

# Trend Micro End User License Agreement

Trend Micro Products/Services

Version: English/Multi-country

Purpose: Trial and Paid Use Subscription License

Date: November 2011

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You must read and accept this Agreement before you install or use the Trend Micro Products/Services. If you are an individual, then you must be at least 18 years old and have attained the age of majority in the state, province or country where you live to enter into this Agreement. If you are acquiring the Trend Micro Products/Services on behalf of an entity, then you must be properly authorized to represent that entity and to accept this Agreement on its behalf.

If you are downloading or activating or using the Trend Micro Products/Services for trial purposes or purchasing a license to the Trend Micro Products/Services, you accept this Agreement by selecting the "I accept the agreement" or similar button or box. If you or the entity you represent does not agree to the terms of this Agreement, select "I do not accept the agreement". Then no Agreement will be formed and you will not be permitted to evaluate, purchase or install and use the Trend Micro Products/Services. If you purchased the Trend Micro Products/Services from a retail store and do not accept the Agreement, you may return the Trend Micro Products/Services in its original package with the purchase receipt to the retail store where purchased within thirty (30) days of purchase for a refund less any restocking fees.

**NOTE:** SECTIONS 3 AND 20 DISCLAIM ANY WARRANTY OBLIGATIONS. SECTIONS 13 THROUGH 16 SET FORTH IMPORTANT RESTRICTIONS ON THE USE OF THE TREND MICRO PRODUCTS/SERVICES. SECTION 22 OF THIS AGREEMENT LIMITS TREND MICRO'S LIABILITY. BE SURE TO READ THESE SECTIONS CAREFULLY BEFORE ACCEPTING THE AGREEMENT.

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- 3. TRIAL USE SUBSCRIPTION LICENSE.** If you are a trial user, Trend Micro grants you the right to use Trend Micro Products/Services during your Subscription Term as defined in Section 9 below. At the end of your Subscription Term, this Agreement expires automatically. You may purchase a paid license to Trend Micro Products/Services by selecting the Buy Now option in Trend Micro Products/Services or by contacting an authorized Trend Micro reseller

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- 4. UPDATES.** The Trend Micro Products/Services software may require Updates to work effectively. "Updates" may include new features, bug fixes or the removal of features to the Trend Micro Products/Services software and accompanying documentation. Updates are only available for download and use during your Subscription Term as defined in Section 9 below. Upon download, Updates become "Trend Micro Products/Services" for the purposes of this Agreement. Updates will replace previously licensed parts of the Trend Micro Products/Services software, but will not increase the authorized number of Computers or registered users. Updates may require additional or different license terms that must be accepted before download. Updates will replace previously licensed parts of the Trend Micro Products/Services software. These Updates made available to you will be subject to the terms of this Agreement. Trend Micro will use reasonable efforts to provide notice of material changes to the Trend Micro Products/Services or changes to the terms of this Agreement by emailing you at the address provided in your registration and by posting them on Trend Micro's main website, [www.trendmicro.com](http://www.trendmicro.com). It is your responsibility to check the website to learn of these modifications. Changes to these Terms, which may be made at Trend Micro's sole and exclusive discretion, will be effective upon acceptance of this Agreement (as described herein) for new subscriptions and effective for all existing users thirty (30) calendar days after the posting of the new terms on Trend Micro's website at [www.trendmicro.com](http://www.trendmicro.com). You agree to be bound to the terms of the Agreement, as modified. If you do not agree to the modified Terms you are not permitted to use the Trend Micro Products/Services and must terminate your subscription immediately.
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**B. Technical support.** During the Subscription Term, validly licensed users are entitled to email and/or web-based technical support during business hours but only in certain limited languages. *Important:* Toll or toll-free telephone support may be available for validly licensed end users of certain products and in some countries only; for details, see [www.trendmicro.com/support/consumer](http://www.trendmicro.com/support/consumer).

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**21. INDEMNIFICATION.** You are solely responsible and liable for your conduct and your data related to the Trend Micro Products/Services. You agree to indemnify, defend and hold Trend Micro, its affiliates, and their respective officers, directors, employees, agents, licensors, and suppliers harmless from and against all claims, liabilities, losses, expenses, damages, and costs, including but not limited to reasonable attorneys' fees, resulting from (i) a violation or breach of this Agreement by you, (ii) any activity related to access or use of your account (including but not limited to negligent or wrongful conduct) by you or any other person accessing or using your account and/or files, or (iii) Trend Micro's authorized use of data, files or other content provided by you or obtained by Trend Micro as authorized by you under this Agreement.

- 22. LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL TREND MICRO OR ITS AFFILIATES, SUPPLIERS, OR LICENSORS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY COST TO PROCURE SUBSTITUTE PRODUCTS/SERVICES OR DATA, OR ANY DIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, EXEMPLARY, OR ANY OTHER DAMAGES, INCLUDING DAMAGES FOR PERSONAL INJURY, LOST PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, OR LOST REVENUES, ARISING OUT OF YOUR USE OR INABILITY TO USE THE TREND MICRO PRODUCTS/SERVICES OR YOUR USE OF DATA OR FILES STORED THEREIN, EVEN IF TREND MICRO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (WHETHER SUCH DAMAGES ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR OTHERWISE)). IN ANY CASE AND WITHOUT LIMITING THE FOREGOING, THE ENTIRE LIABILITY OF TREND MICRO AND ITS AFFILIATES, SUPPLIERS AND LICENSORS FOR ALL DAMAGES OF EVERY KIND AND TYPE (WHETHER SUCH DAMAGES ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE) SHALL BE LIMITED TO THE LICENSE FEES PAID BY YOU TO TREND MICRO IN THE TWELVE (12) CALENDAR MONTHS PRIOR TO THE DAMAGES ARISING. IF THE TREND MICRO PRODUCTS/SERVICES ARE PROVIDED TO YOU WITHOUT CHARGE, THEN TREND MICRO SHALL HAVE NO LIABILITY TO YOU WHATSOEVER. THE FOREGOING TERMS SET A LIMIT ON THE AMOUNT OF DAMAGES PAYABLE AND ARE NOT INTENDED TO ESTABLISH LIQUIDATED DAMAGES. YOU EXPRESSLY RECOGNIZE AND ACKNOWLEDGE THAT SUCH LIMITATION OF LIABILITY IS AN ESSENTIAL PART OF THIS AGREEMENT AND IS AN ESSENTIAL FACTOR IN ESTABLISHING THE PRICE OF THE TREND MICRO PRODUCTS/SERVICES AND YOU ACKNOWLEDGE THAT WITHOUT YOUR AGREEMENT TO THESE LIMITATIONS, THE FEES CHARGED FOR THE TREND MICRO PRODUCTS/SERVICES WOULD BE HIGHER OR IN THE CASE OF THE TRIAL SUBSCRIPTION, TREND MICRO WOULD NOT BE ABLE TO OFFER YOU THE RIGHT TO EVALUATE THE SERVICE AT NO CHARGE. YOU AGREE THAT NO CLAIM SHALL BE BROUGHT UNLESS YOU HAVE NOTIFIED TREND MICRO WITHIN ONE MONTH OF SUCH CLAIM ARISING. THIS SECTION DOES NOT SEEK TO LIMIT OR EXCLUDE THE LIABILITY OF TREND MICRO OR ITS SUPPLIERS IN THE EVENT OF DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR FOR FRAUD OR FOR ANY OTHER LIABILITY FOR WHICH IT IS NOT PERMITTED BY LAW TO EXCLUDE.
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- 25. BACK-UP.** For as long as you use the Trend Micro Products/Services, you agree regularly to back-up your data, programs and files on a separate media. You acknowledge that the failure to do so may cause you to lose data, programs and files in the event that any error in the Trend Micro Products/Services causes problems and that Trend Micro is not responsible for any such loss of data.
- 26. AUDIT.** *For Entity licenses only:* Upon reasonable notice and during regular business hours, Trend Micro shall have the right to audit your use of the Trend Micro Products/Services to verify compliance with this Agreement. If the audit reveals unlicensed Computers, you or the entity you represent agree to pay the applicable subscription fees for unlicensed Computers at then current rates within fifteen (15) days of notice. If the fees payable for unlicensed use exceed five percent (5%) of fees actually paid for the audited time period, you agree to reimburse Trend Micro for the costs and expenses of the audit.
- 27. CONFIDENTIALITY/NONDISCLOSURE.** During the term of this Agreement or any trial or evaluation period, you may be exposed to certain information not generally known to the public that Trend Micro considers and treats as confidential and proprietary ("Confidential Information"), including but not limited to product serial numbers, registration keys or activation codes, and information that, due to its character or nature, a reasonable person in a like position and under like circumstances would treat as secret and confidential. During the term of this Agreement

and at all times after its termination, You agree (i) to hold the Confidential Information in confidence; (ii) not to disclose Confidential Information to any third parties, except for employees and independent contractors who have a "need to know" and who have signed agreements containing disclosure and use restrictions no less stringent than those in this Section; and (iii) not to use Confidential Information for any purpose except as required to perform under this Agreement.

