



LICENCE- AND SOFTWARE SUBSCRIPTION AGREEMENT LICENSE GRANT

Subject to the terms and conditions contained in this Agreement, The Licensor hereby grants to the Customer a non-transferable, non-exclusive, non-sublicensable limited term world-wide right and Licence for the Customer and Authorised Users to access and use the software in conjunction with the pricing and product section of this Agreement.

The License is issued by BiitOps International K/S on behalf of BiitOps K/S.

BY ENTERING THIS AGREEMENT, YOU HAVE AGREED as follows:

Pricing and Product Section

The pricing and product details applicable under this Agreement are set forth in the accompanying offer and are incorporated herein by reference as an integral part of this Agreement.

1. Definitions

In this Agreement unless the context otherwise requires, the following expressions have the following meanings:

'BiitOps', the current version of the BiitOps software program together with any upgrades, updates, patches, fixes and new releases;

'Intellectual Property Rights', all vested, contingent and future intellectual property rights, whether registered or unregistered, including, but not limited to, copyright, trademarks, service marks, design rights, patents, know-how, trade secrets, inventions, get-up, database rights and any applications for the protection or registration of these rights and all renewals and extensions thereof existing in any part of the world, whether now known or in the future created;

'Licence Agreement', means this licence agreement;

'Licensed Program Materials', BiitOps, the Program Documentation and the Media;

'Licensing', the license metering governing users and managed endpoints as described in the pricing and product section of this Agreement;

'Partner', a certified and licensed BiitOps International K/S Partner, which delivers support and professional services to the Customer;

'Program Documentation', the technical literature and all other related materials in eye-readable form supplied together with the software to the Customer by the Licensor for aiding the use and application of BiitOps;

'Software Subscription', integrated part of this agreement (following the Subscription Period), providing the Customer with free access to software updates and patches;

'Specification', the description of features and functions of BiitOps as specified in the pricing and product section of this Agreement or available from the Licensor upon request;

'Subscription Period', the paid period of time in which the Licensor provides the Customer with License to the software including free access to patches and updates. The subscription is by default mandatory for a period of 12 month.

'Personal Data', any information relating to an identified or identifiable natural person ('Data Subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

'**Processing**', any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

'**Data Controller**', the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data;

'**Data Processor**', a natural or legal person, public authority, agency or other body which processes Personal Data on behalf of the Data Controller;

'**Data Subject**', an identified or identifiable natural person to whom Personal Data relates;

'**Supervisory Authority**', an independent public authority which is established by a Member State pursuant to Article 51 of the GDPR;

'**GDPR**', the General Data Protection Regulation (EU) 2016/679.

2. Terms of use (license)

- 2.1. business purposes only (and not for the benefit of third parties). The Customer acknowledges that the outputs from BiitOps are reliant on information provided by the Customer.
- 2.2. the Customer is responsible for the selection of BiitOps to achieve the intended results and for checking and fully auditing all outputs from BiitOps to ensure such outputs are accurate and suitable for use.
- 2.3. The Use of the Licensed Program Materials is restricted to use on and in conjunction with approved infrastructure components and solutions as specified in the prerequisite document provided by the Licensor.
- 2.4. The Customer agrees, by entering this Agreement, that it is licensed to Use the Licensed Program Materials only in accordance with the express terms of this Agreement and not further or otherwise. The Licensor fully reserves all rights not expressly granted by this- or any part of the Agreement with bilaterals.
- 2.5. The Customer agrees that only Authorised Users shall be entitled to Use the Licensed Program Materials. The Customer will procure that all such Authorised Users are made aware of and fully comply with the terms and conditions related to this Agreement.
- 2.6. The Customer may make only so many copies of BiitOps as are reasonably necessary for operational security and use. Such copies and the media on which they are stored shall be the property of the Customer and the Customer shall ensure that all such copies bear the Licensor's proprietary notices. This Agreement shall apply to all such copies of BiitOps.

