the Public Key to be included in the requested Certificate, personal identification numbers, passwords and other access information or devices used in connection with the Subscription Service, and immediately inform Comodo if there is any reason to believe that any of the foregoing has or is likely to become known to someone not authorized to use it, or is being, or is likely to be used in an unauthorized way;
- (vii) provide accurate and complete information to Comodo at all times, both upon requesting a Certificate and thereafter as requested by Comodo in connection with the issuance of the Certificate, and immediately inform Comodo if any of the Subscriber Data or information provided by the Subscriber to Comodo ceases to remain valid or correct or otherwise changes;
- (viii) promptly cease using an issued Certificate and its associated Private Key, and promptly request Comodo to revoke the Certificate, in the event that: (a) any information in the Certificate is or becomes incorrect or inaccurate, or (b) there is any actual or suspected misuse or compromise of the Subscriber's Private Key associated with the Public Key listed in the Certificate;
- (ix) promptly cease all use of the Private Key corresponding to the Public Key listed in a Certificate upon expiration or revocation of such Certificate; and

- (x) promptly disclose in writing to Comodo anything that constitutes a breach of, or is inconsistent with, any of the obligations or warranties and representations in sections 3 and 4 herein.

3.3. Restrictions. Subscriber agrees that, as related to and for the benefit of Comodo and the Certificate Beneficiaries, it shall not

- (i) modify, license, transfer, convey or sublicense the Software or any right in the Software to any third Party except as expressly allowed herein;
- (ii) install and use an issued Certificate until after Subscriber has reviewed and verified the accuracy of the data in the Certificate;
- (iii) resell or attempt to resell (or provide in any form whether for consideration or not) the Subscription Service (or any part of it) to any third Party and shall not allow any third Party to use the Subscription Service without the prior written consent of Comodo;
- (iv) use the Subscription Service to transmit (either by sending by e-mail or uploading using any format of communications protocol or any other method), receive (either by soliciting an e-mail or downloading using any format of communications protocol or any other method), view or in any other way use any information which may be illegal, offensive, abusive, contrary to public morality, indecent, defamatory, obscene or menacing, or which is in breach of confidence, copyright or other intellectual property rights of any third Party, cause distress, annoyance, denial of any service, disruption or inconvenience, send or provide advertising or promotional material or other form of unsolicited bulk correspondence or create a Private key which is identical or substantially similar to any Public Key;
- (v) copy or decompile, enhance, adapt or modify or attempt to do the same to the Certificates, Public Keys and Private Keys, or any Digital Signature generated using any Public Key or Private Key, or any documents or manuals relating to the same, without the prior written consent of Comodo; or
- (vi) make any representations regarding the Subscription Service to any third Party except as first agreed to in writing by Comodo.

#### 4. **Warranties and Representations**

4.1. Subscriber. Subscriber warrants, represents and agrees, as related to and for the benefit of Comodo and the Certificate Beneficiaries, that:

- (i) Applicant has exclusive control of the Domain Name listed in the Certificate.
- (ii) that it is not located in and will not modify, export or re-export, either directly or indirectly, any certificates, software, hardware, technical information, or any other certificates or technology signed by a Comodo certificate, to any country or entity under United States restrictions or to any country or entity subject to applicable trade sanctions. The US restricted country and persons list is subject to change without notice from Comodo, and Subscriber must comply with the list as it exists in fact. **COMODO SHALL NOT BE LIABLE FOR SUBSCRIBER'S VIOLATION OF ANY SUCH EXPORT OR IMPORT LAWS, WHETHER UNDER UNITED STATES LAW OR FOREIGN LAW.**
- (iii) all Subscriber Data is, and any other documents or information provided by the Subscriber are, and will remain accurate and will not include any information or material (or any part thereof) the accessing or use of which would be unlawful, contrary to public interest or otherwise likely to damage the business or reputation of Comodo in any way;

