Nmap Software LLC
9450 SW Gemini Dr #1337
Beaverton, OR 97008-7105
United States
Phone: +1 (415) 915-9337
sales@nmap.com

Nmap OEM Redistribution License Agreement

This document (**"Agreement"**) documents the rights granted to purchasers of the Nmap OEM Redistribution License product. Licensor is Nmap Software LLC (**"NSL"**). Specific terms are in double quotes and bolded when defined, and then capitalized in subsequent uses. Selected options are marked with "XX". All amounts are in U.S. Dollars. This Agreement takes precedence over any EULA displayed by the Nmap installer.

NSL is hereby offering these Agreement terms to Licensee. Licensee may accept these terms in writing or by paying the specified License Fees or issuing a purchase order to pay the License Fees. This offer is void if Licensee has not accepted it within four (4) months of the Effective Date.

1. License Configuration Selections

Licensee Name (**"Licensee"**): _____

Licensee Domain Name (for further identification): _____

"Effective Date": _____

"Current Version" of Nmap OEM: _____

"Covered Products": _____

"License Structure":

_____ Perpetual (if checked, this is a "**Perpetual License**")

    "Perpetual License Fee": _____

    "Initial Maintenance Period" (for updates & support, starting on Effective Date): 1 year

    "Initial Maintenance Fee": $0

    Optional **"Annual Maintenance Fee"** (after Initial Maintenance Period)**:** _____

_____ Term (if checked, this is an **"Fixed Term License"**)

    "Fixed Term" _____ months

    "Fixed Term Fee" (includes distribution rights, updates & support): _____

"Initial Payment Status":

____Fully paid   ____Payment due by (**"Payment Date"**): _____

2. Delivery

_____ Maintenance Purchased

If checked above, an initial period of maintenance (updates and support) is included with this license and NSL has created the following credentials for Licensee to download the latest Nmap OEM Edition releases:

```
URL: https://nmap.org/oem/dist
Username: [USERNAME]
Password: [PASSWORD]
```

Licensee may use these credentials to download any Licensed Version of Nmap OEM, including new versions released during the Maintenance Period. Licensee may also access commercial support from support@nmap.com during the Maintenance Period (see Article 8 for further details). Nmap documentation is available at https://nmap.org. We hope you enjoy Nmap OEM!

___ Maintenance Declined

If checked above, Licensee has declined all maintenance, including product updates and commercial support. This license still provides a perpetual license for Licensee to redistribute the Current Version of Nmap OEM, and we have placed a copy for you at:

```
https://nmap.org/oem/dist-release/[FILENAME]
```

Licensee may use this URL to download Nmap OEM at any time. We hope it works out very well for you! And should you decide in the future that you do want product updates or commercial support, please contact sales@nmap.com for a quote. You can read about the latest product improvements at https://nmap.org/changelog.

3. Definitions

"Covered Products" (as specified in Article 1) is the set of products which Licensee is permitted to redistribute with Nmap OEM per the terms of this agreement. Covered Products remain covered even if they are rebranded or renamed in the future. New products are still covered as long as they meet the Covered Products description in Article 1.

"License Fees" consist of the Perpetual License Fee, Initial Maintenance Fee, and optional Annual Maintenance Fees for Perpetual Licenses, or the Fixed Term Fee for Fixed Term Licenses. If any of these fees are listed as "Reseller", this sale is through a reseller ("**Reseller**") and the exact amounts payable has been worked out separately between Reseller and NSL. Similarly, the amount charged to Licensee by Reseller for the software is negotiated between those two parties.

"Licensed Versions" is the set of Nmap OEM versions that Licensee is permitted to use and redistribute under the terms of this license. This includes the Current Version (as specified in Article 1) of Nmap OEM, plus any later versions released during the Maintenance Period. Versions of Nmap OEM older than Current Version are included in Licensed Versions and may be used, though we recommend using the latest version available to Licensee instead.

"Maintenance" is the Updates and Support provided during the Maintenance Period.

