

BEFORE YOU CLICK "I HAVE READ AND AGREE TO THE LICENSING AGREEMENT ABOVE" OR OTHERWISE USE OR ACTIVATE THE MOJO PRODUCTS, READ THIS AGREEMENT CAREFULLY. IT IS A LEGALLY BINDING AGREEMENT AND CONTROLS YOUR AND YOUR COMPANY'S USE OF THE MOJO PRODUCTS.

WHEN YOU CLICK "I HAVE READ AND AGREE TO THE LICENSING AGREEMENT ABOVE" OR OTHERWISE DOWNLOAD, USE OR ACTIVATE THE MOJO PRODUCTS, THIS AGREEMENT GOVERNS YOUR USE. THIS AGREEMENT IS ENFORCEABLE AGAINST YOU AND ANY ENTITY THAT OBTAINS OR USES THE MOJO PRODUCTS THROUGH YOU ON THEIR BEHALF. IF YOU OR ANY ENTITY THAT YOU REPRESENT DOES NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CLICK THE BOX THAT SAYS "I DO NOT AGREE TO THE LICENSING AGREEMENT ABOVE" AND/OR DO NOT OTHERWISE DOWNLOAD, INSTALL OR ACTIVATE THE MOJO PRODUCTS.

IF YOU PAID FOR THE MOJO PRODUCT(S) AND DID NOT HAVE AN OPPORTUNITY TO REVIEW THIS AGREEMENT PRIOR TO PURCHASING IT AND DO NOT AGREE TO THIS AGREEMENT, CONTACT YOUR PLACE OF PURCHASE TO RETURN THE PRODUCT FOR A REFUND IN ACCORDANCE WITH ITS REFUND POLICIES.

## 1. DEFINITIONS

1.1 "You" or "Your" shall mean any person, entity or organization that uses Mojo products.

1.2 "Mojo," shall mean Mojo Networks, Inc.

1.3 "Mojo Competitor" a person or entity in the business of wireless security products or services substantially similar to Mojo's products or services.

1.4 "Your Customers" means your current or potential customers excluding any Mojo Competitor.

1.5 "Documentation" shall mean the end-user technical documentation that Mojo supplies with the Hardware (if any) and Software. Advertising and marketing materials are not Documentation.

1.6 "Error" shall mean a reproducible failure of the Software or Hardware to perform in substantial conformity with its Documentation.

1.7 "Hardware" shall mean the hardware containing Mojo software. Not all Mojo Products come with Hardware.

1.8 "Intellectual Property Rights" shall mean copyrights, trademarks, service marks, trade secrets, patents, patent applications, moral rights, contractual rights of non-disclosure or any other intellectual property or proprietary rights, however arising, throughout the world.

1.9 "Release" shall mean any Update or Upgrade if and when these are made available by Mojo. In the event of a dispute as to whether a particular Release is an Update or an Upgrade, Mojo's published designation will be final.

1.10 "Software" shall mean the software (in object code format) created or licensed by Mojo and licensed to you either as a stand alone product or loaded on Mojo Hardware, and any Release thereto.

1.11 "Update" shall mean, if and when available, any error corrections, fixes, workarounds or other maintenance releases with respect to the Software provided by Mojo that do not add functionality to the Software.

1.12 "Upgrade" shall mean, if and when available, new releases or versions of the Software that materially improve the functionality of, or add material functional capabilities to, the Software. Mojo may charge additional license fees for Upgrades.

1.13 "NECPF" shall mean NEC Platforms, Ltd.

2. CONTROLLING AGREEMENT. This electronic Agreement is the entire agreement between you and NECPF and supersedes all prior or contemporaneous agreements, understandings, and communications, whether written or oral unless such agreement is

executed by an officer of NECPF. In such event, that agreement shall only supersede this Agreement to the extent such agreement conflicts with this Agreement. Any terms and conditions in your paper or electronic purchase order, request for proposal or quotation, or a response to those documents are superseded by this electronic Agreement. If a third party reseller accepts your purchase order and an officer of NECPF does not sign it and return it to you, NECPF is not accepting its terms and conditions. NECPF is not obligated under any reseller's agreement with you unless an officer of NECPF signs the agreement. Certain third party software may be necessary to operate or run the Software, you are responsible for obtaining and licensing such third party software. Third party software is governed by the license agreement provided by that third party.

### 3. LICENSE GRANT

3.1 Limited License. All Software is licensed, not sold and subject to this Agreement. All Hardware is sold subject to the license granted in this Agreement. For each unit of Hardware and/or Software that you purchase, NECPF, on behalf of Mojo, grants you a non-exclusive, non-transferable (except as provided in the Section entitled Assignment), non-sublicensable license during the term of this Agreement, to install and execute such Software and Hardware. The Software and Hardware are licensed for your own internal business purposes unless you have purchased or been given a demonstration version or audit version of the Software. If you have a demonstration version of the Software, you may use the Software solely to provide demonstrations to Your Customers. If you have an audit version of the Software, you may use it to provide services to Your Customers. You may make and retain one copy of the Software for back-up and disaster recovery purposes so long as you clearly mark it as a "back-up" or similar language.

3.2 Restrictions on Use. Except as expressly provided for in this Agreement, you shall not: (a) adapt, alter, publicly display, publicly perform, translate, create derivative works of or otherwise modify the Software; (b) sublicense, lease, rent, loan, distribute or otherwise transfer the Software to any third party (except as provided in the Section entitled Assignment); (c) allow third parties to access or use the Software or Hardware, including but not limited to ASP, OEM or time-sharing arrangements. You shall not reverse engineer, decompile, disassemble or otherwise attempt to derive the source code for the Software except to the extent expressly permitted by applicable law to obtain information necessary to render the Software interoperable with other software;

provided, however, that you must first request such information from NECPF and NECPF may, in its discretion, either provide such information to you or impose reasonable conditions, including a reasonable fee, on such use of the source code for the Software to ensure that Mojo's and its suppliers' proprietary rights in the source code for the Software are protected. You shall not remove, alter or obscure any proprietary notices on the Software or Documentation. Under no circumstances may you install or execute the Software on more than one computer at the same time. Except to the extent necessary to provide a demonstration or services to Your Customer when you have purchased or been given the demonstration version or audit version of the Software, respectively, you shall not capture screenshots of the Software and share it with other people without NECPF's written consent.

3.3 Installation. You are responsible for installing the Software and Hardware (if any) unless you purchase installation services from NECPF or a third party pursuant to a separate agreement.

4. PROPRIETARY RIGHTS. You acknowledge and agree that the Software and Hardware, including but not limited to their sequence, structure, organization and source code, contains Intellectual Property Rights of Mojo and its suppliers. The Software is licensed and not sold to you, and no title or ownership to such Software or the Intellectual Property Rights embodied therein passes as a result of this Agreement or any act pursuant to this Agreement. The Software (and all Intellectual Property Rights therein) is the exclusive property of Mojo and its suppliers, and all rights in and to the Software not expressly granted to you in this Agreement, are reserved. Mojo owns all copies of the Software, however made. The Software, Hardware and related materials contain trade secrets of Mojo and you shall not provide the Software, Hardware, Documentation, or details regarding the operation of the Software and/or Hardware, or any other Mojo confidential and/or proprietary information to any third party.

## 5. LIMITED WARRANTY

5.1 Warranty. For a period of one year from your receipt of the Hardware and/or Software (the "Warranty Period"), NECPF warrants to you and for your sole benefit that, subject to the Section entitled Exclusions, the Software and Hardware when used as permitted under this Agreement and in accordance with the instructions in the

Documentation, will operate substantially without Error.

5.2 Exclusions. NECPF will have no obligation to correct, and NECPF makes no warranty with respect to, Errors caused by: (a) improper installation of the Software or Hardware; (b) changes that you have made to the Software or Hardware; (c) use of the Software or Hardware in a manner inconsistent with the Documentation; (d) the combination of the Software or Hardware with hardware or software not provided by NECPF; (e) malfunction, modification or relocation of your servers; or (f) your failure to make reasonable backups.

5.3 Remedy for Errors. For Errors reported to NECPF during the Warranty Period, your exclusive remedy and NECPF's sole liability for breach of this warranty is that NECPF shall, at its own expense, (a) use commercially reasonable efforts to make available to you, by Internet download, Updates that are intended to correct such Errors and that NECPF makes generally available; (b) at its election, repair or replace any defective Hardware returned to NECPF within the Warranty Period. Any remedy provided under this Section 5.3 will not extend the original Warranty Period. NECPF shall have no obligation regarding Errors reported, or returns made, after the Warranty Period.

5.4 Disclaimer. EXCEPT FOR THE EXPRESS WARRANTY IN SECTION 5.1, NECPF AND ITS AFFILIATES DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, RESULT, EFFORT, TITLE AND NON-INFRINGEMENT. THERE IS NO WARRANTY THAT THE SOFTWARE WILL BE ERROR FREE, OR THAT THE SOFTWARE OR HARDWARE WILL OPERATE WITHOUT INTERRUPTION OR WILL FULFILL ANY OF YOUR PARTICULAR PURPOSES OR NEEDS. NECPF PROVIDES NO WARRANTY FOR ANY THIRD PARTY SOFTWARE.

6. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: NECPF, ITS AFFILIATES, SUPPLIERS AND MANUFACTURERS SHALL NOT BE LIABLE TO YOU OR ANY OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR RELIANCE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE HARDWARE OR THE SOFTWARE, UNDER ANY LEGAL THEORY, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST DATA, BUSINESS

INTERRUPTION, PERSONAL INJURY, FOR LOSS OF PRIVACY, NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER, EVEN IF NECPF KNOWS OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

EXCEPT FOR NECPF'S OBLIGATIONS UNDER THE SECTION ENTITLED INDEMNIFICATION, NECPF'S, ITS AFFILIATES', SUPPLIERS' AND MANUFACTURERS' TOTAL CUMULATIVE LIABILITY FOR ACTUAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE HARDWARE, OR THE SOFTWARE, SHALL NOT EXCEED THE PRICE MOJO RECEIVED FOR SUCH HARDWARE OR SOFTWARE, REGARDLESS OF THE CAUSE OR FORM OF ACTION. THIS SECTION SHALL APPLY EVEN IF YOUR EXCLUSIVE REMEDY HAS FAILED OF ITS ESSENTIAL PURPOSE. YOU ACKNOWLEDGE AND AGREE THAT THE PRICES AND FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT MOJO WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY.

## 7. INFRINGEMENT INDEMNIFICATION

7.1 NECPF's Obligation. Subject to the Sections entitled Conditions and Exclusions, if a third party makes a claim against you alleging that the Hardware or Software infringes any Japanese patent or copyright registered or issued as of the Start Date, NECPF shall: (a) pay all reasonable costs to defend you; and (b) pay any damages assessed against you in a final judgment by a court of competent jurisdiction or any settlement that NECPF has agreed upon with such third party.

7.2 Conditions. NECPF shall be obligated to pay these costs only if you: (a) notify NECPF promptly in writing of any such claim; (b) give NECPF full information and assistance in settling and/or defending the claim; and (c) give NECPF full authority and control of the defense and settlement of any such claim. You may also participate in the defense at your own expense.

7.3 Exclusions. NECPF shall not be liable for: (a) any costs or expenses incurred by you without NECPF's prior written authorization; (b) any use of the Hardware or Software not in accordance with this Agreement or the Documentation; (c) for any claim based on the use or a combination of the Hardware or Software with any other software,

firmware, hardware or data not provided or approved by NECPF; (d) use of any Release of the Software other than the most current Release made available to you; or (e) any alterations or modification of the Hardware or Software by any person other than NECPF or its authorized agents.

7.4. Cure. In the event NECPF is required, or in NECPF's sole opinion is likely to be required, to indemnify you under the Section entitled NECPF's Obligation, NECPF shall do one of the following: (a) obtain the right for you to continue using the Hardware or Software; (b) replace or modify the Hardware or Software with a functional equivalent that is non-infringing; or (c) terminate this Agreement and refund any fee NECPF received, prorated over 3 years, or the period of your license if shorter than 3 years.

8. RISKS AND YOUR OBLIGATIONS. Mojo products may be capable of operating at frequencies beyond those allowed in your region and locating and disabling targeted wireless devices and computers. YOU USE MOJO PRODUCTS AT YOUR OWN RISK. If a third party makes a claim against NECPF arising out of your use of the Mojo products or your breach of this Agreement, you shall: (a) pay all costs to defend NECPF; and (b) pay any damages assessed against NECPF in a final judgment by a court of competent jurisdiction or any settlement that you agreed upon with such third party. If you fail to meet your obligations under this Section, NECPF shall have full authority and control of the defense and/or settlement of any such claim at your expense.

9. EXPORT RESTRICTIONS. You acknowledge that the Software is subject to U.S. export jurisdiction. You agree to comply with all applicable international and national laws that apply to the Software, including the U.S. Export Administration Regulations, as well as end-user, end-use, and destination restrictions issued by U.S. and other governments. You assume sole responsibility for any required export approval and/or licenses and all related costs. You shall not acquire, ship, transfer or re-export, directly or indirectly, the Hardware and/or Software to proscribed, embargoed, or prohibited countries or their nationals, denied destinations, nor use it for nuclear activities, chemical biological weapons or missile projects. Proscribed countries, destinations, and people are set forth in the United States Export Administration Regulations, and the Office of Foreign Asset Control's Specially Designated Nationals list, and are subject to change without further notice from NECPF.

## 12. GENERAL

12.1 Term. This Agreement shall start on the date you click "I have read and agree to the licensing terms above," "I Agree" or otherwise install or activate the Software or Hardware (the "Start Date") and shall continue in full force and effect until it expires pursuant to the period of use that you purchased or unless earlier terminated as described in the Section entitled Termination.

12.2 Termination. Without prejudice to any other rights, NECPF may terminate this Agreement if you do not comply with it. You may terminate this Agreement at anytime. Upon termination of this Agreement for any reason: (a) all license rights granted in this Agreement will immediately terminate and you must promptly stop all use of the Software; (b) NECPF's obligation to provide services under any service agreement terminates; (c) you must erase all copies of the Software from your computers, and destroy all copies of the Software and Documentation on tangible media in your possession or control. Termination of this Agreement will not affect your right to otherwise use or transfer the Hardware purchased from NECPF once the Software is removed.

12.3 Survival. The Sections entitled Controlling Agreement, Proprietary Rights, Limited Warranty, Limitation of Liability, Risks and Your Obligations, Export Restrictions, Termination, Governing Law and Venue and Severability shall survive the expiration or termination of this Agreement. NECPF's obligations under the Section entitled Infringement Indemnification shall survive only for claims based on use of the Hardware or Software during the licensed term.

12.4 Assignment. You may not assign or transfer, by operation of law, merger or otherwise, any of your rights or delegate any of your duties under this Agreement (including without limitation, the licenses with respect to the Software) to any third party without NECPF's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be void. NECPF may assign its rights or delegate its obligations under this Agreement.

12.5 Governing Law and Venue. This Agreement will be governed by the laws of the Japan. Any action or proceeding arising from or relating to this Agreement must be brought exclusively in a court seated in Tokyo, and in no other venue. Each party



irrevocably consents to the personal jurisdiction and venue in, and agrees to service of process issued by, any such court. Notwithstanding the foregoing, NECPF reserves the right to file a suit or action in any court of competent jurisdiction as NECPF deems necessary to protect its intellectual property and proprietary rights.

12.6 Relief. You agree that the Software and Hardware contains Mojo's valuable trade secrets and proprietary information and that any actual or threatened disclosure or misappropriation of such information would constitute immediate, irreparable harm to Mojo for which monetary damages would be an inadequate remedy. Therefore, in addition to any other rights and remedies which may be available to NECPF, any such actual or threatened disclosure may be stopped through injunctive proceedings without the posting of a bond.

12.7 Waivers and Amendments. All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. This Agreement may be amended only by a written document signed by you and NECPF.

12.8 Severability. If any provision of this Agreement is held to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect.