

## **Crossware Mail Signature™ Licence Agreement – (Version 4.0 MAY 2013)**

**This Licence only applies to Crossware Mail Signature™ for IBM Notes/Domino® and Microsoft Exchange®.**

### **1. Your Agreement to this Licence**

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1.1 This Licence only applies to the executable code for the Crossware Mail Signature for IBM Notes Domino and Microsoft Exchange including any updates and upgrades and any accompanying distributable files, data and materials ("Crossware Mail Signature"). You should carefully read the following terms and conditions before downloading, installing or using this software. By downloading, installing or using Crossware Mail Signature, you agree to all of the terms of this Licence agreement ("Licence").

1.2 Crossware Mail Signature operates in conjunction with appropriate releases of IBM Notes®, IBM Domino® and Microsoft Exchange. The IBM Notes®, IBM Domino® and Microsoft Exchange are not included in this Licence. You must separately purchase and hold sufficient Licences to use IBM Notes®, IBM Domino® and Microsoft Exchange. Crossware Limited is not responsible for the provision or licensing or functionality of IBM Notes®, IBM Domino® and Microsoft Exchange.

1.3 Please read the Licence terms below. If you do not agree to all of the terms and conditions of this Licence, then do not download, install or use Crossware Mail Signature.

### **2. Scope of Licence**

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2.1 Subject to the terms below, you are hereby Licenced by Crossware Limited to use on a non-exclusive non-transferable basis for internal business purposes only one (1) copy of Crossware Mail Signature for the number of users for which you have purchased a Licence. You may also make one copy for backup purposes only.

2.2 You shall not exceed the number of users for which your current key was authorized by Crossware Limited. If you wish to add more uses, you must request a modification to your Licence and pay the relevant fees.

### **3. Evaluation or Trial Version**

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3.1 If you have downloaded or installed the Crossware Mail Signature on a trial or evaluation basis then notwithstanding any other term of this Licence:

(a) your use of Crossware Mail Signature is limited to use for demonstration, test or evaluation purposes only, and you may not resell or otherwise transfer for value Crossware Mail Signature; and

(b) this Licence will terminate 30 days after the date Crossware Mail Signature is first installed.

3.2 If you want to use this software after the 30 day evaluation period, you must acquire from Crossware Limited for a fee a Licence for Crossware Mail Signature. Please contact sales@crossware.co.nz for information about licensing, and ordering options. Use of Crossware Mail Signature after the expiration of the 30 day evaluation period without acquiring such a Licence from Crossware Limited is prohibited and a violation of international copyright laws.

#### **4. Licence Fee**

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4.1 To use Crossware Mail Signature you must have paid all applicable Licence fees including any applicable taxes and duties. If you do not pay such Licence fees, Crossware Limited shall revoke this Licence in which case you shall forthwith stop using Crossware Mail Signature and remove all components of it from all computers and servers.

#### **5. Your Obligations**

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5.1 Crossware Mail Signature is Licenced, not sold. All rights of any kind in Crossware Mail Signature which are not expressly granted in this Licence are entirely and exclusively reserved to and by Crossware Limited. You may not:

- (a) rent, lend, lease, or subLicence Crossware Mail Signature;
- (b) transfer, provide or otherwise make available Crossware Mail Signature in any form to any person;
- (c) modify, copy, reproduce, translate, adapt or vary Crossware Mail Signature or create derivative works based on Crossware Mail Signature without the express consent of Crossware Limited;
- (d) reverse engineer, decompile, disassemble, or in any manner decode Crossware Mail Signature, in whole or in part, nor permit anyone else to do so. The Licence granted hereunder includes no rights in or to the source code version of Crossware Mail Signature.

#### **6. Warranty Disclaimers and Liability Limitations**

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6.1 Crossware Mail Signature and any and all accompanying software, files, data and materials, are distributed and provided "AS IS" and with no warranties of any kind, whether expressed or implied, including, without limitation, any warranty of merchantability or fitness for a particular purpose. Neither Crossware Limited nor any of its affiliates or licensors warrant, guarantee, or make any representations regarding the use of, or the results of the use of, Crossware Mail Signature. Neither Crossware Limited nor any of its affiliates or licensors warrant that the operation of Crossware Mail Signature will be uninterrupted or error-free. You acknowledge that good data processing procedure dictates that any program, including Crossware Mail Signature, must be thoroughly tested with non-critical data before there is any reliance on it, and you hereby assume the entire risk of all use of the copies of Crossware Mail Signature covered by this Licence. This disclaimer of warranty constitutes an essential part of this Licence.

6.2 Except to the extent expressly prohibited by applicable law, Crossware Limited, its affiliates and licensors shall not be liable in contract, tort, including negligence or otherwise to you for any direct or indirect damage, loss (including loss of use, data, profits, business, or any economic loss) or cost caused by or contributed to by any act or omission of Crossware Limited or arising out of the use of, or inability to use, Crossware Mail Signature

6.3 Some jurisdictions do not allow the exclusion of certain implied warranties or conditions, so the above exclusions may not apply to you. This Licence does not exclude any implied warranties or conditions that may not under applicable law be excluded. The sole and exclusive remedy for the breach of any such implied warranty or condition shall be, at Crossware Limited's discretion, the replacement of the defective software or a refund of the Licence fee.

6.4 The maximum aggregate liability of Crossware Limited, its affiliates or licensors to you shall not, in any circumstance, exceed the Licence fees that you have paid in respect of Crossware Mail Signature.

6.5 In addition, in no event does Crossware Limited authorize you or anyone else to use Crossware Mail Signature in applications or systems where Crossware Mail Signature's failure to perform can reasonably be expected to result in a significant physical injury, or in loss of property, or loss of life. Any such use is entirely at your own risk, and you agree to hold Crossware Limited, its affiliates or licensors harmless from any and all claims or losses relating to such unauthorized use.

## **7. Termination**

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7.1 This Licence commences upon the earlier of installation of the Crossware Mail Signature or acceptance of the Licence agreement and shall continue until terminated by either party. You may terminate this Licence upon 90 days notice to Crossware Limited. Crossware Limited may terminate this Licence if you breach any clause and fail to cure such breach within 30 days after receiving notice of the breach.

7.2 Upon termination, you shall immediately discontinue any and all use of Crossware Mail Signature and you shall within ten (10) days delete from your computer(s) all electronic copies of Crossware Mail Signature, including all or any part thereof and any back-up copies.

7.3 All provisions of this Licence that by their nature are intended to survive the expiration of the Licence granted hereunder shall survive and remain in full force and effect

## **8. Indemnification**

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8.1 At your own expense, you shall indemnify, defend, and hold harmless Crossware Limited, its affiliates and licensors, and their directors, officers, trustees, shareholders, employees, agents, successors and assigns from and against any and all claims, expenses, losses, damages, costs, liabilities and judgments, including without limitation reasonable attorneys' fees and expenses, arising out of or relating to any claim resulting from or related to: (i) any use by you of Crossware Mail Signature other than as expressly allowed by this Licence or in a manner inconsistent with any accompanying documentation; (ii) any breach of this Licence by you; or (iii) any violation of applicable law by you, your directors, officers, trustees, shareholders, employees, affiliates, subsidiaries, agents, successors and assigns.

## **9. General**

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9.1 Crossware Mail Signature, including, without limitation, the information included in its accompanying distributable files, data and materials and any related activation code and registration code files or information, and the know-how embodied in Crossware Mail Signature, is confidential and trade secret information and subject to copyright (the "Proprietary Information") that is proprietary to and solely owned by or Licenced to Crossware Limited, together with all related trademarks and other intellectual property rights relating thereto. You agree to maintain the Proprietary Information in strictest confidence for the benefit of Crossware Limited and its licensors. You shall not sell, assign, Licence, publish, display, distribute, disclose, or otherwise make available or allow to be made available the Proprietary Information, including, without limitation, any activation codes or registration code files, to any third party nor use such Proprietary Information except as authorized by this Licence.

9.2 The obligations under this paragraph shall survive any termination or cancellation of the Licence.

9.3 This Licence is the complete statement of the agreement between the parties on the subject matter, and merges and supersedes all other or prior understandings, purchase orders, agreements, and arrangements.

9.4 There are no third-party beneficiaries of any promises, obligations, or representations made by Crossware Limited herein.

9.5 Any waiver by Crossware Limited of any violation of this Licence by you shall not constitute, nor contribute to, a waiver by Crossware Limited of any other or future violation by you of the same provision, or any other provision, of this Licence.

9.6 You acknowledge and agree that monetary damages alone would not be an adequate remedy in the event of a material breach by you of your obligations or agreements under this Licence and that, in such event, Crossware Limited or any of its affiliates shall be entitled to injunctive relief to require you to comply with its obligations hereunder.

Any remedy available under this Licence shall be cumulative and not exclusive of any other remedy available Crossware Limited or any of its affiliates under this Licence, at law or in equity.

9.7 If any part of this Licence or the application thereof to any person or circumstance is for any reason held invalid or unenforceable, it shall be deemed severable, and the validity of the remainder of this Licence, or the applications of such provision to other persons or circumstances, shall not be affected thereby.

9.8 You will keep accurate business records sufficient to allow Crossware Limited to verify on request that your use of Crossware Mail Signature complies with the terms of this Licence.

9.10 Except as otherwise expressly mandated by the relevant law in your jurisdiction, this Licence shall be governed by, and construed in accordance with, the substantive laws of New Zealand, whose courts shall have non-exclusive jurisdiction over all disputes which may arise in respect of this Licence.

## **10. DEFINITIONS**

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10.1 Unless the context otherwise requires, the following expressions shall have the following meanings: "Application" means the Supplier's proprietary software specified in the Software Licence and Services Agreement, but excludes the source code; "Confidential Information" means information which is or has been disclosed by one party to the other, but does not include any information that is:

- a) on receipt, in the public domain, or which subsequently enters the public domain without any breach of this Agreement;
- b) on receipt, already known by the party receiving it;
- c) at any time after the date of receipt, received in good faith from a third party; or
- d) required by law to be disclosed;

"Documentation" means the documentation described in the Software Licence and Services Agreement; "Force Majeure Event" means any war, riot, strike, natural or man-made disaster, or other circumstance of a similar nature; "GST" means goods and services tax imposed under Goods and Services Tax Act 1985; "Intellectual Property" means copyright, patents, designs, trademarks, trade names, goodwill rights, trade secrets, confidential information and any other intellectual proprietary right or form of intellectual property; "Modifications" means modifications to the Application as specified in the Software Licence and Services Agreement; "Services" means the services supplied by the Supplier in order to create and develop the Modifications; "Site" means the site specified in the Software Licence and Services Agreement; "Customised Software" means the Application as customised by the Modifications, but excludes the source code; "Specifications" means the specifications for the Modifications referred to in the Software Licence and Services Agreement; "System" means the equipment and software that form the system on which the Software is to be installed, as specified in the Specifications or in the Software Licence and Services Agreement; "Warranty Period" means the period specified in the Software Licence and Services Agreement.