3. Restrictions on alterations

- 3.1. The Customer undertakes not to translate, adapt, vary, modify, disassemble, decompile or reverse engineer the Licensed Program Materials BiitOps software without the Licensor's prior written consent.

4. Security and control

- 4.1. The Customer shall effect and maintain adequate security measures to safeguard the Licensed Program Materials from access or use by any person who is not an Authorised User, and shall retain the Licensed Program Materials and all copies thereof under the Customer's effective control;
- 4.2. BiitOps includes built-in technical controls that automatically enforce the licensed capacity as specified in the pricing and product section of this Agreement. The Software will prevent use beyond the licensed number of servers and clients without requiring manual auditing or monitoring by the Licensor;
- 4.3. The Licensor does not require or maintain regular access to the Customer's systems, infrastructure, or premises. The Customer has full control over their BiitOps installation and data.
- 4.4. Access to the Customer's systems or infrastructure may be provided by the Customer when the Customer explicitly requests support, consulting, or professional services from the Licensor or a licensed Partner, and such access is necessary to fulfill the requested service. When access is provided, the Licensor shall:
 - 4.4.1. only access systems and data that are directly relevant to the service being provided;
 - 4.4.2. comply with all reasonable security procedures and requirements specified by the Customer;
 - 4.4.3. ensure that all persons accessing the Customer's systems have committed themselves to confidentiality in accordance with clause 12 of this Agreement; and
 - 4.4.4. cease access immediately upon completion of the requested service or upon the Customer's request.

5. Data Processing and GDPR Compliance

Note: For definitions of terms used in this section, including "Personal Data", "Processing", "Data Controller", "Data Processor", "Data Subject", "Supervisory Authority", and "GDPR", please refer to Section 1: Definitions.

- 5.1. Roles and Responsibilities
 - 5.1.1. The Customer acknowledges that it acts as the sole Data Controller with respect to any Personal Data processed through the use of BiitOps.
 - 5.1.2. The Licensor does not have regular access to any Personal Data processed by the Customer using BiitOps. The Customer is solely responsible for the processing, storage, and security of such data.
 - 5.1.3. In limited circumstances, such as when providing consultant services or releasing updates, the Licensor may potentially have temporary access to the Customer's data. In such cases, the Licensor shall act as a Data Processor, strictly following the Customer's instructions.
- 5.2. Customer Obligations
 - 5.2.1. The Customer, as Data Controller, shall ensure that it has all necessary rights and lawful bases to process Personal Data using BiitOps.

- 5.2.2. The Customer is solely responsible for implementing appropriate technical and organizational measures to ensure a level of security appropriate to the risk, including but not limited to:
 - (a) the pseudonymization and encryption of Personal Data;
 - (b) ensuring the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - (c) the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident;
 - (d) regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing.
- 5.2.3. The Customer is responsible for fulfilling Data Subject requests related to their Personal Data processed through BiitOps.
- 5.2.4. The Customer is responsible for notifying the Supervisory Authority and affected Data Subjects of any Personal Data breach, as required by GDPR.
- 5.3. Licensor Obligations
 - 5.3.1. The Licensor shall ensure that BiitOps is designed and updated with data protection principles in mind, facilitating the Customer's compliance with GDPR.
 - 5.3.2. In the event that the Licensor needs to access the Customer's data for consultant services or when releasing updates:
 - (a) The Licensor shall process Personal Data only on documented instructions from the Customer.
 - (b) The Licensor shall ensure that persons authorized to potentially access the Personal Data have committed themselves to confidentiality.
 - (c) The Licensor shall implement appropriate security measures for such temporary access.
 - (d) The Licensor shall assist the Customer, insofar as possible, in fulfilling its GDPR obligations during such access.
 - 5.3.3. The Licensor shall promptly inform the Customer if it becomes aware of any potential data breach resulting from a software update or vulnerability.
- 5.4. Software Updates and Security
 - 5.4.1. The Licensor shall make reasonable efforts to ensure that software updates do not introduce vulnerabilities that could compromise the security of Personal Data processed by the Customer.
 - 5.4.2. The Licensor shall promptly notify the Customer of any identified security vulnerabilities in BiitOps that could potentially affect the Customer's data protection obligations.
- 5.5. Audit and Compliance
 - 5.5.1. Upon reasonable request and with adequate notice, the Licensor shall provide the Customer with information necessary to demonstrate BiitOps's compliance with GDPR principles, limited to aspects directly related to the software's functionality and design.
- 5.6. Data Retention and Deletion
 - 5.6.1. The Customer is solely responsible for the retention and deletion of Personal Data processed using BiitOps.

