

Email Certificate Subscriber Agreement

IMPORTANT—PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE APPLYING FOR, ACCEPTING, OR USING A CERTICOM EMAIL CERTIFICATE. BY USING, APPLYING FOR, OR ACCEPTING A CERTICOM EMAIL 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 CERTICOM EMAIL 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 Certicom Corporation (“Certicom”) with respect to any of 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 an Email Certificate shall be valid as determined by the type of Email Certificate ordered from Certicom and the entity selling or offering the Certificate to you;

“Certicom CPS” or “CPS” means the Certicom Certificate Practice Statement as may be amended from time to time in Certicom’s sole and absolute discretion. The Certicom CPS is a document that sets out the working practices that Certicom employs in providing Digital Certificates and defines the underlying certificate processes and Repository operations conducted by Certicom;

“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 but not limited to 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.

“CRL” means a certificate revocation list that contains details of Digital Signatures that have been revoked by Certicom;

“Digital Certificate” means a digitally signed electronic data file (conforming to the X509 version 3 ITU standard) issued by Certicom 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 Certicom;

“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 Certicom receives a request for the Email Certificate;

“Email Certificate” means the Digital Certificate produced that enables Subscribers to encrypt and add a Digital Signature to emails sent by the Subscriber;

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

“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. Force Majeure shall include interrupts, disconnections, or disruptions in Internet communications caused by any third party service provider;

“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 [Email 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 Digital Certificates, CRL's and other information relating to Digital Certificates and which may be accessed via Certicom's website;

“Subscriber” means you, as either an individual or an entity, when applying for and while registered to use an Email 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 required by Certicom in order to provide an email certificate. This information 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. Besides the challenge password, the Subscriber Data may be embedded into the Email Certificate and may be view, retrieved, examined, used, determined, or read by a third party examining the Email Certificate. The Subscriber Data may or may not contain personal data for the purposes of the Data Protection Act 1998, but must be provided by the Subscriber during the Email Certificate application process.

“Subscription Service” means the Email Certificate provided by Certicom to Subscriber.

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

3. Provision of Digital Certificate Subscription Services

- 3.1 Upon receipt of Subscriber’s electronic application for an Email Certificate and provided that Certicom is able to validate the Subscriber in accordance with the validation procedures listed in the Certicom CPS, Certicom shall accept a Subscriber’s application for the Subscription Service and shall provide the Subscriber with an Email Certificate in accordance with the terms of this Agreement, save that Certicom reserves the right to refuse a Subscriber’s application for the Subscription Service by notifying the Subscriber as soon as reasonably possible.
- 3.2 Subscriber shall, in consideration for the provisioning of the Email Certificate and the licenses granted under this Agreement, pay to Certicom all charges owed as set forth by the party from which the certificate is purchased. Charges may be different between the initial purchase of the Email Certificate and subsequent renewals of the same.

4. Use of the Subscription Service

- 4.1 The Email Certificate is being provided by Certicom for the Subscriber’s own use and the Subscriber hereby agrees not to resell, attempt to resell, or provide in any form whether for consideration or not (other than as required for typical use of the Email Certificate) the Email Certificate to any third party.
- 4.2 The Subscriber shall:
- i. be responsible, at its own expense, for access to the Internet and all other communications networks (if any) required in order to use the Email Certificate and for the provisioning of all computer and telecommunications equipment and software required to use the Subscription Service save where the same is not expressly provided under the terms of this Agreement;
 - ii. obtain and keep in force any authorization, permission or license necessary for the Subscriber to use the Email Certificate save where Certicom expressly agrees to obtain the same under the terms of this Agreement;
 - iii. remain responsible for the generation of 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 Email Certificate solely in conjunction with S/MIME compliant software for the purposes of encrypting an email or adding a Digital Signature to an email or for any other purpose that may be set forth herein or in the Certicom 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 Email Certificate and acknowledges that Certicom shall not be a party to, or be responsible in any way for, any such transaction.
- 4.3 The Subscriber shall not use the Email Certificate to transmit (either by sending by email 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.

5. License of Digital Certificate Technology

- 5.1 Certicom grants the Subscriber a revocable, non-exclusive, non-transferable personal license to use any Email 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 Subscription Services.
- 5.2 The Email Certificate shall be valid and may be used by the Subscriber from the Issue Date to the earlier of the end of the Certificate Period or the revocation of the Email Certificate.
- 5.3 Except as necessary to use the Email Certificate for its intended purpose, the Subscriber shall not 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 Certicom's prior written consent.

6. Charges and Payment Terms

- 6.1 Any fees or amounts due in connection with the ordering, use, or issuance of the Email Certificate shall be paid on or before the Issue Date. Some Email Certificates are issued free of charge but may incur a fee for renewal. Renewal fees may be different than issuance fees and Certicom may set, modify, amend, or update all renewal fees and issuance fees in its sole and absolute discretion.
- 6.2 Certicom shall refund any amount paid (including any appropriate sales, use tax or equivalent charge) paid by the Subscriber if within twenty (20) Business Days of the Issue Date, the Subscriber has not used the Email Certificate and has, within this period, made a written request to Certicom for revocation of the Email Certificate issued to it or Certicom revokes the Email Certificate pursuant to Clause 7.3.

