



License Agreement

Company: S.A.D.

Product: SimonTools CyberGhost

SOFTWARE END-USER LICENSE AGREEMENT

THIS AGREEMENT GIVES YOU A LICENSE TO USE THE SOFTWARE. ITS TERMS AND CONDITIONS ALSO INCLUDE WARRANTY INFORMATION AND DISCLAIMERS. THIS AGREEMENT (or "EULA") IS A LEGAL AGREEMENT BETWEEN THE PERSON, COMPANY, OR ORGANIZATION THAT HAS LICENSED THIS SOFTWARE ("YOU" OR "CUSTOMER") AND S.A.D. READ IT CAREFULLY BEFORE COMPLETING THE INSTALLATION PROCESS AND USING THE SOFTWARE. BY INSTALLING AND/OR USING THE SOFTWARE, YOU ARE CONFIRMING YOUR ACCEPTANCE OF THE SOFTWARE AND AGREEING TO BECOME BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS, OR DO NOT HAVE AUTHORITY TO BIND CUSTOMER TO THESE TERMS, THEN CLICK "CANCEL" AND DO NOT INSTALL AND/OR USE THE SOFTWARE AND RETURN THE SOFTWARE TO YOUR PLACE OF PURCHASE FOR A FULL REFUND IN ACCORDANCE WITH ITS REFUND POLICIES.

THIS EULA SHALL APPLY ONLY TO THE SOFTWARE SUPPLIED BY S.A.D. HEREWITH REGARDLESS OF WHETHER OTHER SOFTWARE IS REFERRED TO OR DESCRIBED HEREIN.

1. Definitions

- (a) "Education Version" means a version of the Software, so identified, for use by students and faculty of educational institutions, only.
- (b) "Not For Resale (NFR) Version" means a version, so identified, of the Software to be used to review and evaluate the Software, only.
- (c) "S.A.D." means S.A.D. Software Produktions- und Vertriebs GmbH and its licensors, if any.
- (d) "Software" means only the S.A.D. software program(s) and third party software programs, in each case, supplied by S.A.D. herewith, and corresponding documentation, associated media, printed materials, and online or electronic documentation.
- (e) "Trial Version" means a version of the Software, so identified, to be used only to review, demonstrate and evaluate the Software for a limited time period. The Trial Version may have limited features, may lack the ability for the end-user to save the end product, and will cease operating after a predetermined amount of time due to an internal mechanism within the Trial Version.

2. License Grants

- (a) You may install and use the Software on a single computer; OR install and store the Software on a storage device, such as a network server, used only to install the Software on your other computers over an internal network, provided you have a license for each separate computer on which the Software is installed and run. A license for the Software may not be shared, installed or used concurrently on different computers.



(b) In the event the Software is distributed along with other S.A.D. software products as part of a suite of products, the license of the suite is licensed as a single product and none of the products in the suite, including the Software, may be separated for installation or use on more than one computer.

(c) You may make one copy of the Software in machine-readable form solely for backup purposes. You must reproduce on any such copy all copyright notices and any other proprietary legends on the original copy of the Software.

(d) Education Versions may not be used for, or distributed to any party for, any commercial purpose.

(e) You agree that S.A.D. may audit your use of the Software for compliance with these terms at any time, upon reasonable notice.

(f) Your license rights under this EULA are non-exclusive.

3. License Restrictions

(a) Other than as set forth in Section 2, you may not make or distribute copies of the Software, or electronically transfer the Software from one computer to another or over a network.

(b) You may not alter, merge, modify, adapt or translate the Software, or decompile, reverse engineer, disassemble, or otherwise reduce the Software to a human-perceivable form.

(c) Unless otherwise provided herein, you may not rent, lease, or sublicense the Software.

(d) Other than with respect to a Trial Version or a Not For Resale Version of the Software, you may permanently transfer all of your rights under this EULA only as part of a sale or transfer, provided you retain no copies, you transfer all of the Software (including all component parts, the media and printed materials, any upgrades, all platforms, this EULA, the serial numbers, and, if applicable, all other software products provided together with the Software), and the recipient agrees to the terms of this EULA. If the Software is an upgrade, you must transfer all previous versions to which the upgrade relates. You may not sell or transfer any Software purchased under a volume discount. You may not sell or transfer any Software purchased under a volume discount. You may not sell or transfer any Trial Version or Not For Resale Version of the Software. If the copy of the Software is licensed as part of the whole suite (as defined above), the Software shall be transferred only with and as part of the sale or transfer of the whole suite and not separately.

(e) Unless otherwise provided herein, you may not modify the Software or create derivative works based upon the Software.

