

**CANADA CUSTOMS AND REVENUE AGENCY
PUBLIC KEY INFRASTRUCTURE**

External Organization Agreement Governing the Issuance and Use of Certificate(s)
for Data Transfer under the Customs Internet Gateway and any other Program for which the CCRA Authorizes its use pursuant to the
CCRA Public Key Infrastructure.

This Agreement is made on the _____ day of _____, 20__

BETWEEN:

The Canada Customs and Revenue Agency ("the CCRA")

AND:

_____ ("the Organization")

The following are the terms and conditions upon which Organizations may use and rely upon certificates issued by the CCRA Public Key Infrastructure (CCRA-ADRC PKI):

1. Purpose

This agreement contains the terms and conditions under which the Organization may request (a) PKI certificate(s) to be issued to designated representatives under the CCRA Customs Internet Gateway and for any other program for which CCRA authorizes its use. As it is likely that one with signing authority will not be the entity to be using the PKI certificate(s) to perform transactions with CCRA on behalf of the Organization, the following establishes the terms and conditions relating to the delegation of authority to use a PKI certificate(s) for transactions with the CCRA.

2. Definitions

Terms and words used in this agreement have the same meaning as in the CCRA Certificate Policies ("the CPs") [Confidentiality and Digital Signature], which are found at <http://www.ccradrc.gc.ca/eservices/pki/about-e.html>.

3. Application

This Agreement shall apply to all applications made for PKI certificates for designated representatives identified and approved by the Organization.

4. Identification Information

The Organization certifies that the information submitted, as corrected or updated from time to time, is true and complete.

5. Issuance of Certificate(s)

CCRA will notify the Organization of the issuance of the certificate(s);
CCRA may, in its discretion, refuse to issue (a) certificate(s) to a Subscriber;

6. Delegation of Authority

- a) The Organization confirms and certifies that the power to perform electronic transactions with CCRA, using the device(s) listed in Appendix A, on behalf of the Organization, is delegated to the designated representative(s), hereinafter referred to as the "Subscriber(s)", as enumerated in Appendix A to this Agreement. The Organization requests, authorizes and consents to the issuance of (a) PKI certificate(s) to the Subscriber(s) on behalf of the Organization;
- b) The Organization confirms and certifies that the Subscriber(s) listed in Appendix A to this Agreement are employed by the Organization and are authorized to have access to, enter data, and use the device(s) listed in Appendix A, to transmit data to the CCRA on behalf of the Organization, and to take responsibility for the use of keys by the device(s);
- c) The Organization may amend the list of Subscriber(s) or device(s) in Appendix A to this Agreement by notice in writing to the CCRA, and the CCRA shall issue keys within 5 business days of the said notice. The Organization agrees that it certifies and confirms, by the provision of each and every such notice, that it has to have performed identification and authentication measures with respect to the Subscriber(s) to be added to Appendix A, in accordance with this Agreement and the terms of the CPs, and that all terms of this Agreement apply to the Subscriber(s) added to Appendix A as of the date of receipt of such notice from the Organization;
- d) The Organization has verified the identity of the Subscriber(s) in accordance with the requirements of the CPs which are located at <http://www.ccradrc.gc.ca/eservices/pki/about-e.html>, in that the Organization has compared the identity of the Subscriber(s) with two pieces of original identification obtained from the Subscriber(s), one of which contained a photograph. The information obtained from the Subscriber(s) was collected for the CCRA for the purposes of the Customs Internet Gateway and for any other program for which CCRA authorizes the use of the certificate(s) issued;
- e) The Organization confirms and certifies that it has received, read and understands all the terms and conditions of the Subscriber Agreement in the form attached hereto, as amended from time to time, which is to be signed by the Subscriber(s). The Organization also certifies that it has caused the Subscriber(s) to read the Subscriber Agreement, and the Subscriber(s) has accepted and signed the terms and conditions of the Subscriber Agreement, and the Organization agrees to take full responsibility for all actions of the Subscriber(s) in breach of this Agreement, whether outside the ordinary course of their employment or otherwise;
- f) The Organization agrees to take responsibility for the operation of the device(s) by the Subscriber(s) including its security and configuration, and agrees to be responsible for the use of keys by the Subscriber(s), whether or not such use was authorized by the Organization or was in the contemplation of the parties to this Agreement unless the Organization provides notice to the CCRA of the contrary within 5 business days;
- g) The Organization agrees to ensure that the private keys are operated on computer equipment that is regularly scanned for viruses and free of malicious programs, and agrees to accept responsibility for any and all use, of the keys issued;
- h) The Organization agrees to notify the CCRA of any breach of the terms of the Subscriber Agreement by the Subscriber(s) or any other act or omission of the Subscriber(s) of which the Organization has or ought to have knowledge that could lead to the compromise of the security of the Customs Internet Gateway or any other program for which CCRA authorizes the use of the certificate(s) issued;
- i) The Organization agrees and accepts the obligation to ensure that the Subscriber(s) agrees that his/her token, password and private key must be kept confidential in order to preserve the security of any electronic communication made using the certificate(s).

7. Acceptable Use

The Organization agrees that it will not authorize, use, rely on or knowingly permit others to use certificates issued by the CCRA for any purpose other than dealings with the CCRA for purposes of electronic filing for pre-approved programs. The Organization agrees to ensure that the Subscriber(s) or the device(s) does not use, rely on, or knowingly permit others to use or rely on a certificate issued by CCRA for any purpose other than interactions with the CCRA for purposes of electronic filing for pre-approved programs.

8. Certificate Policy

The Organization acknowledges having read and understood the responsibilities and obligations contained in the Certificate Policies ("CPs") [Confidentiality and Digital Signature] located at <http://www.ccradrc.gc.ca/eservices/pki/about-e.html>, as amended from time to time. The Organization understands that the CP may change from time to time, with notice of such changes provided as per clause 15 f) of this Agreement. The Organization understands that the CPs form part of this Agreement.

9. Revocation of Certificates

- a) The Organization may request the CCRA to revoke any certificate(s) issued, by signed notice in writing, or by facsimile at any time prior to the expiration of its lifetime;
- b) The Organization must immediately request the CCRA to revoke the certificate(s) in certain circumstances. These circumstances are:
 - i) If the Organization becomes aware that any of the password, token, or private keys has been or is, or if the Organization suspects they may have been or be, compromised or insecure in any way;
 - ii) If any of the information contained in the certificate(s), or the identification and authentication information provided to the Organization by the Subscriber(s) has been changed or altered, or is otherwise no longer accurate or complete;
 - iii) If the device(s) holding the certificate(s) is lost or stolen, changes, is no longer used, or no longer authorized for use in the Customs Internet Gateway, or any other program for which the CCRA authorizes the use of the certificate(s) issued;
 - iv) If the Subscriber(s) is dismissed, replaced, becomes untrustworthy, leaves the Organization voluntarily, or is otherwise no longer authorized by the Organization;
- c) The Organization acknowledges that the CCRA may revoke the certificate(s) if:
 - i) Any of the information in the certificate(s) changes;
 - ii) The Subscriber(s) fails to comply with the terms and conditions of, or otherwise fails to meet their obligations under the Subscriber Agreement;
 - iii) The CCRA knows or suspects that the private keys or the private signing key of the issuing Certification Authority has been compromised;
 - iv) The CCRA knows or suspects that the token or password or private key has been compromised;
 - v) The certificate of the issuing Certification Authority which is used to sign the PKI certificate of the Subscriber(s) is revoked;
 - vi) For any other reasons deemed necessary by the CCRA
- d) The Organization acknowledges that the CCRA will notify the Organization of the revocation, that notice of such revocation will be published in the Certificate Revocation List within 12 hours of a request under paragraph (b) or within 12 hours of revocation under paragraph (c), and that such revocation does not affect the authenticity of a message digitally signed before revocation;
- e) The Organization understands that, if the CCRA revokes the certificate(s), the Organization may request a new certificate, but that the CCRA is not obliged to issue a new certificate.

10. Privacy

- a) The Organization consents to, and accepts this agreement as notice of the collection and disclosure of identifying information, being the name of the Organization and its Province of operation, from the public repository.
- b) The Organization understands that the information collected is for issuing (a) certificate(s), and is necessary for electronic communication with the CCRA;
- c) The Organization understands that the identifying information will be placed in a certificate, which will be maintained in a certificate repository by the CCRA and may be referred to in Certificate Revocation Lists (CRL). Any certificate information found in the CRL is in binary format;
- d) The Organization acknowledges and understands that consent may be withdrawn at any time by notifying the CCRA by signed notice, either in writing or by facsimile, and that if consent is withdrawn, the CCRA may have to revoke the certificate(s). As a result, the CCRA may not be able to continue to provide some services, benefits or information in an electronic format;
- e) The Organization understands it has the right to request disclosure of the information in the Organization's file and to have that information corrected by the CCRA;
- f) Notwithstanding the foregoing, the Organization agrees and will ensure that its employees, agents or subcontractors agree to comply with the provisions of the Privacy Act and the Access to Information Act;
- g) Notwithstanding anything in this Agreement, any information including, but not restricted to, personal information within the meaning of the Privacy Act or the Access to Information Act, managed, received or created in order to fulfill the requirements of the Agreement, shall be considered by the parties to be under the control of the Minister of National Revenue and shall be made available to the Minister upon request.

