Cppcheck Premium

End User Licence Agreement (EULA)

Please read this EULA carefully, as it sets out the basis upon which we license the Software for use.

By agreeing to be bound by this EULA, you further agree that any person you authorise to use the Software will comply with the provision of this EULA.

1. Definitions

1.1   In this EULA:

"**Documentation**" means the documentation for the Software produced by the Licensor and delivered or made available by the Licensor to the User;

"**Effective Date**" means the date upon which the User gives the User's express consent to this EULA, following the issue of this EULA by the Licensor;

"**EULA**" means this end user licence agreement, including any amendments to this end user licence agreement from time to time;

"**Force Majeure Event**" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"**Licensor**" means Cppcheck Solutions AB, a company incorporated in Sweden (registration number 559293-8806) having its registered office at St Göransgatan 95, 112 45 Stockholm, Sweden;

"**Software**" means Cppcheck Premium;

"**Source Code**" means the Software code in human-readable form or any part of the Software code in human-readable form, including code compiled to create the Software or decompiled from the Software, but excluding interpreted code comprised in the Software;

"**Term**" means the term of this EULA, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

"**User**" means the person or company to whom the Licensor grants a right to use the Software under this EULA; and

"**User Indemnity Event**" has the meaning given to it in Clause 8.

2. Term

2.1 This EULA shall come into force upon the Effective Date.

2.2 This EULA shall continue in force indefinitely, subject to termination in accordance with Clause 10 or any other provision of this EULA.

3. Licence

3.1 The Licensor hereby grants to the User, and contractors engaged by User that need to use the Software to provide their services to User, from the date of supply of the Software to the User until the end of the Term a worldwide, non-exclusive licence to install and use the software according to the purchasing agreement, subject to the limitations and prohibitions set out and referred to in this Clause 3.

3.2 The User may not sub-license and must not purport to sub-license any rights granted under Clause 3.1 without the prior written consent of the Licensor.

3.3 Save to the extent expressly permitted by this EULA or required by applicable law on a non-excludable basis, any licence granted under this Clause 3 shall be subject to the following prohibitions:

(a) the User must not sell, resell, rent, lease, loan, supply, publish, distribute or redistribute the Software;

(b) the User must not alter, edit or adapt the Software; and

(c) the User must not decompile, de-obfuscate or reverse engineer, or attempt to decompile, de-obfuscate or reverse engineer, the Software.

3.4 The User shall be responsible for the security of copies of the Software supplied to the User under this EULA (or created from such copies) and shall use all reasonable endeavours (including all reasonable security measures) to ensure that access to such copies is restricted to persons authorised to use them under this EULA.

3.5 The User use of the Software is time-limited to the licensed term set out in the applicable Purchasing Agreement.

3.6 The Software is based on the open-source tool Cppcheck which is provided under separate license terms. The open-source part of the Software is provided "AS-IS", without any warranty of any kind.

4. Source Code

4.1 Nothing in this EULA shall give to the User or any other person any right to access or use the Source Code or constitute any licence of the Source Code.

5.   No assignment of Intellectual Property Rights

5.1   Nothing in this EULA shall operate to assign or transfer any Intellectual Property Rights from the Licensor to the User, or from the User to the Licensor.

6.   Warranties

6.1   The Licensor represents and warrants to the User that it has the legal right and authority to enter into this EULA and to perform its obligations under this EULA. The Licensor further represents and warrants that (i) the Software will perform in material conformance with the Documentation; (ii) the Software, as delivered, will not contain viruses, disabling code, backdoors, or other harmful or malicious code; and (iii) the Software does not infringe, misappropriate, or otherwise violate the Intellectual Property Rights of any third party.

6.2   The User represents and warrants to the Licensor that it has the legal right and authority to enter into this EULA and to perform its obligations under this EULA.

6.3   All of the parties' warranties and representations in respect of the subject matter of this EULA are expressly set out in this EULA. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this EULA will be implied into this EULA or any related contract.

7.   Acknowledgements and warranty limitations

7.1   The User acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this EULA, the Licensor gives no warranty or representation that the Software will be wholly free from defects, errors and bugs.

7.2   The User acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this EULA, the Licensor gives no warranty or representation that the Software will be entirely secure.

7.3   The User acknowledges that the Licensor will not provide any legal, financial, accountancy or taxation advice under this EULA or in relation to the Software; and, except to the extent expressly provided otherwise in this EULA, the Licensor does not warrant or represent that the Software or the use of the Software by the User will not give rise to any legal liability on the part of the User or any other person.

8.   Indemnities

8.1   The User shall indemnify and shall keep indemnified the Licensor against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Licensor and arising directly or indirectly as a result of any breach by the User of this EULA (a "**User Indemnity Event**").

8.2 Licensor shall indemnify and shall keep indemnified the User against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the User and arising directly or indirectly as a result of or in connection with an allegation or claim that the Software or Documentation, or any part thereof, or its use, sale or distribution infringes, violates or misappropriates a third party Intellectual Proprietary Right of a third party ("**Licensor Indemnity Event**").

9. Limitations and exclusions of liability

9.1 Nothing in this EULA will:

   (a) limit or exclude any liability for death or personal injury resulting from negligence;

   (b) limit or exclude any liability for fraud or fraudulent misrepresentation;

   (c) limit any liabilities in any way that is not permitted under applicable law;

   (d) exclude any liabilities that may not be excluded under applicable law, or

   (e) limit indemnity rights, obligations, or liabilities arising out of User Indemnity Events or Licensor Indemnity Events.

   and, if a party is a consumer, that party's statutory rights will not be excluded or limited by this EULA, except to the extent permitted by law.

9.2 The limitations and exclusions of liability set out in this Clause 9 and elsewhere in this EULA:

   (a) are subject to Clause 9.1; and

   (b) govern all liabilities arising under this EULA or relating to the subject matter of this EULA, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this EULA.

9.3 The Licensor will not be liable to the User in respect of any losses arising out of a Force Majeure Event.

9.4 Neither Party will be liable to the other Party in respect of any loss of profits or anticipated savings.

9.5 Neither Party will be liable to the other Party in respect of any loss of revenue or income.

9.6 Neither Party will be liable to the other Party in respect of any loss of business, contracts or opportunities.

9.7 The Licensor will not be liable to the User in respect of any loss or corruption of any data, database or software.

9.8 Neither Party will be liable to the other Party in respect of any special, indirect or consequential loss or damage.

9.9 The aggregate liability of the Licensor to the User under this EULA shall not exceed the total amount paid and payable by the User to the Licensor under this EULA.

10. Termination

10.1 The User may terminate this EULA by giving to the Licensor not less than 30 days' written notice of termination.

10.2 Either party may terminate this EULA immediately by giving written notice of termination to the other party if:

(a) the other party commits any breach of this EULA.

10.3 Either party may terminate this EULA immediately by giving written notice of termination to the other party if:

(a) the other party:

(i) is dissolved;

(ii) ceases to conduct all (or substantially all) of its business;

(iii) is or becomes unable to pay its debts as they fall due;

(iv) is or becomes insolvent or is declared insolvent; or

(v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

(b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party; or

(c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under this EULA).

11. Effects of termination

11.1 Upon the termination of this EULA, all of the provisions of this EULA shall cease to have effect, save that the following provisions of this EULA shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 8, 9, 11 and 12.

11.2 Except to the extent that this EULA expressly provides otherwise, the termination of this EULA shall not affect the accrued rights of either party.

11.3 For the avoidance of doubt, the licences of the Software in this EULA shall terminate upon the termination of this EULA; and, accordingly, the User must immediately cease to use the Software upon the termination of this EULA.

11.4 Within 10 Business Days following the termination of this EULA, the User must:

(a) return to the Licensor or dispose of as the Licensor may instruct all media in its possession or control containing the Software; and

(b) irrevocably delete from all computer systems in its possession or control all copies of the Software.

12. General

12.1 No breach of any provision of this EULA shall be waived except with the express written consent of the party not in breach.

12.2 If any provision of this EULA is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this EULA will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

12.3 This EULA may not be varied except by a written document signed by or on behalf of each of the parties.

12.4 The User hereby agrees that the Licensor may assign the Licensor's contractual rights and obligations under this EULA to any third party. Save to the extent expressly permitted by applicable law, the User must not without the prior written consent of the Licensor assign, transfer or otherwise deal with any of the User's contractual rights or obligations under this EULA.

12.5 This EULA is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this EULA are not subject to the consent of any third party.

12.6 Subject to Clause 9.1, this EULA shall constitute the entire agreement between the parties in relation to the subject matter of this EULA, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

12.7 This EULA shall be governed by and construed in accordance with Swedish law.

12.8 The Court in Stockholm, Sweden shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this EULA.