"**Maintenance Period**" is the period of time during which Licensee is entitled to Updates and Support. For Perpetual Licenses, this period starts on the Effective Date and continues through the Initial Maintenance Period, then includes subsequent years for which the Annual Maintenance Fee is paid. The Perpetual License Maintenance Period ends when Maintenance or the license itself is terminated per Article 5 (normally because Licensee elects to terminate Maintenance for convenience, per Section 5.3a). For Fixed Term Licenses, the Maintenance Period starts on the Effective Date and continues until terminated per Article 5 (normally because Licensee elected termination for convenience per Section 5.3b).

"Nmap Technology" or simply **"Nmap"** or **"Nmap OEM"** describes the OEM edition of the Nmap Security Scanner which is developed and distributed by NSL at https://nmap.org.

"Renewal Notification" is the first invoice, quote or message sent to Licensee pursuant to an impending (or past due) renewal of an Fixed Term License.

"Support" is the technical support provided by NSL to Licensee during the Maintenance Period, as described in Article 8.

"Updates" are the new releases and improvements made to Nmap and provided to Licensee during the Maintenance Period, as described in Article 9.

4. Payment

4.1 <u>General payment terms</u>. In consideration of NSL's provision and license of Nmap hereunder, Licensee shall pay License Fees to NSL.

4.2 <u>Initial Payment</u>. If Initial Payment Status is marked as "Fully Paid", then NSL has already received payment for the initial License Fees. For Perpetual Licenses, this would be the Perpetual License Fee and Initial Maintenance Fee. For Fixed Term Licenses, this would be the first term's Fixed Term Fee. If not marked "Fully Paid", these payments are due by the listed Payment Date. If the Payment Date is listed as "Reseller", this sale is through Reseller and the payment date has been worked out separately between NSL and Reseller. Similarly, Licensee and Reseller will work out their own payment terms.

4.3a <u>Renewal and Maintenance Payments for Perpetual Licenses</u>. If this is a Perpetual License, Licensee has the right (but not requirement) to pay the Annual Maintenance Fee at the end of the Initial Maintenance Period and then following each renewal date thereafter. Renewing extends the Maintenance Period, thus continuing Licensee's entitlement to Updates and Support. Licensee's option to renew for the set Annual Maintenance Fee lasts for a grace period of 120 days after the expiration of the previous renewal or Initial Maintenance Period. If Licensee has not paid by the end of that grace period, Maintenance is considered permanently terminated for convenience per Section 5.3a. Any renewal after such termination is subject to agreement by NSL, and the price may be higher. Unless otherwise agreed between the parties, any renewal starts on the end date of the previous renewal or Initial Maintenance Period.

4.3b <u>Fixed Term License Renewal</u>. In addition to the initial payment described in Section 4.2 (which covers the first Fixed Term which begins on the Effective Date), Licensee shall pay the Fixed Term Fee at the beginning of each Fixed Term thereafter unless Licensee elects to terminate its Nmap distribution, update, and support rights by notifying NSL as described in Section 5.3b. Renewal is automatic to protect Licensee from unintended loss of Nmap rights due to accidental failure to renew, but Licensee always has at least 30 days after Renewal Notification to decline renewal by terminating the license as described in Section 5.3b.

5. Term and Termination

5.1 <u>Term</u>. The term of each license granted hereunder ("**Term**") shall be perpetual, unless terminated as provided for by this Article.

5.2 <u>Termination for Cause</u>. Either party may, without prejudice to any other remedy they may have, terminate this Agreement in the event of any material breach of this Agreement by the other party which isn't remedied within thirty (30) days after notifying the breaching party. The notification must fully describe the breach and declare intent to terminate the Agreement if not remedied. If this license is purchased through a reseller, failure of Reseller to pay any amount due shall be treated as a breach by Licensee and may be remedied through payment by either Licensee or Reseller.

5.3a <u>Perpetual License Maintenance Termination by Licensee for Convenience</u>. Licensee may terminate Maintenance and cease paying future Annual Maintenance Fees on a Perpetual License by

providing notice of its intent to do so to NSL. After such a termination, Licensee is no longer entitled to Nmap support or any updates or new version releases made available after termination. This election to terminate Maintenance does not constitute termination of the Agreement as a whole. Terminating Maintenance and Support does not relieve Licensee of the obligation to pay any amounts already due as of the termination notification date. If Licensee chooses to terminate Maintenance before their current annual Maintenance Period ends, no pro-rated refund is provided, but Maintenance rights continue until the term ends. Termination of Maintenance and Support for Convenience is also automatically effected if Licensee fails to pay for Maintenance renewal during the grace period specified in Section 4.3a. If Licensee declines to buy any Maintenance with their license, it is considered terminated as of the Effective Date per the terms of this Section. If Licensee terminates Maintenance then decides later that they do want support and/or updates after all, they should contact sales@nmap.com for a quote.

5.3b Fixed Term License Termination by Licensee for Convenience. Licensee may terminate their Fixed Term License and cease paying the Fixed Term Fee by providing written notice to NSL by the due date. Such termination will take effect on the Fixed Term Fee due date following the termination notice, or when the current paid-up Fixed Term Fee period ends, whichever is later. After such a termination becomes effective, Licensee is no longer entitled to redistribute Nmap OEM or use any updates made available after termination. Rights already granted to existing end user customers are unaffected per Section 5.6. No refunds of previously paid Fixed Term Fees are provided upon termination, but those license and support rights continue for their original duration and no further payments will be due. If NSL has not provided a Renewal Notice at least 30 days prior to the due date, then Licensee has until 30 days after the Renewal Notice to elect termination and avoid paying the relevant Fixed Term Fee. In that case the termination will be retroactively effective as of the original due date.

5.4 Trial Period Termination with Refund. Licensee may terminate this Agreement for any reason during the first six (6) months from the Effective Date by notifying NSL of that election. Within 30 days from that notification, NSL will provide a full refund of all money paid by Licensee, including any Perpetual License Fee and Initial Maintenance payments (for Perpetual Licenses) or Fixed Term Fees for Fixed Term Licenses. Licensee may not redistribute Nmap in any form after electing termination, though rights already granted to existing end user customers are unaffected per Section 5.6.

5.5 Cessation of Use. Upon termination of this Agreement for any reason, Licensee must cease using and redistributing Nmap except as permitted by any other Nmap rights they may have through other agreements.

5.6 End User License Agreements Unaffected. Upon termination for any reason, all end user license agreements previously granted by Licensee in compliance with this Agreement remain valid and unaffected.

6. License Scope

6.1 Duplication and Distribution by Licensee. Subject to the terms and conditions of this Agreement, NSL grants Licensee a non-exclusive, worldwide, non-transferable, license to use, reproduce, distribute, and display Nmap as necessary or desirable to incorporate and adapt Nmap into the Covered Products, and to update, market, and distribute those products to end users. Licensee may distribute to end users directly, or through multiple tiers of distribution, including resellers, distributors, VARS and OEMs. Licensee may not distribute Nmap by itself (outside of Covered Products) to the general public (e.g. at a publicly known URL without authentication). Such standalone distribution is allowed as long as reasonable attempts are made to limit distribution to actual customers and known potential customers.

6.2 <u>License of Nmap to End</u> Users. Licensee may grant to end users the right to use Covered Products. Licensee may not permit end users to sublicense or externally redistribute Nmap in whole or in part, except as allowed by copyright provisions such as the first sale doctrine and principal of exhaustion.

6.3 <u>Modifications.</u> During the Term, Licensee shall have the non-sublicensable right to modify, add-on to, or enhance Nmap for the purpose of creating the Covered Products and shall own all rights thereto; provided, however, that to the extent that such a modified product constitutes a "derivative work" as defined by 17 U.S.C. 101, Licensee's rights therein shall remain subject to this Agreement.

6.4 <u>Internal Use</u>. Licensee may use Nmap internally for purposes related to development, distribution, testing, and usage of the Covered Products.

6.5 <u>No Unlicensed Use.</u> Licensee may not redistribute Nmap, in whole or in part, except as expressly permitted under this (or another existing) Agreement.

7. Proprietary Rights

7.1 <u>Ownership.</u> The copyright, patent, trade secret, and all other intellectual property rights of whatever nature in Nmap, and all copies thereof, partial or complete, in all media and whether or not merged into other materials, are and shall remain the property of NSL, and nothing in this Agreement shall be construed as transferring any aspects of such rights to Licensee or any third party.

7.2 <u>Use of Nmap Trademark.</u> "Nmap" is a trademark of NSL. Licensee may use the Nmap trademark and logos to identify its use of Nmap in the Covered Products.

8. Support

8.1 <u>Included Support.</u> During the Maintenance Period, NSL will provide e-mail and telephone developer support at no extra charge beyond the Initial or Annual Maintenance Fee (for Perpetual License) or the Fixed Term Fee for Fixed Term Licenses. This includes troubleshooting and fixing errors in Nmap and/or generating work-arounds, as well as providing advice relating to the use and implementation of Nmap in Licensed Product. Custom programming other than fixing errors in Nmap is not included. E-mail to support@nmap.com is the preferred form of support, and NSL may not have staff available at all times to take calls. NSL will use commercially reasonable efforts to respond to any and all developer support requests within twenty-four (24) hours and to resolve the requests as quickly as possible.

8.2 <u>Additional Support.</u> Should Licensee require on-site support or support beyond what is outlined herein, a support fee for such required additional support shall be negotiated in good faith by the parties. Licensee is under no obligation to purchase any additional support from NSL.

9. Updates

Nmap Technology is under active development and regularly produces performance improvements, bug fixes, and feature enhancements. These are often first released as standalone code patches and then bundled into new releases. These code patches and new releases are collectively known as Updates. Licensees may use any Updates which are released during their Maintenance Period. Major updates are announced on the Nmap announcement mailing list and NSL recommends that at least one Licensee employee subscribe at https://nmap.org/mailman/listinfo/announce. Licensee may also subscribe to notification of minor Updates (code patches) by "watching" the Nmap Github: https://github.com/nmap/nmap. A list of recent releases and enhancements is available at https://nmap.org/changelog.

10. Warranties and Disclaimers

10.1 <u>Non-Infringement</u>. NSL warrants and represents to Licensee that Nmap does not infringe upon the copyright, trademark, or trade secret rights of any other person or entity. NSL represents and warrants that it holds the copyrights necessary to extend the licenses described by this Agreement.

10.2 <u>Functionality</u>. For the period of one (1) year following the Effective Date, NSL represents and warrants to Licensee that the unmodified Nmap shall operate in the manner documented, and covenants that upon notification to NSL of any errors, NSL will, during its normal business hours and at no cost to Licensee, use reasonable efforts to correct such errors which are reproducible and verifiable by NSL. To ensure that Nmap meets Licensee's needs, NSL has made a free version available at https://nmap.org. The free version license does not allow redistribution within proprietary products. Licensee is encouraged to test it before executing this Agreement. NSL also offers full refunds upon request for 6 months from the Effective Date, as described in Section 5.4.

10.3 <u>Warranty Disclaimer</u>. THE WARRANTY SET FORTH BY SECTION 10.2 IS A LIMITED WARRANTY AND IS THE ONLY FUNCTIONAL OR OPERATIONAL WARRANTY MADE BY NSL. EXCEPT AS SPECIFICALLY PROVIDED BY SECTION 10.2, NSL EXPRESSLY DISCLAIMS, AND LICENSEE HEREBY EXPRESSLY WAIVES, ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NSL DOES NOT WARRANT THAT NMAP WILL MEET LICENSEE'S REQUIREMENTS OR THAT THE OPERATION OF NMAP WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ERRORS IN NMAP WILL BE CORRECTED. NSL'S LIMITED WARRANTY IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF NSL FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE INSTALLATION, USE OR PERFORMANCE OF NMAP.

10.4 <u>Warranties to Third Parties.</u> Any warranty granted by the Licensee to any end users shall be that of Licensee alone, and NSL shall not be liable to any such person on any cause of action or theory of recovery whatsoever. NSL shall not be liable to any third party as express or implied third party beneficiary under this Agreement.

10.5 <u>Adverse Reactions</u>. Nmap Technology is not designed to crash systems and should not pose any problems for standards-conformant network equipment. However, some systems, devices, and applications have occasionally been reported to react adversely to port scans, OS detection, service detection probes, and NSE scripts. This is an error in the network device in question, and not in Nmap Technology. Nmap Technology should not be used against mission-critical systems without careful monitoring.

10.6 <u>Accuracy</u>. Nmap attempts to provide quick, accurate results even in the face of occasional dropped or delayed packets and unfamiliar devices. But there are limits as to what Nmap can compensate for. In addition, techniques such as version and operating system guessing are an inexact science. So Nmap Technology will not always result in 100% accurate results, though NSL will attempt to understand and correct for any misidentifications reported through our support channel.

11. Npcap and Third-Party Code License

11.1 <u>Npcap OEM Software License</u>. The Nmap OEM Windows builds and zip packages include our Npcap OEM Windows packet capture and transmission software product (https://npcap.com). We also provide download credentials to download Npcap OEM by itself (as long as maintenance is active) in case Licensee wishes to test or use a different version with Nmap. Npcap OEM may be distributed along with Nmap under the same terms of this agreement as long as it is only used by Nmap and not

directly by Licensee's software. If Licensee wishes to redistribute Npcap OEM and use it directly by their software (rather than through Nmap), redistribution licenses are available from https://nmap.org/npcap/oem/redist.html. Unlimited copies of Npcap OEM may also be used internally by Licensee as long as it's being used for purposes related to the Nmap redistribution objective of this license. This would include QA, testing, and development of products utilizing Nmap. If Licensee wishes to use Npcap OEM internally for purposes unrelated to this Nmap redistribution license, Npcap OEM internal-use licenses are available from https://nmap.org/npcap/oem/internal.html. The support, warranty, and indemnification provisions of this license all apply to Npcap as well as long as the Npcap use and/or redistribution relates to the Nmap redistribution objectives of this license.

11.2 <u>Third-Party Libraries</u>. The Nmap Security Scanner can be configured to use a number of open source programming libraries. These libraries all have BSD-style licenses which allow royalty-free redistribution within other software (including commercial/proprietary software) as long as certain minimal terms are met. For example, some require an acknowledgment or warranty disclaimer in the product documentation of any software which includes them. These third party libraries are not prepared by or owned by NSL, and do not comprise part of Nmap Technology. However, some are included with the Nmap Security Scanner as a convenience. We maintain a list of these libraries along with their license requirements and how they may be used and/or excluded from Nmap. The latest version of the list is available at https://svn.nmap.org/nmap/docs/Nmap-Third-Party-Open-Source.pdf. The version of the file applicable to a specific Nmap release can be found in source code package we distribute for each release at docs/Nmap-Third-Party-Open-Source.pdf. Licensee is responsible for complying with the licenses for any libraries it uses.

12. Assignment

Except as provided herein, neither party may assign this Agreement or its rights hereunder without the prior written consent of the other party. Either party may, without consent of the other party, assign this Agreement or its rights hereunder to any successor succeeding to the assigning party's business to which this Agreement relates, provided that such successor assumes all obligations of the assignor under this Agreement. In the event of such an assignment by Licensee, Covered Products (Article 3) status and rights are not conferred to all products of the successor, but only to existing Covered Products and direct derivatives (such as new versions or editions of those products). These Covered Products may be rebranded and/or further developed by the successor while remaining covered by this Agreement.

13. Indemnity And Liability

13.1 <u>Indemnification</u>. Subject to Article 14 and the balance of this Article 13, as Licensee's sole and exclusive remedy for any breach of Section 10.1, or claim relating to infringement matters of any kind, NSL hereby agrees to indemnify Licensee against any settlement, judgment and reasonable defense costs resulting from a third party claim that Nmap, furnished and used within the scope of this Agreement, infringes any copyright, trademark, or trade secret provided that as conditions of indemnification each of the following is met: (a) NSL is given written notice of the claim within thirty (30) days of its receipt; (b) NSL is given immediate and complete control over the defense and/or settlement of the claim, and Licensee fully cooperates with NSL in such defense and/or settlement; (c) Licensee does not prejudice in any manner NSL's conduct of such claim; and (d) the alleged infringement is not based upon the use of Nmap in a manner prohibited under this Agreement, or in a manner for which Nmap was not designed; and (e) Licensee shall render to NSL a full accounting of any amounts for which indemnification is sought.

13.2 <u>Indemnity Limitations</u>. Notwithstanding Section 13.1, NSL shall have no liability for any claim of infringement based on (a) the use of a superseded or altered version of Nmap if infringement would have been avoided by the use of a current or unaltered version of Nmap which NSL made available to Licensee, provided that NSL notified Licensee that superseded version contained a possible infringement, (b) the combination, operation or use of Nmap with software, hardware or other materials not furnished by NSL, if infringement would have been avoided but for such combination, operation, or use, or (c) Licensee violations of the 3rd party licenses disclosed in Section 11.2.

13.3 <u>Modification and Replacement</u>. Notwithstanding Section 13.1, if any third party asserts that Nmap infringes a third party copyright, trademark, or trade secret, or if NSL determines that claim of infringement by a third party is possible, it may, at its election and at no additional license fee to Licensee (a) obtain a license from such third party, (b) modify Nmap so that it is not infringing, or (c) refund the applicable License Fee payment. Upon its election of any such alternative NSL shall incur no further indemnity to Licensee for any continued use by Licensee of Nmap in prior form.

14. LIMITATION OF LIABILITY

14.1 <u>High Risk Use</u>. Nmap is not designed, manufactured, or intended for use in hazardous environments requiring fail-safe performance where the failure of the software could lead directly to death, personal injury, or significant physical or environmental damage ("**High Risk Activities**"). Use of Nmap in High Risk Activities is not authorized.

14.2 <u>Force Majeure</u>. Neither of the Parties shall be liable for any loss or for any failure to perform any obligation hereunder due to causes beyond its control including without limitation industrial disputes of whatever nature, power loss, telecommunications failure, acts of God, or any cause beyond its reasonable control.

15. General

15.1 <u>Headings</u>. The headings and captions used in this Agreement are for convenience only and are not intended to be used as an aid to interpretation.

15.2 <u>Severability</u>. The provisions of this Agreement are severable, and if any part of this Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected.

15.3 <u>Binding</u>. This Agreement will be binding upon and inure to the benefit of the Parties hereto, their respective successors and assigns.

15.4 <u>No Waiver</u>. Failure by either party to exercise any right or remedy under this Agreement does not signify acceptance of the event giving rise to such right or remedy.

15.5 <u>Notices</u>. Notices required or permitted to be given or delivered under this Agreement shall be given in writing and either (a) hand delivered, (b) delivered by mail or courier service with delivery confirmation, or (c) sent by email, as long as the recipient responds to acknowledge receipt.

15.6 <u>Survival</u>. Sections 5.5 (Cessation of Use), 5.6 (End User License Agreements Unaffected); and Articles 7 (Proprietary Rights), 14 (Limitation of Liability), and 15 (General) shall survive the termination of this Agreement for any reason, and continue for such time as they may remain applicable. Articles 10 (Warranty and Disclaimers) and 13 (Indemnity and Liability) shall survive for one (1) year following termination of the Agreement or Section 5.3a Maintenance Termination.

15.7 <u>Amendments</u>. The parties further agree that any amendment, waiver, or other matter relating hereto shall require a document signed by both parties. All amendments or modifications of this Agreement shall be binding upon the parties despite any lack of consideration. When one party is

granting a right to the other without any consideration, a document signed by the granting party is valid and binding.

15.8 <u>Entire Agreement</u>. This document, when taken with any Schedules, comprise the entire agreement between the Parties regarding the subject matter hereof and supersede and merge all prior proposals, understandings and all other agreements, oral and written, between the Parties relating to the Agreement.