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12. GENERAL.

a. U.S. Government. If the Software is licensed to Customer for use in the performance of a U.S. Government prime contract or subcontract, Customer agrees that, consistent with FAR 12.211 and 12.212, commercial computer software, computer software documentation and technical data for commercial items are licensed under Utimaco's standard commercial license.

b. Global Trade Compliance. Customer agrees to comply with the trade-related laws and regulations of the U.S. and other applicable national governments. If Customer exports, imports or otherwise transfer products provided under this EULA, Customer will be responsible for obtaining any required export or import authorizations. Customer confirms that Customer is not located in a country that is subject to trade control sanctions and further agree that Customer will not retransfer the products to any such country. Utimaco may suspend its performance under this EULA to the extent required by laws applicable to either party. Customer represent and warrant that Customer are not a Restricted Party, which shall be deemed to include any person or entity: (1) located in any country that may, from time to time, become subject to U.S. export controls for anti-terrorism reasons or with which U.S. persons are generally prohibited from engaging in financial transactions; (2) on the U.S. Department of Commerce Denied Person's List, Entity List, or Unverified List; U.S. Department of the Treasury list of Specially Designated Nationals and Blocked Persons; or U.S. Department of State List of Debarred Parties; (3) engaged in activities involving nuclear materials or weapons, missile or rocket technologies, or proliferation of chemical or biological weapons; or (4) affiliated with or a part of any non-U.S. military organization. Customer shall not sell, resell, loan, disclose, or otherwise transfer any Software or Utimaco Product to any Restricted Party. If Customer becomes a Restricted Party during the term of this EULA, this EULA shall automatically terminate and Customer shall immediately cease all use of the Software.

c. SDK. Customer recognizes that the Usage of the Software Development Kit (SDK) for Implementing new Cryptographic Algorithms or Cryptographic Libraries into Utimaco Solutions/Products might change the Export Classification of Utimaco Products (ECCN) and requires in case of export a new filing process by Customer to determine/verify the Export Control Classification Number.

d. Audit. Utimaco may audit Customer for compliance with the Software license terms. Upon reasonable notice, Utimaco may conduct an audit during normal business hours (with the auditor's costs being at Utimaco's expense). If an audit reveals underpayments then Customer will pay to Utimaco such underpayments. If underpayments discovered exceed five (5) percent, Customer will reimburse Utimaco for the auditor costs.

e. Open Source Components. To the extent the Supporting Material includes open source licenses, such licenses shall control over this EULA with respect to the particular open source component. To the extent Supporting Material includes the GNU General Public License or the GNU Lesser General Public License, a copy of the source code is available upon request.

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g. Governing Law. This EULA will be governed by the laws of the state of California, U.S.A., excluding rules as to choice and conflict of law. Customer and Utimaco consent to the jurisdiction of the state and federal courts located in California. Customer and Utimaco agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply.

h. Force Majeure. Neither party will be liable for performance delays nor for non-performance due to causes beyond its reasonable control, except for payment obligations.

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