

Terms of Corporate Use

This license agreement between Safer-Networking Limited, Watson & Johnson Centre, Greystones, Co. Wicklow, Ireland (Safer-Networking) and the customer (the "Licensee") dated the day/month 200x deals with the terms and conditions of Licensee's use of **Spybot - Search & Destroy**®© software programs, including any updates, modifications, revisions, copies, documentation and design data set out in the schedule (the "Software").

§1. GRANT OF LICENSE.

The software are copyrighted, trade secret and confidential information of Safer-Networking or its licensors who maintain exclusive title to all software and retain all rights not expressly granted by this agreement. Safer-Networking grants to Licensee, subject to payment of the license fees set out in the schedule, a nontransferable, nonexclusive license to use software solely: (a) in machine-readable, objectcode form; (b) for Licensee's internal business purposes; and (c) on the computer hardware or at the site for which an applicable license fee is paid, or as authorised by Safer-Networking in the schedule attached hereto. Licensee acknowledges that the right to use the software is non-exclusive and non-transferable.

§2. LIMITED WARRANTY.

2.1 Safer-Networking has endeavoured to ensure that the software does not contain any backdoors or content to intentionally harm the Licensee. Safer-Networking does not warrant that the functions contained in the software will meet Licensee's requirements or that the operation of the software will be uninterrupted or error-free. Safer-Networking warrants that during the warranty period, software, when properly installed, will substantially conform to the functional specifications furnished with the software. The warranty period is 90 days commencing on the 15th day from the date of delivery or upon installation, whichever first occurs. Licensee must notify Safer-Networking in writing of any non-conformity within the warranty period and provide Safer-Networking with all available information in written and/or electronic form to enable Safer Networking to reproduce the non-conformity. This war-

ranty shall not be valid if software has been subject to misuse, unauthorised modification or installation. As its sole obligation, Safer-Networking shall undertake reasonable commercial efforts to correct the non-conformity reported to Safer-Networking during the warranty period. Safer-Networkings sole liability and Licensees sole remedy with respect to breach of the foregoing limited warranty shall be limited to error correction or product replacement. If, in Safer-Networkings sole opinion, neither error correction nor product replacement is commercially feasible, Safer-Networking shall refund the license fee received from Licensee, provided Licensee has otherwise complied with this agreement.

2.2 The warranties set forth in this section 2 are exclusive. Neither Safer-Networking nor its licensors make any other warranties, express, implied, or statutory, with respect to software or other material provided under this agreement. Safer-Networking and its licensors specifically disclaim all implied warranties of merchantability and fitness for a particular purpose and non-infringement of intellectual property.

§3. Documentation and updates

Safer-Networking shall endeavour to ensure that the software and all available end-user documentation will be available to the Licensee upon payment, and that regular updates will be available for at least one year beginning from the date of this agreement.

§4. RESTRICTIONS ON USE.

Licensee may copy Software only as reasonably necessary to support the authorised use. Each copy must include all notices and legends embedded in software and affixed to its medium and container as received from Safer-Networking. All copies shall remain the property of Safer-Networking or its licensors. Licensee shall maintain a record of the number and primary location of all copies of software, including copies merged with other software, and shall make those records available to Safer-Networking upon request. Licensee shall not make software available in any form to any person other than employees and contractors, excluding Safer-Networking's competitors, whose job performance requires access. Licensee shall take appropriate action to

protect the confidentiality of software and ensure that any person permitted access to software does not disclose it or use it except as permitted by this Agreement. Except as otherwise permitted for purposes of interoperability as specified by applicable and mandatory local law, Licensee shall not reverse-assemble, reverse-compile, reverse-engineer or in any way derive from software any source code or decrypt the database. Licensee may not sublicense, assign or otherwise transfer software, this agreement or the rights under it, whether by operation of law or otherwise without Safer-Networkings prior written consent and payment of Safer-Networking then-current applicable transfer charges. The provisions of this section 4 shall survive the termination or expiration of this agreement.

§5. License Fees

5.1 The license fees shall be payable in advance in Euros for the amounts indicated in the schedule and shall be payable as set out in schedule. Safer-Networking shall issue invoices for the license prior to the date of commencement of the relevant periods. If the number of users at any time exceeds the initial maximum number of users specified in the schedule, the initial maximum number of users permitted under this agreement shall be deemed to be adjusted accordingly on payment by the Licensee of the applicable additional license fee at the rates in schedule and on payment of the applicable additional annual license fees so arising. Payment of all invoices shall be due within 30 calendar days of the receipt of invoice by the Licensee. Invoices that are not paid within 30 calendar days of their receipt shall accrue interest compounded daily at a rate four (4) percent above the then-current European Central Bank Lending rate. Licensee shall have the option of paying the total amount of the annual charges for the term of this agreement upon execution of this agreement, thereby avoiding risk of any future increases to the annual charge. The license fee and all other charges are exclusive of VAT and all other taxation, which shall, if applicable, be chargeable to the Licensee. It is specifically agreed that Safer-Networking may, at its sole discretion, treat a failure by the Licensee to pay amounts due within the time allowed under this section 5 as a suspension made at the Licensee's request of any maintenance and technical support that may be agreed by the parties separately.

§6. Installation and Support

The Licensee is responsible for installation and use of the software. Available support consists of email support that has priority over freeware users, as well as phone support during Irish (WET) business hours regarding installation and maintenance (general usage) matters.

§7. Specification of the Software

The software is designed to scan for software that poses a threat to the privacy of the user of a computer (Spyware). While the software endeavours to detect known spyware, not all spyware will be detected. The software runs on Windows computers running Windows 95, 98, ME, NT 4, 2000 or XP only (2003 Server has been tested successfully, but not yet completely passed internal QA yet). Some operating systems (Windows 95 and NT 4) may need updates (Winsock2, HTML Help) available from Microsoft free of charge.

§8. Limitation of remedies and damages

In no event will Safer-Networking or its licensors be liable for any indirect, incidental, special or consequential damages or for any lost profits, lost savings, lost revenues or lost data arising from or relating to the software or this agreement, even if Safer-Networking or its licensors' have been advised of the possibility of such damages. In no event will Safer-Networking's or its licensors liability or damages to Licensee or any other person ever exceed the amount paid by Licensee to use the software, regardless of the form of the claim. The software is not fault-tolerant. It is not designed for use in high risk activities, where the failure of this software could lead directly to death, personal injury or severe physical or property damage. Neither Safer-Networking nor its licensors shall be liable for any damages resulting from or in connection with the use of software in any application where the failure or inaccuracy of the software might result in death or personal injury.

§9. INFRINGEMENT.

9.1 Safer-Networking will defend or settle, at its option and expense, any action brought against Licensee alleging that software infringes a patent or copyright or misappropriates a trade secret in the United States, Canada, Japan, or member state of the European Patent Office. Safer-Networking will pay any costs and damages finally awarded against Licensee that are attributable to the infringement action. Licensee understands and agrees that as conditions to Safer-Networkings obligations under this section Licensee must: (a) notify Safer-Networking promptly in writing of the action; (b) provide Safer-Networking with all reasonable information and assistance to defend or settle the action; and (c) grant Safer Networking sole authority and control of the defence or settlement of the action.

9.2 If an infringement claim is made, Safer-Networking may, at its option and expense: (a) replace or modify software so that it becomes non-infringing; (b) procure for Licensee the right to continue using software; or (c) require the return of software and refund to Licensee any license fee paid, less a reasonable allowance for use.

9.3 Safer-Networking has no liability to Licensee if infringement is based upon: (a) the combination of software with any product not furnished by Safer-Networking; (b) the modification of software other than by Safer-Networking; (c) the use of other than a current unaltered release of software; (d) the use of software as part of an infringing process; (e) a product that Licensee make, use or sell; (f) any beta code contained in software; (g) any software provided by Safer-Networkings licensors who do not provide such indemnification to Safer-Networkings customers; or (h) infringement by Licensee that is deemed wilful. In the case of (h) Licensee shall reimburse Safer-Networking for its attorney fees and other costs related to the action upon a final judgment.

