



• General Terms & Conditions

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1. Terms and Conditions

These terms and conditions apply to all agreements concluded by OverNite Software Europe BV (OSE) and its customers. The terms and conditions apply as long as a customer uses one or more OSE applications.

With some customers other agreements have been made. These are described in a separate document, a so-called SLA. An SLA is leading with regard to these terms and conditions. If an SLA does not provide, these terms and conditions apply.

Do you have questions about the agreement your organization has with OSE? Please contact us, or the right person within your own organization.

OSE is committed to transparency and simple terms and conditions that everyone can understand. If anything in these terms and conditions is unclear, we would like to hear from you.

2. Services

2.1. Product

OSE provides and develops software applications for various purposes. The services provided relate to the provision, management and maintenance of the product.

At the request of the customer, it is possible for OSE to provide support for the implementation of the software application. However, customers are responsible for the set-up of the software application and the data entered.

2.1.1. Updates

OSE reserves the right to make changes to the software applications. These so-called updates are to improve the software application, ease-of-use or security. Customers are informed in advance about updates.

2.1.2. Links

In the event that the customer wishes to link the OSE software application to another application, this will be discussed on a case-by-case basis. OSE cannot be held responsible in any way for the operation of the link.

2.2. Services

2.2.1. Service desk

The service desk is open on all working days from 08:30 to 17:00 (CET, central European time) under the telephone number +31 (0)46 4200 933. A message can be sent to support@ose.nl at any time. With the start of the opening of the service desk, these messages are reviewed and action is taken. Service desk support covers incidents. Incidents are any deviations from the normal operation of the software. In addition to handling incidents, additional services and support can be provided by the service desk.

Incidents outside office hours, on weekends or on public holidays can be emailed to support@ose.nl or left a message on the voicemail no. +31 (0)46 4200 933.

2.2.2. Software adjustments or functional extensions

At the request of the customer, software adjustments and/or extensions can be made to the functionality.

To ensure changes are properly developed and implemented, OSE follows a fixed procedure. This procedure is described in Chapter 6 (Change Management) of these terms and conditions. The customer is obliged to agree to this working method, so that ambiguities about the software to be developed can be avoided, but also so as not to negatively affect the operation of the existing software.

Software functionality developed at the request of a customer remains the property of OSE and the customer cannot claim exclusive rights or ownership in any way.

2.2.3. Training

To optimize the use of the software application, it is possible to request training from OSE. There are additional costs associated with following training courses.

3. Ownership and intellectual property rights

The intellectual property rights of the software and documentation are vested in OSE.

Customers are expressly prohibited from copying, reproducing and/or disclosing the OSE software application and any associated documentation such as source codes, images, screenshots and manuals to which the customer has access to or making them available to third parties in any way, without the express written permission of OSE.

Ownership of the entered data and documents remains with the customer.

OSE ensures that the data in the user database is not mutilated. If mutilation should nevertheless take place, OSE will initiate actions in consultation with the customer to restore the mutilated data.

4. Duration and maintenance of the agreement

The agreement between OSE and customer is entered into for an indefinite period of time with a minimum of one year, unless otherwise agreed. With this agreement, the customer receives a license for the use of one or more applications of OSE. The customer receives an annual invoice for the license.

4.1. Fees

Within the framework of this agreement, the customer owes a fee to OSE for the use of the software application(s) and services for management and maintenance.

An overview of the costs can be found in the quotation / invoice.

The license period runs from January 1 to December 31 of the same year.

Agreements concluded during the year are charged pro rata from the first day of the starting month. The license is paid in advance at the start of the license period.

Any fees for support, expansion of functionalities and provision of training as referred to in paragraph 2.2.1, 2.2.2 and 2.2.3 at the request of the customer will be charged annually in arrears

and are based on an hourly rate to be determined annually. OSE will make a budget in advance of the expected costs. This must be approved in writing by the customer before OSE starts the assignment.

The rates can be adjusted annually on the basis of increased costs.

Payment must be made in Euros within a period of 30 days. All amounts mentioned are exclusive of VAT.

4.2. License validity

The license is automatically renewed, but OSE may choose not to do so if:

- An invoice that is not disputed, has not been paid after 100 days.
- Customer structurally pays invoices late.
- Misuse of the software application by the customer has been detected.

In the above cases, the customer will be notified in advance of the expiration of the license.

4.3. Customer notice period

If the customer does not wish to continue the use of the application(s), this must be notified in writing before the expiration of the license period. The notice period is 3 months before the expiration of the license period.

4.4. Notice period OSE

Our notice period is twelve months. OSE can terminate the agreement with immediate effect if the customer does not comply with agreements and OSE has given the customer notice of default. This also applies if the customer has applied for suspension of payments or bankruptcy.

4.5. Deletion of data

OSE stores customer data for as long as there is an agreement with the customer. After termination of the agreement, all data, including personal data and backups, will be deleted according to internal procedure.

At the customer's request, the data can be supplied in a fixed format from OSE as an Excel file.

A separate agreement must be reached on additional support upon termination of use.

5. Security

OSE is constantly working to ensure the security of its applications. That's why we have comprehensive procedures and processes in place for our data centers, networks, and applications to protect your data.

The security and confidentiality of the data is our highest priority. We have therefore been ISO 27001:2017 certified for some time.

OSE uses industry-standard security measures to ensure the protection of data. Despite this, the security of information can never be fully guaranteed. OSE assumes no liability for the interception or interruption of communications over the Internet, as well as for any changes in or loss of information.

To protect customers' information, it may be necessary to suspend the use of a website/software application, without prior notice, pending an investigation, if a security breach is suspected.

5.1. Data centers and servers

The applications that OSE develops and makes available to customers are always on servers owned by OSE. These servers are housed in specialized data centers.

5.1.1. Datacenters

OSE's servers are physically located at data centers that comply with the strictest physical and digital security measures. There is camera surveillance and data centers are monitored 24/7 by security personnel. The data centers have multiple environmental safeguards and backup systems for energy management, including firefighting, connectivity, heating, ventilation, and air conditioning, with a minimum of N+1 redundancy.

Physical access to the servers is only possible by authorized employees.

The data centers are ISO27001 and BORG3 certified.

5.1.2. Servers

The servers on which our applications are stored are under our own management and ownership. That gives us complete control. The entire infrastructure is redundant and has various failover mechanisms to guarantee availability.

The systems and data are backed up regularly and stored in multiple locations, both online and offline.

The following schedule applies to all customer data and files:

- Daily backup: A backup is made every day. We keep these backups for 31 days.
- Monthly backup: The backup of the last day of the month is kept for 12 months.
- Annual backup: The backup of the last day of each year is kept for 2 years. Backups older than 2 years will be deleted.

By using the above backup schedule, we can be sure that any deleted data can be recovered.

Administrative access to servers is only possible via a secure connection and with approved devices, where the principle of least privilege access is applied. This minimizes the risk of unauthorized access.

In order to notice and remedy malfunctions as quickly as possible, servers are continuously monitored and an active signaling protocol is in operation. In addition, attention is paid to the performance and capacity of the servers and proactive action is taken where necessary.

5.2. Network security

Separate networks are used, both physically and virtually. In addition, so-called Intrusion Detection Systems (IDS) and Intrusion Prevention Systems (IPS) are active to detect and preventively block suspicious network traffic. This can also be used to catch DDoS attacks.

A penetration test is carried out periodically to check that all security mechanisms are functioning properly, and to adjust them where necessary.

5.3. Data encryption

OSE uses powerful encryption technologies to protect passive customer data and customer data in transit. We also use the AES algorithm (Advanced Encryption Standard) with a key size of 256 bits.

All OSE software applications use SSL (Secure Socket Layer). As a result, all information during transport is confidential and not readable by third parties.

Transport Layer Security (TLS) protects user access over the Internet and secures network traffic from passive eavesdropping, active tampering, or spoofing.

Data at rest, such as backups, are stored with the same encryption.

5.4. Application

Every step in our application development, testing, and deployment process is designed to ensure the security of our products.

5.4.1. Development procedure

OSE develops software according to the DTAP method: Development, Test, Acceptance, and Production. A new release starts in the development environment, goes to the test environment for internal testing, then to the acceptance environment for customer testing, and finally to the production environment. This approach minimizes the risk of errors in the production environment. Each step requires approval from a second developer who checks the code. The so-called four-eyes principle. This further reduces errors.

5.4.2. Application security

Various measures are applied to prevent abuse or obtaining unlawful access. For example, all incoming data is checked to see if it meets various conditions. Incorrect input and other security incidents, such as incorrect login attempts and unauthorized actions, are logged so that they can always be found. Other actions in the application are logged in a detailed audit trail so that it is possible to find at all times which changes have been made by which user.

Customers' data is stored completely separately from each other to prevent cross-tenant vulnerabilities.

Periodically, an external company conducts a penetration test to ensure that our applications meet the security requirements of modern applications. Any new findings from this test will be analyzed and possibly incorporated into our applications.

5.4.3. Access

To access OSE's software applications, we authenticate each user. Logging in is done with a unique login name and password. Some applications can also use two-factor authentication (2FA), single-sign-on and IP limiting. After logging in correctly, users enter their personalized environment.

Passwords are stored on in the form of a secure hash, rather than the password itself. For audit purposes, both unsuccessful login attempts and successful login/logout activities are logged.

Customers can also restrict or limit access themselves through settings. For example, the password rules can be set and the session timeout can be determined where inactive sessions are automatically logged out. It is also possible for the customer to set up user authorizations. The customer is responsible for the settings and consequences.

Users are responsible for the security of their login credentials. It is forbidden to share login details with others. Unauthorized access to the software is strictly prohibited and may result in legal action.

6. Change Management

For the efficient implementation of authorized changes and extensions of the software application, OSE has drawn up a Management of Change procedure. The risks of disruption are kept to a minimum. The following activities are distinguished in this procedure:

1. The customer defines the desired development / change;
2. OSE draws up a *user requirements specification* (URS) based on this;
3. After approval of the URS by both parties, OSE makes an estimate of hours and costs (quotation).
4. After approval of the quotation by both parties, the development and testing of the new functionalities are scheduled;
5. The new functionalities are validated by the customer (functional validation test);
6. The new functionalities are rolled out by OSE and are therefore available to the customer.

The customer must comply with this procedure for having changes or extensions made to the software application. This will contribute to a controlled and verifiable process of changes and enhancements with minimal impact on service levels.

Software functionality developed at the request of the customer remains the property of OSE and the customer cannot claim exclusive rights or ownership in any way.

7. Liability

OSE takes great care to ensure that all software applications function correctly and that the services are properly executed. Despite these efforts, things can go wrong that can lead to damage for the customer. OSE always strives for a suitable solution in consultation with the customer.

The liability of the OSE per calendar year cannot exceed the license costs of the customer in that year. OSE cannot invoke this limitation of liability in the event of intent or deliberate recklessness on the part of OSE employees or third parties hired by OSE.

OSE excludes its liability for any form of consequential damage, such as lost turnover, lost profit and missed opportunities. OSE's liability is excluded if damage has occurred due to incorrect data entry or incorrect use of the application by the customer or third parties hired by the customer.

OSE and customer are not liable to each other in the event of failures that impede data traffic and/or in the electricity grid as long as the cause is not attributable to the parties themselves. In another case of force majeure, both parties are not liable to each other.

OSE requires the customer to report a complaint to OSE as soon as possible. This allows OSE to work directly with the customer on a solution and any damage can be limited.

8. Privacy and secrecy

Data protection is important to OSE. We understand that the information that the customer stores on our servers is sensitive. All OSE employees have therefore also signed a confidentiality agreement.

As OSE, we process personal data for and on behalf of the customer, among other things. According to the General Data Protection Regulation (GDPR), we must therefore enter into a **Data Processing Agreement**.

This agreement describes the arrangements that we as '**processor**' and the customer as '**controller**' have made about the handling of personal data.

The persons whose data are processed are called '**data subjects**'.

If you want to make an agreement with us, we have a standard agreement available.

If a processing agreement has been concluded between the Customer and OSE, this will be leading with regard to this chapter.

8.1. Processing

Our processing consists of making our applications available containing the data entered and generated by the customer.

When using OSE's software applications, customers will store data (including personal data) on OSE's servers. The use of this data is limited to the operation of the application for which the customer has entered into an agreement with OSE.

Within our software, the customer can record different types of personal data. The customer is responsible for assessing whether the purpose and nature of the processing is appropriate for our services.

OSE may access this data in the event of: being able to provide support; preventing or responding to technical problems; guarantee the operation of the services; respond to customer instructions; following a court order; in accordance with agreements between the customer and OSE.

8.2. Rights of data subjects

OSE has no control over the personal data. The control lies entirely with the customer.

As the controller, the customer is responsible for ensuring that the personal data may be processed; as well as for informing and assisting those involved.

OSE will never respond to requests from data subjects and will always refer to the customer as the responsible party. OSE will, however, cooperate with the customer at the request of the customer, as far as reasonably possible and possibly for a fee, so that it can comply with its legal obligations in the event that a data subject exercises his rights under the GDPR or other regulations regarding the processing of personal data.

We do not provide data to third parties without the explicit written consent of the customer or legal obligation. Auditors of regulators are allowed to conduct audits under applicable laws and regulations to verify that a client complies with supervisory rules and/or applicable mandatory legislation. OSE will inform the customer(s) concerned about such an audit as soon as possible, unless prohibited by law.

OSE does not process the data for purposes other than those agreed.

8.3. Sub-processors

We use the Mailjet sub-processor to send e-mails from our applications.

To send these emails, Mailjet has access to the recipients' names and email addresses. The data processed by Mailjet remains within the European Economic Area. Mailjet is also ISO27001 certified and a processing agreement has been concluded between OSE and Mailjet.

8.4. Obligation to report data breaches

The General Data Protection Regulation (GDPR) requires the reporting of data breaches to the relevant authority by the data controller.

The customer is responsible for the customer data stored on OSE's servers. For this reason, OSE will not make any reports itself. However, we do inform the customer correctly, in a timely manner and completely about relevant incidents. So that the customer can meet his obligations as a **'controller'**.

[The Policy Rules for the Obligation to Report Data Breaches of the Dutch Data Protection Authority provide more information about this. \(in Dutch\)](#)

Do you suspect that a data breach has occurred? Then we ask you to contact us first so that we can look at the right actions together.



8.4.1. Determination of data breach

To determine an incident related to personal data, OSE uses an internal procedure that is in line with the policy rules of the Dutch Data Protection Authority for determining a data breach.

8.4.2. Notification to the customer

When OSE has discovered a security incident or data breach, you will hear about it as soon as possible after it is known to us. We make every effort to notify the customer without undue delay and no later than 72 hours after discovery.

After this, the customer, as the controller, can assess whether the security incident falls under the term 'data breach' and whether a notification to the Privacy Authority is required.

8.5. Cookies

OSE uses functional cookies for the applications. The cookies used for our applications are essential for their operation, for example to confirm access to different areas of our websites (login) and to store users' preferences (choice of language, filters, etc.).

We may also use other technologies similar to cookies such as HTML5 Local Storage, local shared objects, tags, and scripts. These technologies are used for purposes similar to cookies.

9. Governing Law

Should disputes arise between the client and OSE, both parties will try to reach an agreement in good faith. If both parties cannot reach an appropriate agreement, the dispute will be submitted to the competent court.

These terms and conditions are governed by Dutch law. The District Court of Limburg has exclusive jurisdiction to rule on any disputes that may arise or are related to these terms and conditions.

If one or more provisions of these terms and conditions prove to be invalid or voidable, the other provisions of these terms and conditions will remain in force.

Should such a situation arise, both parties will consult on the provisions that are not legally valid, in order to reach a replacement arrangement that is legally valid and as close as possible to the purpose of the arrangement to be replaced.

10. Changes

OSE reserves the right to change these terms and conditions. When using our software applications, the most recent terms and conditions apply.

Changes will be communicated to the contact persons of our customers.

11. Contact us

Questions or comments about our terms and conditions? Contact us by sending an e-mail to info@ose.nl or a letter to:

OverNite Software Europe B.V.
Mauritslaan 65
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