



END-USER LICENSE AGREEMENT

Important: Please Read the Entire Document Before Agreeing

The *onlineRME.com* website (the “WEBSITE”) is an Internet portal providing access to a database application (“the DATABASE”) owned and maintained by ONLINERME, LLC (“LICENSOR”) for the collection, storage, and retrieval of data associated with an activity, piece of equipment, or system (a “MANAGED ACTIVITY, EQUIPMENT OR SYSTEM”) that is monitored and/or managed by a third party. Data is collected through direct data entry as well as the submission of online reports, forms, and fees by owners, operators, contractors, government employees, and others (a “SUBMITTER”), and monitored and/or managed by a third-party data management entity or regulating authority for the jurisdiction in which a MANAGED ACTIVITY, EQUIPMENT OR SYSTEM is located (the “RESPONSIBLE MANAGEMENT ENTITY” or “RME”).

This End-User License Agreement (the “EULA”) is a binding contract between you (“USER”) and LICENSOR, and USER acknowledges that USER is granted online access to the DATABASE and the contents thereof in consideration of, and only upon, USER’s agreement to the terms and conditions set forth below. By clicking on the “**I ACCEPT**” button, USER hereby agrees to only submit, access, and/or use the portion of the data within the DATABASE that USER is permitted to access, as outlined in LICENSOR’s [Data Ownership, Access, and Integrity Policy](#) (which is hereby incorporated by reference), in accordance with the terms, conditions, and limitations contained within this EULA and any written agreement(s) that LICENSOR may have with the entity whom USER represents; and in return, LICENSOR hereby grants to USER a non-exclusive, non-transferable license to submit, access, and/or use the portion of the data described above in accordance with the terms, conditions, and limitations contained within this EULA and any written agreement(s) that LICENSOR may have with the entity whom USER represents.

A. General Website and Database Use

USER represents and warrants that the login information used to gain access to the DATABASE and its contents is the information provided to USER for such purpose by LICENSOR or the entity holding a written agreement with LICENSOR whom USER represents; and that USER has not provided, and will not provide, the login information to any other party to gain access to the DATABASE or its contents. USER hereby agrees that it will not make any attempt to unlock or bypass the security measures, initialization systems, or encryption technologies intended or utilized to maintain data integrity in the DATABASE.

Further, USER understands and acknowledges that the WEBSITE and DATABASE code and structure, and all copyrights and other rights therein, are commercially valuable, proprietary products of LICENSOR and are solely and exclusively owned by LICENSOR. USER hereby agrees that it will not, during the term of this EULA or at any time thereafter, decode, modify, disassemble, decompile, reverse-engineer, or otherwise directly or indirectly engage in, or refrain from taking, any action or inaction which may in any way lead to the unauthorized dissemination, reproduction, or use of the WEBSITE or DATABASE code or structure by any third party, or for USER’s own commercial benefit, except as expressly permitted under the terms of this EULA or any written agreement LICENSOR may have with the entity whom USER represents.

B. Submission, Administration, and Use Fees

All transactions associated with the submission of data into the DATABASE that include monetary fees paid by SUBMITTERS to RMEs either directly or on behalf of another party, as well as those associated with administration and/or use fees charged by LICENSOR, manufacturers, or industry analysts, shall occur entirely outside LICENSOR’s WEBSITE environment and control. If USER pays any submission, administration, and/or use fees through the third-party billing service accessible from the WEBSITE, USER shall be responsible for providing the service with a valid payment method and for authorizing the service to charge the payment method for any such fee. LICENSOR neither collects nor pays monies on behalf of or to another party.

C. Data Submission, Access, and Use

Nothing in this EULA may be construed to grant to USER any right, interest, or title to data contained within the DATABASE, except as expressly granted herein.

1. Data Submission and Ownership

USER represents and warrants that it will use commercially-reasonable efforts to ensure that any and all data it may enter, input, upload, or otherwise submit to the DATABASE as a SUBMITTER is accurate and free from error.

