



End User License Agreement

This Fudo One End User License Agreement (“**Agreement**”) is a legal and binding contract between Fudo Security (“**FUDO**”) and the individual or entity accessing or using the Fudo One security software (“**CUSTOMER**”). FUDO and CUSTOMER may be referred to individually as a “**Party**” and collectively as the “**Parties**.”

BY ACCEPTING A PURCHASE ORDER OR USING THE FREE VERSION OF FUDO ONE, CUSTOMER (INDIVIDUALLY OR ON BEHALF OF THE ENTITY CUSTOMER REPRESENTS) AGREES TO BE BOUND BY THIS AGREEMENT. THE USE OF FUDO ONE IS CONDITIONED UPON CUSTOMER’S ACCEPTANCE OF THE TERMS AND CONDITIONS SPECIFIED BELOW. IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, CUSTOMER SHALL NOT INSTALL, COPY, OR OTHERWISE USE FUDO ONE.

1. **Definitions.** Capitalized terms not otherwise defined herein have the meanings set forth in Exhibit A (Definitions).

2. **Fudo One.** Fudo One is a security software solution available directly from Fudo Security or through a Fudo Partner. Fudo One is licensed to CUSTOMER in its Free Version available for download on the FUDO website or through the Subscription License in accordance with the number of users purchased through a Purchase Order.

2.1 **Free Version.** Fudo One is available to CUSTOMER at no cost and may be downloaded and/or accessed and installed from the FUDO website (“**Free Version**”). The Free Version is limited to the number of Authorized Users specified on the FUDO website at the time of download. The Free Version is provided on an “as-is” and “as available” basis, without warranty of any kind. FUDO has no obligation to provide support services for the Free Version. FUDO may make the Free Version or features or components thereof unavailable to CUSTOMER or others at any time.

2.2 **Subscription License.** CUSTOMER may upgrade from the Free Version or add additional user seats at any time by submitting a Purchase Order to FUDO or a Fudo Partner (“**Subscription License**”). The Subscription License is conditioned upon payment of all applicable Subscription Fees during the Subscription Period, and is limited to CUSTOMER’s use for internal business purposes only. All additional users purchased during a calendar month will incur Subscription Fees for the entire calendar month in which they are purchased. The additional user licenses will continue for the Subscription Period specified in the initial Purchase Order.

2.3 **License Grant.** Subject to the terms and conditions in this Agreement and any applicable Purchase Order, FUDO grants CUSTOMER a non-exclusive, non-transferrable, non-assignable, non-sublicensable and revocable license to install and use Fudo One for the number of Authorized Users specified in an applicable Purchase Order or at the time of download for the Free Version. The license is conditioned upon payment of all applicable Subscription Fees.

3. Fudo Responsibilities

3.1 **Access.** FUDO shall make Fudo One purchased by CUSTOMER available to CUSTOMER during the Subscription Period and for any subsequent renewals thereof. The Free Version is not provided for a set period of time and FUDO may make it unavailable at any time at its sole discretion.

3.2 **Support.** FUDO will provide support services for Fudo One at no cost to customers with a Subscription License. Support services will not be provided for customers utilizing the Free Version.

3.3 **Updates and Upgrades.** FUDO will make Updates and Upgrades to Fudo One via Releases. Updates will be made as generally and commercially available to CUSTOMER without levying an incremental fee. Upgrades will be Released by FUDO at its discretion, and may be subject to additional fees (“**Upgrade Fees**”). CUSTOMER may Update or Upgrade Fudo One by accessing and installing the latest Release from the FUDO website or as provided by a Fudo Partner and paying the additional Upgrade Fees, if applicable. The terms and conditions of this Agreement will govern any Updates and Upgrades provided by FUDO to Fudo One unless such Release is accompanied by an updated Ender User Agreement, in which case the updated End User Agreement shall control to the extent it conflicts with this Agreement.

4. Customer Responsibilities

4.1 **Limitations.** CUSTOMER shall not use Fudo One for any purposes beyond the scope of the license provided in this Agreement and as further described in an applicable Purchase Order. Specifically, CUSTOMER shall not provide access to Fudo One to more users than what CUSTOMER has purchased Subscription Licenses for in accordance with an applicable Purchase Order or as permitted under the Free Version. CUSTOMER shall promptly notify FUDO if CUSTOMER exceeds its allowable user maximums, and shall request and/or submit a new Purchase Order and remit Subscription Fees for any overages in accordance with CUSTOMER’s Purchase Order.



4.2 Restrictions. Except as expressly permitted by mandatory law and this Agreement, CUSTOMER shall not:

- 4.2.1** Copy, reproduce, or republish Fudo One, in whole or in part;
- 4.2.2** Translate, adapt, disassemble, change the layout, or make other changes to Fudo One;
- 4.2.3** Use Fudo One or parts thereof in other software;
- 4.2.4** Make Fudo One available to any person other than Authorized Users
- 4.2.5** Modify or create derivative works based upon Fudo One;
- 4.2.6** Remove, modify, or obscure any copyright, trademark or other proprietary notices;
- 4.2.7** Reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code;
- 4.2.8** Access Fudo One in order to build a similar product or competitive product;
- 4.2.9** Share nonpublic features or content of Fudo One with any third party;
- 4.2.10** Use Fudo One in any manner or for any purpose that infringes, misappropriates, or otherwise

violates any Intellectual Property Rights or other right of any person, or that violates any applicable law;

4.2.11 Introduce any Malicious Code or instructions that may disrupt, damage, delay, or interfere with other CUSTOMERs' use of Fudo One;

4.2.12 Exceed the licensed quantities, users, or other entitlement measures provided in an applicable Purchase Order; or

4.2.13 Assign, transfer, sell, resell, sublicense, rent, lease, time-share, distribute, or otherwise transfer the rights granted to CUSTOMER under this Agreement to any third party except as expressly set forth herein or in an addenda.

4.3 Compliance with the Law. By using or accessing Fudo One, CUSTOMER represents, warrants, and agrees not to do anything illegal, infringing, fraudulent, malicious, or which could expose FUDO or other users of Fudo One to harm or liability. CUSTOMER will not attempt, encourage or facilitate any of the above. CUSTOMER further represents and warrants that it shall, at all times while accessing and using Fudo One, be in compliance with applicable Privacy Laws and Technology Export Laws.

5. Fees and Payments

5.1 Subscription Fees. The fees for Subscription Licenses are specified on a per-user basis through an applicable Purchase Order ("**Subscription Fees**"). Unless specified otherwise in a Purchase Order, Subscription Fees are billed to CUSTOMER on an annual basis, and for any additional Authorized Users added during the Subscription Period (as defined below), CUSTOMER will be invoiced a prorated amount based on the number of whole months remaining in the Subscription Period. Subscription Fees are non-cancellable and non-refundable when paid, and no refunds will be permitted if CUSTOMER terminates its Subscription License(s) prior to the end of the applicable Subscription Period.

5.2 Failure to Pay Fees. If any Subscription Fees are not received from CUSTOMER within the limited pay period provided in an applicable invoice from FUDO, and provided CUSTOMER does not have a reasonable basis for disputing all or a part of such invoice, then, in addition to the other rights and remedies available and at FUDO's discretion, FUDO may: (i) reduce access to Fudo One to the Free Version until all undisputed amounts are paid, and/or (ii) levy a late fee at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by applicable law, whichever is higher, from the date such payment was due until the date paid. CUSTOMER shall reimburse FUDO for all reasonable costs incurred by FUDO in collecting any late payment or interest, including attorneys' fees, court costs, and collection agency fees. FUDO WILL NOT BE LIABLE FOR ANY LOSSES WHATSOEVER INCURRED BY CUSTOMER RELATED TO CUSTOMER'S FAILURE TO PAY UNDISPUTED FEES IN ACCORDANCE WITH THIS SECTION.

5.3 Taxes. Unless otherwise stated, Subscription Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction in connection with the Subscription Fees.

6. Subscription Period. The term of the Subscription License commences on the Start Date specified in the initial Purchase Order and continues for a period of one year ("**Subscription Period**"). The initial Subscription Period will automatically renew for successive one (1) year terms thereafter (or as otherwise specified in the applicable Purchase Order), unless earlier terminated as provided herein.

7. Termination or Expiration. CUSTOMER may terminate the Subscription License prior to any automatic renewal of the Subscription Period by providing at least fifteen (15) days advance written notice to FUDO of CUSTOMER's intent not to renew such Subscription Period. Upon termination or expiration of the Subscription License, all of CUSTOMER's rights to access and/or use Fudo One will cease and CUSTOMER shall discontinue all use of Fudo One. Within fifteen (15) days of termination, CUSTOMER shall, delete, destroy, or, if requested by FUDO, return all copies of Fudo One in CUSTOMER's possession to FUDO, and shall, upon request by FUDO, certify the same in writing.

8. Proprietary Rights



8.1 Reservation of Rights. Fudo One is licensed and not sold to CUSTOMER, and CUSTOMER receives no rights to Fudo One other than those specifically granted herein. FUDO reserves all Intellectual Property Rights in and to Fudo One. CUSTOMER acknowledges and agrees that this Agreement does not grant CUSTOMER any title or right of ownership in or to Fudo One, or to any enhancements, customizations, integrations, modifications, suggestions, Feedback, features or feature requests, or improvements that are developed, associated, or integrated into Fudo One. CUSTOMER shall not take or cause any action inconsistent with or which would impair the rights of FUDO or its licensors in Fudo One.

8.2 Licenses in Customer Data; Related Data. CUSTOMER grants FUDO a non-exclusive, royalty-free, assignable, transferable, sublicensable, and irrevocable right and license to use, reproduce, adapt, and distribute Customer Data as reasonably necessary to provide Fudo One as required under this Agreement and to exercise its other rights, and perform its other obligations, under this Agreement or under applicable law.

8.3 Proprietary Notices. The software that makes up Fudo One, including any OSS, may contain proprietary notices and/or attribution notices that shall not be removed, modified, or obstructed by CUSTOMER in any way. The Marks are trademarks or registered trademarks of FUDO or its Affiliates, partners, or licensors. CUSTOMER may not use, copy, reproduce, republish, upload, post, transmit, distribute, or modify the Marks in any way, including in advertising or publicity, without FUDO's prior written consent.

8.4 Promotional Rights. CUSTOMER agrees that FUDO may reference CUSTOMER in FUDO's client listings and place CUSTOMER's name and logo on FUDO's website and marketing materials relating to FUDO's products and services, as well as in any press releases or client "case studies." CUSTOMER hereby grants FUDO a limited license to use CUSTOMER's trademarks (name and logo only) for such limited uses, subject to CUSTOMER's trademark/logo usage guidelines, if any, provided by CUSTOMER to FUDO. Notwithstanding the foregoing, CUSTOMER may reasonably request removal of any such usage of CUSTOMER's trademark/logo with written notice to FUDO.

9. Confidentiality; Data Protection

9.1 Confidentiality. CUSTOMER and FUDO agree that during the performance of this Agreement each may receive Confidential Information of the other Party or other third parties who have entrusted either Party with the safeguarding of such Confidential Information. The Parties agree not to use or disclose any Confidential Information except for the purpose of meeting its obligations under this Agreement and will not use Confidential Information for any other purpose whatsoever. The Parties agree that during the term of this Agreement and thereafter for as long as Confidential Information remains confidential, and as long as Fudo One or any related Documentation constitutes a trade secret, the Parties shall maintain such Confidential Information and/or trade secrets in strict confidence. The Parties shall advise all their employees, agents, or contractors that they are bound by the confidentiality terms of this Agreement or any other applicable nondisclosure agreement signed by the Parties. If either Party is required to disclose Confidential Information relating to the other Party to a court or government agency, it shall, prior to disclosure, notify the other Party and allow it an opportunity to take action to preserve the confidentiality of the information. The obligations and responsibilities of this subsection shall survive termination of this Agreement for any reason and shall bind and benefit the Parties and their respective successors and assigns.

9.2 Responsibilities for Customer Data. FUDO is not responsible for any intentional or unintentional misuse of Customer Data by CUSTOMER (including CUSTOMER's employees, subsidiaries, Affiliates and/or parent companies) and/or by CUSTOMER's Authorized Users or Third-Party Service providers to whom CUSTOMER has granted access to Customer Data via Fudo One. CUSTOMER understands that CUSTOMER is solely responsible for granting access to Fudo One to Authorized Users, and CUSTOMER is responsible for safeguarding Customer Data, and for backup and restoration of Customer Data. FUDO is not responsible for the unauthorized disclosure of Customer Data resulting from CUSTOMER's negligence, Third-Party Services, or any other means outside FUDO's reasonable control.