**28. TERMINATION.** Trend Micro may terminate or suspend your rights under this Agreement immediately and without notice upon the earlier of the following: (a) non-renewal, cancellation or expiration of the Subscription Term or your failure to pay the applicable fees when due, (b) Trend Micro's discontinuance of the Trend Micro Products/Services, (c) failure to comply with any material term or condition of this Agreement, (d) you are using the Trend Micro Products/Services in a manner not intended or in violation of law, or (e) you no longer consent to electronic Communications. If any third party makes an intellectual property infringement claim relating to the Trend Micro Products/Services, Trend Micro reserves the right to immediately terminate your subscription to the affected Trend Micro Products/Services. You have the right to appeal any such termination by contacting your local Trend Micro office which will provide you with the details of the appeals process. Upon such termination, you agree to destroy all copies of the Trend Micro Products/Services software. You may terminate this Agreement at any point by destroying all copies of the Trend Micro Products/Services software and closing your account. Sections 1 through 4, 16 and 20 through 33 survive any termination of the Agreement.

**29. EFFECT OF NON-RENEWAL OR TERMINATION.** Upon any non-renewal, termination, or expiration of your subscription to the Trend Micro Products/Services (i) the license granted herein will automatically and immediately terminate and you will have no further right to possess or use the Trend Micro Products/Services, (ii) the Trend Micro Products/Services may be disabled by Trend Micro without notice to you, and (iii) you will no longer have the right to access or retrieve your data. You acknowledge and agree that Trend Micro's policy is to automatically and irreversibly delete all of your data upon non-renewal, termination, or expiration of your subscription to the Trend Micro Products/Services and that it is solely your responsibility to seek another source for your needs. Trend Micro is under no obligation to give you opportunity to download your files prior to termination.

**30. EXPORT CONTROL.** The Trend Micro Products/Services software is subject to export controls under the U.S. Export Administration Regulations. Therefore, the Trend Micro Products/Services software may not be exported or re-exported to entities within, or residents or citizens of, embargoed countries or countries subject to applicable trade sanctions, nor to prohibited or denied persons or entities without proper government licenses. Information about such restrictions can be found at the following websites: <http://www.treas.gov/offices/enforcement/ofac/> and [www.bis.doc.gov/complianceand enforcement/ListsToCheck.htm](http://www.bis.doc.gov/complianceand enforcement/ListsToCheck.htm). As of the Date above, countries embargoed by the U.S. include Cuba, Iran, North Korea, Sudan and Syria. You are responsible for any violation of the U.S. export control laws related to the Trend Micro Products/Services software. By accepting this Agreement, you confirm that you are not a resident or citizen of any country currently embargoed by the U.S. and that you are not otherwise prohibited from receiving the Trend Micro Products/Services software.

**31. GENERAL.** This Agreement constitutes the entire agreement between you and Trend Micro. Unless your use of the Trend Micro Products/Services is subject to an existing, written contract signed by Trend Micro, this Agreement supersedes any prior agreement or understanding, whether written or oral, relating to the subject matter of this Agreement. In the event that any provision of this Agreement is found invalid, that finding will not affect the validity of the remaining parts of this Agreement. The failure to enforce or the waiver by either party of a default or breach of the other party shall not be considered to be a waiver of any subsequent default or breach. If you or Trend Micro cannot perform its obligations in this Agreement because of any act of God, accident, strike, court order, fire, riot, war, failure of third party equipment, or any other cause not within the affected party's reasonable control and that could not be avoided through the exercise of reasonable care and diligence (a "Force Majeure Event"), then the non-performing party will: (i) promptly notify the other party; (ii) take reasonable steps to resume performance as soon as possible; and (iii) not be considered in breach during the duration of the Force Majeure Event. If a Force Majeure Event continues for five (5) or more business days, Trend Micro may terminate your subscription to the Trend Micro Products/Services and this Agreement by providing written notice to you. Trend Micro may assign or subcontract some or all of its obligations under this Agreement to qualified third parties or its affiliates and/or subsidiaries, provided that no such assignment or subcontract shall relieve Trend Micro of its obligations under this Agreement. You may not assign this Agreement or any right under this Agreement to any party, including any affiliate, without written approval from Trend Micro; any purported assignment by you shall be null and void.

**32. GOVERNING LAW/TREND MICRO LICENSING ENTITY.**

**North America:** If you are located in the United States or Canada, the Licensor is: Trend Micro Incorporated, 10101 N. De Anza Blvd., Cupertino, CA 95014. Fax: (408) 257-2003 and this Agreement is governed by the laws of the State of California, USA.

**Europe, Middle East and Africa:** If you are located in the United Kingdom, this Agreement is governed by the laws of England and Wales. If you are located in Austria, Germany or Switzerland, this Agreement is governed by the laws of the Federal Republic of Germany. If you are located in France, this Agreement is governed by the laws of France. If you are located in Italy, this Agreement is governed by the laws of Italy. If you are located in Europe, the Licensor is: Trend Micro EMEA Limited, a company incorporated in Ireland under number 364963 and having its registered office at IDA Business and Technology Park, Model Farm Road, Cork, Ireland. Fax: +353-21 730 7 ext. 373.

If you are located in Africa or the Middle East or Europe (other than Austria, France, Germany, Italy, Switzerland or the U.K.) (other than in those countries embargoed by the U.S.), the Licensor is: Trend Micro EMEA Limited, a company incorporated in Ireland under number 364963 and having its registered office at IDA Business and Technology Park, Model Farm Road, Cork, Ireland. Fax: +353-21 730 7 ext. 373 and this Agreement is governed by the laws of the Republic of Ireland.

**Asia Pacific (other than Japan):** If you are located in Australia or New Zealand, the Licensor is: Trend Micro Australia Pty Limited, Suite 302, Level 3, 2-4 Lyon Park Road, North Ryde, New South Wales, 2113, Australia, Fax: +612 9887 2511 and this Agreement is governed by the laws of New South Wales, Australia.

If you are located in Hong Kong, India, Indonesia, Malaysia, the Philippines, Singapore or Thailand, the Licensor is: Trend Taiwan Incorporated, 8F, No.198, Tun-Hwa S. Road, Sec. 2, Taipei 106, Taiwan, Republic of China. If you are located in Hong Kong, this Agreement is governed by the laws of Hong Kong. If you are located in India, this Agreement is governed by the laws of India. If you are located in Indonesia, Malaysia, the Philippines, Singapore, or Thailand, this Agreement is governed by the laws of Singapore.

The United Nations Convention on Contracts for the International Sale of Goods and the conflict of laws provisions of your state or country of residence do not apply to this Agreement under the laws of any country.

**33. GOVERNMENT LICENSEES.** If the entity on whose behalf you are acquiring the Trend Micro Products/Services software is any unit or agency of the United States Government, then that Government entity acknowledges that the Trend Micro Products/Services software (i) was developed at private expense, (ii) is commercial in nature, (iii) is not in the public domain, and (iv) is "Restricted Computer Software" as that term is defined in Clause 52.227 19 of the Federal Acquisition Regulations (FAR) and is "Commercial Computer Software" as that term is defined in Subpart 227.471 of the Department of Defense Federal Acquisition Regulation Supplement (DFARS). The Government agrees that (i) if the Trend Micro Products/Services software is supplied to the Department of Defense (DoD), the Trend Micro Products/Services software is classified as "Commercial Computer Software" and the Government is acquiring only "restricted rights" in the Trend Micro Products/Services software and its documentation as that term is defined in Clause 252.227 7013(c)(1) of the DFARS, and (ii) if the Trend Micro Products/Services software is supplied to any unit or agency of the United States Government other than DoD, the Government's rights in the Trend Micro Products/Services software and its documentation will be as defined in Clause 52.227 19(c)(2) of the FAR.

**34. QUESTIONS.** If you have a question about the Trend Micro Products/Services, visit: [www.trendmicro.com](http://www.trendmicro.com). Direct all questions about this Agreement to: [legalnotice@trendmicro.com](mailto:legalnotice@trendmicro.com).

TREND MICRO PRODUCTS/SERVICES IS PROTECTED BY INTELLECTUAL PROPERTY LAWS AND INTERNATIONAL TREATY PROVISIONS. UNAUTHORIZED REPRODUCTION OR DISTRIBUTION IS SUBJECT TO CIVIL AND CRIMINAL PENALTIES.
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