



## TrustFactory Client Certificate Subscriber Agreement

PLEASE READ THIS CERTIFICATE SUBSCRIBER AGREEMENT CAREFULLY. BY APPLYING FOR, OR ACCEPTING OR USING A TRUSTFACTORY CERTIFICATE, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, THAT YOU UNDERSTAND IT, AND THAT YOU AGREE TO ITS TERMS. IF YOU DO NOT ACCEPT THIS AGREEMENT, YOU MUST NOT APPLY FOR, ACCEPT, OR USE A TRUSTFACTORY CERTIFICATE.

### 1. Introduction

This Subscriber Agreement governs your application for, acceptance of and use of a TrustFactory Certificate.

This agreement is between You (“Subscriber”) and TrustFactory PTY Ltd. (“TrustFactory”). The agreement governs your application for and use of a Client Certificate issued by TrustFactory Client Issuing CA.

The TrustFactory Client Issuing CA conducts its certification practice in accordance with the provisions of the TrustFactory Client Issuing CA CPS. The TrustFactory Client Issuing CA shall only issue a TrustFactory Certificate against receipt of a Certificate Signing Request.

The TrustFactory Certificate contains information provided by you, the Subscriber, which is authenticated and verified by TrustFactory, or a TrustFactory approved Registration Authority (RA), in terms of the TrustFactory Certificate Policy (CP) and TrustFactory Client Issuing CA Certification Practice Statement (CPS), available at <https://www.trustfactory.net/repository>.

This Subscriber Agreement applies to the following Certificate types:

- Client Certificates:
  - PersonalPass Premium Certificates

A TrustFactory CA acts as its own RA or may appoint an authorized RA which shall conduct itself in accordance with the TrustFactory Client Issuing CA CPS and the RA Agreement approved by the TrustFactory Policy Authority (PA).

TrustFactory does not offer Subscriber key management services.

### 1.1 Definitions

**Certificate:** An electronic document that uses a digital signature to bind a Public Key and an identity.

**Certificate Policy:** A set of rules that indicates the applicability of a named Certificate to a particular community and/or PKI implementation with common security requirements.

**Certificate Revocation List:** A regularly updated timestamped list of revoked Certificates that is created and digitally signed by the CA that issued the Certificates.

**Certification Authority:** An organization that is responsible for the creation, issuance, revocation, and management of Certificates. The term applies equally to both Roots CAs and Subordinate CAs.

**Certification Practice Statement:** One of several documents forming the governance framework in which Certificates are created, issued, managed, and used.

**Compromise:** A violation of a security policy that results in loss of control over sensitive information.

**Issuing CA:** In relation to a particular Certificate, the CA that issued the Certificate. This could be either a Root CA or a Subordinate CA.

**Registration Authority (RA):** Any Legal Entity that is responsible for identification and authentication of Subjects of Certificates, but is not a CA, and hence does not sign or issue Certificates. An RA may assist in the Certificate



application process or revocation process or both. When “RA” is used as an adjective to describe a role or function, it does not necessarily imply a separate body, but can be part of the CA.

**Relying Party:** Any natural person or Legal Entity that relies on a Valid Certificate. An Application Software Supplier is not considered a Relying Party when software distributed by such supplier merely displays information relating to a Certificate

**Repository:** An online database containing publicly-disclosed PKI governance documents (such as Certificate Policies and Certification Practice Statements) and Certificate status information, either in the form of a CRL or an OCSP response. (<https://www.trustfactory.net/repository>)

**Subscriber:** A natural person or Legal Entity to whom a Certificate is issued and who is legally bound by a Subscriber Agreement or Terms of Use.

**Valid Certificate:** A Certificate that passes the validation procedure specified in RFC 5280.

## 2. Warranties and Representations.

The Subscriber warrants that:

- (i) he/she/it has full has exclusive control of the subject named in the Certificate;
- (ii) he/she/it has full power and authority to enter into this agreement and perform its obligations hereunder;
- (iii) he/she/it will present the TrustFactory Relying Party Agreement to every relying party;
- (iv) he/she/it will not in any manner intentionally compromise the security systems and processes provided by TrustFactory; and
- (v) he/she/it not modify, license, create a derivative work of, transfer any Certificate (except as required to use the Certificate) or Private Key, or use the TrustFactory Certificate as a certification authority.

## 3. Governing CP, CPS and RA Agreement

The provisions of the TrustFactory Client Issuing CA CPS and the RA Agreement govern the practice of the TrustFactory Client Issuing CA in issuing a TrustFactory Certificate and the RA in authenticating and verifying the information provided by you, the Subscriber, in applying for a TrustFactory Certificate.

The provisions of the TrustFactory Client Issuing CA CPS and the RA Agreement under which this application is made, are acknowledged by you, the Subscriber, to be binding on you in applying for, accepting the issue of and using the TrustFactory Certificate.

The disclaimers of warranties, limitations of liability and general administrative provisions of the TrustFactory CP are incorporated into this Subscribers Agreement by reference and are binding on TrustFactory, RA and the Subscriber.

## 4. Certificate Application

The Subscriber shall accurately complete an application form on the TrustFactory website and provide all information required as per the Application Form.

The Subscriber shall, within 30 days, be advised of the grant or rejection of the application by e-mail addressed to the e-mail address provided in the application.



## 5. Subscriber's Obligation

The Subscriber hereby commits to the following obligations and warranties to TrustFactory CA and the Certificate Beneficiaries:

1. **Accuracy of Information:** An obligation and warranty to provide accurate and complete information at all times to TrustFactory CA, both in the certificate request and as otherwise requested by TrustFactory CA in connection with the issuance of the Certificate(s) to be supplied by TrustFactory CA;
2. **Protection of Private Key:** An obligation and warranty by the Applicant to take all reasonable measures to assure control of, keep confidential, and properly protect at all times the Private Key that corresponds to the Public Key to be included in the requested Certificate(s) (and any associated activation data or device, e.g. password or token);
3. **Acceptance of Certificate:** An obligation and warranty that the Subscriber will review and verify the Certificate contents for accuracy;
4. **Use of Certificate:** An obligation and warranty to use the Certificate solely in compliance with the TrustFactory CP and TrustFactory Client Issuing CA CPS, all applicable laws and solely in accordance with the Subscriber Agreement or Terms of Use;
  - a. **Reporting and Revocation:** An obligation and warranty to: (a) promptly request revocation of the Certificate, and cease using it and its associated Private Key, if there is any actual or suspected misuse or compromise of the Subscriber's Private Key associated with the Public Key included in the Certificate; (b) promptly request revocation of the Certificate, and cease using it, if any information in the Certificate is or becomes incorrect or inaccurate, and (c) promptly notify TrustFactory of any a breach of this agreement.
5. **Termination of Use of Certificate:** An obligation and warranty to promptly cease all use of the Private Key corresponding to the Public Key included in the Certificate upon revocation of that Certificate for reasons of Key Compromise.
6. **Responsiveness:** An obligation to respond to TrustFactory CA's instructions concerning Key Compromise or Certificate misuse within forty-eight (48) hours.
7. **Acknowledgment and Acceptance:** An acknowledgment and acceptance that TrustFactory CA is entitled to revoke the certificate immediately if the Applicant were to violate the terms of the Subscriber Agreement or Terms of Use or if TrustFactory CA discovers that the Certificate is being used to enable criminal activities such as phishing attacks, fraud, or the distribution of malware The Subscriber acknowledges and accepts that TrustFactory CA or RA is entitled to revoke the Certificate immediately if the Subscriber violates the terms of the Subscriber Agreement or if TrustFactory CA discovers that the Certificate is being used to enable criminal activities such as phishing attacks, fraud, or the distribution of malware.

The Subscriber acknowledges that any failure to comply with its obligations in terms of this section shall constitute a material breach of this Subscribers Agreement.