- (iv) it will not use the Subscription Service to knowingly or intentionally spread, upload, or distribute in any way, files that may contain viruses, corrupted files, or any other similar software or programs that may damage the operation of another's computer;
- (v) it has and will comply with all applicable consumer and other laws, regulations, instructions and guidelines, with all relevant licenses and with all other codes of practice which apply to the Subscriber or Comodo and that the Subscriber has obtained all licenses and consents necessary to fully perform its obligations under this Agreement;
- (vi) it has full power and authority to enter into this Agreement and to perform all of its obligations under this Agreement;
- (vii) it shall have sole responsibility for all statements, acts and omissions which are made under any password provided by it to Comodo;
- (viii) any Certificate "Warranty" or other warranty described in the CPS and provided by Comodo in connection with any Certificate is provided solely for the benefit of Relying Parties up to the limitations specified in the CPS, and Subscriber shall have no rights with respect thereto, including, but not limited to, any right to enforce the terms of or make any claim under any such warranty; and
- (ix) The individual signing or accepting this Agreement is employed by the Subscriber or an authorized agent representing Subscriber that is expressly authorized by Subscriber to sign this Agreement on behalf of Subscriber.

## 5. **Payment Terms**

- 5.1. The amount due to be paid by the Subscriber for the Subscription Service shall be set forth during the registration process. The amount due shall be paid by the Subscriber on or before the Issue Date.
- 5.2. All payments made by the Subscriber for the Subscription Service shall be non-refundable except that the seller of the Certificate shall refund the monies paid by the Subscriber if within twenty (20) business days of the Issue Date the Subscriber has not used the Subscription Service and has, within this period, made a written request to Comodo for revocation of the Certificate issued to it,

## 6. **Revocation**

Comodo reserves the right to revoke any Certificate it has issued to Subscriber in the event that Comodo has reasonable grounds to believe that any of the following events has occurred:

- (i) Subscriber requests revocation of its Certificate;
- (ii) Subscriber indicates that the original request for the Certificate was not authorized and does not retroactively grant authorization;
- (iii) Comodo obtains reasonable evidence that the Subscriber's Private Key (corresponding to the Public Key in the Certificate) has been compromised, or that the Certificate has otherwise been misused, or that a personal identification number, Private Key or password has, or is likely to become known to someone not authorized to use it, or is being or is likely to be used in an unauthorized way;
- (iv) Comodo receives notice or otherwise become aware that a Subscriber violates any of its material obligations under this Agreement or the Comodo CPS;



- (v) Subscriber has used the Subscription Service contrary to law, rule or regulation, or Comodo reasonably believes that the Subscriber is using the certificate, directly or indirectly, to engage in illegal or fraudulent activity;
- (vi) Comodo receives notice or otherwise becomes aware that a court or arbitrator has revoked Subscriber's right to use the domain name listed in the Certificate, or that Subscriber has failed to renew its domain name;
- (vii) Comodo receives notice or otherwise becomes aware of a material change in the information contained in the Certificate;
- (viii) a determination, in Comodo's sole discretion, that the Certificate was not issued in accordance with the terms and conditions of the EV Guidelines or Comodo's EV Policies, including Comodo's CPS;
- (ix) Comodo determines that any of the information appearing in the Certificate is not accurate;
- (x) Comodo ceases operations for any reason and has not arranged for another certificate authority to provide revocation support for the Certificate;
- (xi) Comodo's right to issue Certificates under the EV Guidelines expires or is revoked or terminated [unless Comodo makes arrangements to continue maintaining the CRL/OCSP Repository];
- (xii) Comodo's Private Key for Subscriber's Certificate has been compromised;
- (xiii) there has been, there is, or there is likely to be a violation of, loss of control over, or unauthorized disclosure of Confidential Information relating to the Subscription Service;
- (xiv) the Subscriber has used the Subscription Service in violation of the intended use as set forth in the Comodo CPS;
- (xv) Comodo receives notice or otherwise becomes aware that Subscriber has been added as a denied Party or prohibited person to a blacklist, or is operating from a prohibited destination under the laws of Comodo's jurisdiction of operation as described in Section 23 of the EV Guidelines or Section 4.2.10 of the Comodo EV CPS;
- (xvi) Either the Subscriber's or Comodo's obligations under the Comodo CPS or the relevant Subscriber Agreement are delayed or prevented by a natural disaster, computer or communications failure, or other cause beyond the person's reasonable control, and as a result another person's information is materially threatened or compromised;
- (xvii) the certificate was issued to persons or entities identified as publishers of malicious software or that impersonated other persons or entities;
- (xviii) the certificate was issued as a result of fraud or negligence;
- (xix) such additional revocation events as Comodo publishes in its EV Policies; or
- (xx) the certificate, if not revoked, will compromise the trust status of Comodo.

and Comodo may, at its sole discretion, after revocation of the Certificate, reissue a Certificate to Subscriber or terminate this Agreement in accordance with the provisions of this Agreement.