10. Fudo Partners. FUDO may use third parties to provide Fudo One and related services to CUSTOMER, such as through managed service providers and/or channel partners ("**Fudo Partners**"). Fudo Partners may have separate terms or agreements under which they provide services to CUSTOMER, and FUDO is not a party to such other agreements. FUDO is not responsible in any way for services performed by Fudo Partners with whom CUSTOMER contracts with or through whom CUSTOMER accesses or installs Fudo One. Any dispute with a Fudo Partner should be taken up directly with the applicable Fudo Partner. FUDO EXPRESSLY DISCLAIMS ANY LIABILITY ARISING OUT OF CUSTOMER'S USE OF A FUDO PARTNERS RELATING TO FUDO ONE.

11. Third-Party Providers

11.1 Third-Party Services. Fudo One may interoperate with Third-Party Services. All Third-Party Services are provided on an "as-is" and "as available" basis, and FUDO does not warrant any such Third-Party Services. FUDO does not endorse or assume any responsibility for any such Third-Party Services, and CUSTOMER expressly relieves FUDO from any



and all liability arising from CUSTOMER's use of any Third-Party Services. Any use by CUSTOMER of Third-Party Services is solely between CUSTOMER and the applicable Third-Party Service provider, and may be subject to such Third-Party Service provider's terms of service, privacy policy, and other related agreements for which FUDO is not a party. If CUSTOMER utilizes Third-Party Services with Fudo One, CUSTOMER does so at its own risk and understands that this Agreement does not apply to the use of such Third-Party Services. FUDO is not responsible for downtime or unavailability of Third-Party Services.

11.2 Required Third-Party Services. Fudo One requires installation on virtual environments and/or cloud environments ("**Cloud Services**"), such as Amazon Web Services, Google Cloud, or Microsoft Azure ("**Third-Party Cloud Services**"). CUSTOMER is solely responsible for procuring and maintaining the virtual environment and/or Cloud Services necessary for Fudo One to function as intended. Fudo Partners may provide Cloud Services directly to CUSTOMER, and FUDO is not a party to such Cloud Services arrangements, and is not responsible in any way for the provision or maintenance of Cloud Services by a Fudo Partner. Any use by CUSTOMER of Third-Party Cloud Services or Cloud Services provided by a Fudo Partner is entirely between CUSTOMER and the applicable Third-Party Cloud Services provider/Fudo Partner. FUDO will not be responsible for any unavailability of Fudo One related to CUSTOMER's use or inability to use Cloud Services. Third-Party Services may require CUSTOMER to purchase or otherwise obtain a license to use such Third-Party Service ("**Third-Party Fees**"). Payment of all Third-Party Fees is the responsibility of CUSTOMER. FUDO will not be responsible for any loss of features or availability of Fudo One related to CUSTOMER's failure to maintain Third-Party Services.

11.3 Third Party Open Source Software. Portions of Fudo One may include third party OSS that are subject to third party terms and conditions. A list of any third party OSS and their related terms used in Fudo One is available by sending an email to legal@fudosecurity.com. If there is a conflict between any third party OSS terms and the terms of this Agreement, then the third party OSS terms shall prevail but solely in connection with the related third party OSS. Notwithstanding anything in this Agreement to the contrary, FUDO makes no warranty or indemnity of any kind with respect to any third party OSS.

12. Limited Warranties

12.1 Fudo Limited Warranties. FUDO warrants that Fudo One will operate and materially perform the functions set forth in the Documentation ("**Fudo Warranty**"). FUDO shall not be liable and the Fudo Warranty shall not apply if CUSTOMER: (i) downloads or uses the Free Version of Fudo One; (ii) fails to perform any of its obligations under this Agreement; (iii) accesses or uses Fudo One beyond the express rights provided to CUSTOMER herein; (iv) combines Fudo One with any other software, application, or other system, and such combination or use is the cause of Fudo One's failure to function properly; or (v) violates any applicable law. FUDO's sole responsibility for a breach of the Fudo Warranty, shall be to modify Fudo One to conform to the Specifications

