

## COMODO CUSTOM CLIENT CERTIFICATE SUBSCRIBER AGREEMENT

IMPORTANT—PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE APPLYING FOR, ACCEPTING, OR USING A COMODO CUSTOM CLIENT CERTIFICATE FOR YOURSELF OR ON BEHALF OF YOUR COMPANY. BY USING, APPLYING FOR, OR ACCEPTING A COMODO CUSTOM CLIENT CERTIFICATE OR BY CLICKING ON “I ACCEPT” BELOW, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, THAT YOU UNDERSTAND IT, AND THAT YOU AGREE TO AND ACCEPT THE TERMS AS PRESENTED HEREIN. IF YOU (THE SUBSCRIBER) DO NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT APPLY FOR, ACCEPT, OR USE A COMODO CUSTOM CLIENT CERTIFICATE AND CLICK “DECLINE” BELOW.

This is a binding agreement between you (the “Subscriber” or “you”) and Comodo CA Limited (“Comodo”), which has its principal place of business at 26 Office Village, 3<sup>rd</sup> Floor, Exchange Quay, Trafford Road, Salford, Manchester M5 3EQ, United Kingdom, that governs your use of Comodo’s digital certificate services (the “Agreement”).

### 1. Definitions and Interpretations

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

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

“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.

“Custom Client Certificate” means a Certificate designed to sign and encrypt emails and other documents;

“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.

“Force Majeure Event” means any event beyond the reasonable control of that party.

“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.

“Provider” means the reseller of Comodo who is authorized to sell Custom Client Certificates to the subscriber.

“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.

## 2. **Application**

- 2.1. Certificate Issuance. Provided that the Provider accepts Subscriber's application for the Certificate and is able to validate the Subscriber to its satisfaction, Comodo will issue the requested Custom Client Certificates.
- 2.2. License. Comodo grants Subscriber a revocable, non-exclusive, non-transferable license to use the issued Certificate and any related materials such as manuals and documentation. The Certificate is provided for the Subscriber's sole use, and Subscriber may not resell or attempt to resell the Certificate to any third party.
- 2.3. Subscriber Obligations. Subscriber shall:
- (i) use or access the Certificate only for its intended purpose as explained by the Provider on its website.
  - (ii) use each Certificate in compliance with all applicable laws;
  - (iii) be responsible for any computer or telecommunications hardware or software required to use the Certificate;
  - (iv) obtain and keep in force any authorization, permission or license necessary to use the Certificate;
  - (v) be responsible for keeping its Private Keys confidential and uncompromised;
  - (vi) immediately inform Comodo if there is any reason to believe that any Confidential Information is likely to become known to someone not authorized to use it;
  - (vii) immediately inform Comodo if any of the information in the Certificate ceases to be valid or correct;
  - (viii) promptly cease using a Certificate and its associated Private Key and promptly request that the Provider revoke the Certificate if (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 Certificate; and
  - (ix) promptly cease all use of the Private Key and Certificate upon expiration or revocation of the Certificate.
- 2.4. Restrictions. Subscriber shall not:
- (i) use the Certificate in violation of a third parties rights or for any illegal or offensive purpose,
  - (ii) 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

- (iii) make any representations regarding the Subscription Service to any third party except as first agreed to in writing by Comodo.

### 3. **Warranties and Representations**

3.1. Subscriber warrants and represents that it:

- (i) has obtained all licenses necessary to obtain and use the Certificate;
- (ii) will only use the Certificate in accordance with the documentation and instructions provided by the Provider;
- (iii) will not use the Certificate to spread, upload, or distribute files that may contain viruses, corrupted files, or that may damage the operation of another's computer;
- (iv) has full power and authority to enter into this Agreement and to perform all of its obligations under this Agreement;
- (v) will be responsible for all statements, acts and omissions made by the Subscriber; and
- (vi) it has and will comply with all laws, regulations, instructions and guidelines related to the Subscriber's issuance and use of the Certificate, including all applicable export laws and trade sanctions. **COMODO SHALL NOT BE LIABLE FOR SUBSCRIBER'S VIOLATION OF ANY SUCH EXPORT OR IMPORT LAWS, WHETHER UNDER UNITED KINGDOM LAW OR THE LAWS OF OTHER JURISDICTIONS.**

### 4. **Payment Terms**

4.1. Subscriber shall pay to Provider the amount specified by the Provider for the Certificate's issuance. All payments shall be non-refundable. Custom Client Certificates shall be valid for one-year from the date of issuance and may be repeatedly renewed for additional one-year terms.