## 7. Confidentiality

- 7.1. Neither Party shall use any Confidential Information other than for the purpose of performing its obligations under this Agreement or as otherwise permitted pursuant to this Agreement. All uses of Confidential Information provided by Subscriber, except as otherwise provided herein, are subject to the Comodo privacy policy as set forth on the Comodo Repository.
- 7.2. Each Party shall ensure that any person to whom confidential Information is disclosed by it complies with the restrictions set out in this section 7 as if such person were a Party to this Agreement.
- 7.3. Notwithstanding the previous provisions of this section 7, either Party may disclose Confidential Information if and to the extent required by law, for the purpose of any judicial proceedings or any securities exchange or regulatory or governmental body to which that Party is subject, wherever situated, whether or not the requirement for information has the force of law, and if and to the extent the information has come into the public domain through no fault of that Party. Should a Party be required to disclose Confidential Information pursuant to this section, the Party shall promptly give notice of such requirement to the other Party prior to disclosing the Confidential Information.
- 7.4. The restrictions contained in this section 7 shall continue to apply to each Party for the duration of this Agreement and for the period of 5 years following the termination of this Agreement.

## **8. Subscriber Data**

- 8.1. The Subscriber acknowledges that in order to provide the Subscription Services, some or all of the Subscriber Data shall be embedded in the issued Certificates, and the Subscriber hereby consents, to the extent necessary in issuing an ordered Certificate as provided for in the Comodo CPS, to the disclosure of any and all Subscriber Data provided by the Subscriber.
- 8.2. The Subscriber hereby grants Comodo permission to examine, evaluate, process and in some circumstances transmit to third Parties located outside the European Union the Subscriber Data insofar as is reasonably necessary for Comodo to provide the Certificates.
- 8.3. Comodo shall in performing its obligations under this Agreement, comply with the Data Protection Act 1998 and any legislation or guidelines which amends or replaces such legislation and shall take appropriate technical and organizational measures against the unauthorized or unlawful processing of personal data and against actual loss or destruction of or damage to such data.

## **9. Intellectual Property Rights**

- 9.1. The Subscriber agrees not to use the Comodo name, brand, trademarks, service marks, logos, or any other intellectual property in any way except with the prior written consent of Comodo.
- 9.2. Except as otherwise set forth herein, all right, title and interest in and to all, Comodo (i) registered and unregistered trademarks, service marks and logos; (ii) patents, patent applications, and patentable ideas, inventions, and/or improvements; (iii) know-how; (iv) all divisions, continuations, reissues, renewals, and extensions thereof now existing or hereafter filed, issued, or acquired; (v) registered and unregistered copyrights including, without limitation, any forms, images, audiovisual displays, text, software ("Comodo Intellectual Property Rights") are owned by Comodo or its licensors, and Subscriber agrees to make no claim of interest in or ownership of any such Comodo Intellectual Property Rights. Subscriber acknowledges that no title to the Comodo Intellectual Property Rights is transferred to Subscriber, and that Subscriber does not obtain any rights, express or implied, in the Comodo or its licensors' service, other than the rights expressly granted in this Agreement. To the extent that Subscriber creates any derivative work (any work that is based upon one or more preexisting versions of a work provided to Subscriber, such as an enhancement or modification, revision, translation, abridgement, condensation, expansion, collection, compilation or any other form in which such preexisting works may be recast, transformed or adapted) such derivative work shall be owned by Comodo and all right, title and interest in and to each such



derivative work shall automatically vest in Comodo. Comodo shall have no obligation to grant Subscriber any right in or to any such derivative work.

