

Oxygen Content Fusion Enterprise Terms of Use

Oxygen Content Fusion Enterprise License Agreement

IMPORTANT: THIS SOFTWARE LICENSE AGREEMENT ("EULA") IS A LEGAL AGREEMENT BETWEEN YOU (A SINGLE LEGAL ENTITY) AND SYNCRO. READ IT CAREFULLY BEFORE COMPLETING THE INSTALLATION PROCESS AND USING THIS SOFTWARE. IT PROVIDES A LICENSE TO USE THIS SOFTWARE AND CONTAINS WARRANTY INFORMATION AND LIABILITY DISCLAIMERS. BY DOWNLOADING OR INSTALLING THE SOFTWARE YOU ARE INDICATING YOUR ASSENT TO THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO ALL OF THE FOLLOWING TERMS, DO NOT DOWNLOAD OR INSTALL THE SOFTWARE OR DISCONTINUE USE IMMEDIATELY AND DESTROY ALL COPIES IN YOUR POSSESSION. YOU ALSO AGREE TO RECEIVE NOTICES FROM SYNCRO ELECTRONICALLY.

1. DEFINITIONS

a) "Syncro" refers to Syncro Soft S.R.L, a company registered in Romania with registered number J16/564/1998.

b) "Licensee" (or "You" or "you") means the entity that accepted and agreed to be bound by the terms and conditions of this Agreement. If you are entering into this Agreement on behalf of a company or other organization, you represent that you have the authority to bind your company or organization to this Agreement.

c) "Software" means the Oxygen Content Fusion Enterprise, composed of a server part operating as a service application and a client HTML5/JavaScript part deployed to a web browser, where the client part is not installed on the end-user machine but is in use by the end-user machine while the browser is connected to the server part.

d) "License Manager" means a software tool supplied by Syncro to you as part of the Software that can be installed on a centralized system designed to store the unique key-code issued to You by Syncro ("License Key") in order to activate and use the Software. The License Manager requires an activation procedure, a process by which an activated License Key is generated for a particular License Key and a host system

e) "Content Fusion Server" is defined as a computer system (either physical or virtual) configured with the intention of multiple people accessing it that has the Software loaded into the server's RAM and is used to deploy Software features to end-users directly from a web or mobile browser. A group of independent computer systems, which outwards appear as a single web server and work jointly to balance the workload for server applications is considered a single Content Fusion Server, if all such systems are connected to the same License Manager.

2. LICENSE GRANTS

2.1. Trial Period License. You may download and use the Software for free for thirty (30) days after installation ("Trial Period"). During the Trial Period, Syncro grants You a limited, non-exclusive, non-transferable, non-renewable license to copy and use the Software, on one (1) Content Fusion Server for evaluation purposes only and not for any commercial use. At Syncro discretion, Syncro may provide limited support through email or discussion forums at Syncro web site. The evaluation copy of the Software contains a feature that will automatically disable the Software at the end of Trial Period. Syncro will have no liability to you if this feature disables the Software.

2.2. License After Trial Period. This Software is licensed, not sold. During Trial Period, You have the option of paying a license fee in order to use the Software after expiration of the Trial Period. Upon your payment of the license fee and subject to the terms and conditions contained herein, Syncro or its authorized reseller provides you with a License Key and grants you a limited, non-exclusive, non-transferable license to copy the Software in machine-readable form solely for backup purposes and to use the Software on one (1) Content Fusion Server according to one of the license types below:

a) Floating Browsers - the total number of concurrent web or mobile browsers that you expect to connect to the Software does not exceed, at any one time, the number of concurrent browsers authorized by Syncro.

b) Floating Browsers Subscription - during the period of time the subscription is active, the total number of concurrent web or mobile browsers that you expect to connect to the Software does not exceed, at any one time, the number of concurrent browsers authorized by Syncro.

2.3. The following additional licensing options are available as secondary licenses with respect to the Software:

2.3.1. Redundancy License - means a license that you may purchase separately solely to support redundancy on your backup or fail-safe systems, and may not be used for any other purpose. The Software running with the Redundancy License shall take over functionality if and only if the normal license fails to perform as intended.

2.3.2. Staging License - means a license that you may purchase solely for the purpose of operating a test environment for the Software before using new versions of the Software or configurations in the production environment, and may only be used for demonstration, training, testing, and evaluation purposes. Any output files or other materials produced through such use are only for internal, non-commercial and non-production purposes. Staging Licenses may not be used to operate in production mode, even in the event of a failure of the production system (this requires a Redundancy License) These additional licenses are only available as subscriptions for Software that is covered by a valid Support and Maintenance Pack and must be renewed together with the Support and Maintenance Pack.

3. SUPPORT AND MAINTENANCE PACK

3.1. Subject to payment of the applicable fees for Maintenance Pack under this Agreement Syncro shall provide maintenance and support services in accordance with its standard maintenance and support terms for such services. Syncro technical support policies are posted on Oxygen XML's website (www.oxygenxml.com) and Syncro reserves the right to amend and modify its technical support policies from time to time, in its sole discretion.

3.2. At any time prior to the expiration of your Maintenance Pack and fourteen (14) days after, you may purchase a renewal of your Maintenance Pack. This additional Maintenance Pack will extend the availability of your current Maintenance Pack for a period of time beginning with the

date when your Maintenance Pack expires. If you do not purchase any additional Maintenance Pack, you will lose the right to technical support and Software updates and upgrades as of the date your current Maintenance Pack expires. However, you will not lose the right to use the Software or the technical support, updates and upgrades provided free by Syncro.

3.3. For customers that purchase or already own multiple licenses, a Maintenance Pack must be purchased for each license.

3.4. If you licensed Software on a subscription basis, Maintenance Pack is included in the applicable subscription fee. When your subscription ends, Maintenance Pack will also be terminated.

4. LICENSE RESTRICTIONS

4.1. You may not provide or make available by any means the License Key to any third party. You undertake to take such steps as are necessary in order to protect the License Key against unauthorized use.

4.2. You may not alter, merge, modify, adapt or translate the Software, or decompile, reverse engineer, disassemble, or otherwise reduce the Software to a human-perceivable form (except as permitted by applicable law).

4.3. You may not sell, rent, lease, sublicense, transfer, resell for profit or otherwise distribute the Software or any part thereof.

4.4. You may not modify the Software or create derivative works based upon the Software.

4.5. You may not remove or obscure any copyright and trademark notices relating to the Software.

5. PATENT AND COPYRIGHT INDEMNITY

5.1. Syncro will defend and indemnify You for all costs (including reasonable attorneys fees) arising from a claim that Software furnished and used within the scope of this Agreement infringes the copyright or other intellectual property rights protected by United States or European Union law of any third party, provided that: (i) You notify Syncro in writing within ten (10) business days of the claim, (ii) Syncro has sole control of the defense and all related settlement negotiations, and (iii) You provide Syncro with the assistance, information, and authority necessary to perform the above.

5.2. Syncro will have no liability for any claim of infringement based on (i) code contained within the Software which was not created by Syncro (ii) use of a superseded or altered release of the Software, except for such alteration(s) or modification(s) which have been made by Syncro or under Syncro' direction, if such infringement would have been avoided by the use of a current, unaltered release of the Software that Syncro provides to You, or (iii) the combination, operation, or use of any Software furnished under this Agreement with programs or data not furnished by Syncro if such infringement would have been avoided by the use of the Software without such programs or data.

5.3. In the event the Software is held or believed by Syncro to infringe, or Your use of the Software is enjoined, Syncro will have the option, at its expense, to (i) modify the Software to cause it to become non-infringing, (ii) obtain for You a license to continue using the Software, (iii) substitute the Software with other Software reasonably suitable to You, or (iv) if none of the foregoing remedies are commercially feasible, terminate the license for the infringing Software and refund any license fees paid for the Software, prorated over a three-year term from the effective date of the Agreement. This Section states Syncro' entire liability for infringement.

6. LIMITED WARRANTIES

6.1. Syncro warrants that it holds the proper rights allowing it to license the Software and is not currently aware of any actions that may affect its rights to do so.

6.2. THE SOFTWARE IS PROVIDED ON AN "AS IS" BASIS, EXCEPT AS EXPRESSLY SET FORTH ABOVE, SYNCRO MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITATION, YOU ASSUME SOLE RESPONSIBILITY FOR SELECTING THE SOFTWARE TO ACHIEVE YOUR INTENDED RESULTS AND FOR THE INSTALLATION, USE AND RESULTS OBTAINED FROM THE SOFTWARE. SYNCRO MAKES NO WARRANTY THAT THE SOFTWARE WILL BE ERROR FREE OR FREE FROM INTERRUPTIONS OR OTHER FAILURES. IN PARTICULAR, THE SOFTWARE IS NOT DESIGNED FOR USE IN

HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE. SYNCRO EXPRESSLY DISCLAIMS ANY WARRANTY OF FITNESS FOR HIGH-RISK ACTIVITIES.

7. NO REFUND

7.1. Because the Software is provided free of charge during the Trial Period to allow potential customers to evaluate and test it before paying the license fee, Syncro enforces a strict no-refund policy. Please evaluate and test the Software carefully during the Trial Period. Once you pay the license fee, your payment is final and may not be reimbursed.

8. LIMITATION OF LIABILITY

8.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SYNCRO OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OR INABILITY TO USE THE SOFTWARE, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS EULA, EVEN IN EVENT OF FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF SYNCRO OR ANY SUPPLIER, AND EVEN IF SYNCRO OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, SYNCRO ENTIRE LIABILITY UNDER ANY PROVISION OF THIS EULA SHALL BE LIMITED TO THE GREATER OF THE AMOUNT ACTUALLY PAID BY YOU FOR THE SOFTWARE OR U.S.\$5.00.

Because some states and jurisdictions do not allow the exclusion or limitation of liability, the above limitation may not apply to you. In such states and jurisdictions, Syncro's liability shall be limited to the greatest extent permitted by law and the limitations or exclusions of warranties and liability contained herein do not prejudice applicable statutory consumer rights of person acquiring goods otherwise than in the course of business. The disclaimer and limited liability above are fundamental to this Agreement between Syncro and you.

9. HIGH RISK ACTIVITIES

9.1. The Software is not fault-tolerant and is not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). Syncro and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities.

10. THIRD PARTY SOFTWARE

10.1. The Software may contain third party software that requires and/or additional terms and conditions. Such required third party software notices and/or additional terms and conditions are located at <http://www.oxygenxml.com/thirdparty-contentfusion/index.html> and are made a part of and incorporated by reference into this EULA. By accepting this EULA, You are also accepting the additional terms and conditions, if any, forth therein.

10.2. You may choose to use add-ons or services that are provided or supported by third parties ("Third-Party Add-Ons") for use with the Software. Third-Party Add-Ons are provided pursuant to the terms of the applicable third-party license or separate agreement between the licensor of the Third Party Add-Ons and You, and Syncro assumes no responsibility for, and specifically disclaims any liability or obligation with respect to, any Third-Party Add-Ons.

11. TERMINATION

11.1. This Agreement will terminate at the end of Trial Period unless You purchase an ongoing license by paying the license fee. If the Software is licensed on subscription basis, this Agreement will automatically terminate upon the termination of your subscription period. You may terminate the Agreement at any time by destroying all copies of the Software. Syncro may terminate the Agreement and license granted herein immediately if you breach any provision of this Agreement or at the request of an authorized Syncro reseller in the event that you fail to make your license payment or other monies due and payable.

12. U.S. GOVERNMENT ENTITY RIGHTS

12.1. If Software is being acquired by or on behalf of the U.S Government or by a U.S. Government prime contractor or subcontractor (at any tier), then the government's rights in Software and accompanying documentation will be only as set in this Agreement; this is in accordance with 48 CFR 227.7201 through 277.7202-4 (for Department of Defense (DOD) acquisitions) and with 48 CFR 2.101 and 12.212 (for non-DOD acquisitions).

13. EXPORT REGULATIONS

13.1. You acknowledge that the Software may be subject to export restrictions of various countries. You shall fully comply with all applicable export license restrictions and requirements as well as with all laws and regulations relating to the importation of the Software, in the United States and in any foreign jurisdiction in which the Software is used. Without limiting the foregoing, the Software may not be downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) any country to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders. By downloading or using the Software, you are agreeing to the foregoing and you are representing and warranting that you are not located in, under the control of, or a national or resident of any such country or on any such list.

14. PUBLICITY

14.1. You (meaning your organization) agree to be identified as a customer of Syncro and agree that Syncro may refer to You by name, trade name and trademark, if applicable, and may briefly describe your business in our marketing materials and website. You hereby grant Syncro a license to your name and any of your trade names and trademarks solely in connection with the rights granted to us pursuant to this section.

15. GENERAL

15.1. Syncro makes efforts to provide updates or new versions of the Software, but Syncro reserves the right at any time not to release updates or new versions of the Software or, if released, to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability or other characteristics of the Software.

15.2. If any provision hereof shall be held illegal, invalid or unenforceable, in whole or in part, such provision shall be modified to the minimum extent necessary to make it legal, valid and enforceable, and the legality, validity and enforceability of all other provisions of this Agreement shall not be affected.

15.3. This Agreement will be governed by and construed in accordance with the laws of England and Wales. In the event of any disputes arising out of the interpretation or performance of this Agreement, the parties shall endeavor to settle the matter out of court prior to any court action. If no agreement can be reached to settle a dispute concerning the interpretation or performance of this Agreement, the competent courts of England and Wales shall have exclusive jurisdiction. Service of process upon either party shall be valid if served by registered or certified mail, return receipt requested and to the most current address provided by such party. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

15.4. You may not assign this Agreement in whole or in part, without Syncro prior written consent. Any attempt by You to assign this Agreement without such consent will be null and void.

15.5. This Agreement constitutes the entire agreement between Syncro and You related to the Software and supersedes any and all previous and contemporaneous understandings or agreements between the parties with respect to the same subject matter. No purchase order, other ordering document or any other document which purports to modify or supplement this Agreement shall add to or vary the terms and conditions of this Agreement unless executed by both Syncro and You. Syncro's acceptance of any purchase order placed by You is expressly made conditional on your assent to the terms set forth in this Agreement, and not those contained in your purchase order, and such purchase order terms shall have no effect on this Agreement. All questions concerning this Agreement shall be directed to support@oxygenxml.com