The Subscriber further acknowledges the potential risk of a compromise of the Subscriber and/or another Subscriber's private key, which may or may not be detected, and the potential risk of a stolen or compromised private key being used to forge the Subscriber or another Subscriber's digital signature.



## 6. Use of the Certificate

The Subscriber shall ensure that:

1. he/she/it uses the Certificate according to the applicable permitted certificate usage defined in the TrustFactory CA CPS;
2. he/she/it does not use the TrustFactory Certificate for any prohibited uses as defined in the TrustFactory CA CPS;
3. the use of the Certificate is at all times personal to the Subscriber (person or entity names in the subject of the Certificate), failing which the Certificate is considered compromised and required to be revoked;
4. he/she/it does not permit a third party person or entity to use his/hers/its Certificate. Such action is a breach of this Subscriber Agreement, and will render the Subscriber liable for the actions of the third party made using the Certificate; and
5. he/she/it does not use another person's or entity's Certificate to access TrustFactory's or authorized RA's information systems.

## 7. Term and Termination

### 7.1. Term

This agreement shall commence on the date that a Subscriber submits a Certificate application to TrustFactory or the RA and is effective for the duration the Certificate issued under this agreement remains valid.

### 7.2. Termination

This agreement shall terminate immediately if:

1. TrustFactory rejects the Certificate application;
2. TrustFactory revokes the Certificate as permitted by the CPS;
3. the Certificate's validity period ends; or
4. the Subscriber is in material breach of this agreement, as determined by TrustFactory.

Upon termination, TrustFactory will this Certificate and may revoke any other Certificates issued to Subscriber without further notice. Subscriber shall pay any amounts still owed for the Certificates. TrustFactory is not obligated to refund any payment made by Subscriber upon termination of this Agreement

## 8. Disclaimers and Limitation of Liability.

### 8.1. Relying Party Warranties.

Subscriber acknowledges that the Relying Party Warranty is only for the benefit of Relying Parties. Subscriber does not have rights under the warranty, including any right to enforce the terms of the warranty or make a claim under the warranty.

### 8.2. Exclusion of Warranties.

THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE". TRUSTFACTORY EXPRESSLY DISCLAIMS ALL IMPLIED AND EXPRESS WARRANTIES IN THE SERVICES. THIS DISCLAIMER INCLUDES ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT AND IS EFFECTIVE TO THE MAXIMUM EXTENT ALLOWED BY LAW. TRUSTFACTORY DOES NOT GUARANTEE THAT 1) THE SERVICES WILL MEET SUBSCRIBER'S REQUIREMENTS OR EXPECTATIONS OR 2) THAT ACCESS TO THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE.



### **8.3. Limitation on Liability.**

IN NO EVENT SHALL TRUSTFACTORY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF PROFITS, LOSS OF DATA OR OTHER INDIRECT, INCIDENTAL, CONSEQUENTIAL DAMAGES ARISING FROM OR IN CONNECTION WITH THE USE, DELIVERY, RELIANCE UPON, LICENSE, PERFORMANCE OR NON PERFORMANCE OF CERTIFICATES ISSUED BY TRUSTFACTORY.

IN NO EVENT SHALL TRUSTFACTORY BE LIABLE FOR ANY ACTS OF GOD, OR OTHER PARTY'S RESPONSIBILITIES, OR ANY LIABILITY INCURRED IF THE FAULT IN THE VERIFIED INFORMATION ON A CERTIFICATE IS DUE TO FRAUD OR WILLFUL MISCONDUCT OF THE APPLICANT, OR ANY LIABILITY THAT ARISES FROM THE USAGE OF A CERTIFICATE THAT HAS NOT BEEN ISSUED OR USED IN CONFORMANCE WITH THIS AGREEMENT, OR ANY LIABILITY THAT ARISES FROM SECURITY, USABILITY, INTEGRITY OF PRODUCTS, INCLUDING HARDWARE AND SOFTWARE A SUBSCRIBER USES, OR ANY LIABILITY THAT ARISES FROM COMPROMISE OF A SUBSCRIBER'S PRIVATE KEY.