- 9.3. The EV AUTO-Enhancer for Windows uses Microsoft Detours Professional 2.1. Detours is Copyright 1995-2004, Microsoft Corporation. Portions of the Detours package may be covered by patents owned by Microsoft corporation.

Microsoft, MS-DOS, Windows, Windows NT, Windows 2000, Windows XP, and DirectX are registered trademarks or trademarks of Microsoft Corporation in the U.S. and other countries.

**10. Indemnification.**

Subscriber shall defend, indemnify, and hold harmless Comodo, its officers, directors, employees, and agents from and against any claims, costs, damages, expenses, losses, legal proceedings, or other liabilities (including, without limitation, reasonable attorneys' fees) which are brought or threatened against Comodo by any third Party as a result of (i) Subscriber's negligence or willful misconduct, (iii) any infringement of the intellectual property rights of a third Party by Subscriber, (iv) Subscriber's failure to disclose a material fact related to the use or issuance of a Certificate, (v) Subscriber's failure to protect its Private Key, or (vi) Subscriber's breach of the provisions of this Agreement. Comodo will notify the Subscriber of any such claims or proceedings and keep the Subscriber informed as to the progress of such claims or proceedings.

**11. Exclusion of Warranties**

ANY SOFTWARE PROVIDED BY COMODO IS PROVIDED TO SUBSCRIBER "AS IS" AND ANY USE BY SUBSCRIBER OR A CUSTOMER OF SUBSCRIBER IS AT SUBSCRIBER'S OWN RISK. SUBSCRIBER ACKNOWLEDGES THAT THE SOFTWARE MAY CONTAIN BUGS, ERRORS AND OTHER PROBLEMS THAT COULD CAUSE SYSTEM OR OTHER FAILURES AND DATA LOSS. COMODO DOES NOT WARRANT THAT THE SOFTWARE WILL OPERATE SUBSTANTIALLY IN ACCORDANCE WITH THE DOCUMENTATION ACCOMPANYING THE SOFTWARE. EXCEPT AS OTHERWISE PROVIDED UNDER THIS AGREEMENT, ALL WARRANTIES EITHER EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMISSIBLE BY LAW.

**12. Term and Termination**

- 12.1. This Agreement shall commence on the Effective Date and shall continue for the Subscription Service Period unless terminated earlier as allowed herein.
- 12.2. Either Party may terminate this Agreement for convenience by providing to the other twenty (20) business days' written notice.
- 12.3. This Agreement may be terminated forthwith or on the date specified in the notice:
- (i) by either Party if the other commits any material breach of any term of this Agreement and which (in the case of a breach capable of being remedied) is not remedied within twenty (20) business days of receipt of a written request by the other Party to remedy the same, or
  - (ii) by either Party if an Insolvency Event occurs to the other Party or the other Party ceases to carry on its business;
  - (iii) immediately by Comodo if Comodo suspects Subscriber to have provided any false information in connection with the validation or issuance of a Certificate or if Comodo believes the Subscriber is engaging in practices that violate the proper use of an issued Certificate; or

- (iv) by Comodo in the event a Certificate is revoked in accordance with the provisions of Section 6 or if Comodo is unable to validate, to its satisfaction, all or part of the Subscriber Data.

### 13. **Consequences of Termination**

If this Agreement is terminated by Comodo under Section 12 for any reason, Comodo may (in the event that a Subscriber's Certificate has not already been revoked) revoke the Subscriber's Certificate without further notice to the Subscriber and the Subscriber shall pay any amounts due under this Agreement. There shall be no obligation to refund any payment by the Subscriber in the event of any termination of this Agreement.