7. Security

- 7.1 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 Subscription Service. The Subscriber shall also immediately inform Certicom 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 Certicom ceases to remain valid or correct or otherwise changes.
- 7.2 The Subscriber shall have sole responsibility for all statements, acts and omissions which are made under any password provided by it to Certicom.

- 7.3 Certicom reserves the right to revoke a Subscriber's Digital Certificate in the event that Certicom 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 Digital Certificate has not been issued in accordance with the policies set out in the Certicom CPS;
 - iii. the Subscriber has requested that its Digital 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 Subscription Service;
 - v. the Subscriber Data is no longer correct or accurate, save that Certicom has no obligation to monitor or investigate the accuracy of information in a Digital Certificate after the Issue Date of that Digital Certificate;
 - vi. failing to revoke the Digital Certificate will harm Certicom in some way, or
 - vii. the Subscriber is in breach of this Agreement.

Certicom may, in its absolute discretion after revocation of a Digital Certificate, reissue a Digital Certificate to the Subscriber or terminate this Agreement in accordance with the provisions of Clause 14.

- 7.4 The Subscriber agrees to discontinue all use of the Subscriber's Digital Certificate if the Subscriber's Digital 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.

8. Confidentiality

- 8.1 Neither party shall use any Confidential Information other than for the purpose of performing its obligations under this Agreement save where Confidential Information is required for the provision of the Subscription Service.
- 8.2 Each party shall procure that any person to whom Confidential Information is disclosed by it complies with the restrictions set out in this clause 8 as if such person were a party to this Agreement.
- 8.3 Notwithstanding the previous provisions of this clause 8 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.
- 8.4 The restrictions contained in this clause 8 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 Service certain information shall be embedded in the Subscriber's Digital Certificates and the Subscriber hereby consents to the disclosure to third parties of any such information.
- 9.2 The Subscriber hereby grants Certicom permission to examine, evaluate, process and in some circumstances transmit to third parties the Subscriber Data insofar as is reasonably necessary for Certicom to provide the Subscription Service.

10. Intellectual Property Rights

- 10.1 Unless otherwise agreed in writing, the parties agree that Digital Certificates, Certicom Public Keys, and Certicom Private Keys are the property of Certicom and the Subscribers Private Keys are the property of the Subscriber.
- 10.2 NO PATENT LICENSE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NO LICENSE OR RIGHTS TO LICENSE CERTICOM'S PATENTS OR OTHER CERTICOM INTELLECTUAL PROPERTY IS GRANTED HEREUNDER EXCEPT TO THE EXTENT NECESSARY TO PERFORM PUBLIC KEY OPERATIONS USING THE SUBSCRIBER PUBLIC AND PRIVATE KEYS. THE LICENSE GRANTED IN CONNECTION WITH THE USE OF THE CERTIFICATES AS CONTEMPLATED BY THIS AGREEMENT IS STRICTLY RESTRICTED AND DOES NOT EXTEND TO GRANT A LICENSE IN CERTICOM'S PATENTS OR OTHER INTELLECTUAL PROPERTY FOR ANY OTHER PURPOSE.
- 10.3 The Subscriber agrees not to use the Certicom name, brand, get-up or logo in any way except with Certicom's prior written consent.

11. Subscriber Warranties, Representations and Indemnities

- 11.1 The Subscriber warrants, represents and undertakes that:
- i. 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 Certicom 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 Certicom (such codes of practice to be notified to the Subscriber by Certicom 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 Certicom; and
 - iii. it has full power and authority to enter into this Agreement and to perform all of its obligations under this Agreement.
- 11.2 Subscriber shall promptly disclose in writing to Certicom anything which constitutes a breach of, or is inconsistent with, any of the warranties and undertakings in Clause 12.1.
- 11.3 The Subscriber shall indemnify Certicom against any claims or legal proceedings which are brought or threatened against Certicom by any third party as a result of the Subscriber's breach of the provisions of this Agreement. Certicom will notify the

Subscriber of any such claims or proceedings and keep the Subscriber informed as to the progress of such claims or proceedings.

- 11.4 The Subscriber agrees not to make any representations regarding the Subscription Services to any third party except as agreed in writing by Certicom.

12. Exclusion of Warranties

EXCEPT AS SPECIFICALLY PROVIDED HEREIN AND TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, CERTICOM EXPRESSLY DISCLAIMS ON BEHALF OF ITSELF AND ITS SUPPLIERS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, AT LAW, IN EQUITY, OR STATUTORY, WITH RESPECT TO DIGITAL CERTIFICATES, SUPPLEMENTAL MATERIAL, DOCUMENTATION, OR ANY OTHER PRODUCT OR SERVICE PROVIDED TO THE SUBSCRIBER OR ANY OTHER PARTY OR THE CHARACTERISTIC, QUALITY, PERFORMANCE, OR VALUE OF ANY PRODUCT OR SERVICE, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, AND NON-INFRINGEMENT.

