

## **EUROPEANSSL DIGITAL 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 EUROPEANSSL DIGITAL CERTIFICATE. BY USING, APPLYING FOR, OR ACCEPTING A EUROPEANSSL DIGITAL CERTIFICATE OR BY ACCEPTING THIS AGREEMENT BY CLICKING ON “I ACCEPT” BELOW, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS SUBSCRIBER AGREEMENT, THAT YOU UNDERSTAND IT, AND THAT YOU AGREE TO AND ACCEPT THE TERMS AS PRESENTED HEREIN. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS SUBSCRIBER AGREEMENT, DO NOT APPLY FOR, ACCEPT, OR USE A EUROPEANSSL DIGITAL 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 “Subscriber”) and Eunetic GmbH (“EuropeanSSL”) with respect to any of the services described herein.
- 1.2. By purchasing or otherwise applying for the EuropeanSSL Subscription Service (defined below), you agree to establish an account with us for such services. When you use your account or permit someone else to use your account to purchase or otherwise acquire access to additional EuropeanSSL service(s) or to modify or cancel your current EuropeanSSL service(s) (even if we were not notified of such authorization), this Agreement as amended covers any such service or actions. Additionally, you agree that each person listed in your account information as being associated with your account for any services provided to you is your agent with full authority to act on your behalf with respect to such services.

### **2. Definitions and Interpretations**

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

“Applicant” means the entity that applies for (or seeks renewal of) a Certificate naming it as the Subject;

“Business Day” means any calendar day that is Monday to Friday inclusive, excluding any days on which the banks in Baden-Württemberg and or the United States are closed for business.

“CPS” or “EuropeanSSL CPS” means the EuropeanSSL Certificate Practice Statement, as amended from time to time, available at [www.EuropeanSSL.eu/repository](http://www.EuropeanSSL.eu/repository), a document setting out the working practices that EuropeanSSL employs for the Subscription Service and which defines the underlying certificate processes and Repository operations, as may be amended from time to time.

“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 EuropeanSSL services and products offered hereunder.

“CRL” means a certificate revocation list that contains details of Digital Signatures that have been revoked by EuropeanSSL.

“Digital Certificate” (also “Certificate”) means a digitally signed electronic data file (conforming to the X509 version 3 ITU standard) issued by EuropeanSSL 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 Digital Certificate may be used and a Digital Signature issued by EuropeanSSL. Digital Certificates include Email Certificates and SSL Certificates.

“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.

“Domain Name” means a name registered with an Internet registration authority for use as part of a Subscriber’s URL.

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

“Email Certificate” means a Digital Certificate that enables the Subscriber to encrypt and add a Digital Signature to emails sent by the Subscriber. The Subscriber’s web browser will automatically generate a Private Key/Public Key pair during the application process. The application process includes submitting, a PKCS#10 Digital Certificate request containing the Public Key to EuropeanSSL on behalf of the Subscriber. Email Certificates may only be used with S/MIME compliant software for the purpose of encrypting an email or adding a Digital Signature to emails being sent to third parties through S/MIME compliant software. For Email Certificates, Subscriber Data may include, but is not limited to, the full name of the Subscriber, the Subscriber’s e-mail address, the Subscriber’s public key, and the challenge password;

“Enrollment Form” means an electronic form on EuropeanSSL’ 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.

“Fully Qualified Domain Name” means a domain name that fully specifies a host and a domain name, including a top-level domain, such as [www.EuropeanSSL.eu](http://www.EuropeanSSL.eu);

“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.

“Internet” means the global data communications network comprising interconnected networks using the TCP/IP standard.

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

“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 Digital Certificate or a digital signature.

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

“Root Domain Name” means the highest level of a URL that identifies multiple directories on the Server;

“Server” means the Subscriber’s server operating at the IP address identified by either a Root Domain Name or Fully Qualified Domain Name provided by the Subscriber to EuropeanSSL and which is cryptographically bound to the public key set out in the Certificate.

“Site” (also “Website”) means a collection of interconnected HTML web pages, including a home page, under the control of one entity.

“Seller” means the entity from which Subscriber is purchasing the Certificate.