(f) Unless otherwise provided herein, you shall not (i) in the aggregate, install or use more than one copy of the Trial Version of the Software, (ii) download the Trial Version of the Software under more than one username, (iii) alter the contents of a hard drive or computer system to enable the use of the Trial Version of the Software for an aggregate period in excess of the trial period for one license to such Trial Version, and (iv) use the Trial Version of the Software for a purpose other than the sole purpose of determining whether to purchase a license to a commercial or education version of the software; however, notwithstanding the foregoing, you are strictly prohibited from installing or using the Trial Version of the Software for any commercial training purpose.

(g) You may only use the Not for Resale Version of the Software to review and evaluate the Software.

(h) You agree that you will not export or re-export the Software (or portions thereof) to any country, person or entity subject to U.S. export restrictions. You specifically agree not to



export or re-export the Software (or portions thereof): (i) to any country subject to a U.S. embargo or trade restriction; (ii) to any person or entity who you know or have reason to know will utilize the Software (or portions thereof) in the production of nuclear, chemical or biological weapons; or (iii) to any person or entity who has been denied export privileges by the U.S. government.

(i) You may receive the Software in more than one medium but you shall only install or use one medium. Regardless of the number of media you receive, you may use only the medium that is appropriate for the server or computer on which the Software is to be installed.

(j) In the event that you fail to comply with this EULA, S.A.D. may terminate the license and you must destroy all copies of the Software (with all other rights of both parties and all other provisions of this EULA surviving any such termination).

4. Upgrades

If this copy of the Software is an upgrade from an earlier version of the Software, you must possess a valid full license to a copy of an earlier version of the Software used to upgrade to this upgrade copy in order to install and/or use this upgrade copy, and the upgrade copy is provided to you on a license exchange basis. You agree by your installation and use of such copy of the Software to voluntarily terminate your earlier EULA and uninstall, destroy and cease using the earlier version of the Software or transfer it to another person or entity, unless you also transfer this upgrade copy and any copies thereof to such other party in accordance with Section 3.

5. Prior Same Version License and Exchanges

If this copy of the Software is licensed as part of the suite (as defined above), and you have a prior license to the same version of the Software, and the suite was licensed to you with a discount based, in whole or in part, on your prior license to the same version, the Software is provided to you on a license exchange basis. You agree by your installation and use of this copy of the Software to voluntarily terminate your EULA with respect to such prior license and that you will not continue to install or use such prior license of the Software or transfer it to another person or entity.

6. Ownership

The foregoing license gives you limited license to use the Software. S.A.D. and its suppliers retain all right, title and interest, including all copyright and intellectual property rights, in and to, the Software (as an independent work and as an underlying work serving as a basis for any application you may develop), and all copies thereof. All rights not specifically granted in this EULA, including Federal and International Copyrights, are reserved by S.A.D. and its suppliers.

7. LIMITED WARRANTY AND DISCLAIMER

(a) Except with respect to the Trial Version and Not For Resale Version of the Software, S.A.D. warrants that, for a period of sixty (60) days from the date of delivery (as evidenced by a copy of your receipt), the physical media on which the Software is furnished will be free from defects in materials and workmanship that significantly reduce their utility for the purposes stipulated in the General Business Terms. In the event of the product does not



comply with this warranty, your exclusive remedy shall be, at S.A.D.'s option, a replacement copy of the Software or a refund of the purchase price, provided you submit a copy of your receipt and the defective product to S.A.D. within the period of warranty. S.A.D. does not guarantee that the Software will meet your needs, is error free, or will operate without interruption.

(b) S.A.D. PROVIDES NO REMEDIES OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, FOR ANY SAMPLE APPLICATION CODE, TRIAL VERSION AND THE NOT FOR RESALE VERSION OF THE SOFTWARE. ANY SAMPLE APPLICATION CODE, TRIAL VERSION AND THE NOT FOR RESALE VERSION OF THE SOFTWARE ARE PROVIDED "AS IS".

(c) EXCEPT AS SET FORTH IN THE FOREGOING LIMITED WARRANTY WITH RESPECT TO SOFTWARE OTHER THAN ANY TRIAL VERSION AND NOT FOR RESALE VERSION, S.A.D. AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALSO, THERE IS NO WARRANTY OF NON-INFRINGEMENT AND TITLE OR QUIET ENJOYMENT. S.A.D. DOES NOT WARRANT THAT THE SOFTWARE IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION. THE SOFTWARE IS NOT DESIGNED, INTENDED OR LICENSED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE CONTROLS, INCLUDING WITHOUT LIMITATION, THE DESIGN, CONSTRUCTION, MAINTENANCE OR OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, AND LIFE SUPPORT OR WEAPONS SYSTEMS. S.A.D. SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH PURPOSES.

(e) NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY S.A.D., ITS DEALERS, DISTRIBUTORS, AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY PROVIDED HEREIN.

(f) SOME STATES, INCLUDING THE MEMBERS OF THE EUROPEAN UNION, DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

8. Exclusive Remedy

Your exclusive remedy under the preceding is to return the Software to the place you acquired it, with a copy of your receipt and a description of the problem. Provided that any non-compliance with the above warranty is reported in writing to S.A.D. no more than sixty (60) days following delivery to you, S.A.D. will use reasonable commercial efforts to supply you with a replacement copy of the Software that substantially conforms to the documentation, provide a replacement for defective media, or refund to you your purchase price for the Software, at its option. S.A.D. shall have no responsibility if the Software has been altered in any way, if the media has been damaged by misuse, accident, abuse, modification or misapplication, or if the failure arises out of use of the Software with other than a recommended hardware configuration. Any such misuse, accident, abuse, modification or misapplication of the Software will void the warranty above. THIS REMEDY IS THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO YOU FOR BREACH OF EXPRESS OR



IMPLIED WARRANTIES WITH RESPECT TO THE SOFTWARE AND RELATED DOCUMENTATION.

9. LIMITATION OF LIABILITY

(a) NEITHER S.A.D. NOR ITS SUPPLIERS SHALL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, COVER OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR THE INABILITY TO USE EQUIPMENT OR ACCESS DATA, LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION OR THE LIKE), ARISING OUT OF THE USE OF, OR INABILITY TO USE, THE SOFTWARE AND BASED ON ANY THEORY OF LIABILITY INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF S.A.D. OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

(b) S.A.D.'S TOTAL LIABILITY TO YOU FOR ACTUAL DAMAGES FOR ANY CAUSE WHATSOEVER WILL BE LIMITED TO THE AMOUNT PAID BY YOU FOR THE SOFTWARE THAT CAUSED SUCH DAMAGE.

(c) SOME STATES, INCLUDING THOSE OF THE EUROPEAN UNION, DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS DEPENDING ON YOUR COUNTRY.

(d) THE FOREGOING LIMITATIONS ON LIABILITY ARE INTENDED TO APPLY TO THE WARRANTIES AND DISCLAIMERS ABOVE AND ALL OTHER ASPECTS OF THIS EULA.

10. Basis of Bargain

The Limited Warranty and Disclaimer, Exclusive Remedies, and Limited Liability set forth above are fundamental elements of the basis of the agreement between S.A.D. and you. S.A.D. would not be able to provide the Software on an economic basis without such limitations. Such Limited Warranty and Disclaimer, Exclusive Remedies and Limited Liability inure to the benefit of S.A.D.'s licensors.

11. Consumer End Users Only

The limitations or exclusions of warranties and liability contained in this EULA do not affect or prejudice the statutory rights of an end-user, i.e., a person acquiring goods otherwise than in the course of a business.

The limitations or exclusions of warranties, remedies or liability contained in this EULA shall apply to you only to the extent such limitations or exclusions are permitted under the laws of the jurisdiction where you are located.

12. General

This EULA shall be governed by the laws of the Federal Republic of Germany, without giving effect to principles of conflict of laws. You hereby consent to the exclusive jurisdiction and venue of the municipal courts sitting in Ulm, Germany to resolve any disputes arising under this EULA. In each case this EULA shall be construed and enforced without regard to the United Nations Convention on the International Sale of Goods.



This EULA contains the complete agreement between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements or understandings, whether oral or written. You agree that any varying or additional terms contained in any purchase order or other written notification or document issued by you in relation to the Software licensed hereunder shall be of no effect. The failure or delay of S.A.D. to exercise any of its rights under this EULA or upon any breach of this EULA shall not be deemed a waiver of those rights or of the breach.

No S.A.D. dealer, agent or employee is authorized to make any amendment to this EULA. If any provision of this EULA shall be held by a court of competent jurisdiction to be contrary to law, that provision will be enforced to the maximum extent permissible, and the remaining provisions of this EULA will remain in full force and effect.

All questions concerning this EULA shall be directed to: S.A.D. GmbH, Rötelbachstr. 91, 89079 Ulm.

S.A.D. and other trademarks contained in the Software are trademarks or registered trademarks of S.A.D. GmbH in the Federal Republic of Germany. Third party trademarks, trade names, product names and logos may be the trademarks or registered trademarks of their respective owners. You may not remove or alter any trademark, trade names, product names, logo, copyright or other proprietary notices, legends, symbols or labels in the Software. This EULA does not authorize you to use S.A.D.'s or its licensors' names or any of their respective trademarks.