As referenced in the [Data Ownership, Access, and Integrity Policy](#), during any period of time when an RME holds a written agreement with LICENSOR, USER hereby grants to the RME all rights, interest, and title to any and all Managed Data that is required by the RME and is associated with a MANAGED ACTIVITY, EQUIPMENT OR SYSTEM under its jurisdiction, which USER submits to the DATABASE. USER retains sole and exclusive ownership of all other data it submits to the DATABASE as a SUBMITTER.

USER also grants to LICENSOR an irrevocable right to sublicense the limited access and use of any and all data USER submits to the DATABASE and owns, as limited by the terms and conditions of this EULA. LICENSOR represents and warrants that it has obtained irrevocable rights to sublicense all data in the DATABASE so that said data may be accessed and used in accordance with this EULA by other appropriate parties.

2. Data Accessibility and Integrity

USER is hereby licensed to use those tools provided in the DATABASE to query and access any and all data within it that USER is permitted to access, as outlined in the [Data Ownership, Access, and Integrity Policy](#). However, USER may only alter or delete data in the DATABASE that it owns, or data that are owned by the entity whom USER represents, provided that said data is classified in the [Data Ownership, Access, and Integrity Policy](#) as Proprietary Business Information that is not Public Information.

3. Permitted and Prohibited Uses of Data

USER is hereby licensed to view, report, summarize, perform statistical and other types of analyses, print, export, download, or disclose to any third party any or all data in the DATABASE that it owns or has permission to access, as outlined in the [Data Ownership, Access, and Integrity Policy](#), subject to the restrictions and conditions contained in this EULA.

USER hereby agrees that it will not alter, remove, or obscure any proprietary legend, logo, copyright, or trademark notice on any printout or electronic report generated from the DATABASE. Further, USER agrees that it will not, during the term of this EULA or at any time thereafter, falsely report, improperly manipulate, or otherwise misrepresent data contained in the DATABASE to any third party in any medium or nature whatsoever.

D. Warranties, Disclaimers, and Limitations of Liability

1. General Warranty

LICENSOR warrants that the WEBSITE and DATABASE shall be free from material defects, and that LICENSOR will maintain and support them during the term of this EULA. Further, LICENSOR warrants that the WEBSITE and DATABASE shall maintain commercially reasonable capacity, volume, and response times in relation to other online database applications in the industry.

LIMITATION: EXCEPT AS EXPRESSLY STATED HEREIN, THE WEBSITE, DATABASE, AND DATA CONTAINED THEREIN ARE PROVIDED “AS IS,” WITHOUT WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, ACCURACY OF INFORMATIONAL CONTENT, OR ARISING FROM A COURSE OF DEALINGS, LAW, USAGE, OR TRADE PRACTICE. IN NO EVENT SHALL LICENSOR BE LIABLE TO USER OR ANY OTHER PERSON FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

2. Data Integrity and Accuracy

LICENSOR warrants that all data in the DATABASE that is restricted by the [Data Ownership, Access, and Integrity Policy](#) from being altered or deleted will remain unaltered once it has been submitted to the DATABASE or accepted by the RME, as may be applicable, except as explicitly allowed in said policy document. However, as SUBMITTERS enter, input, upload, or otherwise submit all data to the DATABASE, and certain data may be altered, deleted, or archived in accordance with the [Data Ownership, Access, and Integrity Policy](#), LICENSOR cannot warrant absolute accuracy of all data contained within the DATABASE. As such, the primary source of the data may be the only source of absolute accuracy.

USER THEREFORE ASSUMES THE ENTIRE RISK AS TO THE USE OF THE INFORMATION CONTAINED WITHIN THE DATABASE AND AGREES THAT USER IS RESPONSIBLE FOR DETERMINING THAT ALL INFORMATION IT USES FROM THE DATABASE IS SUFFICIENTLY ACCURATE. LICENSOR SHALL NOT BE LIABLE FOR ANY LOSS OR INJURY ARISING OUT OF OR CAUSED BY, IN WHOLE OR IN PART, ANY ERRORS OR OMISSIONS BY OTHERS IN SUBMISSION OF THE INFORMATION TO THE DATABASE, ANY ERRORS OR OMISSIONS BY PERMITTED USERS IN ALTERING OR DELETING INFORMATION IN THE DATABASE, OR FROM ANY ERRORS OR OMISSIONS BY OTHERS IN COMPILING OR REPORTING THE INFORMATION OUTSIDE OF THE DATABASE.

