



## FORTIOR PIV-I™ PROGRAM SUBSCRIBER AGREEMENT

Please carefully read the following terms and conditions of this Fortior Solutions Personal Identity Verification-Interoperable (“**PIV-I**”) Program Subscriber Agreement (the “**Agreement**”). This Agreement is entered into between Fortior Solutions, LLC, an Oregon limited liability company having its principal place of business at 5800 NE Pinefarm Court, Hillsboro, OR 97124 (“**Fortior Solutions**”) and you (referred to in this **Agreement** as “**Subscriber**”).

This Agreement governs Subscriber’s rights and obligations with respect to Subscriber’s receipt and use of a PIV-I Credential issued to Subscriber by or through Fortior Solutions for the Fortior PIV-I™ Program (the “**Program**”). By signing this Agreement or by selecting a PIN during the PIV-I Credential issuance process, Subscriber accepts and agrees to be bound by all of the terms and conditions set forth in this Agreement.

**1. Definitions.** For purposes of this Agreement, the following definitions apply:

“**Certificate**” means a digital representation of a subscriber’s information in a PIV-I Credential which at least (1) identifies the certification authority issuing it, (2) positively identifies its subscriber, (3) contains the subscriber’s public key, (4) identifies its operational period, and (5) is digitally signed by the certification authority issuing it.

“**Digital Signature**” means the result of a transformation of a message or document by means of cryptographic keys such that a Relying Party can determine: (1) whether the transformation was created using the private key that corresponds to the public key in the signer’s digital Certificate; and (2) whether the message has been altered since the transformation was made.

“**PIV-I Credential**” means a PIV-I card issued by Fortior Solutions (or its authorized agents) that meets certain technical specifications to work with federal PIV infrastructure elements such as card readers, is issued in a manner that allows Relying Parties to trust the card, and contains a subscriber’s Certificates.

“**Private Key**” means one key of a mathematically linked key pair used to prove the identity of the subscriber. It remains on the PIV-I Credential, is not exportable, and must be kept secret.

“**Public Key**” means one key of a mathematically linked key pair meant to be shared with other subscribers and/or Relying Parties. This key normally is made publicly available in the form of a Certificate.

“**Public Key Infrastructure (PKI)**” means a set of policies, processes, server platforms, software and workstations used for the purpose of administering Certificates and public-private key pairs, including the ability to issue, maintain, and revoke Public Key Certificates.

“**Relying Party**” means a person or entity who has received information that includes a Certificate to prove identity verifiable with reference to a trusted Public Key listed in the Certificate and is in a position to rely on the information and key in the Certificate.

**2. Ownership of PIV-I Credentials and Certificates; Data.** Subscriber acknowledges and agrees that Fortior Solutions owns all PIV-I Credentials and all Certificates. Fortior Solutions will use individual data only in connection with the Program, except to the extent necessary to comply with law. Fortior Solutions will not sell or rent individual data to any third parties (except in connection with a merger or sale of Fortior Solutions or its businesses or in connection with an assignment pursuant to Section 9 below). Fortior Solutions will use commercially reasonable means to protect individual data in its possession.

**3. Subscriber's Obligations, Representations and Warranties.** Subscriber hereby agrees, represents and warrants, that:

- Subscriber shall immediately provide written or email notification to Subscriber's PIV-I Company Administrator upon loss or suspicion of loss or compromise (including but not limited to suspected or known unauthorized use, theft or misplacement) of Subscriber's PIV-I Credential, Certificates, or Private Key(s).
- Subscriber shall protect Subscriber's PIV-I Credential and Private Key(s) from access by any other party.
- Subscriber shall use the PIV-I Credential and the Private Key(s) solely for authorized and permissible legal business purposes.
- Fortior Solutions retains the right to revoke Subscriber's PIV-I Credential, Certificates, and/or Private Key(s) for legitimate business reasons, including if Fortior Solutions suspects or has knowledge that Subscriber has used them for an unauthorized purpose, that Subscriber has provided inaccurate information to Fortior Solutions or the PKI authorities, or that Subscriber's PIV-I Credential, Certificates, or Private Key(s) were obtained through fraudulent means.
- Subscriber shall immediately discontinue use of Subscriber's PIV-I Credential, Certificates, and Private Key(s), and shall immediately return the PIV-I Credential to Subscriber's affiliated organization (the company through which Subscriber registered with the Program), when Subscriber's relationship with the affiliated organization is inactive or has ceased.
- Subscriber understands that the combination of Subscriber PIN and Private Key constitutes a Digital Signature, and Subscriber agrees to be legally bound by any document digitally executed via Subscriber's Private Key(s) and PIN.
- Subscriber shall accurately represent itself in all communications with Fortior Solutions and with the PKI authorities.
- All information Subscriber has provided and in the future provides in connection with Subscriber's application for and use of the PIV-I Credential is true, complete, and correct.
- Subscriber shall be the only individual able to use Subscriber's PIV-I Credential and to access Subscriber's PIN and Private Key(s).
- Subscriber shall abide by all the terms, conditions, and restrictions placed on the use of Subscriber's Private Key(s) and Certificates.
- Subscriber shall create a strong PIN, memorize the PIN and not write it down or reveal it to anyone, and at all times protect the PIN.
- Subscriber shall not leave the PIV-I Credential unattended while activated with the PIN.

**4. Grounds for Terminating Subscriber's Program Participation and Deactivating Subscriber's Credential.** Grounds for terminating Subscriber's Program participation and deactivating Subscriber's PIV-I Credential and revoking any Certificates include but are not limited to the following:

- Subscriber stops working for the company through which Subscriber registered with the Program
- Subscriber's company directs Fortior Solutions to remove Subscriber from the Program
- Subscriber's company no longer is eligible for or ends its participation in the Program
- Subscriber uses a PIV-I Credential for or in an unauthorized, improper, or impermissible purpose or manner
- Subscriber violates any term or condition of this Agreement

Subscriber agrees that, if any of the above-described events occur, Subscriber has no financial, legal or other remedies, and will not initiate or join any legal action, against the Program or Fortior Solutions including without limitation Fortior Solutions' officers, directors/managers, employees, agents, shareholders, contractors, assigns, successors, predecessors, representatives, subsidiaries, parents and

affiliates (referred to collectively in this Agreement as “**the Fortior Solutions Parties**”), and Subscriber hereby fully waives, releases and discharges the Fortior Solutions Parties from any and all claims, demands, and causes of action, damages, losses, liabilities, taxes, assessments, fines, penalties, judgments, awards, costs and expenses, including but not limited to reasonable attorneys’ fees (collectively “**Claims**”) relating to such event.

**5. Limitation of Liability.** EXCEPT IN THE CASE OF FORTIOR SOLUTIONS’ GROSS NEGLIGENCE OR WILFUL MISCONDUCT, IN NO EVENT SHALL THE FORTIOR SOLUTIONS PARTIES BE LIABLE FOR ANY INDIRECT DAMAGES, INCIDENTAL DAMAGES, CONSEQUENTIAL DAMAGES, PUNITIVE DAMAGES, OR LOST PROFITS ARISING OUT OF OR RELATED TO THE PROGRAM, ANY PIV-I CREDENTIAL, CERTIFICATE, PRIVATE KEY, PUBLIC KEY, OR ANY FORTIOR SOLUTIONS PIV-I SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSS. IN NO EVENT SHALL FORTIOR SOLUTIONS BE LIABLE FOR ANY UNAUTHORIZED USAGE OF A PIV-I CREDENTIAL, CERTIFICATE, PRIVATE KEY, OR PUBLIC KEY. FORTIOR SOLUTIONS SHALL NOT BE LIABLE FOR ANY DAMAGE ARISING FROM THE COMPROMISE OF SUBSCRIBER’S PRIVATE KEY OR ANY LOSS OF DATA. FORTIOR SOLUTIONS HAS NO LIABILITY FOR ANY DELAYS, NON-DELIVERIES, NON-PAYMENTS, MIS-DELIVERIES OR SERVICE INTERRUPTIONS CAUSED BY ANY THIRD PARTY ACTS OR THE INTERNET INFRASTRUCTURE. Notwithstanding anything to the contrary in this Agreement, the maximum combined aggregate liability of the Fortior Solutions Parties relating in any way to the Program or relating in any way to this Agreement, is an amount equal to Subscriber’s registration fee for the applicable term.

**6. Indemnification.** Fortior Solutions is not responsible for Subscriber’s use of the Program, including but not limited to any misuse of a PIV-I Credential by Subscriber. Subscriber hereby agrees to defend, indemnify and hold harmless the Fortior Solutions Parties of and from any and all Claims arising out of Subscriber’s use of a Program PIV-I Credential, including but not limited to Claims relating to Subscriber’s use of Subscriber’s PIV-I Credential to gain access to, or to obtain privileges at, any Government or other facility or location. Subscriber’s indemnification obligations shall not extend to Claims involving allegations that Fortior Solutions has violated the intellectual property rights of third parties.

**7. Warranties; Disclaimer of Warranties.** FORTIOR SOLUTIONS WARRANTS THAT IT USES COMMERCIALY REASONABLE MEANS TO PROTECT ALL INDIVIDUAL DATA IN ITS POSSESSION AND THAT, TO ITS KNOWLEDGE, THE PROGRAM AND PIV-I CREDENTIAL DO NOT INFRINGE THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. EXCEPT AS SET FORTH IN THIS SECTION, FORTIOR SOLUTIONS DISCLAIMS AND MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, SECURITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OF INFORMATION, PROGRAM CONTINUATION, OR INDIVIDUAL PARTICIPATION IN A PROGRAM. THE ENTIRE RISK OF THE USE OF THE PROGRAM INCLUDING BUT NOT LIMITED TO ANY PROGRAM PIV-I CREDENTIAL, CERTIFICATES, PRIVATE KEYS, ANY PIV-I SERVICES, OR THE VALIDATION OF ANY DIGITAL SIGNATURES, LIES WITH SUBSCRIBER, RELYING PARTY(IES), AND SUBSCRIBER’S COMPANY.

**8. Governing Law and Binding Arbitration and Class-Action Waiver.** SUBSCRIBER SHOULD READ THIS SECTION CAREFULLY. IT AFFECTS SUBSCRIBER’S LEGAL RIGHTS CONCERNING ANY DISPUTES, CLAIMS OR CONTROVERSIES (COLLECTIVELY “**DISPUTE**” IN THE SINGULAR TENSE AND “**DISPUTES**” IN THE PLURAL TENSE) BETWEEN SUBSCRIBER AND THE FORTIOR SOLUTIONS PARTIES. SUBSCRIBER UNDERSTANDS AND ACKNOWLEDGES THAT, BY AGREEING BELOW TO BINDING ARBITRATION, SUBSCRIBER IS GIVING UP THE RIGHT TO LITIGATE (PARTICIPATE IN A LAWSUIT AS A PARTY OR CLASS MEMBER) ALL DISPUTES IN COURT BEFORE A JUDGE OR JURY. INSTEAD, SUBSCRIBER UNDERSTANDS AND AGREES THAT ALL DISPUTES WILL BE RESOLVED BEFORE A SINGLE ARBITRATOR, WHOSE AWARD (DECISION) WILL BE BINDING AND FINAL, EXCEPT FOR A LIMITED RIGHT OF APPEAL UNDER THE FEDERAL ARBITRATION ACT. ANY COURT WITH JURISDICTION OVER THE PARTIES MAY ENFORCE THE ARBITRATOR’S AWARD.

**8.1 Binding Arbitration.** In the event any Dispute arises between Subscriber and the Fortior Solutions Parties from or relating to the Program or this Agreement that Subscriber and the Fortior

Solutions Parties are unable to resolve informally, Subscriber agrees that the sole legal remedy shall be to refer such Dispute to binding arbitration before a single arbitrator pursuant to the rules of the American Arbitration Association or such other arbitration rules as Subscriber and the Fortior Solutions Parties mutually agree to in writing. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any Dispute relating to the interpretation, applicability, enforceability or formation of this Agreement including, but not limited to, any claim that all or any part of this Agreement is void or voidable. Unless otherwise required by applicable law, each party shall bear its own attorneys' fees without regard to which party is deemed to be the prevailing party in the arbitration proceeding. The arbitrator shall otherwise be authorized to award either party any remedy permitted by applicable law.

**8.2** Time within Which to Notify Fortior Solutions of Dispute. Subscriber agrees that, if Subscriber has a Dispute with any Fortior Solutions Party arising from or relating to the Program or this Agreement, Subscriber must notify Fortior Solutions in writing within six (6) months of the event, circumstances, act or omission giving rise to the Dispute. Subscriber agrees that Subscriber will be barred from initiating or maintaining any arbitration or legal proceeding against any of the Fortior Solutions Parties if this notification requirement is not met.

**8.3** Class Action Waiver. ANY DISPUTE RESOLUTION PROCEEDINGS, WHETHER IN ARBITRATION OR COURT, WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS OR REPRESENTATIVE ACTION OR AS A NAMED OR UNNAMED MEMBER IN A CLASS, CONSOLIDATED, REPRESENTATIVE OR PRIVATE ATTORNEY GENERAL ACTION, UNLESS BOTH SUBSCRIBER AND FORTIOR SOLUTIONS SPECIFICALLY AGREE IN WRITING TO DO SO FOLLOWING INITIATION OF THE DISPUTE RESOLUTION PROCEEDING.

**8.4** Choice of Forum. All arbitration or other proceedings arising from or relating to the Program or this Agreement, and any judicial actions brought to enforce an arbitrator's award or otherwise arising from or relating to the Program or this Agreement, must be brought and maintained in Washington County or Multnomah County, Oregon.

**8.5** Governing Law. This Agreement will be interpreted, construed, and enforced in accordance with the laws of the State of Oregon, without regard to its conflicts of law provisions.

**9. Assignment.** Fortior Solutions has the right to assign this Agreement, or any portion of this Agreement, to third parties including but not limited to any successors-in-interest of Fortior Solutions. Subscriber may not assign Subscriber's rights and obligations under this Agreement unless Subscriber first obtains the written consent of Fortior Solutions.

**10. Severability.** If any provision of this Agreement is found by a proper legal authority to be unenforceable, that provision shall be severed and the remainder of this Agreement shall continue in full force and effect.

**11. Entire Agreement.** This Agreement constitutes the entire agreement between Subscriber and Fortior Solutions with respect to the Program. This Agreement supersedes any proposal or any prior or contemporaneous writings or other agreements, oral or written, and any other communications or representations relating to the Program.

**12. Subscriber Changes to the Agreement.** Subscriber may not make any changes to this Agreement unless an authorized representative of Fortior Solutions agrees in advance to the change in a signed written document.

**13. Force Majeure.** Fortior Solutions is not liable for any failure or delay in its performance under this Agreement or in connection with any PIV-I Credential, Certificate, Private Key, or PIV-I services due to causes that are beyond its reasonable control, including, but not limited to, an act of God, act of civil or military authority, natural disasters, fire, epidemic, flood, earthquake, riot, war, failure of equipment, failure of telecommunications lines, lack of Internet access, sabotage, cybersecurity incidents, changes in the law, and governmental action or any other unforeseeable events or situations.

**14. Changes to this Agreement.** Fortior Solutions may from time to time update or replace this Agreement, which updated or replacement Agreement will be posted at [www.fortiorsolutions.com](http://www.fortiorsolutions.com) or otherwise provided to Subscriber and/or the company that has authorized the issuance of a PIV-I Credential to Subscriber. Fortior Solutions hereby warrants that any changes to this Agreement shall not include (i) an expansion of Fortior Solutions' rights to use Subscriber data beyond those uses described in Section 2 of this Agreement or (ii) elimination of the language in Section 6 of this Agreement that excludes from Subscriber's indemnification obligation certain Claims of intellectual property infringement. Subscriber hereby agrees that Subscriber's use of any PIV-I Credential from and after the date on which such updated or replacement Agreement has been posted online by Fortior Solutions will constitute Subscriber's agreement to such updated or replacement Agreement and Subscriber agrees to comply with all terms and conditions thereof.

**15. Survival of Provisions.** The provisions of this Agreement that should reasonably be expected to survive the expiration or termination of this Agreement will survive the expiration or termination of this Agreement.

**By Subscriber's execution of this Agreement or by selecting a PIN during the PIV-I Credential issuance process, Subscriber agrees to the terms of this Agreement and Subscriber acknowledges and declares under penalty of perjury under the laws of the United States of America that (i) Subscriber has read and understands this Agreement and agrees to be bound by it and to fully comply with it, (ii) Subscriber's identity is the identity Subscriber has claimed in this Agreement, and (iii) all information Subscriber has provided is true and correct.**

Subscriber's Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Executed on \_\_\_\_\_(date)