
TERMS AND CONDITIONS SOFTWARE USE LICENSE
OVER OverBoard

Last update: 12/04/2019 – version 1.3

1. PREMISES

The User who uses the Software and the Services object of this document granted in license of use by OVER Spa (hereinafter "OVER Spa" or more simply "OVER") declares to have read the software, or to be sufficiently informed regarding its operation and its main functions, as well as having read and accepted these Terms and Conditions (called "Conditions") which are those currently in force and are subject to modification without prior notice by OVER. OVER does not assume any responsibility for suspensions of the Services caused by any cause, even referring to OVER, unless otherwise agreed in writing between OVER and the User (hereinafter referred to individually as the "Party" or jointly as the "Parties").

These Conditions must be examined and saved by the User, before completing the purchase and / or acquisition procedure License for one or more services. The forwarding of the order confirmation of the Service and/or the Software in question therefore implies the full knowledge of the same and their full acceptance. The User is therefore requested to save or print these contractual clauses and keep them over time. The present conditions also apply to those licenses that may be granted to the User for non-remunerative purposes.

2. DEFINITIONS

2.1 - **Overboard**: is a web software typically installed in Cloud developed by OVER accessible through a web-browser.

2.2 - **Obox**: is the gateway produced by OVER that can be used for all systems based on the EDS 2.1 bus.

2.3 - **Bus EDS 2.1**: is the wired bus line used by OVER systems for communications to and from other field devices such as - for example - OMeter and NanOMeter.

2.4 - **Ometer**: is an Over Spa device equipped with 8 power outputs with 230V and 16A interrupted wattmeter and 16 contact inputs with communication on EDS Bus.

2.5 - **NanOMeter**: is a three-phase wattmeter by Over Spa with communication on EDS Bus.

2.6 - **Ethernet**: is the well-known wired network connection bus between PC and other IP (Internet Protocol) devices.

2.7 - **3G o UMTS**: means the third-generation cellular network and higher as LTE and later.

2.8 - **Network port**: we mean the concept of port as defined in computer networks on IP protocol.

2.9 - **Contract**: is this document.

2.10 - **User**: is the one who purchases the license to use the OverBoard software or its user or the one who uses the OverBoard software according to the provisions of this Agreement.

2.11 - **Equipment or Device**: are used in the Contract as a synonym for OBox.

2.12 - **Debian**: is a Linux distribution among the most widespread in the world of embedded systems.

2.13 - **Over Spa o OVER**: in the following "Over" is the company that owns all the rights on the OverBoard software, based in Rome, via Maffio Maffii, 11, Postal Code 00157 with VAT /F.C 12,065,001,005.

2.14 - **Cloud or Cloud Service**: in this Agreement we mean any service, reachable through an internet connection, whose availability and reachability are guaranteed by high redundancy and automatic replication services.

2.15 - **Stable release**: means a version of the software that has passed all the functional verification tests and therefore is used without further Major Reviews (see 2.16).

2.16 - **Major review**: means a substantial change to one or more of the software that is necessary for the correct use of the same.

2.17 - **Minor review**: means a non-substantial change or that does not impact or prevent the use of the main features of the software but that is necessary for its correct use.

2.18 - **Connected System**: it is any device whose data is transmitted on OverBoard directly or through a gateway. For example, two OMeter connected to the OBox that transmits data to OverBoard are two Connected Systems.

3. TRADEMARK LICENSING

3.1 - The owner of OverBoard software is OVER. OVER is the sole exclusive owner of all rights and interests for the OverBoard software and any related intellectual property, including the developments arising therefrom.

3.2 - The trademark, the distinctive signs of the visual identity and all the trademarks contained within the OverBoard software are the property of OVER and/or its commercial partners, it is therefore forbidden to copy, unauthorized reproduction, even partial and dissemination in violation of intellectual property rights.

3.3 - The software is licensed for use by the User who may use it via any compatible web browser from any machine connected to the Internet.

3.4 - The use of the software by the User does not in any way constitute the transfer of intellectual property, even if the User has actively participated in the development of new features.

4. DESCRIPTION OF SOFTWARE AND SERVICES

4.1 - OverBoard is a software for the management in Cloud of data coming from one or more systems connected to it. The systems connected to the OverBoard software can be, by way of example, not exhaustive:

4.1.1 - the data transmitted by the OBox gateways installed in the field;

4.1.2 - data transmitted by NanOMeter devices with native 3G connection;

4.1.3 - data transmitted and/or taken from third-party systems (such as climate data from public weather stations);

4.1.4 - data loaded in batch mode from well-formed files (such as CSV files).

4.2 - In addition to data management and their representation, the OverBoard software can also allow direct management of the systems from which it receives data. In some cases, the data transmitted by OverBoard to the systems in the field are aimed at their programming and configuration. Direct management of the OVER brand systems connected to OverBoard is always possible. Direct management of third-party systems is not guaranteed and is often subject to custom development for consideration to be agreed with the User with ad-hoc agreement.