3. Data Security and Backup

Significant efforts have been made by LICENSOR to assure that data deposited in the DATABASE is secure and backed-up. Data is housed on an independent server, which only LICENSOR's staff may access. Stand-alone data may not be accessed without authorized credentials (i.e., valid username and password), and incoming data requests may only be executed from the web server.

LICENSOR hereby agrees to use industry best practices to maintain a backup copy of the DATABASE to minimize the possibility of data loss. At a minimum, transaction log files will be created every 5 minutes and stored both locally and remotely from the primary servers. Backup data will be encrypted locally and transferred to a mirrored server environment using not less than a 128-bit Advanced Encryption Standard Protocol. In addition, the software environment will be backed up to a mirrored remote server using the same protocols.

4. Software Upgrades

From time to time, LICENSOR may, but is not obliged to, upgrade the WEBSITE and/or DATABASE by adding new functions or features or making new information services available to USER. LICENSOR hereby warrants that if it upgrades the WEBSITE or DATABASE, the functional features present on the date this EULA becomes effective shall be retained after the upgrade, and that data submitted prior to doing so will remain accessible by USER. In the event that an upgrade does cause accessibility issues, LICENSOR agrees to use its best efforts to correct the accessibility issue, and will either notify USER or roll-back the upgrade to a version without said issue within two business days from the time it is notified of the issue if it cannot be immediately corrected.

THE SOLE REMEDIES FOR ACCESSIBILITY ISSUES FOLLOWING AN UPGRADE ARE LISTED ABOVE. LICENSOR SHALL NOT BE LIABLE TO USER OR ANY OTHER PERSON FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES THAT MAY BE CAUSED BY UPGRADE-INDUCED DATA INACCESSIBILITY.

5. Downtime

LICENSOR will use its best efforts to minimize downtime caused by routine maintenance, system upgrades, backups, and other like activities on its network, servers, routers, and other hardware necessary for hosting and running the WEBSITE and DATABASE. Except for said planned events or acts beyond the reasonable control of LICENSOR (such as acts of God or actions or inactions by USER or any third party that are outside the control of LICENSOR), LICENSOR warrants that the WEBSITE and DATABASE will be fully functional and accessible by the Internet 99.99% of the time.

6. Equipment Incompatibly

USER hereby agrees that LICENSOR shall not be responsible nor liable for incompatibility of the DATABASE with any of USER's software, hardware or any other equipment.

E. Effect and Term

1. Effect of EULA

This EULA, together with the provisions of the [Data Ownership, Access, and Integrity Policy](#) and any written agreement that LICENSOR may have with the entity whom USER represents, constitute USER's and LICENSOR's complete understanding of the rights and obligations each has with respect to the WEBSITE, DATABASE, and the contents thereof, and supersedes any prior understanding or agreement, oral or written, additional terms that may appear on the WEBSITE, or conflicting terms communicated by LICENSOR through any means, which are related thereto.

2. Term

This EULA is effective upon acceptance by USER by clicking on the "**I ACCEPT**" button. The term of this EULA shall be perpetual, unless otherwise terminated in accordance with Section E below or when superseded by a subsequent version of this EULA.

F. Termination

1. By USER

USER may immediately terminate this EULA for any reason upon notice to LICENSOR.

2. By LICENSOR

LICENSOR may only terminate this EULA as follows:

- a. If USER fails to timely pay any appropriately assessed submission, administration, and/or use fee charged by an RME, LICENSOR, manufacturer, or industry analyst, LICENSOR may terminate this EULA following 90-day notice to USER;
- b. If USER defaults, breaches, or materially fails to fulfill its obligations under the terms of this EULA, and within 30 days after notice from LICENSOR specifying the nature of the default, breach, or material failure, USER does not cure the default, breach, or material failure, or, if the default, breach, or material failure cannot be cured within 30 days, USER fails within such time to commence and pursue curative action with reasonable diligence, LICENSOR may immediately terminate this EULA upon notice to USER;
- c. If LICENSOR is notified that USER has ceased to represent an entity holding a written agreement with LICENSOR, LICENSOR may immediately terminate this EULA without notice to USER;

- d. If the written agreement that LICENSOR has with the entity whom USER represents is terminated because of a breach by said entity, LICENSOR may immediately terminate this EULA without notice to USER;
- e. If the written agreement that LICENSOR has with the entity whom USER represents is terminated for any reason other than breach by said entity, LICENSOR may terminate this EULA following 90-day notice to said entity; or
- f. LICENSOR may terminate this EULA following 90-day notice to USER in the event LICENSOR ceases to be an ongoing concern for any reason and winds down its business.

3. Effect of Termination

USER understands and acknowledges that upon termination of this EULA for any reason, USER will be denied access to the DATABASE and the contents thereof, and agrees to only use data from the DATABASE that USER has legitimately exported or downloaded during the term hereof, and then only as permitted herein.

G. Miscellaneous

1. Assignment

USER understands and acknowledges that it is strictly prohibited from assigning or otherwise transferring its rights and obligations under this EULA, except for assignments to any entity that is controlled by or controls a party and for assignments to entities acquiring all or substantially all of a party's assets. Any prohibited assignment shall be null and void.

2. Changes in Terms and Conditions

USER understands that LICENSOR, from time to time, may modify or amend any of the existing terms and conditions of this EULA, provided that any such modification or amendment may only serve to clarify existing provisions; update provisions to account for upgraded software, hardware, encryption protocols or other technical specifications referenced in the EULA; or to add rights to USER or obligations to LICENSOR. Therefore, each time that USER seeks online access to the website, LICENSOR may require that USER assent to the most current version of this EULA.

3. Notice

Notices to either party must be made in writing, but may be sent by United States Post, delivery service, or electronic mail. Such notices shall be deemed to have been given at the expiration of the third day after the date of deposit in the United States Post or on the date of confirmed delivery by delivery service or electronic mail. Notices to LICENSOR may be sent to the mailing or email address on the [Contact Us](#) page of the WEBSITE. Notices to USER may be sent to the mailing or email address used by USER during registration.

4. Waiver; Severability

The failure of any party on any occasion to exercise any right granted under this EULA shall not operate as a waiver of such right as to subsequent occasions, and shall not effect a modification of this EULA. If any clause or provision of this EULA is or becomes illegal, invalid, impossible to perform, or unenforceable under present or future laws effective during the term of this EULA, the parties intend and agree that the remainder of the EULA shall continue in force and shall not be affected. The parties intend and agree that in lieu of each clause or provision of this EULA that is or becomes illegal, invalid, impossible, or unenforceable, there be added as part of this EULA a clause or provision as similar in terms as may be legal, valid, possible, and enforceable.

5. Governing Law

The laws of the State of Washington shall govern this EULA, together with all rights, obligations, and disputes arising out of or related thereto.

6. Forum; Venue

Any dispute or legal action arising out of or relating to this EULA shall be brought in and decided by state courts of Washington. In any such dispute or action, the parties hereby consent to the jurisdiction and venue of the Superior of the State of Washington for Kitsap County.

7. Remedies

The parties hereby acknowledge that in the event of a material breach of this EULA, an aggrieved party would be substantially or irreparably harmed, and that such harm may not be susceptible to accurate measurement. Accordingly, the parties agree that a non-breaching party, in addition to seeking recovery of monetary damages and other remedies available at law to compensate for a breach, shall be entitled to seek and obtain preliminary and permanent injunctive relief to prevent a breach or threatened breach. The non-breaching party seeking this remedy shall not be required to show or prove that any monetary damage has been sustained, nor be required to post bond or security to obtain injunctive relief.