

ClamXav

SOFTWARE LICENCE AGREEMENT

Please read carefully before using ClamXav – you must accept the terms of this end user licence agreement in order to use ClamXav.

This end user licence agreement (“**Licence**”) is a legal agreement between you (“**you**”) and Canimaan Software Ltd, a company incorporated in Scotland (registered number SC500971) and having its registered offices at The Capital Building, 2nd Floor, 12/13 St Andrew Square, Edinburgh, EH2 2AF (“**us**” or “**we**”) for:

- The version of the ClamXav software to which you acquire a licence, either directly from us or from a reseller approved by us (“**Reseller**”), (the “**Software**”); and
- The electronic and online documentation for the Software (the “**Documentation**”).

We license use of the Software and Documentation to you on the basis of this Licence. We do not sell the Software or Documentation to you. We remain the owners of the Software and Documentation at all times.

IMPORTANT NOTICE TO ALL USERS

BY CLICKING ON THE “Agree” BUTTON BELOW, YOU AGREE TO THE TERMS OF THIS LICENCE WHICH WILL BIND YOU (AND YOUR EMPLOYEES AND REPRESENTATIVES IF YOU HAVE A COMMERCIAL LICENCE). THE TERMS OF THIS LICENCE INCLUDE, IN PARTICULAR, THE LIMITATIONS ON LIABILITY IN PARAGRAPH 5 AND PARAGRAPH 6.

IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENCE, WE WILL NOT LICENSE THE SOFTWARE AND DOCUMENTATION TO YOU AND YOU MUST DISCONTINUE NOW BY CLICKING ON THE "Quit" BUTTON BELOW. IN THIS CASE, THE SOFTWARE WILL TERMINATE.

YOU ACKNOWLEDGE AND UNDERSTAND THAT USING THE SOFTWARE, AS WITH ANY ANTI-MALWARE SOFTWARE, CARRIES INHERENT RISKS THAT CAN BE MITIGATED (BUT NOT AVOIDED) BY CAREFUL PREPARATION, PROPER USE, REGULAR UPDATES OF MALWARE DEFINITIONS AND MANUAL VERIFICATION OF STEPS TAKEN TO REMOVE MALWARE. THESE RISKS INCLUDE, BUT ARE NOT LIMITED TO:

- **DATA LOSS;**
- **MEDIA FAILURE LEADING TO DATA LOSS;**
- **DATA LOSS DUE TO ERROR;**
- **DATA LOSS AND/OR MALWARE INFECTION OWING TO ZERO-DAY EXPLOITS;**
OR
- **FAILURE TO DETECT MALWARE WHICH IS AS YET UNKNOWN TO THE SOFTWARE.**

THESE RISKS, AND MITIGATION EFFORTS, ARE DESCRIBED IN THE DOCUMENTATION.

You may save a copy of this Licence for future reference by clicking the “Save” button.

1. GRANT AND SCOPE OF LICENCE

1.1 In return for:

1.1.1 you paying to us or our Reseller the agreed fee for a personal licence (in which case this Licence is a “**Personal Licence**”), or a commercial licence (in which case this Licence is a “**Commercial Licence**”); and

1.1.2 you agreeing to the terms of this Licence,

we hereby grant to you a non-exclusive, non-transferable licence to use the Software and the Documentation on the terms of this Licence.

1.2 You may:

1.2.1 if this is a Personal Licence, install and use the Software for your domestic and personal use on any computer you own or lease;

1. if this is a Commercial Licence, install and use the Software for your internal business purposes within a single organisation on the number of computers specified in your order with us or our Reseller and listed in your registration details;

1. you may receive and use any update of the Software provided by us from time to time – this includes version updates (e.g. version 2.8 to 2.9) but excludes major version upgrades (e.g. from version 2.x to 3.x etc.) unless you have a Commercial Licence and maintenance agreement with us that entitles you to such major version upgrades; and

1.2.4 use the Documentation in support of the use permitted under this paragraph 1.2.

1.3 If you have downloaded the Software on a trial basis, you may install and use the Software on a single computer for the sole purpose of evaluating the Software for 30 days from the date on which it is first run (in which case this Licence is a “**Trial Licence**”). The Software will expire at the end of that period and the Trial Licence will automatically terminate. In the case of a Trial Licence, we give no warranties in respect of the Software or the Documentation and any statutory warranties are excluded to the fullest extent possible.

2. RESTRICTIONS

- 2.1 Except as expressly set out in this Licence or as permitted by any local law, you undertake:
 - 2.1.1 not to copy the Software or Documentation except where such copying is incidental to normal use of the Software, or where it is necessary for the purpose of back-up or operational security;
 - 2.1.2 not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software or Documentation;
 - 2.1.3 not to make alterations to, or modifications of, the whole or any part of the Software, nor permit the Software or any part of it to be combined with, or become incorporated in, any other programs;
 - 2.1.4 not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Software nor attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by you during such activities:
 - (a) is used only for the purpose of achieving inter-operability of the Software with another software program;
 - (b) is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
 - (c) is not used to create any software which is substantially similar to the Software;
 - 2.1.5 if this Licence is a Commercial Licence, to supervise and control use of the Software and ensure that the Software is used by your employees and representatives in accordance with the terms of this Licence;
 - 2.1.6 to include our copyright notice on all entire and partial copies you make of the Software on any medium;
 - 2.1.7 not to provide or otherwise make available the Software in whole or in part in any form to any person without prior written consent from us;
 - 2.1.8 not to use the Software in any mission critical systems or applications;
 - 2.1.9 to comply with all applicable technology control or export laws and regulations; and

2.1.10 that if this Licence is terminated, you will discontinue using the Software and any registration keys for it.

3. INTELLECTUAL PROPERTY RIGHTS

- 3.1 You acknowledge that all intellectual property rights in the Software and the Documentation anywhere in the world belong to us, that rights in the Software are licensed (and not sold) to you, and that you have no rights in, or to, the Software or the Documentation other than the right to use them in accordance with the terms of this Licence.
- 3.2 You acknowledge that you have no right to have access to the Software in source code form.
- 3.3 The Software is distributed with third party software that is subject to the terms of the GNU General Public License (“**GPL**”) including, but not limited to, the ClamAV open source antivirus engine (the “**Third Party Software**”). The Third Party Software is distributed in binary form. You may obtain a complete copy of the source code for the Third Party Software under the terms of the GPL by emailing us at support@clamxav.com. The Third Party Software is distributed in the hope that it will be useful, but WITHOUT ANY WARRANTY; without even the implied warranty of MERCHANTABILITY or FITNESS FOR A PARTICULAR PURPOSE. Please see the GNU General Public License for more details (<http://www.gnu.org/licenses>). A copy of the GPL is included with ClamXav and is displayed when the Third Party Software is installed.

ClamAV is a registered trade mark of Cisco Systems, Inc.

4. LIMITED WARRANTY

- 4.1 We warrant that the Software will, when properly used on a computer meeting the minimum system requirements set out in the Documentation, perform substantially in accordance with the functions described in the Documentation for a period of 30 days from the date of installation of the Software (the “**Warranty Period**”).
- 4.2 If, within the Warranty Period, you notify us in writing of any defect or fault in the Software as a result of which it fails to perform substantially in accordance with the Documentation, we will, at our sole option, either refund the licence fee that you have paid us or repair or replace the Software, provided that you make available all the information that may be necessary to help us to remedy the defect or fault, including sufficient information to enable us to recreate the defect or fault.
- 4.3 The warranty does not apply:
 - 4.3.1 if the defect or fault in the Software results from you having altered or modified the Software; or

4.3.2 if the defect or fault in the Software results from you having used the Software in breach of the terms of this Licence.

4.4 If this licence is a Personal Licence, this warranty is in addition to your legal rights in relation to Software that is faulty or not as described.

5. LIMITATION OF LIABILITY THAT APPLIES FOR COMMERCIAL LICENCES

5.1 The provisions of this paragraph 5 apply if this Licence is a Commercial Licence.

5.2 You acknowledge that the Software has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Software as described in the Documentation meet your requirements.

5.3 We license the Software and Documentation for internal use by your business only and you agree not to use the Software or Documentation for any re-sale purposes.

5.4 We shall not in any circumstances whatever be liable to you, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Licence for:

5.4.1 loss of profits, sales, business, or revenue;

5.4.2 business interruption;

5.4.3 loss of anticipated savings;

5.4.4 loss or corruption of data or information;

5.4.5 loss of business opportunity, goodwill or reputation; or

5.4.6 any indirect or consequential loss or damage.

5.5 Other than the losses set out in paragraph 5.4 (for which we are not liable), our maximum aggregate liability under or in connection with this Licence whether in contract, delict (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to the licence fee paid by you to us or our Reseller in respect of the Software. This maximum cap does not apply to paragraph 5.6.

5.6 Nothing in this Licence shall limit or exclude our liability for:

5.6.1 death or personal injury resulting from our negligence;

5.6.2 fraud or fraudulent misrepresentation;

5.6.3 any other liability that cannot be excluded or limited by Scots law.

5.7 This Licence sets out the full extent of our obligations and liabilities in respect of the supply of the Software and Documentation. Except as expressly stated in this Licence, there are no warranties or other terms, express or implied, that are binding on us. Any warranty or other term concerning the supply of the Software and Documentation which might otherwise be implied into, or incorporated in, this Licence whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

6. LIMITATION OF LIABILITY FOR PERSONAL LICENCES LICENCES

6.1 The provisions of this paragraph 6 apply if this Licence is a Personal Licence.

6.2 You acknowledge that the Software has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Software as described in the Documentation meet your requirements.

6.3 We license the Software and Documentation to you for domestic and private use only. You agree not to use the Software and Documentation for any commercial, business or re-sale purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

6.4 We are only responsible for loss or damage you suffer that is a foreseeable result of our breach of this Licence or our negligence up to the amount specified in paragraph 6.5, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we granted you the Licence.

6.5 Our maximum aggregate liability under or in connection with this Licence whether in contract, delict (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to the licence fee paid by you to us or our Reseller in respect of the Software. This does not apply to the types of loss set out in paragraph 6.6.

6.6 Nothing in this Licence shall limit or exclude our liability for:

6.6.1 death or personal injury resulting from our negligence;

6.6.2 fraud or fraudulent misrepresentation; or

6.6.3 any other liability that cannot be excluded or limited by Scots law.

7. TERMINATION

7.1 We may terminate this Licence immediately by written notice to you if you commit a material or persistent breach of this Licence.

- 7.2 If this Licence is a Trial Licence, it will automatically terminate at the end of the period referred to in paragraph 1.3.
- 7.3 If this Licence is a Personal Licence or Commercial Licence, and subsequently you pay us or our Reseller the agreed licence fee to obtain a major version upgrade of the Software (e.g. from version 2.x to 3.x etc.) ("**Upgraded Software**"), or if this Licence is a Commercial Licence and you have entered into a maintenance agreement with us entitling you to such Upgraded Software, this Licence shall automatically terminate on the grant by us to you of a licence for the Upgraded Software and your acceptance of the terms of that licence. On termination on this Licence, you must discontinue your use of the Software and any registration keys for it in accordance with paragraph 2.1.10 above.
- 7.4 Upon termination for any reason:
- 7.4.1 all rights granted to you under this Licence shall cease;
 - 7.4.2 you must immediately cease all activities authorised by this Licence; and
 - 7.4.3 you must immediately delete or remove the Software from all computer equipment in your possession, and immediately delete all copies of the Software and Documentation including any registration keys for the Software then in your possession, custody or control and certify to us that you have done so,

but the terms of this Licence limiting our liability to you shall survive its termination.

8. COMMUNICATIONS BETWEEN US

- 8.1 If this Licence is a Personal Licence and you wish to contact us in writing, or if any term of this Licence requires you to give us notice in writing, you can send this to us by email at support@clamxav.com or by post to us at 2nd Floor, The Capital Building, 12/13 St Andrew Square, Edinburgh, EH2 2AF. We will confirm receipt of this by contacting you by email.
- 8.2 If we have to contact you or give you notice in writing, we will do so by email to the address you provide to us or our Reseller in your order for the Software.
- 8.3 If this Licence is a Commercial Licence, please note that any notice given by you to us, or by us to you, will be deemed received and properly served immediately:
- 8.3.1 24 hours after an email is sent;
 - 8.3.2 three days after the date of posting of any letter if sent between two addresses in the United Kingdom; and
 - 8.3.3 seven days after the date of posting of any letter if sent to or from an address

outside the United Kingdom.

In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, prepaid and placed in the post and, in the case of an email, that such email was sent to the email address of the addressee.

- 8.4 Any notice given under or in connection with this agreement must be in the English language.

9. EVENTS OUTSIDE OUR CONTROL

- 9.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Licence that is caused by an Event Outside Our Control. An Event Outside Our Control means any act or event beyond our reasonable control, including without limitation failure of public or private telecommunications networks.

- 9.2 If an Event Outside Our Control takes place that affects the performance of our obligations under this Licence:

9.2.1 our obligations under this Licence will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and

9.2.2 we will use our reasonable endeavours to find a solution by which our obligations under this Licence may be performed despite the Event Outside Our Control.

10. DATA PROTECTION AND PRIVACY

By using the Software, you consent to us collecting and processing certain information about you and the computer on which the Software is installed for the purposes of administering licences, improving the Software and providing support to users of the Software. Such information may be transferred by us to other countries which may have less protective data protection laws than the country in which you are situated.

11. OTHER IMPORTANT TERMS

- 11.1 We may transfer our rights and obligations under this Licence to another entity, but this will not affect your rights or our obligations under this Licence.

- 11.2 This Licence constitutes the entire agreement between us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter provided that if this Licence is a Commercial Licence, the terms of this Licence may be varied by the terms of any maintenance agreement entered into

by us. You agree that you shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Licence. You agree that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this in this Licence.

- 11.3 If we fail to insist that you perform any of your obligations under this Licence, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 11.4 Each of the terms of this Licence operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining terms will remain in full force and effect.
- 11.5 This Licence is written in the English language. If this Licence is translated into any other language, the English language version shall prevail.
- 11.6 If this is a Personal Licence, this Licence, its subject matter and its formation, are governed by Scots law. You and we both agree that the courts of Scotland will have non-exclusive jurisdiction.
- 11.7 If this is a Commercial Licence, this Licence, its subject matter and its formation (and any non-contractual disputes or claims) are governed by Scots law. You and we both irrevocably submit to the exclusive jurisdiction of the Scottish courts in respect of this Licence and any disputes or claims under it or in respect of it.