11. Software

If the CCRA supplies the Organization with any computer software, the Organization agrees not to tamper with, alter, destroy, modify, reverse engineer, decompile, or abuse such software in any way. The Organization agrees not to use the software for any purpose other than interactions with the CCRA. The Organization also agrees to abide by any foreign laws or restrictions that may exist on the use of such software outside of Canada. All software supplied must be returned to the CCRA should the Organization decide to no longer participate in electronic communication with CCRA.

12. Availability

The Organization acknowledges that the CCRA does not warrant or represent 100% availability of CCRA services because of events such as system maintenance and repair, or events that are beyond the reasonable control of the CCRA or that the CCRA could not have reasonably prevented by means of the controls, compromise and disaster recovery procedures, business continuity procedures including the establishment and maintenance of off-site facilities, and back-up provisions, all as required by the CP, and occurred without the fault or neglect of the CCRA.

13. Disclaimer

The CCRA will not be liable for the events referred to in paragraphs (a) to (h), and for the events referred to in paragraphs (a) to (g), the Organization agrees to indemnify and save the CCRA harmless from, any losses or damages, whether direct, indirect or consequential, resulting from:

- The provision of untrue or incomplete information or documents, or the failure to notify the CCRA of changes to or errors in information contained in the certificate(s);
- Any breach by the Subscriber(s) of the terms of the Subscriber Agreement, including but not limited to failing to protect any password token and private keys;
- Any use or reliance on certificate(s) which is not in accordance with this Agreement or the Subscriber Agreement, by the Subscriber(s) or the Organization;
- Any breach by the Organization of the terms and conditions of this Agreement;
- Any failure to request the revocation of a certificate(s) where required under this Agreement or the Subscriber Agreement;
- Any failure by the Organization to comply with any copyright, licensing or other intellectual property agreements applicable to software provided under the terms of this Agreement;
- Any determination, judgment or award finding Canada or the CCRA to be an agent or trustee of the Subscriber(s), or to be liable with the Subscriber(s) or a relying party as a partner of, joint venturer with, principle or agent of, trustee or fiduciary for them in any respect;
- Any lack of availability, delay, or failure to provide CCRA PKI services caused by system maintenance or repair, or any event that was beyond the reasonable control of the CCRA or which the CCRA could not reasonably have prevented or occurred without the fault or neglect of the CCRA.

14. Liability

- The Customs Internet Gateway is offered as a service for communications and transactions between the CCRA and its clients. The CCRA therefore states that it has no relationship with, and owes no duty whatsoever to anyone who is not the Organization or the Subscriber(s) as detailed in this Agreement. The CCRA will not be liable and expressly disclaims all liability whatsoever to anyone or to any entity who is not the Organization under this agreement for the CCRA Customs Internet Gateway, for any claims, actions, loss, damages, awards including, without limitation, loss of revenue or profit or savings, loss or damaged data, or other commercial or economic loss, or any indirect or incidental, special or consequential damages, whatsoever, even if the CCRA has been advised of the possibility of these damages or for claims by a third party, nor shall CCRA's contractors, suppliers, agents, employees or representatives have such liability. This section shall apply whether or not the liability results from negligence, a breach of fundamental terms or conditions or a fundamental breach of this Agreement.
- The CCRA makes no representations or warranties express or implied with respect to the PKI certificate(s) issued. The CCRA further disclaims all liability resulting from any action or inaction on the part of the Organization, of any kind arising from tort, contract or any other form of claim in relation to the use, delivery, license or reliance upon certificates where the Organization directs the issuance of certificates to designated certificate holders within the Organization.
- Notwithstanding anything in this Agreement, and notwithstanding the value of any transaction for which the PKI certificate(s) is used, the CCRA's maximum aggregate liability to a Organization under this agreement for the Customs Internet Gateway or any third party, who reasonably uses or relies on a certificate(s), for any claim whatsoever, related to any service associated with the issuance or use of, or reliance upon a medium level certificate(s) issued by the CCRA or its associated key pair, **shall not exceed \$50,000 per instance of use or reliance**, even if the CCRA has been advised of the possibility of such damages or for claims by a third party, nor shall the CCRA's contractors, suppliers, agents, employees or representatives have such liability. This section shall apply whether or not the liability results from negligence, a breach of the fundamental terms or conditions, or a fundamental breach of this Agreement.

15. General

The Organization understands and agrees that:

- These terms and conditions, which may be amended in writing from time to time, form the entire and sole agreement between the CCRA and the Organization with respect to the subject matter of this Agreement, and supersede all previous negotiations, communications and other agreements whether written or oral relating to it, unless they are incorporated by reference in the Agreement. No amendment to this Agreement is valid unless agreed in writing by the parties. There are no terms, covenants, representations, statements or conditions binding on the parties other than those contained in the Agreement, any written amendment to the Agreement, and the CP;
- Despite any termination or expiration of this Agreement, the disclaimers, limits on liability, consent provisions and provisions concerning indemnity shall survive;
- Any provision of this Agreement declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, shall be severed from the Agreement, and all other provisions shall remain in full force and effect;
- In the event of any inconsistency between this Agreement and the CP, this agreement shall prevail;
- This Agreement may not be assigned;
- The terms of the CCRA CPs [Confidentiality and Digital Signature] which can be located at <http://www.ccradrc.gc.ca/eservices/pki/about-e.html>, and any amendments thereto, are incorporated into this Agreement by reference. Notification of any amendments to the CPs shall be provided to the Organization by any of written notice, facsimile or email, along with information as to where the content of such amendments can be viewed, and the Organization is deemed to accept all amendments to the CPs unless it notifies the CCRA otherwise and terminates this Agreement within seven (7) business days.

The CCRA may refuse to issue certificates to Subscriber(s) in its discretion

16. No Partnership

The CCRA and the Organization expressly disclaim any intention to create a partnership, employer/employee relationship, joint venture, joint enterprise or fiduciary relationship. It is understood, acknowledged and agreed that nothing contained in this Agreement nor any acts of the CCRA or the Organization, or any relying party shall constitute or be deemed to constitute the CCRA and the Organization (or any relying party) as partners, employer and employee, joint venturers, principal and agent, trustee and beneficiary, or as in a fiduciary relationship of any kind, in any way or for any purpose.

17. Term of Agreement

- Unless otherwise agreed, this Agreement is in force from the date on which the PKI certificate(s) is published in the certificate repository and shall remain in force until 5 years from the date on which the certificate(s) is first published in the repository or until terminated in accordance with the provisions of paragraphs (b), (c) and (d) below;
- This Agreement may be terminated by either party, at any time, with 14 days written notice;
- The CCRA may terminate this Agreement without notice in the event that the Organization fails to comply with any obligations under this Agreement;
- In the event of termination of this Agreement, the CCRA shall revoke all certificate(s) issued at the request of the Organization, without notice.

18. Dispute Resolution and Governing Law

If there is any dispute between the CCRA and the Organization, the parties will attempt to resolve the dispute amicably and in an expeditious manner, first by negotiation and, failing resolution, then through an independent mediator, as follows:

- Any party may, by notice in writing or by digitally signed electronic message, commence negotiations;
- If the dispute cannot be so resolved within 30 calendar days of the notice to commence negotiations, then either party may, by notice in writing or by digitally signed electronic message, submit the dispute to mediation;
- A single independent mediator, not being an employee or contractor of the parties, shall be appointed by the parties and, failing such appointment within 30 calendar days of the submission to mediation, the mediator will, upon application by one or both of the parties, be appointed by the Government of Canada Policy Management Authority within 30 calendar days after the expiration of the previous 30-day period;
- The costs of negotiation, or mediation, as applicable, including the fees of the mediator, the mediator's travel and accommodation expenses, and the costs of room rental and support services for the negotiation or mediation proceedings, will be shared equally by the parties;
- Each party will bear its own costs of legal representation, travel and accommodation for the negotiation or mediation, as applicable;
- This Agreement shall be governed by and construed in accordance with the laws of Canada and any applicable laws of the Provinces/Territories, exclusive of their conflicts-of law principles.

19. Notice

- Unless specified otherwise, where this Agreement calls for notice by either party, such notice to either the Organization or the CCRA may be given by hand, by mail, by courier, by facsimile, or by digitally signed electronic mail. Any notice shall be considered to have been received on the fifth business day after mailing if sent by regular mail, on the date of delivery if sent by courier, or on the first business day after the date of transmission if sent by facsimile or electronic mail;
- Any notice shall be given to the Organization at the address specified in the Subscriber Application;
- Notice shall be given to Canada Customs and Revenue Agency at:

PKI Key Management Centre
4th Floor, 25 Fitzgerald Street
Ottawa, Ontario
K1A 0L5

Date

Name, Organizational Authority [printed]

Signature*

*I have authority to bind the Organization

Name: _____

Title: _____

Mailing Address: _____

Date

Name, Authorized CCRA Agent [printed]

Signature
