

Person Authentication Certificate Subscriber Agreement

THIS AGREEMENT CONTAINS A BINDING ARBITRATION CLAUSE. PLEASE READ THE AGREEMENT CAREFULLY BEFORE ACCEPTING THE TERMS AND CONDITIONS.

IMPORTANT—PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE APPLYING FOR, ACCEPTING, OR USING A COMODO PERSONAL AUTHENTICATION CERTIFICATE (“CPAC”). BY USING, APPLYING FOR, OR ACCEPTING A COMODO CPAC CERTIFICATE OR BY ACCEPTING THIS AGREEMENT BY CLICKING ON “I ACCEPT” BELOW, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS LICENSE AGREEMENT, THAT YOU UNDERSTAND IT, THAT YOU ACCEPT THE TERMS AS PRESENTED, AND AGREE TO BE BOUND BY ITS TERMS. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS SUBSCRIBER AGREEMENT, DO NOT APPLY FOR, ACCEPT, OR USE A COMODO CPAC CERTIFICATE AND CLICK “DECLINE” BELOW.

1. Application of Terms

- 1.1 The terms and conditions set forth below (the “Agreement”) constitute a final binding agreement between you (the “Applicant” or “Subscriber”) and Comodo CA Ltd. (“Comodo”) with respect to the services described herein.

2. Definitions and Interpretations

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

“Certificate Period” means the time period during which a CPAC Certificate shall be valid;

“Comodo CPS” or “CPS” means the Comodo Certificate Practice Statement as may be amended in Comodo’s sole discretion. The Comodo CPS sets forth the practices that Comodo employs in providing Certificates and defines the underlying certificate processes and Repository operations conducted by Comodo;

“Confidential Information” means all information obtained as a result of the parties entering into this agreement which relates to the provisions and subject matter of this Agreement (including all Private Keys, personal identification numbers and passwords) and the business, systems or affairs of the other party and which is marked or designated in writing by the other party as being confidential.

“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;

“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;

“CPAC” or Comodo Personal Authentication Certificate means the Certificate provided by Comodo to encrypt and add a Digital Signature to emails sent by the Subscriber;

“Enrolment Form” means an electronic form on Comodo's website completed by the Subscriber in connection with the Subscriber's application for an CPAC Certificate;

“Force Majeure Event” means any circumstances beyond the reasonable control of a party including 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. Force Majeure shall include interrupts, disconnections, or disruptions in Internet communications caused by any third party service provider;

“Insolvency Event” means any occurrence where a company ceases to trade, is dissolved, suspends payment of its debts or is unable to meet its debts as they fall due, becomes insolvent or goes into liquidation (unless such liquidation is for the purposes of a solvent reconstruction or amalgamation), enters into administration, administrative receivership, receivership, a voluntary arrangement, a scheme of arrangement with creditors, or takes any steps for its winding-up.

“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 CPAC 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;

“Repository” means a publicly available collection of databases for storing and retrieving Certificates and other information relating to Certificates. Comodo's Repository may be accessed via Comodo's website at www.comodo.com/repository;

“Subscriber” means the individual or an entity issued or applying for an CPAC Certificate. Subscriber shall include anyone that acts or purports to act within the Subscriber's authority or permission;

“Subscriber Data” means information about the Subscriber requested by Comodo as part of the Certificate issuance process. Subscriber Data may be embedded into the CPAC Certificate and may be view, retrieved, examined, used, determined, or read by a third party examining the CPAC Certificate. The Subscriber Data may or may not contain personal data for the purposes of the Data Protection Act 1998 but must be provided during the CPAC Certificate application process.

3. Provision of CPAC Certificate

- 3.1 After reviewing and accepting Subscriber's application for an CPAC Certificate and provided that Comodo is able to validate Subscriber Data in accordance with the validation procedures listed in the Comodo CPS, Comodo shall issue Subscriber an CPAC Certificate. Notwithstanding the foregoing, Comodo may refuse to issue an CPAC Certificate for any reason. The Subscriber's web browser will automatically generate a Private Key/Public Key pair during the signing up process.
- 3.2 The CPAC Certificate is licensed from Comodo for Subscriber's own use. Subscriber may not resell, attempt to resell, or provide the CPAC Certificate to any third party (other than as required for typical CPAC Certificate use).
- 3.3 The Subscriber shall:

- i. be responsible, at its own expense, for all computer, telecommunications equipment, software, and access to the Internet and all other communications networks (if any) required to use the CPAC Certificate except where expressly provided otherwise herein;
 - ii. obtain and keep in force any authorization, permission or license necessary for the Subscriber to use the CPAC Certificate save where Comodo expressly agrees to obtain the same under the terms of this Agreement;
 - iii. remain responsible for the generation of any Subscriber's Private Key and shall take all reasonable precautions to prevent any violation of, loss of control over, or unauthorized disclosure of confidential information relating to the Subscription Service;
 - iv. use the CPAC Certificate solely in conjunction with S/MIME compliant software for the purposes of encrypting an CPAC or adding a Digital Signature to an CPAC or for any other purpose that may be set forth herein or in the Comodo CPS; and
 - v. be solely responsible for any transactions of any kind entered into between the Subscriber and any third party using or acting in reliance on the CPAC Certificate and acknowledges that Comodo shall not be a party to, or be responsible in any way for, any such transaction.
- 3.4 The Subscriber shall not use the CPAC Certificate to transmit (either by sending by CPAC or uploading using any format of communications protocol), receive (either by soliciting an e-mail or downloading using any format of communications protocol), 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.

4. License of Certificate Technology

- 4.1 Comodo grants the Subscriber a revocable, non-exclusive, non-transferable personal license to use any CPAC Certificate issued in connection with this Agreement provided 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 CPAC Certificate.
- 4.2 The CPAC Certificate shall be valid and may be used by the Subscriber from the date of the Certificates issuance to the earlier of the end of the Certificate Period or the revocation of the CPAC Certificate.
- 4.3 Except as necessary to use the CPAC Certificate for its intended purpose, the Subscriber shall not copy or decompile (except where such decompilation is permitted by section 50B of the Copyright, Designs and Patent Act 1988) 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 Comodo's prior written consent.

5. Charges and Payment Terms

- 5.1 Any fees or amounts due in connection with the ordering, use, or issuance of the CPAC Certificate shall be paid on or before the Issue Date. Some CPAC Certificates are issued free of charge but may incur a fee for renewal. Renewal fees may be different than issuance fees and Comodo may set, modify, amend, or update all renewal fees and issuance fees in its sole and absolute discretion.
- 5.2 Comodo shall refund any amount paid (including any Value Added Tax or any other appropriate sales, use tax or equivalent charge) paid by the Subscriber if within twenty (20) business days of the Certificate's issuance, the Subscriber has not used the CPAC Certificate and has, within this period, made a written request to Comodo for revocation of the CPAC Certificate issued to it or if Comodo revokes the CPAC Certificate as allowed herein.

6. Security

- 6.1 The Subscriber shall take all reasonable measures to ensure the security and proper use of all personal identification numbers, Private Keys, and passwords used in connection with the CPAC Certificate. The Subscriber shall also immediately inform Comodo if there is any reason to believe 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, or if any of the Subscriber Data provided by the Subscriber using the on-line registration process or subsequently notified to Comodo ceases to remain valid or correct or otherwise changes.
- 6.2 The Subscriber shall have sole responsibility for all statements, acts and omissions which are made under any password provided by it to Comodo.
- 6.3 Comodo reserves the right to revoke a Subscriber's CPAC Certificate in the event that Comodo has reasonable grounds to believe that:
 - i. 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;
 - ii. a Subscriber's CPAC Certificate has not been issued in accordance with the policies set out in the Comodo CPS;
 - iii. the Subscriber has requested that its CPAC Certificate be revoked;
 - iv. 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 CPAC Certificate;
 - v. the Subscriber Data is no longer correct or accurate, except that Comodo has no obligation to monitor or investigate the accuracy of information in a Certificate after the Certificates issuance;
 - vi. failing to revoke the CPAC Certificate will harm Comodo in any way, or
 - vii. the Subscriber is in breach of this Agreement.

After revocation, Comodo may, in its absolute discretion, reissue the CPAC Certificate to the Subscriber or terminate this Agreement in accordance with the provisions of Section 12.

- 6.4 The Subscriber agrees to discontinue all use of the Subscriber's CPAC Certificate if the Subscriber's CPAC Certificate is revoked in accordance with this Agreement, the Certificate Period expires, this Agreement is terminated, or any of the information constituting the Subscriber Data ceases to remain valid or correct or otherwise changes.

7. Confidentiality

- 7.1 Neither party shall use any Confidential Information other than for the purpose of performing its obligations under this Agreement.
- 7.2 Each party shall ensure that any person receiving Confidential Information complies with the restrictions set out in this clause 7 as if such person were a party to this Agreement.
- 7.3 Notwithstanding the previous provisions of this clause 7 either party may disclose Confidential Information if and to the extent required by law; in response to any judicial proceedings or any securities exchange or regulatory or governmental body request, wherever situated, whether or not the requirement for information has the force of law; or if and to the extent the information has come into the public domain through no fault of that party.
- 7.4 The restrictions contained in this clause 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 Certain Subscriber Data will be embedded in the Subscriber's Certificates. Subscriber consents to the disclosure of this information to third parties.
- 8.2 Comodo has 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 CPAC Certificate.

9. Intellectual Property Rights

- 9.1 All Certificates, Comodo Public Keys, and Comodo Private Keys are the property of Comodo and the Subscribers Private Keys are the property of the Subscriber.
- 9.2 The Subscriber may not use the Comodo name, brand, get-up or logo in any way except as required for typical Certificate operations or as allowed by Comodo through prior written consent.

10. Subscriber Warranties, Representations and Indemnities

- 10.1 The Subscriber warrants and represents that:
- i. all Subscriber Data and other documents provided to Comodo 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;
 - ii. it has and will comply with all consumer and other legislation, instructions or guidelines issued by regulatory authorities, relevant licenses, and any other codes of practice which apply to the Subscriber or Comodo (such codes of practice to be notified to the Subscriber by Comodo in advance) and that the

Subscriber has obtained all licenses and consents necessary for performing its obligations to extend full co-operation at all times to third parties working from time to time with Comodo; and

- iii. it has full power and authority to enter into this Agreement and to perform all of its obligations under this Agreement.
- 10.2 Subscriber shall promptly disclose in writing to Comodo anything which constitutes a breach of, or is inconsistent with, any of the warranties or representations made herein.
- 10.3 The Subscriber shall indemnify Comodo against any claims or legal proceedings brought or threatened against Comodo by any third party as a result of the 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.
- 10.4 The Subscriber agrees not to make any representations regarding Comodo's products or services to any third party except as agreed in writing by Comodo.

11. Exclusion of Warranties

EXCEPT AS SPECIFICALLY PROVIDED HEREIN AND TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, COMODO EXPRESSLY DISCLAIMS ON BEHALF OF ITSELF AND ITS SUPPLIERS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, AT LAW, IN EQUITY, OR STATUTORY, RELATED TO THE PRODUCTS AND SERVICES PROVIDED HEREUNDER, INCLUDING ALL WARRANTIES OF CHARACTERISTIC, QUALITY, PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, NON-INFRINGEMENT, AND VALUE.

12. Term and Termination

- 12.1 This Agreement shall commence on the Effective Date and shall continue for the Certificate Period unless terminated earlier as allowed herein or until the Certificate is revoked pursuant to Section 6.3.
- 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 also be terminated:
- i. by either party if the other party commits a material breach of this Agreement which is not remedied within twenty (20) business days after receiving a written request to remedy the breach,
 - ii. by either party if the an Insolvency Event occurs to the other party or that other party ceases to carry on its business operations; or
 - iii. by Comodo in the event a Certificate is revoked as allowed herein or if Comodo is unable to validate the Subscriber Data to its sole satisfaction.

13. Consequences of Termination

Upon termination of this Agreement, Comodo may revoke the Subscriber's Certificate without further notice and the Subscriber shall pay any amounts due but not yet paid under this Agreement. Except as otherwise provided herein, Comodo shall not provide any refunds, credits, or charge backs for any revoked Certificate or for the early 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 FOR UNDER CONTRACT (INCLUDING BREACH OF WARRANTY), TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER STATUTE, OR ANY OTHER THEORY OR CLAIM SHALL BE LIMITED TO THE AMOUNT PAID FOR THE CPAC CERTIFICATE OR THE RENEWAL THEREOF (IF ANY). COMODO SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING 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 EXISTENCE OF SUCH DAMAGES. COMODO DOES NOT GUARANTEE OR REPRESENT THAT THE CPAC CERTIFICATE WILL MEET SUBSCRIBER'S NEEDS, REQUIREMENTS, OR EXPECTATIONS NOR DOES COMODO GUARANTEE OR REPRESENT THAT USE OF THE CERTIFICATE WILL BE UNINTERRUPTED, TIMELY, AND/OR ERROR-FREE. THE LIMITATIONS ON LIABILITY PROVIDED HEREIN SHALL APPLY TO THE MAXIMUM AMOUNT ALLOWED UNDER THE LAW OF THE APPLICABLE JURISDICTION.
- 14.3 COMODO SHALL NOT BE LIABLE TO ANYONE LOSS SUFFERED DUE TO THE USE OR MISUSE OF AN CPAC CERTIFICATE. CPAC CERTIFICATES ARE NOT INTENDED TO BE USED IN E-COMMERCE AND DO NOT CARRY A WARRANTY. ALL RISKS ASSOCIATED WITH THE USE OF AN CPAC CERTIFICATE ARE THE RESPONSIBILITY OF THE 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 accrued.
- 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 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 Subscriber agrees to give written notice to Comodo upon becoming aware of a Force Majeure Event. Such notice shall contain details of the circumstances giving rise to the Force Majeure Event and its anticipated duration. If such duration is more than 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 herein, 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 CPAC. 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 the changes made. By continuing to use the CPAC Certificate 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. Comodo is not bound by nor will Subscriber rely on any representation by (i) any agent, representative or employee of any third party that Subscriber may use to apply for an CPAC Certificate; or (ii) in information posted on the Comodo website of a general informational nature. No employee, contractor, agent or representative of Comodo is authorized to alter or amend the terms and conditions of this Agreement.

17. Notices

- 17.1 Notices to Comodo shall be in writing and sent to Comodo CA Limited at 26 Office Village, 3rd Floor, Exchange Quay, Trafford Road, Salford, Manchester M5 3EQ, United Kingdom marked for the attention of The Certificate Subscriber Agreement Administrator. Notices to Comodo 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.
- 17.2 Notices to Subscriber shall be sent to the CPAC address or physical provided by Subscriber during the application process for the Certificate.
- 17.3 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. CPAC notices to the Subscriber shall be deemed delivered upon Comodo's sending the CPAC.

18. Invalidity and Severability

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.

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 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

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:

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."

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 the parties.

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.

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

Subscriber may not assign or transfer any right or obligation under this Agreement without first obtaining Comodo's written consent. Any attempt to assign or transfer the rights and interests granted herein shall render the Agreement voidable in Comodo's sole discretion. Comodo may assign or transfer this Agreement in its sole discretion.

22. Governing Law and Jurisdiction

This Agreement and all matters arising from it are governed by and shall be construed in accordance with English law. The parties hereby submit to the non-exclusive jurisdiction of the English courts. If legal action is brought to enforce this Agreement or any rights arising under this Agreement, the prevailing Party in such litigation will be entitled to recover from the other Party all the costs, attorneys' fees, and other expenses incurred by such prevailing Party in the litigation.

23. Rights of Third Parties

There are no third party beneficiaries under this Agreement.

24. Acceptance

BY CLICKING "I ACCEPT" BELOW, YOU AGREE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT AND THAT YOU WILL BE BOUND BY AND COMPLY WITH ALL OF ITS TERMS AND CONDITIONS. DO NOT CLICK THE "I ACCEPT" BUTTON IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.