12.2 Disclaimer. EXCEPT FOR THE EXPRESS WARRANTY CONTAINED HEREIN, FUDO ONE IS PROVIDED "AS-IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND. TO THE EXTENT PERMITTED BY APPLICABLE LAW, FUDO DISCLAIMS ANY AND ALL WARRANTIES OR CONDITIONS, WHETHER EXPRESS, IMPLIED, ORAL, OR WRITTEN, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, REASONABLE CARE, AND/OR FITNESS FOR A PARTICULAR PURPOSE (WHETHER OR NOT FUDO KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE). TO THE EXTENT PERMITTED BY APPLICABLE LAW, FUDO FURTHER DISCLAIMS ANY AND ALL WARRANTIES, CONDITIONS, AND/OR REPRESENTATIONS OF TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. CUSTOMER AGREES THAT CUSTOMER'S USE OR PURCHASE OF FUDO ONE HEREUNDER IS NEITHER CONTINGENT ON THE DELIVERY OF ANY FUTURE FUNCTIONALITY OR FEATURES UNLESS A DESCRIPTION OF SUCH FUNCTIONALITY OR FEATURES IS ATTACHED HERETO.

13. Indemnification

13.1 Fudo Indemnification. FUDO shall indemnify CUSTOMER for any suit or proceeding alleging that Fudo One infringes any intellectual property right of a third party; provided that CUSTOMER: (i) gives FUDO immediate notice in writing of any such suit, proceeding, or threat thereof; (ii) permits FUDO sole control, through counsel of FUDO's choice, to defend and/or settle such suit; and (iii) gives FUDO all the needed information, reasonable assistance, and authority, at FUDO's expense, to enable FUDO to defend or settle such suit. In the event the use of Fudo One is challenged by a third party, or in the event FUDO wishes to minimize its potential liability hereunder, FUDO may, at its sole option and expense and without any cost or harm to CUSTOMER: (i) procure for CUSTOMER the right to use Fudo One; (ii) substitute a functionally equivalent, non-infringing Release of Fudo One; (iii) modify Fudo One so that it no longer infringes but remains functionally equivalent; or (iv) terminate any Subscription Licenses effective immediately upon notice and cancel all future Subscription Fee responsibilities of CUSTOMER.

13.2 Customer Indemnification. CUSTOMER shall indemnify and hold harmless FUDO and its Affiliates, from and against any claims, actions, losses, damages or other liabilities that arise out of or result from any claim of any third party relating to: (i) any dispute or alleged dispute between CUSTOMER and a Customer Client or end user; (ii) any



breach by CUSTOMER of any covenant, representation, or warranty set forth in this Agreement; and (iii) any violation by CUSTOMER or any applicable law.

14. Limitation of Liability

14.1 Limited Liability. IN NO EVENT WILL FUDO BE LIABLE TO CUSTOMER UNDER, IN CONNECTION WITH, OR RELATED TO THIS AGREEMENT, AND CUSTOMER CANNOT RECOVER, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING CONTRACT, WARRANTY, STRICT LIABILITY, OR NEGLIGENCE FOR ANY: (I) INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR LOSS OF BUSINESS); (II) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS; (III) LOSS OF GOODWILL OR REPUTATION; (IV) USE, INABILITY TO USE, INTERRUPTION, DELAY, OR DAMAGE RESULTING FROM SYSTEM FAILURE, MALFUNCTION, SHUTDOWN, FAILURE TO ACCURATELY TRANSFER OR READ INFORMATION, FAILURE TO PROVIDE CORRECT INFORMATION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES RESULTING FROM OR RELATED TO THE USE OR INABILITY TO USE FUDO ONE, HOWEVER CAUSED; (V) LOSS, INABILITY TO USE, OR RECOVERY OF ANY CUSTOMER DATA, OR BREACH OF CUSTOMER DATA OR SYSTEM SECURITY; OR (VI) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER FUDO WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE FORESEEABLE.

14.2 Aggregate Liability. CUSTOMER AGREES THAT THE TOTAL LIABILITY OF FUDO TO CUSTOMER ARISING OUT OF, IN CONNECTION WITH, OR RELATING TO THIS AGREEMENT OR CUSTOMER'S USE OF FUDO ONE WILL NOT EXCEED, IN THE AGGREGATE FOR ALL SUCH LIABILITIES, TWENTY-FIVE U.S. DOLLARS (\$25), OR THE TOTAL AMOUNT OF SUBSCRIPTION FEES, IF ANY, ACTUALLY PAID BY CUSTOMER TO FUDO DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE MOST RECENT ACT OR OMISSION GIVING RISE TO FUDO LIABILITY. CUSTOMER RELEASES FUDO FROM ALL OBLIGATIONS, LIABILITY, CLAIMS, OR DEMANDS IN EXCESS OF THE LIMITATION. THIS LIMITATION SHALL SURVIVE AND APPLY EVEN IF ANY LIMITED WARRANTY OR REMEDY HEREUNDER IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