### 14. **Limitation of Liability**

- 14.1. Nothing in this Agreement shall exclude or limit the liability of either Party for death or personal injury resulting from the negligence of that Party or its directors, officers, employees, contractors or agents, or in respect of fraud or of any statements made fraudulently by either Party;
- 14.2. SUBJECT TO CLAUSE 16.1, COMODO'S MAXIMUM LIABILITY UNDER CONTRACT (INCLUDING BREACH OF WARRANTY), TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), STATUTE, OR ANY OTHER THEORY OR CLAIM SHALL BE LIMITED TO THE AMOUNT PAID BY SUBSCRIBER FOR THE SUBSCRIPTION SERVICES REGARDLESS OF THE TYPE, AMOUNT, OR EXTENT OF ANY ACTUAL DAMAGES SUFFERED. COMODO SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, OPPORTUNITIES, REVENUE, SAVINGS, GOODWILL, OR USE OR POSSESSION OF DATA, EVEN IF COMODO HAS BEEN APPRISED OF THE POSSIBILITY OR THE EXISTANCE OF SUCH DAMAGES. COMODO DOES NOT GUARANTEE OR REPRESENT THAT AN CERTIFICATE WILL MEET SUBSCRIBER'S NEEDS, REQUIREMENTS, OR EXPECTATIONS NOR DOES COMODO GUARANTEE OR REPRESENT THAT THE SUBSCRIPTION SERVICES WILL BE UNINTERRUPTED, TIMELY, AND/OR ERROR-FREE. THE LIMITATIONS ON LIABILITY PROVIDED HEREIN SHALL APPLY TO THE MAXIMUM EXTENT ALLOWED UNDER THE LAW OF THE APPLICABLE JURISDICTION.
- 14.3. COMODO SHALL NOT BE LIABLE TO THE SUBSCRIBER FOR ANY LOSS SUFFERED BY THE SUBSCRIBER DUE TO USE OF THE SUBSCRIPTION SERVICES OR A CERTIFICATE OUTSIDE THE NORMAL AND INTENDED USE. SUBSCRIBER ACKNOWLEDGES AND ACCEPTS THAT THE CERTIFICATE WARRANTY IS THERE FOR ONLY FOR RELYING PARTIES AND SHALL NOT BE AVAILABLE TO SUBSCRIBER.
- 14.4. Except for indemnification and confidentiality obligations, neither Party may bring any action, regardless of form, arising out of or relating to this Agreement more than one (1) year after the cause of action has occurred.
- 14.5. Subscriber's sole remedy for a defective Certificate shall be to have Comodo, through commercially reasonable efforts, correct or cure any reproducible defect in the Certificate by issuing corrected instructions, a restriction, or bypass. In the event that Comodo is unable or unwilling to correct or cure a deformity, defect, or error with a Certificate, Subscriber's sole remedy shall be a refund of any amount paid for the non-conforming or defective Certificate, provided that the Subscriber has provided prompt notice to Comodo of any nonconformity or defect upon its discovery. If Subscriber has made any changes whatsoever to the Certificate, has mis-used damaged, altered, or modified the Certificate in any manner, or fails to provide prompt notice of the defect to Comodo, then Comodo shall not be obligated to provide any correction, cure, or solution to the Subscriber.

### 15. **Force Majeure**

- 15.1. Neither Party hereto shall be liable for any breach of its obligations hereunder resulting from a Force Majeure Event.
- 15.2. Each of the Parties hereto agrees to give written notice forthwith to the other upon becoming aware of a Force Majeure Event such notice to contain details of the circumstances giving rise to the Force Majeure Event and its anticipated duration. If such duration is more than twenty (20) days then the Party not in default shall be entitled to terminate this agreement, with neither Party having any liability to the other in respect of such termination.
- 15.3. The Party asserting a Force Majeure Event shall not be excused performance of its obligations unaffected by such a Force Majeure Event and shall endeavor to seek an alternative way of fulfilling its affected obligations without any materially adverse affect on the other Party.

## 16. **Amendments and Waivers**

- 16.1. Except as provided otherwise in this Agreement, Comodo may revise the terms and conditions of this Agreement at any time and in its sole and absolute discretion. Any revisions or changes made will be binding and effective immediately upon the posting of the changes or revisions to the Repository or upon notification to the Subscriber through the local mail system or by email. Subscriber agrees to periodically review the Repository in order to be aware of any changes. Subscriber may terminate this Agreement in accordance with Section 12 if Subscriber does not agree to any changes made. By continuing to use the Subscription Service or any Certificate issued under this Agreement after any change is made, Subscriber agrees to abide by and be bound by such changes.
- 16.2. The waiver by either Party of a breach or default of any of the provisions of this Agreement by the other Party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either Party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other Party.