5.7. Liability

- 5.7.1. The Licensor shall not be liable for any GDPR compliance issues arising from the Customer's use, configuration, or management of BiitOps, except where directly caused by a defect in the software.

6. Proprietary Rights

- 6.1. Intellectual Property Rights in (i) the Licensed Program Materials; and (ii) where applicable, in any documentation, software, documents, know-how or other works created or supplied by the Licensor (whether alone or jointly) in the course of providing the Services or any services under the Agreement, are and shall remain the property of and vest in the Licensor. To the extent that the Customer owns the Intellectual Property Rights in any of the above it hereby assigns to the Licensor, with full title guarantee, all rights, title and interest in, for all purposes, applications and fields of use, all such Intellectual Property Rights including, without limitation, the right to take action for any past, present and future damages and other remedy in respect of any infringement of those Intellectual Property Rights. The Customer also hereby confirms that it will procure that all moral rights are waived by the holder in respect of any rights assigned to the Licensor.
- 6.2. The Customer shall notify the Licensor immediately in writing if the Customer becomes aware:
- 6.2.1. of any unauthorised use of the whole or any part of the Licensed Program Materials, and/or any other material the subject matter of this clause 5; or
- 6.2.2. that any claim has been made or is likely to be made that Use of the Licensed Program Materials or any part thereof infringes the Intellectual Property Rights of any third party. Where notification of such a claim has been made or in the Licensor's reasonable opinion is likely to be made, the Licensor at its sole option may procure for the Customer the right to continue to use the Licensed Program Materials; or modify the Licensed Program Materials so it ceases to be infringing; or replace the Licensed Program Materials with non-infringing material; or terminate this Agreement immediately by notice in writing to the Customer. The Licensor does not take any responsibility for any loss or damage arising out of or relating to a claim arising out of or relating to modification or alteration of the Licensed Program Materials by the Customer or any third party; or use of the Licensed Program Materials not in accordance with this Agreement; or the use of the Licensed Program Materials in combination with other software, hardware or data not supplied by the Licensor where without such combination no claim would arise.

7. Warranties

- 7.1. The Licensor warrants that for a period of 90 days following installation BiitOps will conform in all material respects to the Specification when properly installed, properly configured and properly used on the supported platforms.
- 7.2. The Licensor warrants that it has taken all reasonable precautions to avoid known malicious software for which detect, protect and removal software is generally available.
- 7.3. Subject to clause 7.5, if the Licensor receives written notice from the Customer within the period set out in clause 7.1 of any default or fault in BiitOps in consequence of which BiitOps fails to comply with clause 7.1 then the Licensor shall, at its sole option, undertake one of the following:
- 7.3.1. repair the BiitOps software;
- 7.3.2. 7.3.2. replace the BiitOps software; or
- 7.3.3. 7.3.3. if neither of the above can be undertaken on a commercially reasonable basis, terminate this Agreement by notice in writing and reimburse such proportion of the Fees paid in respect of the licence of BiitOps as set out in this Agreement. The Customer must provide all information that may be necessary to assist the Licensor in resolving the defect or fault, including sufficient written information to enable the Licensor to re-create the defect or fault. The remedies set out above are the sole remedies in respect of any failure by the Licensor to comply with clause 7.1.
- 7.4. The warranty in clause 7.1 above shall be subject to the Customer complying with its obligations under the terms of this Agreement. In particular, the Licensor shall not be liable to the Customer pursuant to said warranty to the extent that any defect or fault in BiitOps arose or was exacerbated as a result of:

- 7.4.1. incorrect installation, use, operation or corruption of BiitOps;
- 7.4.2. any modification or alteration of BiitOps, other than modification or alteration carried out by the Licensor;
- 7.4.3. use of BiitOps with other software or on equipment with which it is incompatible or on equipment which is not supported;
- 7.4.4. the use of the Licensed Program Materials for a purpose for which they were not designed;
- 7.4.5. the Customer's failure to install and use on the Equipment any upgrades, updates, patches, fixes or new releases of BiitOps immediately upon receipt of the same; or
- 7.4.6. any breach by the Customer of any of its obligations under any technical support and/or maintenance agreement (including for the avoidance of doubt any Support and/or Consulting Agreement) in respect of the Equipment or BiitOps.
- 7.5. To the extent permitted by applicable law, the Licensor:
 - 7.5.1. disclaims all conditions, warranties or other terms not expressly stated in this Agreement which might have effect between the parties with respect to the Licensed Program Materials and/or the Services, or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, including any implied conditions, warranties or other terms relating to satisfactory quality, fitness for any particular purpose or ability to achieve a particular result; and
 - 7.5.2. makes no warranty that BiitOps is error free or that its use will be uninterrupted and the Customer agrees that the existence of such errors shall not constitute a breach of this Agreement.
- 7.6. For the avoidance of doubt where there is no current License Subscription in place between the Customer and the Licensor then the Licensor has no obligation to provide the Customer with any software, upgrades, updates, patches, fixes or new releases of BiitOps.

8. Software maintenance

- 8.1. For the avoidance of doubt any upgrades, updates, patches, fixes and new releases of BiitOps provided to the Customer by the Licensor will be subject to the terms and conditions set out in this Agreement.
- 8.2. The BiitOps Software Subscription covers the provision of Maintenance Services as described herein in the period set out in annex 'Products and Pricing' or as stated in corresponding agreements made with a licensed BiitOps Partner.
- 8.3. During the BiitOps Software Subscription Period Licensor will provide free software updates for the purposes of maintenance, patches, modifications, revisions and appropriate.
- 8.4. The BiitOps Software Subscription Agreement will run 12 months from signup and by default be renewed for another 3-month period on the last day of the month, unless the Customer has explicitly cancelled the Subscription with at least 3 month' written notice prior to the date of expiration.
- 8.5. The Software Subscription in itself does not include consulting services, free support or otherwise provides the Customer with services in order to install and/or perform the upgrades. In the event that the Customer requests patch, update or upgrade services, the Licensor are entitled to charge the Customer on a time and material basis.

9. Payment

- 9.1. The Fees and any other charges payable by the Customer under this Agreement shall be paid within 30 days of the invoice date, unless otherwise specified in the offer, and shall be paid according to the pricing and product section of this Agreement. Failure to pay any Fee within this period shall entitle the Licensor to suspend access to the Licensed Program Materials until full payment is received.
- 9.2. The Fees and any other charges payable by the Customer under this Agreement are exclusive of any applicable VAT and other sales taxes which shall be payable by the Customer at the rate and in the manner prescribed by law.

9.3. Annual Price Adjustment

- 9.3.1. The Licensor reserves the right to adjust the applicable Fees and charges annually to reflect changes in inflation. This adjustment will take effect at the beginning of each calendar year.
- 9.3.2. The annual price adjustment will be based on the Consumer Price Index (CPI) or an equivalent nationally recognized inflation index in the country where the Licensor is headquartered, for the preceding calendar year.
- 9.3.3. The Licensor shall provide the Customer with written notice of any price adjustment at least 60 days prior to the end of the current calendar year.
- 9.3.4. If the annual inflation rate exceeds 5%, the Parties shall, in good faith, renegotiate the Fees to ensure they remain reasonable for both Parties.
- 9.3.5. Notwithstanding the above, the maximum annual price increase shall not exceed 10%, unless otherwise agreed in writing between the Parties.
- 9.3.6. The Licensor may, at its sole discretion, choose to waive or reduce the price adjustment for any given year without prejudice to its right to implement adjustments in subsequent years.

10. Delivery and Services

- 10.1. The Licensor will use reasonable endeavours to deliver the Licensed Program Materials and any additional Services to the Customer in accordance with the delivery schedule section of this Agreement, or, in the absence of specific plans, within a reasonable period of time. If not otherwise stated any dates provided are for estimating purposes only.
- 10.2. Where the Customer is responsible for the installation of BiitOps it will ensure that such installation is carried out in accordance with installation instructions provided by the Licensor upon request.
- 10.3. Any additional service e.g. professional services will be provided by a licensed BiitOps Partner under a separate agreement which may be entered into between the Customer and the Partner. For the avoidance of doubt no support and/or professional services are included nor provided pursuant to this Agreement, unless agreed otherwise in writing by the Licensor.
- 10.4. Customer are eligible to receive e-mail support directly from Licensor, or from an associated company, when possible. Also, the Customer has free access to the Licensors support tools e.g. on the product webpage.
- 10.5. The Licensor will provide 2nd and 3rd level support for Partners and can as such not be held responsible for any misconduct in terms of service level agreements between the Customer and the Partner. The Licensor will however ensure that all issues are handled with best effort possible.

11. No Warranty

The licensed program material and services are furnished by licensor and accepted by the customer "as is," without any warranty whatsoever. All other warranties, express or implied, including any warranties of or against interference with the enjoyment of the information, infringement, accuracy, compatibility, integration, title, merchantability or fitness for any particular purpose, are specifically excluded and disclaimed by licensor. Licensor does not warrant that the licensed program material and services provided hereunder will meet the customers requirements or that they will be uninterrupted or error free.

12. Confidentiality

- 12.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.
- 12.2. Each party may disclose the other party's confidential information:
- 12.3. (a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under this Agreement; and

- 12.4. (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.5. No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under this Agreement; provided that anonymized or aggregated data that does not identify or reasonably permit identification of any individual or proprietary information shall not be considered Confidential Information under this clause.

13. Limitation of Liability

- 13.1. In no event will BiitOps be liable to the customer or any other person for any lost profits, lost savings, lost data, or other special, direct, indirect, punitive, consequential, or incidental damages arising out of or relating to this agreement, the licensed program material or service furnished or to be furnished under this agreement or the use thereof, even if the supplier has been advised of the possibility of such loss or damage. The aggregate liability of the licensor upon any claims howsoever arising out of or relating to this agreement or any products or services furnished or to be furnished by licensor under this agreement will in any event be absolutely limited to the amount paid by the customer to licensor under this agreement for the last 6 month prior to any reported damages or loss.
- 13.2. Basis of the Bargain; Failure of Essential Purpose. The Customer acknowledges that Licensor has set its prices and entered into this Agreement in reliance upon the Warranty Disclaimer and Limitation of Liability set forth in this Agreement, and that the same form an essential basis of the bargain between the parties. The parties agree that the Limitation of Liability specified in this Agreement will survive and apply even if the Warranty Disclaimer or any limitation of remedies is found to have failed of its essential purpose. Notwithstanding the foregoing, nothing contained herein shall limit the Licensors liability for its own wilful or wanton conduct.

14. Force Majeure

- 14.1. Licensor shall not be under any liability to the Customer in any way whatsoever for destruction, damage, delay or any other matters of any nature whatsoever arising out of war, rebellion, civil commotion, strikes, lock-outs or industrial disputes; fire, explosion, earthquake, acts of God, flood, drought or bad weather; the unavailability of deliveries, supplies, software, disks or other media or the requisitioning or other act or order by any government department, council or other constituted body; or any other events, circumstances or causes beyond its reasonable control.

15. Language

- 15.1. This Agreement is made only in the English language. In the event of any conflict between the English language version of this Agreement and any translation, the English version shall prevail.

16. Law and Disputes

- 16.1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of Denmark.
- 16.2. The parties irrevocably agree that the courts of Denmark shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation.