

# END USER LICENSE AGREEMENT FOR O&O PARTITIONMANAGER 2 PROFESSIONAL EDITION

## **IMPORTANT – PLEASE READ CAREFULLY**

This end user license agreement is, PRIOR TO APPLICATION OF THE PROGRAM, a legally binding contract between you (as a natural or legal individual) and the company O&O Software GmbH (O&O) for the software product named above. By installing the software product, you declare your acceptance of all the conditions in this license agreement.

If you do not agree with the conditions of the license agreement, you are not entitled to install or use the software product. In this event, you may return the software product, together with a copy of the invoice/receipt, to O&O or the Dealer from whom you made the purchase, for a full refund of the sales price.

The software product is protected by copyright laws and international copyright contracts as well as other laws and agreements concerning intellectual property.

## **IMPORTANT NOTICE**

The Microsoft® Windows™ Preinstallation Environment contained in this hardware or this software may only be used for starting, diagnosing, setup, restoration, installation, configuration, testing or disaster recovery.

PLEASE NOTE: THE MICROSOFT® WINDOWS™ PREINSTALLATION ENVIRONMENT SOFTWARE IS THE BASIS FOR STARTING THE O&O PARTITIONMANAGER CD. IT CONTAINS A SAFEGUARD WHICH AUTOMATICALLY RESTARTS A COMPUTER WITHOUT PRIOR NOTIFICATION AFTER 72 HOURS OF UNINTERRUPTED USE.

### **1. SUBJECT OF THE CONTRACT; SYSTEM REQUIREMENTS**

The subject of this contract is the computer program, the description thereof and the User's Guide as well as any other accompanying written material. This will henceforth also be referred to as "software".

O&O wishes to point out that, in light of the current state of technology, it is not possible to create software that works perfectly in all applications and combinations. The subject of this contract is therefore a software intended only for the purposes detailed in the program description and the User's Guide.

### **O&O PARTITIONMANAGER PROFESSIONAL EDITION:**

The software requires the operating systems Windows 2000 Professional, Windows XP (all editions) or Windows Vista (all editions). Usage within the terms of this contract is not achieved without the application of these operating systems.

## 2. License granting

O&O grants you the simple, non-exclusive (henceforth referred to as "License") right to use a copy of the software on a single computer for the duration of this contract. If this single computer is a multi-user system, this right applies to all users of the system.

As Licensee, you may transfer software in physical form (i.e., saved on a storage volume), from one computer to another, provided that it is always used on one computer at a time only. Any further application, particularly copying, parallel installation and application on various computers is not permitted.

## 3. TEST VERSION, LICENSE FEE

You are entitled to test the software for a period of 30 days, free of charge and without any obligation. If you wish to use the software beyond this 30 day period, the corresponding license must be purchased from O&O or your Dealer.

## 4. Description of further rights and limitations

You may not sell, rent, lease or donate the computer program, including the user manual and other accessories, to Third Parties. The translation of the ceded program codes back into other code forms (decompilation), and any form of reversing development of various manufacturing phases of the software (Reverse Engineering), is prohibited. Information about the interface required for producing the interoperability of an independently created computer program may be obtained from the Manufacturer for a fee.

The removal of an anti-copy device is prohibited. The anti-copying device may only be removed from the program for securing its full operability when the anti-copying device inhibits or prevents the interference-free use of the program, and the Supplier, in spite of receiving corresponding notification from the user containing a precise description of the interference, cannot or does not wish to correct the interference within a reasonable amount of time. The user carries the burden of proof concerning the impairment or limitation of interference-free usage caused by the anti-copying device.

Changes to the program, other than those named above, especially when done to resolve other problems or to expand its range of features, are only permitted when the altered program is intended for purely personal use. Purely personal use, in the context of this regulation, consists primarily of private usage. Purely personal use may also include the application for professional or commercial purposes, providing these are limited to you and are not to be directed toward any kind of external commercial activity.

The activities mentioned in the previous paragraph may only be transferred to a commercially active Third Party standing in a potentially competitive relationship to the program manufacturer, when the program manufacturer is not seeking to receive an adequate fee for the desired changes to the program. The manufacturer will be granted a reasonable amount of time to examine the transfer of the contract.

Copyright mentions, serial numbers, as well as miscellaneous criteria serving as program identification may neither be removed nor altered under any circumstances.

## 5. LENGTH OF THE AGREEMENT

The granting of the license is valid for the term length of legal copyrights. The license automatically loses its effectiveness, without notice, if you violate any of the terms of this agreement. In the event of termination, you are required to destroy the computer program as well as all copies of it. You may terminate the license contract at any time by destroying the computer program and all copies of it.

#### 6. COMPENSATION FOR BREACH OF CONTRACT

O&O wishes to point out that you are responsible for all damages arising from, among other things, breach of copyright that O&O suffers as a result of your violating the conditions of this agreement or the law.

#### 7. CHANGES AND UPDATES

O&O is entitled to update the software as it wishes. O&O is not obliged to make updated versions available to license holders who have not registered their product with O&O, or who have not paid the update fee. Any additional software code that is made available to you as an update is considered a part of the software and is therefore subject to the terms of this agreement.

#### 8. WARRANTY AND LIABILITY OF O&O

- b) O&O guarantees the original Licensee that the storage volume carrying the software is free of errors at the point of delivery, assuming normal operating conditions and a normal level of maintenance during its material performance.
- c) Should the delivered storage volume be defective, the Buyer can demand a replacement during a warranty period of 24 months starting from delivery. For this purpose he must return the storage volume, including any created copies and written materials, along with a copy of the invoice/receipt to O&O or the Dealer from whom the product was purchased.
- d) Should an error, as described in section 8b, remain uncorrected through delivery of a replacement within a fair amount of time, the Buyer can, at his preference, either demand a reduction of the sales price or a cancellation of the contract.

#### 9. LIMITED LIABILITY

We assume unlimited liability for damages such as defects of title and missing warranted characteristics. The liability for initial incapacity, default or impossibility, will be limited to five times the license fee as well as to those damages which must be calculated as occurring within the normal course of a computer program installation.

We assume, in all other instances, for ourselves and on behalf of our legal agents and executive officers, unlimited liability for malice and gross negligence only. For the negligence of other vicarious agents, we assume only the amount due for liability related to initial incapacity, as described in the preceding paragraph.

For slight negligence we are only liable to the extent that a duty is not violated which has special meaning for the fulfillment of the contract, i.e., which gives the contract its character and in which you may trust (Cardinal Duty). For violation of the Cardinal Duty, the limitation for liability should apply to initial incapacity, as described in paragraph 1 of this section concerning liability.

Damages for data loss will be restricted to the typical recovery costs incurred in an environment where regular and appropriate backup copies have been created.

Liability under the (German) Product Liability Law remains unaffected (§ 14 ProdHG).

## 10. COMPETENCY

This license agreement is subject to the laws of the Federal Republic of Germany. In the event you are not a private individual or a resident of the Federal Republic of Germany, we agree that the district court in Berlin will be the competent court for litigation arising from this contract.

If you have any questions concerning the O&O Software License Agreement or wish to speak with O&O, please get in touch with us.

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