4.3 - The OverBoard software is organized in three main macro-areas described below:

4.3.1 - Main Dashboard: it is a screen that contains a general statistical overview of the data contained within OverBoard associated with the specific User who logs in. The minimal information contained in the dashboard are: alert, a synoptic map containing information on the systems in the field, statistical data comparing year on year;

4.3.2 - Analysis: it is an area of the software that can be organized in multiple sections and functionality that allows the display and export of the data stored according to filters set by the user;

4.3.3 - Maintenance: it is an area of the software with which it is possible to directly manage the systems in the field as required by 4.2.

4.4 - the software and services offered by OverBoard are installed in the Cloud and therefore are installed in innovative platforms that guarantee the availability and persistence of the data. The platforms used by OVER can be owned by OVER itself or by third parties such as Amazon AWS or Microsoft Azure, at the total discretion of OVER.

5. WARRANTY/GUARANTEE

5.1 - The persistence of the data stored and managed by the OverBoard software is ensured through replication techniques that OVER will have to manage and maintain for the duration of the contract. At the end of the license period OVER will be free to keep the data with replication, store the data on a different non-replicated support or delete the data.

5.2 - The OverBoard software is always supplied updated to the last Stable Release "as is" and "as available", OVER does not provide any guarantee on the correctness of the data contained

in the software (in the sense that these are archived as received, any errors must be input to the systems connected to the OverBoard software as described in 4.1), nor does it provide any guarantee that the software can meet the User's needs or that it never has interruptions or it is free of errors, viruses or bugs that make subsequent Minor necessary Review.

5.3 - OVER will endeavour to ensure that the OverBoard software is available h24x365 continuously, without prejudice to the right of OVER to suspend the availability of services in the event of maintenance, repairs or for reasons completely unrelated to OVER for events of force majeure or for events that can undermine (at the discretion of OVER) the software security of the software.

5.4 - The User who accesses the OverBoard software is the sole and exclusive responsible for the data transmitted within the application (for example by means of a CSV file) for using the software and declares that it has full ownership of the data and, if referring to third parties, of the free availability for the relative treatment.

5.5 - The User indemnifies Over from any responsibility in relation to the unlawful dissemination of third-party data or from any use of the OverBoard software in ways contrary to the law or to these Terms of Use.

5.6 - The User declares to be aware that the usability of the OverBoard software is linked both to the work of OVER and to the availability of third network connectivity to OVER and is connected to the availability of Cloud services eventually offered by sub-suppliers. Therefore, the user indemnifies OVER from any liability that may derive from network problems and/or problems arising or caused entirely by the OVER documented sub-suppliers.

6. PRIVACY AND DATA OWNERSHIP

6.1 - The data managed within the OverBoard software is the property of the User who uploads them in others words the Owner of the devices that transmit the data within the platform.

6.2 - The User authorizes OVER to use and process the data through mathematical and statistical models for processing the benchmarks provided by the platform and the use of the same by third parties provided in anonymous form always in order to guarantee the calculation of benchmarks of comparison of homogeneous data. The User declares to be aware that this authorization is necessary in order to use the platform.

6.3 - The personal data provided by the User for the creation of the User profile will be treated exclusively to perform contractual and legal obligations, to carry out surveys for the detection of the degree of customer satisfaction in anonymous or aggregate form. Furthermore, the data will be forwarded, only with the consent of the User, for the sending of promotional and advertising material also using SMS, fax, telephone and email.

6.4 - Both administrative and technical data will be processed using manual, computerized and/or telematic tools in a manner strictly connected to the purposes of the internal and external manager of the processing by the following subjects: Commercial Consultants, Sales Network Management, Back-office Area and Billing, Commercial and Marketing Area, Measurement and Purchasing Area, Data Mining Area. The data may therefore be communicated to external companies and/or consultants for the performance of economic activities (pursuant to GDPR) for the fulfilment of legal obligations and of this Agreement.

6.5 - The customer may contact the privacy service at OVER to verify their data and have them integrated, updated and rectified and/or to exercise the other rights provided.

6.6 - the User declares to know that in order to provide the services the mobile phone number may be requested. The User accepts that OVER manages this sensitive data without which the services may not be provided.

6.7 - OVER guarantees that all services provided during the present license, even if provided by third parties, are GDPR compliant. All data is managed and stored within the EU territory, OVER is free to choose the hosting country the services.

7. CONFIDENTIALITY OBLIGATIONS

7.1 - Over undertakes to keep strictly restricted and confidential and not to disclose to third parties, except to the extent strictly necessary for supplying the software, any data or information of which it has been made aware or has simply become aware in any form whatsoever and/or on any support.

7.2 - Without prejudice to the general obligation of confidentiality referred to in point 7.1, Over recognizes from now on the confidential nature of the User's data, information and documents of which he will become aware and recognizes that any right directly or indirectly connected to them use is and will remain the exclusive property of the User.

7.3 - Over undertakes to guarantee that, also pursuant to art. 1381 of the Italian Civil Code, all third parties, to whom confidential information will be made available for the purposes of the execution of the contract, act in compliance with the confidentiality obligations.

8. STIPULATION, CONCLUSION, EFFECTIVENESS OF CONDITIONS AND DURATION

8.1 - The license agreement is concluded through the exact compilation and sending of the order form or through the registration described in 8.2.

8.2 - In the moment in which OVER receives from the User the order it provides to the sending of a confirmation e-mail or to the visualization of a web page of confirmation and order

summary, printable, in which will also be reported the data of order detail.

8.3 - The Conditions are not considered effective between the parties in default of what is indicated in the previous point.

8.4 - OVER may modify or simply update these Conditions, in whole or in part. The User acknowledges and agrees that any changes to these Terms will apply to orders sent by Users after the date of notification of modification of the Conditions. The User is therefore invited to view the Conditions at each access to the Application and it is advisable to print a copy for future reference.

8.5 - In order to use the OverBoard software, Users must register providing, in a truthful and complete manner, all the data requested in the relevant registration form and accept these Terms in full.

8.6 - The User is responsible for keeping his/her login credentials. It is understood that under no circumstances may OVER be held responsible in the event of loss, dissemination, theft or unauthorized use by third parties, for whatever reason, of the access credentials of the Users.

8.7 - These conditions apply from the moment of registration as described in 8.2 or they start from the moment the order form is signed.

8.8 - This License Agreement starts from the terms defined in 8.7 and ends on 31/12 of the stipulation year.

8.9 - This Agreement is automatically renewed at the end of 12 (twelve) months in 12 (twelve) months unless otherwise agreed between the Parties, or without prejudice to the right of withdrawal defined in art. 10.

9. PRICE, METHODS OF PAYMENT, BILLING

9.1 - The cost of the software license is free if the number of systems connected to OverBoard is less than 10 (ten) while it is upon payment if the number of connected systems is higher. The annual license cost is defined in the order form, that is in the quote. The annual license cannot be split, even if the license cost is indicated as a monthly value.

9.2 - The billing of the first annuity takes place simultaneously with the acceptance of the order form by OVER.

9.3 - The invoicing of subsequent years may take place at the same time as the renewal date or in advance within the limit of 30 (thirty) days.

9.4 - Any delay in the issuance of the invoice for the years following the first with respect to the renewal terms described in point 9.3 does not in any case constitute a change in the terms of duration defined in 8.8 and 8.9.

9.5 - Where the payment was made in advance of the invoice issue date, OVER undertakes to send the Customer a copy of

the invoice within the term of 60 (sixty) days from the date of payment (as attested by the value date).

9.6 - If OVER issues an advance invoice, but the User provides within the terms of renewal referred to in paragraph 8.9 to implement the withdrawal from the Contract according to the terms described in art. 10, Over undertakes to issue a credit note within the term of 60 (sixty) days.

9.7 - All the invoiced amounts will be subject to the VAT rate due.

9.8 - All invoices will be sent in electronic format, the Customer consents to such transmissions with the signing of these General Conditions.

9.9 - Any complaints on the amounts invoiced must be sent to Over no later than one calendar week after the invoice is sent. In the absence of prompt complaint, the invoices are considered accepted by the Customer. The presentation of the complaint does not exempt the Customer from the payment, in terms of expiry, of the amounts invoiced and not disputed.

9.10 - The payment of the sums due and invoiced must take place with traceable methods (e.g. bank transfer).

9.11 - Unless otherwise agreed between the Parties, the payment methods are 60 days EOM.

10. CONTRACT TERMINATION

10.1 - The withdrawal is granted to both Parties in the following ways:

10.1.1 - the User has the right to withdraw from this Contract at any time, even without just cause, but without the right to obtain compensation for the months unused;

10.1.2 - OVER has the right to withdraw from this contract at any time, even without just cause, while guaranteeing the User compensation equal to the accrual unused by the license paid by the User. It is understood that if the User has not paid any sum because he is in arrears or because there is free casework as foreseen in 9.1, nothing will be due as compensation;

10.1.3 - The withdrawal can be implemented electronically by CERTIFIED E-MAIL sent to the counterparty. The communication must contain all the information useful for uniquely identifying the Contract to which the withdrawal refers. Failing this, the withdrawal request will be deemed void.

11. PRESUMPTION OF KNOWLEDGE, APPLICABLE LAW AND JURISDICTION

11.1 - This Agreement is made known to the User by electronic means at the time of registration and first access of software to the OverBoard software, as well as sent by e-mail to the e-mail

address provided by the User during registration and is assumed to be known pursuant to art. 1341 Italian Civil Code

11.2 - These Conditions and all disputes regarding execution, interpretation and validity are governed by Italian law.

11.3 - Unless otherwise agreed between the Parties, the competent Court is that of Rome, Italy.