TO THE EXTENT TRUSTFACTORY HAS ISSUED AND MANAGED THE CERTIFICATE IN ACCORDANCE WITH THE TRUSTFACTORY CP AND THE TRUSTFACTORY CLIENT ISSUING CA'S CPS, TRUSTFACTORY CA SHALL NOT BE LIABLE TO THE SUBSCRIBER, RELYING PARTY OR ANY THIRD PARTIES FOR ANY LOSSES SUFFERED AS A RESULT OF USE OR RELIANCE ON SUCH CERTIFICATE. OTHERWISE OUTSIDE OF THE CONTEXT OF THE TRUSTFACTORY WARRANTY POLICY, THE TOTAL LIABILITY OF TRUSTFACTORY AND ITS AFFILIATES, AND EACH OF THEIR OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AND CONTRACTORS, RESULTING FROM OR CONNECTED TO THIS AGREEMENT IS LIMITED TO THE COST OF THE CERTIFICATE.

These limitations apply to the maximum extent permitted by law regardless of 1) the reason for or nature of the liability, including tort claims, 2) the number of any claims, 3) the extent or nature of the damages, and 4) whether any other provisions of this agreement have been breached or proven ineffective.

### **8.4. Exception.**

Nothing in this agreement excludes or limits 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.

### **9. Severability**

If any provision of this Agreement, or the application thereof, shall for any reason and to any extent, be invalid or unenforceable, the remainder of these conditions and application of such provision to other persons or circumstances shall be interpreted so as best to reasonably effect the intent of the parties hereto.

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT EACH AND EVERY PROVISION OF THESE CONDITIONS WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES OR EXCLUSION OF DAMAGES IS INTENDED BY THE PARTIES TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND TO BE ENFORCED AS SUCH.

### **10. Assignment**

This Agreement shall be binding upon the successors, executors, heirs, representatives, administrators, and assigns, whether express, implied, or apparent, of the parties.

Subscriber must not assign their rights or obligations without the prior written consent of TrustFactory.

Where TrustFactory has provided written consent to assign rights and obligations detailed in this Agreement (including as a result of survival, merger or a transfer of a controlling interest in voting securities), such assignment should be undertaken consistent with this Agreement and the TrustFactory CP articles on termination or cessation of operations, and provided that such assignment does not effect a novation of any other debts or obligations the assigning party owes to other parties at the time of such assignment.



**11. Indemnity**

Subscriber indemnifies TrustFactory, its partners, and their respective directors, officers, employees, agents, and contractors against any loss, damage, or expense, including reasonable attorney’s fees, related to (i) any misrepresentation or omission of material fact by Subscriber, regardless of whether the misrepresentation or omission was intentional or unintentional; (ii) Subscriber’s breach of the Subscriber Agreement, TrustFactory CP, or applicable law; (iii) the Compromise or unauthorized use of a Certificate or Private Key caused by the Subscriber’s negligence; or (iv) Subscriber’s misuse of the Certificate or Private Key.

**12. Remedy**

Subscriber’s sole remedy for a defect in the Certificate or other related Services of TrustFactory is to have TrustFactory use reasonable efforts to correct the defect. TrustFactory is not obligated to correct a defect if (i) the Service was misused, damaged, or modified, (ii) Subscriber did not immediately report the defect to TrustFactory, or (iii) Subscriber breached any provision of this agreement.

**13. Dispute settlements**

In the event of a dispute arising from this Agreement the Parties agree to attempt to settle their dispute amicably or follow the dispute resolution process described in the TrustFactory Certificate Policy.

**14. Governing Law**

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa and the rules and regulations framed thereunder, without reference to conflict of laws principles.

SIGNED AT \_\_\_\_\_ ON \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
THE SUBSCRIBER, duly authorized

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

Digitally Signed by: *TrustFactory (Pty) Ltd*