9.4 THIS SECTION 9 STATES THE ENTIRE LIABILITY OF SAFER NETWORKING AND ITS LICENSORS AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY ALLEGED PATENT OR COPYRIGHT INFRINGEMENT OR TRADE SECRET MISAPPROPRIATION BY ANY SOFTWARE LICENSED UNDER THIS AGREEMENT.

§10. TERM.

This agreement remains effective until expiration or termination. This agreement will automatically terminate if Licensee fails to comply with any term or condition of this agreement or if Licensee fails to pay for the license when due and such failure to pay continues for a period of 30 days after written notice from Safer-Networking. If software was provided for limited term use, this agreement will automatically expire at the end of the authorized term. Upon any termination or expiration, Licensee agree to cease all use of software and return it to Safer-Networking or certify deletion and destruction of software, including all copies, to Safer-Networkings reasonable satisfaction.

§11. EXPORT.

Software may be subject from time to time to regulation by local laws and European Union export regulations, which prohibit export or diversion of certain products, information about the products, and direct products of the products to certain countries and certain persons. Licensee agrees that Licensee will not export any software or direct product of software in any manner without first obtaining all necessary approval from appropriate local and European Union government agencies.

§12. RESTRICTED RIGHTS NOTICE.

If Licensee is acquiring any material on behalf of any unit or agency of the U.S. government ("Government"), Licensee shall notify Safer-Networking in writing prior to delivery of such material and shall obtain the government's agreement that the licensed program is commercial computer software and/or commercial computer software documentation pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable, and any use, modification, reproduction, release performance, display, or disclosure shall be prohibited except as expressly permitted by this agreement, which terms shall govern.

§13. THIRD PARTY BENEFICIARY.

For any software under this agreement licensed by Safer-Networking from other licensors, the applicable licensor is a third party beneficiary of this agreement with the right to enforce the obligations set forth in this agreement.

§14. AUDIT RIGHTS.

With reasonable prior notice, Safer-Networking shall have the right to audit during Licensee's normal business hours all records and accounts as may contain information regarding Licensee's compliance with the terms of this agreement. Safer-Networking shall keep in confidence all information gained as a result of any audit. Safer-Networking shall only use or disclose such information as necessary to enforce its rights under this agreement.

§15. Governing law and jurisdiction.

This agreement shall be governed by and construed under the laws of Ireland. All disputes arising out of or in relation to this agreement shall be submitted to the exclusive jurisdiction of Dublin, Ireland. This section shall not restrict Safer-Networking's right to bring an action against Licensee in the jurisdiction where Licensee's place of business is located.

§16. SEVERABILITY.

If any provision of this agreement is determined by a court to be or becomes invalid, unenforceable or illegal, such provision shall be (i) modified to be made valid, enforceable and legal in such a manner as to best effectuate the intent of the parties at the inception of this agreement; or (ii) be deemed eliminated where such modification is not practicable; and (iii) the remainder of this agreement shall remain in effect in accordance with its terms as modified by such modification or deletion.

§17. MISCELLANEOUS.

This agreement sets forth the entire understanding and agreement of the parties regarding the subject matter hereof, and supersedes all prior agreements or representations, oral or written regarding such subject matter. This agreement may not be modified or amended except in writing signed by a duly authorized representative of the party against whom enforcement is sought.

§18. Licensee Consent

Licensee hereby consents to the following features of the software. Application offline privacy. Even though Spybot-S&D®© scans Licensee's system, it will not search specifically for any personally identifiable information. Everything that is not detected as a possible threat will be ignored. Possible threats will be shown and, if log options are switched on, written to a log file that may reside on an intranet server depending on the installation.