13. Term and Termination

- 13.1 This Agreement shall commence on the Effective Date and shall continue for the Certificate Period unless terminated earlier in accordance with this Clause 13 or the Digital Certificate is revoked pursuant to Section 7.3.
- 13.2 Either party may terminate this Agreement for convenience by providing to the other twenty (20) Business Day's written notice.
- 13.3 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. by Certicom in the event a Digital Certificate is revoked in accordance with the provisions of Clause 7.3 or if Certicom is unable to validate, to its satisfaction, all or part of the Subscriber Data.

14. Consequences of Termination

If this Agreement is terminated by Certicom under Clause 13 for any reason or under Clause 16.2 Certicom 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 but not yet paid under this Agreement. Except as otherwise provided herein, no refunds, credits, or charge backs shall be provided if this Agreement is terminated prior to its natural expiration.

15. Limitation of Liability

- 15.1 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;
- 15.2 SUBJECT TO CLAUSE 16.1, CERTICOM'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 EMAIL CERTIFICATE OR THE RENEWAL THEREOF PROVIDED THAT REGARDLESS OF THE TYPE, AMOUNT, OR EXTENT OF ANY ACTUAL DAMAGES SUFFERED. CERTICOM 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 CERTICOM HAS BEEN APPRISED OF THE POSSIBILITY OR THE EXISTANCE OF SUCH DAMAGES. CERTICOM DOES NOT GUARANTEE OR REPRESENT THAT THE EMAIL CERTIFICATE WILL MEET SUBSCRIBER'S NEEDS, REQUIREMENTS, OR EXPECTATIONS NOR DOES CERTICOM GUARANTEE OR REPRESENT THAT THE EMAIL CERTIFICATE AND 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.

- 15.3 CERTICOM SHALL NOT BE LIABLE TO THE SUBSCRIBER FOR ANY LOSS SUFFERED BY THE SUBSCRIBER DUE TO USE OR MISUSE OF AN EMAIL CERTIFICATE. EMAIL CERTIFICATES ARE NOT INTENDED TO BE USED IFOR E-COMMERCE AND CARRY NO WARRANTY OR GUARANTEE. ALL RISKS ASSOCIATED WITH THE USE OF AN EMAIL CERTIFICATE ARE THE RESPONSIBILITY OF THE SUBSCRIBER.
- 15.4 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.
- 15.5 Subscriber's sole remedy for a defective Digital Certificate shall be to have Certicom, through commercially reasonable efforts, correct or cure any reproducible defect in the Digital Certificate by issuing corrected instructions, a restriction, or bypass. In the event that Certicom is unable or unwilling to correct or cure a deformity, defect, or error with a Digital Certificate, Subscriber's sole remedy shall be a refund of any amount paid for the non-conforming or defective Digital Certificate provided that the Subscriber has provided prompt notice to Certicom of any nonconformity or defect upon its discovery. If Subscriber has made any changes whatsoever to the Digital Certificate, has mis-used damaged, altered, or modified the Digital Certificate in any manner, or fails to provide notice of the defect to Certicom, then Certicom shall not be obligated to provide any correction, cure, or solution to the Subscriber.

16. Force Majeure

- 16.1 Neither party hereto shall be liable for any breach of its obligations hereunder resulting from a Force Majeure Event.
- 16.2 Subscriber agrees to give written notice to Certicom 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.
- 16.3 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.

17. Amendments and Waivers

- 17.1 Except as provided otherwise in this Agreement, Certicom 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 13 if Subscriber does not agree to the changes made. By continuing to use the Email Certificate after any change is made, Subscriber agrees to abide by and be bound by such changes.
- 17.2 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. Certicom 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 the Subscription Services; or (ii) in information posted on the Certicom website of a general informational nature. No employee, contractor, agent or representative of Certicom is authorized to alter or amend the terms and conditions of this Agreement.

18. Notices

- 18.1 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 18.2 below in the case of Certicom, 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.
- 18.2 The address for Certicom Corporation is 5520 Explorer Drive, 4th Floor, Mississauga, Ontario L4W 5L1 marked for the attention of Certificate Subscriber Agreement Administrator.

19. 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.

20. Entire Agreement

- 20.1 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.
- 20.2 Without prejudice to any liability for fraudulent misrepresentation, Certicom 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.

21. Assignment

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

22. Governing Law and Jurisdiction

This Agreement and all matters arising from or connected with it, are governed by and shall be construed in accordance with the laws of the state of New York and the parties hereby submit to the exclusive jurisdiction of the Court of Manhattan District, New York, United States. 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

No third party shall be to any rights under this Agreement which it may enter against Certicom.

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.