## 17. **Notices**

- 17.1. Notices shall be in writing, and shall be sent to the other Party marked for the attention of the person either at the address set out in 17.2 below in the case of Comodo, or the address of the Subscriber as provided by Subscriber during the application process. Notices may be sent by first-class mail or facsimile transmission provided that all facsimile transmissions are confirmed within 12 hours by a first-class mailed copy of the facsimile transmission. Correctly addressed notices sent by first-class mail shall be deemed to have been delivered 48 hours after posting and correctly directed facsimile transmissions shall be deemed to have been received 12 hours after dispatch.
- 17.2. The address for Comodo CA Limited is 26 Office Village, 3<sup>rd</sup> Floor, Exchange Quay, Trafford Road, Salford, Manchester M5 3EQ, United Kingdom marked for the attention of The Certificate Subscriber Agreement Administrator.

## 18. **Invalidity, Severability, and Survival**

If any provision of this Agreement (not being of a fundamental nature to its operation) is judged to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the continuation in full force and effect of the remainder of the provisions will not be prejudiced, affected, or impaired thereby. All provisions related to the limitation on liability, indemnification, confidentiality, intellectual property rights, and limitation on actions shall survive the termination of this Agreement.

## 19. **Entire Agreement**

- 19.1. This Agreement and all documents referred to herein contain the entire and exclusive agreement and understanding between the Parties on the subject matter of the Agreement. This Agreement supersedes all prior agreements, arrangements, understandings, communications, representations, and arrangements relating thereto. Except as may be expressly included in this Agreement, no oral or written representation, agreement, communication, understanding, or promise related to the subject matter is given or implied from anything previously said or written in negotiations between the Parties.
- 19.2. Without prejudice to any liability for fraudulent misrepresentation, Comodo shall not be under any liability and Subscriber shall not have any remedy with respect to misrepresentations or untrue statements unless, and to the extent that, the claim is based on the breach of this Agreement.

**20. Arbitration**

- 20.1. To the extent permitted by law, Subscriber agrees that prior to initiating any form of dispute resolution it shall first provide sixty (60) days advanced notice to Comodo and any other Party involved in the dispute of the dispute and Subscriber's desire for dispute resolution along with notice of the reason for and purpose of the dispute resolution. If the dispute is not resolved within sixty (60) days after the initial notice, then a Party may proceed in accordance with the following:
- 20.2. Any unresolved dispute arising under the terms of this Agreement shall be decided by arbitration conducted through the services of the London Court of International Arbitrators, hereinafter referred to as the "LCIA."
- 20.3. Notice of demand for an arbitration hearing shall be in writing and properly served upon the Parties to this Agreement. Arbitration hearings shall be held in the United Kingdom at a location mutually agreeable to by the Parties.
- 20.4. There shall be one Arbitrator to hear the matter. The Parties shall initially agree to a panel of 3 possible Arbitrators to hear the matter and each Party shall have the opportunity to name one Arbitrator to be dropped from the panel until one remains. The Party giving notice of the Arbitration demand shall be first to indicate its selection.
- 20.5. All costs of the Arbitration and the LCIA shall be borne equally by both Parties to this agreement, regardless of the final decision. The defaulting Party as determined by the Arbitrator, shall pay all other costs and expenses, including reasonable attorney's fees, incurred by the Party in enforcing its rights under this Agreement.

**21. Assignment**

Neither Party may assign or transfer or purport to assign or transfer a right or obligation under this Agreement without first obtaining the other Party's written consent. Any attempt to assign or transfer the rights and interests granted herein shall render the Agreement voidable in Comodo's sole and absolute discretion.

**22. Governing Law and Jurisdiction**

This Agreement and all matters arising from or connected with it, are governed by and shall be construed in accordance with English law and the Parties hereby submit to the non-exclusive jurisdiction of the English courts.

**23. Rights of Third Parties**

The Certificate Beneficiaries are express third party beneficiaries of the Subscriber's obligations contained in this Agreement. Except as otherwise provided herein there are no other third Party shall

be entitled, for the purposes of the Contracts (Rights of Third Parties) Act 1999, to any rights under this Agreement which it may enter against Comodo.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives as of the Effective Date set forth above.

Comodo CA, Ltd.

Subscriber

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