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

“SSL Certificate” means a Digital 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. The SSL Certificate shall, in accordance with the amounts paid by the Subscriber, either: (i) cryptographically bind a Public Key to a Server operating at a Fully Qualified Domain Name; or (ii) cryptographically bind a Public Key to a Server operating at a Root Domain Name. In both cases, the Public Key is used in the SSL/TLS Protocol to authenticate the Server and establish an encrypted session between an SSL v3 enabled web browser and the Subscriber’s Server.

“Subject” means the organization identified as the Subject in the Subject:organizationName field of an Certificate, whose identity is unambiguously bound to a Public Key also specified in the Certificate; and an Applicant once the Certificate it requested is issued.

“Subscriber” means the entity or organization named on the Enrollment Form during the online registration process and identified as the Subject in the Subject:organizationName field of a Certificate issued, as qualified by the Jurisdiction of Incorporation or Registration information in the Certificate.

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

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

“Subscription Service Period” means the time period during which a Digital Certificate remains valid and may be used, depending on the Certificate ordered. Service Periods are set forth in the EuropeanSSL CPS.

“Third Party Data” means data, information or any other materials (in whatever form) not owned or generated by or on behalf of the Subscriber.

“URL” means a uniform resource locator setting out the address of a webpage or other file on the Internet.

- 2.2. 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;

### **3. Provisioning the Subscription Service**

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

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

- 4.1. License. EuropeanSSL grants the Subscriber a revocable, non-exclusive, non-transferable license to use any Certificates provided to Subscriber by EuropeanSSL 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 EuropeanSSL for the Subscriber's sole use.
- 4.2. Subscriber Obligations. Subscriber shall:
- (i) use or access the Subscription Service only in conjunction with the Software or other software that may be provided by EuropeanSSL from time to time or specified by EuropeanSSL to be appropriate for use in conjunction with the Subscription Service;
  - (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 Digital 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 EuropeanSSL expressly agrees to obtain the same under the terms of this Agreement;
- (v) bind each and every Relying Party using the Subscriber's EuropeanSSL Certificate(s) to the following terms:

“By relying upon a EuropeanSSL digital certificate, the user agrees to be bound by the EuropeanSSL Relying Party Agreement, which is incorporated herein in its entirety, and which can be found at <https://www.EuropeanSSL.eu/repository/>”;

- (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 Digital Certificate, personal identification numbers, passwords and other access information or devices used in connection with the Subscription Service, and immediately inform EuropeanSSL 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 EuropeanSSL at all times, both upon requesting a Digital Certificate and thereafter as requested by EuropeanSSL in connection with the issuance of the Digital Certificate, and immediately inform EuropeanSSL if any of the Subscriber Data or information provided by the Subscriber to EuropeanSSL ceases to remain valid or correct or otherwise changes;
- (viii) promptly cease using a Certificate and its associated Private Key, and promptly request EuropeanSSL 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 Digital Certificate upon expiration or revocation of such Digital Certificate;
- (x) promptly disclose in writing to EuropeanSSL anything that constitutes a breach of, or is inconsistent with, any of the obligations or warranties and representations in sections 3 and 4 herein.

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

- (i) install and use the Digital Certificate(s) until Subscriber has reviewed and verified the accuracy of the data in such Digital Certificate(s);

- (ii) 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 EuropeanSSL;
  - (iii) 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;
  - (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 Digital 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 EuropeanSSL; or
  - (vi) make any representations regarding the Subscription Service to any third party except as first agreed to in writing by EuropeanSSL.
- 4.4. Each Certificate issued may be used solely for the purposes set forth in the EuropeanSSL CPS, and any applicable Amendments thereto, located at [www.EuropeanSSL.eu/repository](http://www.EuropeanSSL.eu/repository).
- 4.5. The maximum value of any transaction entered into by the Subscriber while using a Certificate ("Max Transaction Value") must not exceed the value set forth in the EuropeanSSL CPS. The cumulative maximum liability accepted by EuropeanSSL ("Payment Limit") under the EuropeanSSL Relying Party Warranty (which can be found in the Repository) for all claims paid in connection with these Digital Certificates is limited to the amount set forth in the CPS.