### 5. **Revocation**

Comodo may revoke any Certificate it has issued if Comodo believes that:

- (i) Subscriber or Provider requests revocation of the Certificate;
- (ii) the original request for the Certificate was not authorized and such request was not retroactively authorized;
- (iii) Subscriber has breached this Agreement or violated the Comodo CPS,
- (iv) Subscriber's Private Key has been compromised or the Certificate has been misused;
- (v) there has been a disclosure of or loss of control over Confidential Information;
- (vi) the Certificate is being used contrary to law, rule or regulation or to, directly or indirectly, engage in illegal or fraudulent activity;
- (vii) the information in the Certificate is inaccurate or misleading;
- (viii) the Certificate was not issued in accordance with Comodo's CPS;
- (ix) this Agreement has been terminated;

- (x) the Subscriber is 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;
- (xi) the Certificate was issued to publishers of malicious software;
- (xii) the Certificate was issued as a result of fraud or negligence;
- (xiii) such additional revocation events as Comodo publishes in its CPS; or
- (xiv) the Certificate, if not revoked, will compromise the trust status of Comodo.

## **6. Confidentiality**

- 6.1. Neither party shall use any Confidential Information other than for the purpose of performing its obligations under this Agreement.
- 6.2. Either party may disclose Confidential Information 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.
- 6.3. The restrictions contained in this Section 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.

## **7. Subscriber Data**

- 7.1. Some or all of the information provided to Comodo will be embedded in the issued Certificates. Subscriber consents to the disclosure of this information to the extent necessary to issue the Certificate.
- 7.2. Comodo may use the subscriber's data to third parties located outside the European insofar as is reasonably necessary for Comodo to provide the Certificates.

## **8. Intellectual Property Rights**

- 8.1. Subscriber may not use Comodo's name, brand, trademarks, service marks, logos, or any other intellectual property in any way except with Comodo's prior written consent.
- 8.2. Except as otherwise set forth herein, all right, title and interest in and to Comodo's (i) registered and unregistered trademarks, service marks and logos; (ii) patents, patent applications, and patentable ideas, inventions, and/or improvements; (iii) registered and unregistered copyrights, including images, audiovisual displays, text, software, (collectively the "Comodo Intellectual Property Rights") are owned by Comodo or its licensors.
- 8.3. No title to the Comodo Intellectual Property Rights is transferred to Subscriber. If Subscriber creates a derivative work, such as an enhancement or modification, revision, translation, abridgement, condensation, expansion, collection, or compilation, such derivative work shall be owned by Comodo. Comodo shall have no obligation to grant Subscriber any right in or to any such derivative work.

## **9. Indemnification**

- 9.1. 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,
- (ii) Subscriber's breach of the terms of this Agreement, or
- (iii) Subscriber's failure to protect its Private Key.

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. Term and Termination

- 10.1. This Agreement shall commence on the Effective Date and shall continue for as long as a Certificate issued under this Agreement is valid unless otherwise terminated earlier as allowed herein.
- 10.2. Either party may terminate this Agreement for convenience by providing the other twenty (20) business days' written notice. This Agreement may also be terminated immediately by Comodo if Comodo revokes the Certificate as allowed herein, if industry standards change in a manner that prevents the continued use of the Certificate, or if Comodo believes that the Subscriber is engaging in practices that violate the proper use of an issued Certificate. No refund shall be given upon the termination of this Agreement.

## 11. Limitation of Liability

- 11.1. 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 for any statements made fraudulently by either party.
- 11.2. SUBJECT TO CLAUSE 11.1, COMODO'S MAXIMUM AGGREGATE LIABILITY UNDER THIS AGREEMENT IS LIMITED TO THE AMOUNT PAID BY SUBSCRIBER FOR THE CERTIFICATE REGARDLESS OF THE NATURE OF THE LIABILITY AND THE TYPE, AMOUNT, OR EXTENT OF ANY DAMAGES SUFFERED. 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 WAS AWARE OF THE POSSIBILITY OR THE EXISTENCE OF SUCH DAMAGES. COMODO DOES NOT GUARANTEE THAT A CERTIFICATE WILL MEET SUBSCRIBER'S NEEDS, REQUIREMENTS, OR EXPECTATIONS. THE LIMITATIONS ON LIABILITY PROVIDED HEREIN SHALL APPLY TO THE MAXIMUM EXTENT ALLOWED UNDER THE LAW OF THE APPLICABLE JURISDICTION.
- 11.3. COMODO SHALL NOT BE LIABLE TO THE SUBSCRIBER FOR ANY LOSS SUFFERED BY THE SUBSCRIBER DUE TO USE OF A CERTIFICATE OUTSIDE THE NORMAL AND INTENDED USE.
- 11.4. 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.
- 11.5. Subscriber's sole remedy for a defective Certificate shall be to have Comodo use commercially reasonable efforts to correct or cure a reproducible defect in the Certificate by issuing corrected instructions, a restriction, or bypass. If Comodo is unable or unwilling to correct or cure a defect in the Certificate, then Comodo will refund the amount paid for the defective Certificate, provided that the Subscriber has give Comodo prompt notice of the discovery of the defect and has not misused or altered the Certificate in any manner.

**12. Miscellaneous**

- 12.1. Force Majeure. Neither party hereto shall be liable for any breach of its obligations hereunder resulting from a Force Majeure Event. 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.
- 12.2. Amendments. Except as otherwise provided herein, Comodo may revise this Agreement at any time. Any revisions will be effective upon the earlier of the posting of the revisions to the Repository or upon notification to the Subscriber of the change. Subscriber shall periodically review the Repository in order to be aware of any changes. Subscriber may terminate this Agreement in accordance with Section 10 if Subscriber does not agree to the changes. By continuing to use a Certificate issued under this Agreement, Subscriber accepts any changes and agrees to be bound by such changes.
- 12.3. Waivers. The waiver by either party of a breach or default of any of the provisions of this Agreement 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.
- 12.4. Notices. All notices shall be in writing and in English. Notices shall be made by first class mail, return receipt requested, sent to Comodo at 26 Office Village, 3<sup>rd</sup> Floor, Exchange Quay, Trafford Road, Salford, Manchester M5 3EQ, United Kingdom. Notices to Subscriber shall be sent to the address provided during the registration process.
- 12.5. Severability. If a provision of the Agreement is determined to be invalid or unenforceable under any applicable statute or rule of law, then the provision shall be reformed to the minimum extent necessary to cause the provision to be valid and enforceable. If reformation is not possible, then the provision shall be deemed omitted and the balance of the Agreement shall remain valid and enforceable
- 12.6. Survival. All provisions of the Agreement relating to confidentiality, proprietary rights, indemnification, and limitations of liability shall survive the termination of the Agreement.
- 12.7. Entire Agreement. The Agreement and all documents referred to herein shall constitute the entire agreement between the parties and shall supersede any other existing agreements between them, whether oral or written, with respect to the subject matter hereof.
- 12.8. 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 discretion. Comodo may assign this Agreement in its sole discretion.
- 12.9. Governing Law and Jurisdiction. This Agreement shall be interpreted and construed under the laws of the United Kingdom without regard to any conflicts of law principles. Any claims or legal action by one party against the other arising under the Agreement shall be commenced in the courts of the United Kingdom. Both parties hereby submit to the non-exclusive jurisdiction of the United Kingdom courts.
- 12.10. Rights of Third Parties. There are no third party beneficiaries under this Agreement.

**ACCEPTANCE**

BY CLICKING "I ACCEPT" BELOW, YOU AGREE THAT YOU HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THAT YOU WILL COMPLY WITH THEM AS

PRESENTED HEREIN. DO NOT CLICK THE "I ACCEPT" BUTTON IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT