

# FORTINET<sup>®</sup>

## MUTUAL NON-DISCLOSURE AGREEMENT

Our mutual objectives under this Agreement are to provide protection for each party's confidential information and to maintain our ability to conduct our respective business activities. Each of us agrees that the following terms apply when one of us or our affiliates ("Discloser") discloses confidential information to the other or its affiliates ("Recipient").

**1. Disclosure.** Confidential information that is exchanged between the Effective Date and termination of this Agreement ("Information") is protected hereunder if it is marked confidential, is otherwise clearly identified by Discloser as confidential at the time of disclosure, or under the circumstances should be reasonably understood by Recipient to be confidential.

**2. Obligations.** Recipient hereby agrees: (a) to use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as Recipient uses with its own confidential information, and, at a minimum, Recipient shall use a reasonable standard of care, and (b) to use Discloser's Information solely for the purposes for which it was disclosed. Recipient may disclose Information to its affiliates, advisors, contractors, and employees (collectively, "Representatives") who have a need-to-know for the purposes of disclosure, provided Recipient is responsible to ensure that, before such disclosure, such Representatives are bound by terms at least as protective of Discloser's Information as the terms herein and Recipient remains liable and responsible to Discloser for any Representative's non-compliance with restrictions in this Agreement.

Upon request by written notice from Discloser to Recipient, Recipient shall, according to Discloser's preference, either destroy or return all Discloser Information (whether written, electronically stored, or otherwise), and neither Recipient nor any of its Representatives shall retain any copies or extracts thereof except as may be required by applicable legal or regulatory requirements.

**3. Term.** This Agreement will terminate three (3) years after the Effective Date; provided Information disclosed under this Agreement will be subject to this Agreement for three (3) years following the initial date of disclosure; and provided further, Information constituting Discloser's trade secrets will remain subject to this Agreement for so long as such information remains a trade secret under the Uniform Trade Secrets Act.

**4. Exceptions to Obligations.** Notwithstanding the other provisions herein, the restrictions herein shall not apply to Recipient for information that: (a) is already in Recipient's possession at the time of disclosure without obligation of confidentiality, (b) is developed independently by Recipient, (c) is obtained by Recipient in good faith from a third party without obligation of confidentiality, or (d) is or becomes generally publicly available through no fault of Recipient. Recipient may disclose

Discloser's Information if, and solely to the extent, specifically required by law, but only if, prior to so disclosing, Recipient provides prompt written notice to Discloser and allows Discloser a reasonable opportunity to avoid or limit such disclosure and works in good faith with Discloser to avoid and limit disclosure.

**5. Disclaimers.** THE DISCLOSER PROVIDES INFORMATION WITHOUT WARRANTIES OF ANY KIND. Discloser will not be liable for any damages arising out of the use of Information disclosed under this Agreement. Neither this Agreement nor any disclosure of Information made under it grants Recipient any right or license under any trademark, copyright or patent now or subsequently owned or controlled by Discloser.

**6. General.** This Agreement does not require either of us to disclose or receive Information. The receipt of Information under this Agreement will not limit Recipient from developing and providing to others products or services that may be competitive with products or services of Discloser or providing to others products or services that compete with Discloser; provided Recipient does not do so in breach of this Agreement, and, in the event Fortinet receives product input or feedback from the other party hereto, Fortinet may incorporate such input and feedback into its products and will own all intellectual property rights in and to those products and incorporated features or functions.

The parties agree to comply with applicable data protection laws (meaning all laws, regulations and other legal requirements relating to privacy, data security, communications secrecy, security breach notification, or the processing of personal data), to the extent that they process personal data (as defined in applicable data protection laws). The parties will comply with all applicable import and export laws. The laws of the State of California govern, any and all disputes relating to this Agreement, without regard to conflict of law principles, and both parties hereto consent to jurisdiction in Santa Clara County, California.

Only a written agreement signed by both of us can modify this Agreement. Either of us may terminate this Agreement upon thirty (30) days' written notice to the other. Any terms of this Agreement which by their nature extend beyond its termination remain in effect until fulfilled and apply to all successors and assigns. Neither of us may assign, or otherwise transfer, its rights or delegate its duties or obligations under this Agreement without prior written consent, and any attempt to do so is void. This Agreement is the complete and exclusive agreement regarding our disclosures of Information, and replaces any prior oral or written communications between us regarding these disclosures. This Agreement may be executed in counterparts, signed electronically, or transmitted via facsimile, PDF, or other reliable means, and still be considered an original.

IN WITNESS WHEREOF, the undersigned parties have executed the Agreement as of the last date written below:

Company: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

Date:

Notice

Address:

Company: Fortinet, Inc.

By: \_\_\_\_\_

Name:

Title:

Effective Date:

Notice: Attn: (1) CFO and (2) General Counsel

Address: 899 Kifer Rd, Sunnyvale, CA 94086 U.S.A.