



OMrun Software License Agreement – General Terms and conditions

READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY BEFORE USING THIS SOFTWARE. USE OF THE SOFTWARE INDICATES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH THE FOLLOWING, DO NOT INSTALL, COPY, OR USE THE SOFTWARE AND REMOVE IT FROM YOUR STORAGE.

Terms and Conditions

The following General Terms and Conditions ("GTC") are an integral part of the OMrun Software License Agreement ("the Agreement").

In case of inconsistency, the order of precedence is the following:

- 2. GTC (except if the Agreement explicitly mentions the intention to derogate from the GTC)
- 3. Exhibits
- 4. Purchase Order (if applicable).

Software License

The purchaser of the license rights granted by the License Agreement is referred to as "Licensee". dbi service SA is referred to as "Licensor".

Licensor grants Licensee a non-exclusive, non-transferable license to (1) use the Software and documentation provided in the Agreement solely for its internal operations at the Location(s) and on the Designated Environment described in the Agreement, and (2) copy the Software and documentation for archival or backup purposes only, provided that all titles, trademarks, and copyright, proprietary and restricted rights notices shall be reproduced in all such copies, and that all copies shall be subject to the terms of the License Agreement.

Restriction

Licensee shall not (1) make available to distribute, resell, rent nor lease all or part of the Software or documentation to any third party by assignment, sublicense or by any other means; (2) copy, adapt, reverse engineer, decompile, disassemble, or modify, in whole or in part, any of the Software or documentation; or (3) use the Software to operate in or as a time-sharing, outsourcing, or service bureau environment, or in any way allow third-party access to the Software.

In no case may the License key file be distributed. The Licensee shall store the License keys and files supplied by the Licensor in a safe place. The Licensor is not responsible for lost license keys or files.

The Licensee is required to hold the license keys and files secure. The Licensee will be held responsible for any unauthorized use of the License keys or files. The Licensee agrees not to attempt to bypass the license mechanism or generate unauthorized License keys or files.

Types of Licenses

OMrun Studio License: The Licensor grants you a non-exclusive, non-transferable copy of the associated Software to install on a single computer or server with unlimited usage.

OMrun CLI License: The Licensor grants you a non-exclusive, non-transferable copy of the associated Software to install on a single computer or server with limited usage.



www.dbi-services.com Rue de la Jeunesse 2 Phone +41 32 422 96 00



Price and payment

Licensee shall pay the price in accordance with the payment plan set forth in the Agreement. Licensor shall invoice any additional costs reasonably incurred by Licensor in the delivery of the Software as they are incurred. Payment shall be made by Licensee to Licensor in full without any right of set-off or deduction, and Licensee shall pay the price and such costs within 10 days from the date of the invoice.

Failure by Licensee to pay any amounts invoiced under this Agreement in full in accordance with this Agreement shall make Licensee liable to pay Licensor interest at the rate of [2%] per month on the remaining amount due, or at the highest amount permitted by applicable law such interest to accrue on a daily basis after as well as before any judgment relating to collection of the amount due.

Copyrights, Trademarks

The Software is protected by the Agreement, the following Terms and Conditions, by copyright and other intellectual property laws and treaties. Save for the right to use as herein expressly granted, all rights in and to the Software are reserved by the Licensor. Licensee shall not remove or destroy any proprietary, trademark or copyright markings or notices placed upon or contained within the Software or any related materials or documentation. Licensee shall not, by reason of the Agreement or the performance hereof, acquire rights of any kind in any trademark, trade name, logo or product designation under which the Software was or is marketed and Licensee shall not make any use of the same for any reason.

Updates

The features in the Software may change when upgrades are made. The Licensor tries to maintain backward compatibility but makes no guarantees to do so. If the Software is an upgrade or update to a previous version of the Software, the Licensee must possess a valid License to such previous version in order to use such upgrade or update.

Support

Support services for Licensed software are specified in the Agreement.

Support related to Software functionality and issues is available through dbi services Service Desk. Before transmitting a support request, the Licensee is requested to read the OMrun documentation which is publicly available. This one provides several hints in order to solve different kinds of issues. When contacting dbi services Service Desk it's important to provide with the version of the Software.

Term and termination

The licence is granted for the duration stipulated in the Agreement. Unless written notice of termination is sent to the Licensor three months before the end of the agreed term, the License will be automatically renewed for the same period of time.

Licensor may terminate the Agreement and the License, without prejudice to any other remedy Licensor may have, immediately without further obligation to Licensee, in the event of any breach by Licensee of the Agreement which cannot be remedied within fourteen 14 days of Licensor's notice to Licensee of the breach and Licensor's intent to terminate the License. The same right to immediate termination exists in the event of an intellectual property infringement or in the event of a claim by a third party based on an intellectual property infringement or an infringement of the Agreement.

Licensee may terminate the Agreement, without prejudice to any other remedy Licensee may have, in the event of any material breach of this Agreement which is not remedied within 14 days of Licensee's notice to Licensor of the breach and Licensee's intent to terminate the License.



www.dbi-services.com Rue de la Jeunesse 2 Phone +41 32 422 96 00



Termination shall not relieve Licensee's obligation to pay all amounts which are due and payable or which Licensee has agreed to pay.

Upon termination of the Agreement, Licensee shall cease using the Software and documentation and promptly return to the Licensor all copies of the Software, documentation and all other Confidential Information in its possession or control. Licensee shall delete all copies of such materials residing in on or off-line computer memory and destroy all copies of such materials which also incorporate Licensee's Confidential Information. Licensor shall be entitled to enter the location(s) to repossess and remove the Software, documentation, and any other confidential information. Licensee shall, within 14 days from the effective date of the termination, certify in writing by an officer or director of the party that all copies of the Software and documentation have been returned, deleted and destroyed.

All provisions of the Agreement relating to disclaimer of warranties, limitations of liability, remedies, damages and Licensor's proprietary rights or concerning confidentiality shall survive termination.

Confidentiality

"Confidential Information", shall mean the Software, documentation, specifications, and terms and conditions of the Agreement. Licensee acknowledges the confidential and proprietary nature of the Confidential Information and agrees that it shall not reveal or disclose any Confidential Information for any purpose to any other person, firm, corporation or other entity, other than Licensee's employees with a need to know such Confidential Information to perform employment responsibilities consistent with Licensee's rights under this Agreement. Licensee shall safeguard and protect the Confidential Information from theft, piracy or unauthorized access in a manner at least consistent with the protections Licensee uses to protect its own most confidential information. Licensee shall inform its employees of their obligations under the Agreement and shall take such steps as may be reasonable in the circumstances, or as may be reasonably requested by Licensor, to prevent any unauthorized disclosure, copying or use of the Confidential Information. Licensee acknowledges and agrees that in the event of the Licensee's breach of this Agreement, Licensor will suffer irreparable injuries not compensated by money damages and therefore shall not have an adequate remedy at law. Accordingly, Licensor shall be entitled to a preliminary and final injunction without the necessity of posting any bond or undertaking in connection therewith to prevent any further breach of these confidentiality obligations or further unauthorized use of Confidential Information. This remedy is separate and apart from any other remedy Licensor may have.

Licensee shall notify Licensor immediately upon discovery of any prohibited use or disclosure of the Confidential Information, or any other breach of these confidentiality obligations by Licensee and shall fully cooperate with Licensor to help Licensor regain possession of the Confidential Information and prevent the further prohibited use or disclosure of the Confidential Information.

The obligation to maintain confidentiality shall remain in force without restriction for a duration of two years after the contractual relationship has ceased.

Limited Warranty

IT IS EXPRESSLY UNDERSTOOD BY LICENSEE, THAT THE SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER ORAL OR WRITTEN (INCLUDING BUT NOT LIMITED TO THOSE RELATING TO NON-INFRINGEMENT, SATISFACTORY QUALITY, FITNESS FOR PURPOSE OR MERCHANTABILITY) TO THE FULLEST EXTENT ALLOWED UNDER APPLICABLE LAW.

Limitation of Liability

LICENSEE ACKNOWLEDGES THAT THE SOFTWARE CANNOT BE GUARANTEED ERROR-FREE AND FURTHER ACKNOWLEDGES THAT WITH DUE CONSIDERATION OF THE LICENSE FEE AND THE NATURE





www.dbi-services.com Rue de la Jeunesse 2 Phone +41 32 422 96 00



OF THE SOFTWARE IT HAS NOT RELIED ON ERRORS BEING CORRECTED SHOULD THE SOFTWARE PROVE DEFECTIVE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL LICENSOR BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR USE OF THE SOFTWARE, INCLUDING BUT NOT LIMITED TO LOST PROFITS, BUSINESS INTERRUPTION OR LOSS OF INFORMATION OR CORRUPTION OF DATABASES, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE. UNDER NO CIRCUMSTANCES SHALL LICENSOR'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY LICENSEE TO LICENSOR OVER THE LAST TWELVE MONTHS.

Validity

If any part of the Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected.

Absence of waiver

Failure by Licensor to exercise any right or remedy under the Agreement does not signify acceptance of the event giving rise to such right or remedy.

Notice

Unless otherwise agreed to by the parties, any notice required or permitted to be given or delivered under the Agreement shall be delivered to the address set forth in the Agreement. Notice shall be deemed to have been received by any party, and shall be effective, (i) on the day given, if personally delivered or (ii) receipt verified if sent by registered post or (iii) on the day after the shipping if sent by regular post.

Amendments to the Agreement shall only be made in writing.

Governing Law

This License Agreement is governed by and construed in accordance with the laws of Switzerland.

In respect of any dispute which may arise hereunder, the Licensee agrees to be bound by the court in Delémont, Switzerland.