

Orbeon Forms PE End User License and Support Agreement

This Support Agreement (the "Agreement") is between Orbeon and any purchaser of an Orbeon Forms PE (the "Product") subscription, that accepts the terms of this Agreement (the "Customer").

The Effective Date of this Agreement is the earlier of the date that Customer accepts this Agreement or the date that Customer uses the Orbeon services.

Whereas Orbeon and Customer desire to establish certain terms and conditions under which Customer will, from time to time, obtain products or services from Orbeon. Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Customer and Orbeon agree as follows.

1. End User License Agreement

1.1. Grant Of License

Subject to Customer's payment for the Product and the other terms and conditions hereof, Orbeon grants Customer a limited, non-exclusive right to: (a) download the Product from the Download Website; (b) for each Product unit ordered and paid for by Customer, during the subscription period specified in Exhibit 1, use one copy of the object code version of the Product generally available from Orbeon as of the Effective Date on the number of servers (or workstations, or laptops) specified in Exhibit 1; and (c) make one additional copy of the Product for backup and archival purposes only. Customer may use the Product only as expressly provided in this Section. Each server (or workstation, or laptop) used to operate the Product must be licensed by Customer.

1.2. Transfers

Customer may move the Product from one server to another within Customer's organization, provided that Customer first removes the Product from the first server. No other transfers of the Product are permitted without Orbeon's prior written consent, at Orbeon's sole discretion.

2. Problem Resolution Support

2.1. Incidents

An incident is a reproducible technical problem that Customer finds with Orbeon Forms, that cannot be reasonably subdivided, and that is not overly broad in scope. Orbeon engineers will investigate the incidents Customer reports. If an incident is caused by a bug in Orbeon Forms, it will be entered in Orbeon's web-based tracking system.

2.2. Bug priority escalation

Bugs related to an Incident reported by Customer are assigned a higher priority than bugs reported through other means, and are more likely to be fixed earlier.

2.3. Online meetings

Most Incidents can be resolved by Customer exchanging messages with an Orbeon engineer on Basecamp, which is the site Orbeon uses to work with Customers and for support. However, for some Incidents, setting up an online meeting on Google Hangouts, Zoom, or similar, and having a live discussion, if needed with screen sharing, can lead to a faster solution. If *online meetings* is included in Exhibit 1, after discussing an Incident on Basecamp, should Customer wish to do so, Customer can ask to have an online meeting to discuss the Incident with an Orbeon engineer.

2.4. Emergency hotfixes

Incidents and bugs are dealt according to their severity. Customer determines in collaboration with an Orbeon engineer what the severity of an issue or a bug is. If a bug in Orbeon Forms is causing one of Customer's production systems not to function properly, and that there is no workaround, then the bug is assigned the highest priority. Once fixed, if Emergency hotfixes are included in Exhibit 1, Orbeon will provide Customer with a hot fix for the version of Orbeon Forms Customer is using, so Customer doesn't need to upgrade to the latest version of Orbeon Forms. Orbeon will provide hotfixes for released versions of Orbeon Forms for up to one year after they are released.

2.5. Limitations

- (a) Orbeon does not promise or warrant that a certain number of releases or error corrections for Incidents reported by Customer will be made available during a particular time period.
- (b) Problem Resolution Support is limited to the latest point release for any major release of Orbeon Forms made in the three (3) years prior to the Incident being reported by Customer.
- (c) The number of Incidents covered in a given Annual Term by Problem Resolution Support may be limited as specified in Exhibit 1.
- (d) All other support services fall under Technical Assistance.

3. Technical Assistance (limited)

3.1. Support Services

Orbeon will provide support services to Customer related to Customer's use of Orbeon Forms. If the Level of Support selected by Customer includes Technical Assistance, the support services provided under Technical Assistance are listed in Exhibit 1.

3.2. Accruing and Expiration of Credits

Technical Assistance includes a certain number of credits, as listed under Level of Support. Each hour spent by an Orbeon qualified engineer providing Technical Assistance to Customer uses one (1) credit. Credits expire at the end of the Annual Term. Technical Assistance does not include any on-site work.

4. General

4.1. Support Coordinators

Orbeon will provide support services only to those designated Support Coordinators, which Customer may re-designate up to three (3) times during any Annual Term.

4.2. Customer Obligations

As a condition to Orbeon's support obligations under this Agreement, Customer must assist Orbeon in identifying and correcting Errors, including executing reasonable diagnostic routines in accordance with instructions provided by Orbeon and providing free and reasonable access to Customer's application running on Orbeon Forms as requested by Orbeon for diagnostic and maintenance purposes.

4.3. Export Control

Customer will comply with all applicable export and import control laws and regulations of the United States and the foreign jurisdiction in which the services or Software are used and, in particular, Customer will not export or re-export any Software without all required United States and foreign government licenses. Customer acknowledges and understands that the Software contains encryption technology that may require an export license from the U.S. State Department and that export or re-export of the Software to certain entities and certain countries is prohibited. Customer will defend, indemnify and hold harmless Orbeon from and against any violation of such laws or regulations by Customer or any of its agents, officers, directors, or employees.

4.4. Assignment

Customer may not assign or transfer, by operation of law or otherwise, any of its rights under this Agreement to any third party without Orbeon's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be void.

4.5. No Waivers

All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

4.6. U.S. Government End Users

The Software is a "commercial item" as that term is defined at 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 49 C.F.R. 227.7202-4, all U.S. Government end users acquire the Software with only those rights set forth therein.

4.7. Choice of Law

This Agreement will be governed by the laws of the State of California in the United States of America, as such laws apply to contracts between California residents negotiated, executed and performed entirely within California. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement must be brought exclusively in a federal court in the Northern District of California or in state court in San Mateo County, California, and each party irrevocably submits to the exclusive personal jurisdiction and venue of any such court in any such action or proceeding. This Agreement will be written and construed in the English language.

4.8. Disclaimer of Warranties

THE PRODUCT AND SUPPORT ARE PROVIDED TO CUSTOMER "AS IS," WITHOUT ANY WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, WARRANTIES CONCERNING THE INSTALLATION, USE OR PERFORMANCE OF THE PRODUCT OR SUPPORT. ORBEON AND ITS SUPPLIERS DISCLAIM ANY AND ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND/OR NON-INFRINGEMENT. ORBEON AND ITS SUPPLIERS DO NOT WARRANT THAT THE PRODUCT OR SUPPORT WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ERRORS WILL BE CORRECTED.

Without limiting the generality of the foregoing disclaimer, Product is not specifically designed, manufactured or intended for use in the planning, construction, maintenance, control, or direct operation of nuclear facilities; aircraft navigation, control or communication systems; weapons systems; or direct life support systems.

4.9 Entire Agreement

This Agreement constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communications, whether written or oral. This Agreement may be amended only by a written document signed by both parties. The terms on any purchase order or similar document submitted by Customer to Orbeon will have no effect.

Customer:

Orbeon, Inc.

Signature:

Signature:

Name:

Name:

Title:

Title:

Date:

Date: