

End-User Licence Agreement

This end-user licence agreement is concluded between inray Industriesoftware GmbH, Holstenstraße 40, D-25560 Schenefeld (Germany) ("inray Industriesoftware") and the customer, who agrees to this end-user licence agreement with acceptance of the offer from inray according to the order confirmation from inray (offer and order confirmation also jointly referred to as "individual contract"). The customer agrees to this end-user licence agreement by acceptance of the offer from inray, which refers to this end-user licence agreement.

Upon downloading, the customer is also requested to agree to the end-user licence agreement. By clicking on the button for confirmation of the download or using and other commencement of use of the software from inray Industriesoftware, the customer confirms, that he/she has read, understood and accepted these conditions. In case the customer does not agree to this agreement, he/she must refrain from using the software.

A customer who concludes this end-user license agreement as a natural person for purposes which can predominantly neither be attributed to his commercial nor his self-employed professional activity is a consumer in the sense of this end-user license agreement.

A. If software is downloaded as a free demo version without conclusion of an individual agreement only, the following shall additionally apply:

- a. inray Industriesoftware give the customer the opportunity to use the software product "OPC Router" (hereinafter also referred to as "software product") for test purposes according to the contents of this end-user licence agreement for free for a limited period of time.
- b. For that, a demo version of the software product is made available to the customer, which the customer may download after accepting the end-user licence agreement in advance.
- c. The test period shall be limited and starts with the day of the download and automatically ends following expiry of the period determined by the demo licence.
- d. The demo version of the software product may also be used without a licence key. In this case, use of the demo version shall be limited to a continuous period of max. two hours per use process. It shall not be admissible to use a routine, which provides an automatic restart of the demo version of the software product. The customer can have inray Industriesoftware issue a licence key for the demo version of the software product. In this case, using the demo version is also possible beyond a continuous period of two hours per use process.

- e. If the customer decides within the test period, not to purchase the software product, he/she shall be obliged to delete it from any computers it has been installed on.
- f. Insofar as these letters a. to e. include no special regulations, the other contents of this end-user licence agreement according to the regulations under B. and D. below shall otherwise apply to the demo version.

B. Upon permanent transfer of software for a one-off fee, the following shall apply:

1 Subject matter of contract upon permanent transfer of software

- 1.1 The customer purchases from inray the number of licences for the standard software “OPC Router” (“contractual software”) stated in the individual agreement, in order to use these in his/her company for the purposes stated in this end-user licence agreement and the product description of Appendix 1.
- 1.2 Subject matter of this agreement is the permanent transfer of the contractual software in the object code as stated in the individual agreement (“contractual software”) and granting of the rights of use described in Clause 2 for installation and use by the customer for his/her internal business purposes.

2 Granting of rights upon permanent transfer of software

- 2.1 Upon complete payment of the fee agreed in the individual agreement, the customer shall receive a non-exclusive, temporally unlimited right to use the contractual software in the scope granted in this end-user licence agreement and the individual agreement. The admissible use shall comprise the installation of the contractual software, loading it into the memory, as well as the intended use by the customer. Otherwise, the number of licences as well as the type and scope of use are determined by the individual agreement. In no case shall the customer have the right to rent out the purchased contractual software or to sublicense it in any other way, to publicly present it in a wired or wireless fashion or to make it accessible or to provide it to third parties against payment or free of charge, for example, by way of application service providing or as “software as a service”. Paragraph 2 of this Clause 2 shall remain unaffected.
- 2.2 The customer shall be entitled to permanently transfer the purchased copy of the contractual software to a third party with handing over the licence key. In this case, he/she will completely quit using the programme, remove any installed copies of the programme from his/her computers, and delete any copies stored on other data carriers or hand them over to the seller, if

he/she is not legally obliged to longer storage. Upon request of inray Industriesoftware, the customer will confirm complete performance of the measures stated in writing or explain, if applicable, the reasons for a longer storage. Furthermore, the customer will expressly agree compliance with the scope of the granting of rights according to this Clause 2 with the third party.

- 2.3 Should the customer use the contractual software to an extent exceeding the purchased rights of use in a qualitative (with regard to the type of use permitted) or quantitative (with regard to the number of licences purchased) manner, then he/she will immediately purchase the rights of use necessary for the permitted use. Should he/she refrain from doing this, then inray Industriesoftware will assert the rights they are entitled to.

3 Warranty upon permanent transfer of software

- 3.1 inray Industriesoftware warrant the agreed condition as well as for the customer being able to use the contractual software without infringement of third-party rights. The warranty against material defects shall not apply to defects based on the contractual software being used in a hardware and software environment, which does not meet the requirements stated in the product description, or to changes and modifications, which the customer undertook in the software, without being entitled thereto by law, this agreement or due to a previous written consent from inray Industriesoftware.
- 3.2 If the customer is not a consumer, then he/she must check the contractual software for obvious defects immediately after receipt, and immediately inform the seller about them, if present; otherwise, a warranty for these defects shall be excluded. The same also applies, if such a defect arises later on. § 377 HGB (German Commercial Code) shall apply.
- 3.3 If the customer is not a customer, then, in case of a material defect, inray Industriesoftware shall initially be entitled to supplementary performance, i.e., at their discretion, to eliminate the defect ("rectification") or replacement. Within the scope of replacement, the customer will accept a new state of the software, if applicable, unless this results in unacceptable impairment. In case of defects in title, inray Industriesoftware will provide the customer, at their discretion, with the possibility of legally unobjectionable use of the contractual software or modify it such that no third-party rights are infringed anymore.
- 3.4 Insofar as the customer is not a consumer, he/she will provide inray Industriesoftware with logfiles, screenshots and, if possible, remote access to the installed contractual software for determination of the warranty and performance of rectification. inray Industriesoftware shall be

entitled, but not obliged, to render the warranty at the premises of the customer. inray Industriesoftware shall also fulfil their obligation for rectification by making updates provided with an automatic installation routine available for download on their homepage and offering the customer telephone support for solving possibly occurring problems.

- 3.5 The customer's right to reduce the purchase price or withdraw from the agreement, at his/her discretion, in case of two failed attempts of rectification or replacement, shall remain unaffected. A right of withdrawal shall not exist in case of insignificant defects. Should the customer claim damages or compensation for futile expenses, then inray Industriesoftware shall be liable according to Clause 10. In case of an unjustified notice of defect, the customer must compensate inray Industriesoftware for expenses for inspection and – as far as demanded – for elimination of the defect, without prejudice to other claims of inray Industriesoftware.
- 3.6 Claims for defects shall not exist in case of only insignificant deviation from the agreed condition or in case of only insignificant impairment of usability.
- 3.7 If the customer is a consumer, then the legal warranty rules shall unconditionally apply.
- 3.8 With the exception of claims for damages, warranty claims due to material defects shall lapse within two years or within one year, resp., if no consumer is involved in the transaction. In case of a sale by means of download from the internet, the statute of limitation shall start following delivery of the licence key. Clause 10 shall apply to claims for damages and claims for compensation for futile expenses.
- 3.9 If a maintenance agreement has been concluded between the parties, then the period for rectification of defects shall comply with the periods provided in such maintenance agreement.

C. Upon transfer of software for temporary use, the following shall apply:

4 Subject matter of contract upon transfer of software for temporary use

- 4.1 The customer plans the temporary use of the standard software "OPC Router" ("contractual software") from inray Industriesoftware, in order to use this in his/her company for the purposes stated in this end-user licence agreement and the product description of Appendix 1.
- 4.2 Subject matter of this agreement is the transfer of the contractual software in the object code as stated in the individual agreement ("contractual software") temporally limited to the contractual term and granting of the rights of use described in Clause 5 for installation and use by the

customer for his/her internal business purposes.

5 Granting of rights upon transfer of software for temporary use

- 5.1 Upon complete payment of the fee of this agreement agreed in the individual agreement, the customer shall receive the non-exclusive, non-transferable and non-sublicensable right to use the contractual software in the scope granted in this end-user licence agreement and the individual agreement temporally limited to the term of the individual agreement. The contractual use comprises the installation as well as loading, displaying and running of the installed contractual software. Otherwise, type and scope of use shall be determined according to the individual agreement.
- 5.2 The customer shall not be entitled to transfer the copy of the software handed over to him/her or a backup copy possibly generated to a third party. In particular, he/she shall not be entitled to sell, loan, rent out or otherwise sublicense the contractual software or to publicly present the contractual software or make it accessible.
- 5.3 Should the customer use the contractual software to an extent exceeding the purchased rights of use in a qualitative (with regard to the type of use permitted) or quantitative (with regard to the number of licences purchased) manner, then any rights of use within the scope of this end-user licence agreement and the individual agreement shall become ineffective immediately, and automatically return to inray Industriesoftware. In this case, the customer must immediately and completely cease using the software, delete any copies of the contractual software installed on his/her systems, as well as delete any backup copy possibly generated or hand it over to inray Industriesoftware.

6 Term and termination upon transfer of software for temporary use

- 6.1 The agreement is concluded for an indefinite period. It may be terminated by either party with six weeks' notice to the end of each contract year.
- 6.2 Furthermore, the agreement may be terminated by either party for cause without notice in writing. An important cause entitling inray Industriesoftware to termination shall in particular be present, if the customer infringes rights of use of inray Industriesoftware by using the contractual software exceeding the extent permitted according to this agreement and does not stop the infringement following a warning by inray Industriesoftware within a reasonable period.
- 6.3 The termination must be in writing.

- 6.4 In case of a termination, the customer must stop using the contractual software and remove any installed copies of the programme from his/her computers, as well as immediately return possibly generated backup copies to inray Industriesoftware or destroy these, at their discretion.

7 Maintenance upon transfer of software for temporary use

- 7.1 inray Industriesoftware warrant the agreed condition as well as for the customer being able to use the contractual software without infringement of third-party rights. The warranty against material defects shall not apply to defects based on the contractual software being used in a hardware and software environment, which does not meet the requirements stated in the product description, or to changes and modifications, which the customer undertook in the software, without being entitled thereto by law, this agreement or due to a previous written consent from inray Industriesoftware. In principle, the legal regulations on warranty in rental agreements apply. §§ 536b BGB (knowledge of the lessee of the defect upon conclusion of the agreement or acceptance), 536c BGB (defects occurring during the rental period; notice of defect by the lessee) shall apply. Application of § 536a Sect. 2 BGB (right to perform rectification by the lessee), however, shall be excluded. Likewise excluded shall be the application of § 536a Sect. 1 BGB (liability for damages of the lessor), insofar as the standard provides for strict liability.
- 7.2 The customer shall be obliged to immediately inform inray Industriesoftware about defects of the software following their detection in writing. In case of material defects, this shall be undertaken with a description of the time of occurrence of the defects and the detailed circumstances. Insofar as the customer is not a consumer, he/she will provide inray Industriesoftware with logfiles, screenshots and, if possible, remote access to the installed contractual software for determination of the warranty and performance of rectification. inray Industriesoftware shall be entitled, but not obliged, to render the warranty at the premises of the customer. inray Industriesoftware shall also fulfil their obligation for rectification by making updates provided with an automatic installation routine available for download on their homepage and offering the customer telephone support for solving possibly occurring problems.

D. The following shall apply to all agreements:

8 Software transfer and installation

- 8.1 The customer receives a copy of the contractual software from inray Industriesoftware via download. The contractual software is provided for downloading on the website of inray stated in the delivery note. Access data for the download are not required. The software is protected by means of a licence key. The customer receives the licence key exclusively for using the

software as determined in more detail in the present end-user licence agreement and the product description. Using the licence key, the possibility for using plug-ins is also enabled according to the scope of the individual agreement.

- 8.2 The hardware and software environment, within which the contractual software is to be used, is determined in the product description.
- 8.3 The customer shall be entitled to generate a backup copy, if this is required for safeguarding the future use. The customer will visibly label the generated backup copy as “backup copy” as well as with a copyright notice of the manufacturer.
- 8.4 The customer shall be exclusively entitled to decompile, edit and copy the contractual software, insofar as this is required by law. This, however, shall only apply under the prerequisite that inray Industriesoftware did not provide the customer with the information required for that upon request within a reasonable period.
- 8.5 The customer shall not be entitled to copy the contractual software beyond the cases regulated in this end-user licence agreement and the individual agreement.
- 8.6 Copyright notices, serial numbers as well as other features serving programme identification must not be removed from the contractual software or changed.
- 8.7 The contractual software is only transferred as a whole product. The customer shall not be entitled to separate the components of the contractual software.
- 8.8 The customer requires one licence per software service instance, i.e. per instance of the contractual software, which is logically executed. This shall apply to instances directly executed on a physical hardware system as well as to virtually executed instances.
- 8.9 Any installation of the contractual software as a software service instance must be activated by inray Industriesoftware (“licencing”), in order to be fully functional. For each installation, a separate licence key is required. The customer shall receive licence keys in the number of licences ordered, comprising the ordered plug-ins according to the individual agreement. The customer enters the licence key, his/her name, and the system ID into the licence manager provided by inray Industriesoftware. The system ID is assigned by inray Industriesoftware and is required for possible later function extensions on the customer’s system.

- 8.10 On the part of the licence, using the contractual software is without limitation in the number of clients, users and connections with regard to the rights of use granted.
- 8.11 The condition and functionality of the contractual software ultimately results from this end-user licence agreement, the individual agreement, and the product description. The details contained therein are to be understood as performance specifications and not as guarantees. A guarantee shall only be granted, when it has been expressly designated as such. Insofar as inray Industriesoftware provides the customer with a supplementary manual on the contractual software, this shall not serve performance specification, but solely the support of the customer upon using the contractual software.
- 8.12 Installation and configuration services as well as services of software support and maintenance are not subject matter of this agreement.
- 8.13 Not included in this end-user licence agreement are rights of use possibly necessary for using the contractual software in third-party systems connected to the contractual software. Insofar as the installation package provided to the customer includes installation routines for that, it shall be pointed out to the customer that he/she must respectively conclude an independent user agreement with the provider of the third-party software. The provision solely takes place for simplification of the installation by the customer and shall not represent a performance object of inray Industriesoftware.

9 Fee and maturity

- 9.1 Any prices stated in the individual agreement shall be understood as net prices, i.e. plus the possibly applicable value added tax.
- 9.2 The customer undertakes to pay or compensate inray Industriesoftware for all taxes and customs payable, including, but not limited thereto, sales taxes, turnover taxes, goods and service taxes, excise taxes or other charges, which an authority imposes on the customer for using or licencing the contractual software.
- 9.3 In case of permanent transfer of software for a one-off fee, one-off payments shall be due with the provision for downloading and communication of the licence key to the customer and must be paid within ten days from invoicing, insofar as this is not regulated otherwise in the individual agreement.

- 9.4 In case of transfer of software for temporary use, a monthly remuneration must be paid for granting of use. If the agreement is not concluded on the first day of a calendar month, the rent to be paid for the first month shall be calculated proportionally according to the days of the month remaining, starting with the day following the provision of the software for downloading and communication of the licence key. The rent for the respective month shall become due in advance on the third working day of each month. In the first month of the rental period, the rent shall become due with complete provision of the software for downloading and communication of the licence key.

10 Liability

- 10.1 inray Industriesoftware shall be liable according to the legal provisions:

- (a) for intent,
- (b) for damages from injury to life, body or health based on an intentional or negligent infringement of obligations by inray Industriesoftware or otherwise based on intentional or negligent behaviour of a legal representative or vicarious agent of inray Industriesoftware, and
- (c) for damages other than those listed under (b) based on a grossly negligent infringement of obligations by inray Industriesoftware or otherwise based on grossly negligent behaviour of a representative or vicarious agent of inray Industriesoftware, wherein in this case, the liability of inray Industriesoftware shall be limited to compensation for the contractually typical and foreseeable damage, and the amount of liability, insofar as the customer is not a consumer, for any damages caused due to this agreement during the performance period in total, shall be limited to the total remuneration paid under this agreement, and
- (d) for negligent infringement of essential obligations by inray Industriesoftware or a legal representative or vicarious agent of inray Industriesoftware, wherein the liability shall be limited to compensation for the contractually typical and foreseeable damage. Essential are such obligations, the fulfilment of which makes the proper performance of the agreement possible in the first place or in the compliance with which the customer regularly trusts or may trust (cardinal duties). This in particular comprises the obligation to fault-free delivery.

- 10.2 In other cases than those listed above, liability of inray Industriesoftware shall be excluded.
- 10.3 The regulations shall also be effective in favour of the business managers and employees of inray Industriesoftware and shall also apply in case of precontractual or tortious liability.
- 10.4 Insofar as the customer is not a consumer, a claim for damages – with the exception of claims for injury to life, body and health, as well as for intentional infringement of obligations – may only be asserted within a limitation period of one year, after the entitled beneficiary became aware of the damage and of the event justifying such claim, at the latest, however, within five years after the event justifying such claim. The claim shall lapse, if no action has been brought within a period of six months since the written rejection of the substitute performance, and this consequence has been pointed out to the customer, who is not a consumer. The right to assert an objection on grounds of statutes of limitation shall remain unaffected.
- 10.5 The right to contest the charge of contributory negligence shall remain open to inray Industriesoftware. In particular, it is pointed out to the customer, that he/she, within the scope of his/her due diligence obligations, must check prior to using the software for the first time, whether the installation of the software could result in particular interferences with software already installed, and must further provide for securing his/her data prior to the initial installation and during running operation, and in case of a suspected software error must take all reasonable and additional safeguarding measures.
- 10.6 No change in the burden of proof to the disadvantage of the customer shall be connected with the preceding regulations.

11 Updates and upgrades

- 11.1 inray Industriesoftware may provide the customer with updates and upgrades of the contractual software at their free discretion. From the time of installation of the update or upgrade on, the customer must not use the previous version independent hereof, separate this and/or transfer it to another party. If no other conditions are sent by inray Industriesoftware together with an update or upgrade, the provisions of this end-user licence agreement shall apply. The customer may reject the acceptance of updates or upgrades. 30 days from publication of an update or upgrade, however, inray Industriesoftware – as far as previously given – shall be obliged to support the previous version.
- 11.2 90 days from the date of invoicing, inray Industriesoftware shall provide the customer with updates for the respective contractual software.

- 11.3 Furthermore, further updates, upgrades und support exceeding this may be obtained by conclusion of a respective agreement with inray Industriesoftware.

12 Safeguard measures, audit right

- 12.1 The customer will safeguard the contractual software as well as the licence key – as far as given – from access by unauthorised third parties by suitable measures. In particular, any copies of the contractual software as well as the access data must be stored in a protected place.
- 12.2 If the customer is not a consumer, then the customer will enable the seller, at his/her request, to check the proper use of the contractual software, in particular in respect of whether the customer uses the programme qualitatively and quantitatively within the scope of the licences purchased by him/her. For that, the customer will provide the seller with information, allow an inspection of relevant documents and records, as well as enable an examination of the hardware and software environment used by the seller or an auditing company designated by the seller and acceptable for the buyer. inray Industriesoftware may perform the examination at the premises of the customer during his/her regular business hours or have it performed by third parties obliged to maintain confidentiality. inray Industriesoftware will observe that the business operation of the customer is disturbed as little as possible by his/her activity on site. Should the examination indicate any non-contractual use, then the buyer shall bear the costs of the examination, otherwise the costs shall be borne by inray Industriesoftware.

13 Data protection

For data processing by inray Industriesoftware, the notes on data processing accessible under <https://www.inray.de/datenschutzerklaerung/> (Privacy Policy) apply.

14 Miscellaneous

- 14.1 The customer may transfer rights, obligations, and claims from or in conjunction with this agreement to third parties after written consent from inray Industriesoftware only. Clause 2 Section 2 shall remain unaffected.
- 14.2 The customer may only set off against uncontested or legally established demands.
- 14.3 General terms and conditions of the customer shall not apply.

- 14.4 The parties are aware that the contractual software may be subject to export and import restrictions. In particular, authorisation requirements may exist, or the use of the software or technologies associated therewith, resp., may be subject to restrictions abroad. Contract fulfilment by inray Industriesoftware shall be subject to the fulfilment not being in conflict with obstacles due to national and international provisions of export and import law as well as other legal provisions.
- 14.5 Customer agrees to comply fully with all applicable national and international export and re-export control regulations including, but not limited to, those of the Federal Republic of Germany, of the European Union, of the United States of America and regulations of any other country or jurisdiction which may apply (the "Export Laws"), including in particular the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. In particular, but not in limitation of the foregoing, Customer must assure that the Software and any derivatives thereof are not: (i) downloaded, exported, re-exported (including any "deemed export"), or transferred, directly or indirectly, contrary to any applicable economic sanction or Export Law, or (ii) used for any purpose prohibited by the Export Laws or (iii) delivered to persons/entities otherwise ineligible to acquire, license or use the Software. inray Industriesoftware reserves the right to conduct the necessary Export Law checks and, upon request, the Customer shall promptly provide inray Industriesoftware with the necessary information to fulfill its legal obligations.
- 14.6 Collateral agreements were not concluded. All agreements entered into between the parties for the purpose of executing this agreement are laid down in this agreement and the individual agreement. Collateral agreements, additions, or changes likewise must be in writing. This shall also apply insofar as the requirement for the written form is to be modified. Any communication with regard to this agreement must be in writing.
- 14.7 Rights and obligations from this agreement shall not be affected by transformation or restructuring, resp., of the operational organisation of the parties, even though these result in outsourcing of business units or in the creation of new legal personalities.
- 14.8 German law, under exclusion of the German law of conflict and the United Nations Convention on Contracts for the International Sale of Goods (CISG), must be applied to this agreement.

- 14.9 The place of fulfilment is Schenefeld (Germany). The exclusive place of jurisdiction for any disputes resulting from or in conjunction with the execution of this agreement is Itzehoe (Germany), insofar as each party is a merchant or a legal person under public law or has no general place of jurisdiction in Germany.
- 14.10 Failure to enforce a provision of this agreement shall not be considered as a waiver of this provision.
- 14.11 Should a provision of this agreement be ineffective or become inexecutable, the remaining provisions shall remain unaffected. Within reasonable bounds, the parties shall be obliged in good faith to replace this ineffective provision with an admissible regulation equalling its economic success, insofar as thereby no substantial change to the contents of this agreement is induced.
- 14.12 Insofar as the customer is not a consumer, in case of unclarities or a contradiction between this version and foreign-language translations, the German version shall be exclusively binding.
- 14.13 Any appendices stated in this agreement shall be binding contractual components.

Version from 06/12/2019

Appendix 1 – Product description

OPC Router

1. Purposes of use

The OPC Router as a central communications platform, offers an automatic exchange of data by integration of various systems and stand-alone solutions.

Use comprises installation, project planning, and deployment of the software by the customer.

2. Operating conditions (hard- and software requirements)

The system requirements (hard- and software requirements) for installation and operation of the contractual software result from the manual, which may be downloaded under [[https://www.opc-router.de\[-\]](https://www.opc-router.de[-])].

For installation and operation of the contractual software, the following components from third-party providers, among other things, are required, for which the customer may have to purchase further rights of use:

- a) PowerShell 3.0 for Windows 7 / Server 2008R2;
- b) .NET Framework;
- c) SQL Server LocalDB, or alternatively SQL Server Express;
- d) OPC core components.