## 5. Warranties and Representations

- 5.1. Subscriber. Subscriber warrants, represents and agrees, as related to and for the benefit of EuropeanSSL and the Certificate Beneficiaries, that:
- (i) 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 EuropeanSSL 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 EuropeanSSL, and you must comply with the list as it exists in fact. EUROPEANSSL SHALL NOT BE LIABLE FOR SUBSCRIBER'S VIOLATION OF ANY SUCH EXPORT OR IMPORT LAWS, WHETHER UNDER UNITED STATES LAW OR FOREIGN LAW."
  - (ii) 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 EuropeanSSL in any way;



- (iii) 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 EuropeanSSL and that the Subscriber has obtained all licenses and consents necessary to fully perform its obligations under this Agreement;
- (iv) it has full power and authority to enter into this Agreement and to perform all of its obligations under this Agreement;
- (v) it shall have sole responsibility for all statements, acts and omissions which are made under any password provided by it to EuropeanSSL;
- (vi) the Subscriber acknowledges that in order to provide the Subscription Service some or all of the Subscriber Data shall be embedded in the Subscriber's Digital Certificates and the Subscriber hereby consents to the disclosure to third parties of such Subscriber Data held therein;
- (vii) the Subscriber hereby grants EuropeanSSL permission to examine, evaluate, process and in some circumstances transmit to third parties located outside the United States the Subscriber Data insofar as is reasonably necessary for EuropeanSSL to provide the Subscription Service;
- (viii) any Digital Certificate "Warranty" or other warranty described in the CPS and provided by EuropeanSSL in connection with any Digital Certificate is provided solely for the benefit of Relying Parties, 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) Contract Signer is an agent representing Subscriber and is expressly authorized by Subscriber to enter into this Agreement on behalf of Subscriber.

## **6. Payment Terms**

- 6.1. 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.
- 6.2. All payments made by the Subscriber for the Subscription Service shall be non-refundable except that Seller 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 EuropeanSSL for revocation of the Digital Certificate issued to it, or if the Digital Certificate is Revoked pursuant to paragraph 7.3.

## **7. Revocation**

EuropeanSSL reserves the right to revoke a Subscriber's Digital Certificate it has issued in the event that EuropeanSSL has reasonable grounds to believe that any of the following events has occurred:

- (i) Subscriber requests revocation of its Digital Certificate;
- (ii) Subscriber indicates that the original Digital Certificate Request was not authorized and does not retroactively grant authorization;
- (iii) EuropeanSSL obtains reasonable evidence that the Subscriber's Private Key (corresponding to the Public Key in the Digital Certificate) has been compromised, or that the Digital 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) EuropeanSSL receives notice or otherwise become aware that a Subscriber violates any of its material obligations under this Agreement or the EuropeanSSL CPS;
- (v) Subscriber has used the Subscription Service contrary to law, rule or regulation, or EuropeanSSL reasonably believes that the Subscriber is using the certificate, directly or indirectly, to engage in illegal or fraudulent activity;
- (vi) EuropeanSSL receives notice or otherwise becomes aware that a court or arbitrator has revoked Subscriber's right to use the domain name listed in the Digital Certificate, or that Subscriber has failed to renew its domain name;
- (vii) EuropeanSSL receives notice or otherwise becomes aware of a material change in the information contained in the Digital Certificate;
- (viii) a determination, in EuropeanSSL's sole discretion, that the Digital Certificate was not issued in accordance with the terms and conditions of EuropeanSSL's CPS;
- (ix) EuropeanSSL determines that any of the information appearing in the Digital Certificate is not accurate;
- (x) EuropeanSSL ceases operations for any reason and has not arranged for another certificate authority to provide revocation support for the Digital Certificate;
- (xi) EuropeanSSL's right to issue Digital Certificates expires or is revoked or terminated [unless EuropeanSSL makes arrangements to continue maintaining the CRL/OCSP Repository];
- (xii) EuropeanSSL's Private Key for Subscriber's Digital 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 with third party software not authorized by EuropeanSSL for use with the Subscription Service;
- (xv) EuropeanSSL 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 EuropeanSSL's jurisdiction of operation;
- (xvi) either the Subscriber's or EuropeanSSL's obligations under the CPS or this 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; or
- (xix) the certificate, if not revoked, will compromise the trust status of EuropeanSSL.

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

## 8. Confidentiality



- 8.1. 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 EuropeanSSL Privacy Policy.
- 8.2. 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.
- 8.3. 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.
- 8.4. 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.

## **9. Subscriber Data**

- 9.1. 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 EuropeanSSL CPS, to the disclosure of any and all Subscriber Data provided by the Subscriber.
- 9.2. The Subscriber hereby grants EuropeanSSL 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 EuropeanSSL to provide a Certificate.
- 9.3. EuropeanSSL 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.

## **10. Intellectual Property Rights**

- 10.1. The Subscriber agrees not to use the EuropeanSSL name, brand, trademarks, service marks, logos, or any other intellectual property in any way except with the prior written consent of EuropeanSSL.
- 10.2. Except as otherwise set forth herein, all right, title and interest in and to all, (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 ("EuropeanSSL Intellectual Property Rights") are owned by EuropeanSSL or its licensors, and you agree to make no claim of interest in or ownership of any such EuropeanSSL Intellectual Property Rights. You acknowledge that no title to the EuropeanSSL Intellectual Property Rights is transferred to you, and that you do not obtain any rights, express or implied, in the EuropeanSSL or its licensors' service, other than the rights expressly granted in this Agreement. To the extent that you create any derivative work (any work that is based upon one or more preexisting versions of a work provided to you, 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 EuropeanSSL and all right, title and interest in and to each such derivative work shall automatically vest in EuropeanSSL. EuropeanSSL shall have no obligation to grant you any right in or to any such derivative work.

## **11. EuropeanSSL Obligations**

EuropeanSSL agrees to:

- (i) provide the Subscription Service with the reasonable skill and care of a competent provider of similar Digital Certificate services;
- (ii) take reasonable care to investigate and verify prior to the Issue Date the accuracy of the information to be incorporated in the Digital Certificate in accordance with the procedures set out in the EuropeanSSL CPS;
- (iii) use commercially reasonable efforts to provide the Subscription Service within a reasonable period of time after the Effective Date if Subscriber's application for the Subscription Service is accepted by EuropeanSSL. However, Subscriber agrees that EuropeanSSL is under no obligation to meet any agreed date and has no liability to the Subscriber for failure to provide the Subscription Services (or any party thereof) by such date; and
- (iv) maintain a copy in the Repository and details in the CRL of each Digital Certificate which has been revoked or has expired for a reasonable period after the Digital Certificate's revocation or expiry.

## **12. Indemnification**

- 12.1. Subscriber shall promptly disclose in writing to EuropeanSSL anything which constitutes a breach of, or is inconsistent with, any of the warranties and undertakings in Section 4.2 or 4.3 of this Agreement.
- 12.2. Subscriber shall defend, indemnify, and hold harmless EuropeanSSL, 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 EuropeanSSL by any third party as a result of (i) Subscriber's negligence or willful misconduct or (ii) Subscriber's breach of the provisions of this Agreement. EuropeanSSL will notify the Subscriber of any such claims or proceedings and keep the Subscriber informed as to the progress of such claims or proceedings.
- 12.3. The Subscriber agrees not to make any representations regarding the Subscription Services to any third party except as agreed in writing by EuropeanSSL.

## **13. Exclusion of Warranties**

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.

## **14. Term and Termination**

- 14.1. This Agreement shall commence on the Effective Date and shall continue for the Subscription Service Period unless terminated earlier in accordance with this Section 14.

14.2. Either party may terminate this Agreement for convenience by providing to the other twenty (20) Business Days' written notice.

14.3. 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) shall not have been remedied within twenty (20) Business Days of a written request by the other party to remedy the same, or by either party if in respect of the other party an Insolvency Event occurs or that other party ceases to carry on its business;
- (ii) immediately by EuropeanSSL if EuropeanSSL suspects Subscriber to have provided any false information in connection with the validation or issuance of a Certificate or if EuropeanSSL believes the Subscriber is engaging in practices that violate the proper use of an issued Certificate.
- (iii) by EuropeanSSL in the event a Digital Certificate is revoked in accordance with the provisions of Section 6 or if EuropeanSSL is unable to validate, to its satisfaction, all or part of the Subscriber Data.

#### **15. Consequences of Termination**

If this Agreement is terminated by EuropeanSSL under Section 14 for any reason or under Section 17, EuropeanSSL may (in the event that a Subscriber's Digital Certificate has not already been revoked) revoke the Subscriber's Digital Certificate without further notice to the Subscriber and the Subscriber shall pay any amounts due under this Agreement. Seller shall have no obligation to refund any payment by the Subscriber in the event of any termination of this Agreement.

#### **16. Limitation of Liability**

- 16.1. 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;
- 16.2. SUBJECT TO CLAUSE 16.1, EUROPEANSSL'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 CERTIFICATE REGARDLESS OF THE TYPE, AMOUNT, OR EXTENT OF ANY ACTUAL DAMAGES SUFFERED. EUROPEANSSL 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 EUROPEANSSL HAS BEEN APPRISED OF THE POSSIBILITY OR THE EXISTANCE OF SUCH DAMAGES. EUROPEANSSL DOES NOT GUARANTEE OR REPRESENT THAT A CERTIFICATE WILL MEET SUBSCRIBER'S NEEDS, REQUIREMENTS, OR EXPECTATIONS NOR DOES EUROPEANSSL GUARANTEE OR REPRESENT THAT THE CERTIFICATE AND THE USE OF THE CERTIFICATE 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.
- 16.3. EUROPEANSSL SHALL NOT BE LIABLE TO THE SUBSCRIBER FOR ANY LOSS SUFFERED BY THE SUBSCRIBER DUE TO USE OF CERTIFICATE OUTSIDE THE NORMAL AND INTENDED USE OF A CERTIFICATE. SUBSCRIBER ACKNOWLEDGES AND ACCEPTS THAT

THE CERTIFICATE WARRANTY IS THERE FOR ONLY FOR RELYING PARTIES AND SHALL NOT BE AVAILABLE TO SUBSCRIBER.

- 16.4. SUBSCRIBER AGREES THAT UNDER NO CIRCUMSTANCES WILL EUROPEANSSL BE LIABLE TO THE SUBSCRIBER FOR ANY LOSS SUFFERED BY THE SUBSCRIBER DUE TO USE OF THE DIGITAL CERTIFICATE OUTSIDE THE SCOPE OF USE AS SPECIFIED IN THE EUROPEANSSL CPS.
- 16.5. SUBSCRIBER FURTHER AGREES THAT EUROPEANSSL SHALL NOT BE LIABLE TO THE SUBSCRIBER FOR ANY LOSS, INCLUDING ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, SUFFERED BY ANY PARTY DUE TO THE LOSS, THEFT, UNAUTHORIZED DISCLOSURE, UNAUTHORIZED MANIPULATION, ALTERATION, LOSS OF USE, OR ANY OTHER COMPROMISE OF ANY PRIVATE KEY USED BY THE SUBSCRIBER.
- 16.6. 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.
- 16.7. Subscriber's sole remedy for a defective Certificate shall be to have EuropeanSSL, 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 EuropeanSSL is unable or unwilling to correct or cure a deformity, defect, or error with an 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 EuropeanSSL 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 EuropeanSSL, then EuropeanSSL shall not be obligated to provide any correction, cure, or solution to the Subscriber.

## 17. **Force Majeure**

- 17.1. Neither party hereto shall be liable for any breach of its obligations hereunder resulting from a Force Majeure Event.
- 17.2. 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.
- 17.3. 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.

## 18. **Amendments and Waivers**

- 18.1. Except as provided otherwise in this Agreement, EuropeanSSL 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 14 if Subscriber does not agree to any changes made. By continuing to use an Certificate issued under this Agreement after any change is made, Subscriber agrees to abide by and be bound by such changes.

- 18.2. 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.

**19. Notices**

- 19.1. 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 19.2 below in the case of EuropeanSSL, 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.
- 19.2. The address for EuropeanSSL is Wagnerstr 15, 76448 Durmersheim, Germany marked for the attention of The Digital Certificate Subscriber Agreement Administrator.

**20. 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.

**21. Entire Agreement**

- 21.1. 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.
- 21.2. Without prejudice to any liability for fraudulent misrepresentation, EuropeanSSL 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.

**22. Arbitration**

- 22.1. 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 EuropeanSSL 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:
- 22.2. 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."

- 22.3. 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.
- 22.4. 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.
- 22.5. 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.

23. **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 EuropeanSSL's sole and absolute discretion.

24. **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 German law and the parties hereby submit to the non-exclusive jurisdiction of the German courts.

25. **Rights of Third Parties**

For the avoidance of doubt no 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 EuropeanSSL.

26. **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.