14.3 Allocation of Risk. CUSTOMER acknowledges and agrees that FUDO provides Fudo One in reliance upon the disclaimers of warranty and limitation of liability provisions provided herein, and that the terms of this Agreement reflect an allocation of risk between CUSTOMER and FUDO (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the provisions herein form an essential basis of the bargain between CUSTOMER and FUDO. If CUSTOMER is subject to applicable laws that prohibit CUSTOMER from entering into the risk allocation arrangement as set forth herein, then the terms will apply to CUSTOMER to the fullest extent permitted by applicable law, it being understood that CUSTOMER and FUDO wish to enforce the provisions of this Agreement to the maximum extent permitted by applicable law.

15. General Provisions

15.1 Entire Agreement. This Agreement, together with all exhibits and addenda hereto, which are incorporated herein by reference, comprise the entire agreement between the Parties relating to the subject matter hereof. This Agreement supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning the subject matter of this Agreement.

15.2 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall constitute one and the same instrument.

15.3 Rights Cumulative. No right or remedy conferred upon or reserved to either of the Parties is intended to be exclusive of any other right or remedy (unless such intent is expressly set forth in such provision), and every right and remedy shall be cumulative and in addition to any other right or remedy, now or hereafter legally existing upon any default.

15.4 Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the Parties shall mutually agree on an alternate, legally valid and enforceable provision. The remainder of this Agreement shall continue in full force and effect to the extent that continued operation under this Agreement without the unenforceable provision is consistent with the intent of the Parties as expressed in this Agreement.

15.5 Waiver. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such waiver or consent is in writing and signed by the Party that has given such waiver or excused such breach.

15.6 Assignment. FUDO may freely transfer and/or assign this Agreement at its discretion without consent of CUSTOMER. CUSTOMER may not assign or otherwise transfer its rights and/or obligations under this Agreement or any addenda without the prior written consent of FUDO.



15.7 Independent Contractors. The relationship of the Parties hereunder shall be that of independent contractors. Nothing in this Agreement shall be construed to constitute a partnership between or joint venture of the Parties, nor shall either Party be deemed the agent of the other Party or have the right to bind the other Party in any way without the prior written consent of such Party, except as specifically provided in this Agreement.

15.8 Injunctive Relief. FUDO and CUSTOMER acknowledge that a breach of the Proprietary Rights or Confidentiality Sections of this Agreement could cause irreparable injury to the other Party that may not be adequately compensated in money damages. In the event of such a breach, the non-breaching Party shall be entitled to seek equitable relief to protect its interests, including but not limited to preliminary and permanent injunctive relief.

15.9 Arbitration. For any dispute with FUDO, CUSTOMER agrees to first contact FUDO at legal@fudosecurity.com and attempt to resolve this dispute with FUDO informally. In the event the Parties are unable to resolve the dispute informally, FUDO and CUSTOMER agree that any controversy or claim arising out of or relating to this Agreement (except for actions seeking injunctive relief) shall be settled by binding arbitration in accordance with the Commercial Rules of the American Arbitration Association. The arbitration shall be conducted by a single arbitrator to be selected by agreement of the Parties not later than ten (10) days after delivery of the demand for arbitration or, failing such agreement, appointed pursuant to the Commercial Rules of the American Arbitration Association. Unless otherwise agreed upon by the Parties, such arbitrator shall be a retired judge or attorney licensed to practice law in the State of California, as applicable, with substantial experience in litigation or disputes of similar substance. Arbitration shall be conducted in Alameda County, California, unless otherwise agreed by the Parties. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The prevailing Party in any arbitration shall be entitled, in addition to any other rights or remedies it may have, to reimbursement for its expenses incurred thereby including arbitration costs, reasonable attorneys' fees, and arbitrators' fees. This arbitration provision is governed by the Federal Arbitration Act.

15.10 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California excluding that body of law pertaining to conflicts of law. Any dispute between the Parties that is excluded from the arbitration agreement or that cannot be heard in small claims court shall be resolved in the federal courts located in the County of Alameda County, California and the Parties agree and submit to the personal and exclusive jurisdiction and venue of these located in the Northern District of California. If CUSTOMER acquires Fudo One outside of the United States, the governing law will be the laws of Republic of Poland; and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Parties' relationship under it will be subject to the exclusive jurisdiction of the courts of Warsaw.

15.11 Force Majeure. Neither party shall be liable for any failure or delay in its performance under this Agreement or any and all addenda due to circumstances beyond its reasonable control (other than the payment of sums due), provided that it notifies the other party as soon as practicable and uses its best efforts to resume performance (such a "Force Majeure Event").

15.12 Notices. FUDO may deliver notice to CUSTOMER under this Agreement using electronic mail or a general notice on or through the FUDO website. CUSTOMER may give notice to FUDO at any time by letter delivered by first-class postage prepaid mail or overnight courier to the following addresses:

For Purchases Inside the United States

Fudo Security, Inc.
39899 Balentine Drive, Suite 200,
Newark, CA 94560

For Purchases Outside of the United States

Fudo Security Sp. z o.o.
Al. Jerozolimskie 178 02-486
Warsaw, Poland

CUSTOMER may also contact FUDO at the above addresses for questions regarding this Agreement, or by email to: legal@fudosecurity.com. Either Party may at any time designate another address for the receipt of notice by notifying the other Party in accordance with this subsection.

15.13 Survival. Any provision of this Agreement which contemplates performance subsequent to the expiration or earlier termination of this Agreement, or which expressly states that it shall survive termination of the Agreement, shall so survive such expiration or termination and shall continue in full force and effect until fully satisfied.



Exhibit A

Definitions

"Affiliates" means any partnership, joint venture, subsidiary, and other affiliated entities (whether incorporated or unincorporated) in which a Party has an ownership, managerial, or operational interest or which now or hereafter directly or indirectly Controls, is Controlled by, or is under common Control with, such Party, including multiple levels of Controlled corporations. CUSTOMER shall notify FUDO in writing of the identity of its Affiliates and shall be jointly and severally liable for such Affiliate's performance of its obligations under this Agreement.

"Authorized Users" means individuals who are authorized by CUSTOMER to use Fudo One under the rights granted to CUSTOMER by FUDO pursuant to this Agreement. Authorized Users may include, but are not limited to, CUSTOMER's employees, consultants, contractors, agents or third parties with whom CUSTOMER transacts business.

"Confidential Information" means all nonpublic information disclosed under this Agreement, including without limitation, proprietary and confidential matters concerning Fudo One, nonpublic features of Fudo One, and FUDO's current or proposed business operations, security and financial information, technical data, inventions, developments, research, marketing strategies, business methods, information related to pricing, the terms and conditions of this Agreement, and other similar information gained in connection with this Agreement, as well as technology, ideas, formulae, know how, Documentation, procedures, algorithms and trade secrets embodied in Fudo One, technical documentation, solution methodology, user manuals, and other content related to Fudo One (including any future Updates, Upgrades, developments and adaptations to Fudo One). For purposes of this Agreement, "Confidential Information" shall also include third-party nonpublic information that is disclosed by either Party under this Agreement or through Fudo One. Confidential Information shall not include any information that: (a) is or becomes generally known or available to the public through no fault of the receiving party; (b) is already known by the receiving party at the time of disclosure through no wrongful act of the receiving Party; or (c) is independently developed by the receiving party without use of or reference to the Confidential Information provided herein.

"Control" means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"Customer Client" means any third party who has shared or entrusted CUSTOMER with Personal Data which is stored, read, or otherwise made available through Fudo One.

"Customer Data" means all of CUSTOMER's or Customer's Clients' content, information, and data, input into CUSTOMER's instance of Fudo One, including without limitation: (i) any transactional data (ii) contact data; (iii) market or account data; (iv) Personal Data; (v) Confidential Information; and (vi) any proprietary information or information related to the Intellectual Property Rights of CUSTOMER or Customer's Clients.

"Documentation" means any materials provided by FUDO to CUSTOMER to assist CUSTOMER's use of Fudo One, and includes any operational and technical specifications in any standard materials, guides, manuals, or related materials.

"Feedback" means any input, suggestions, communications or materials sent or transmitted from CUSTOMER to FUDO suggesting or recommending changes to Fudo One, including but not limited to new features or functionality relating thereto, or any comments, questions, or the like.

"FUDO" means Fudo Security, Inc., a Delaware Corporation, and FUDO's Affiliates, including Fudo Security Sp. z o.o., a Polish Corporation.

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