

DriveOnWeb pro ® - Licence agreement

Individual licence

Date: 01.06.2006

Note:

This is a licence and not a sale transaction. This product is governed by the following licence agreement and all of the applicable appendices, which determine what you are entitled to do with the product. The licence also stipulates the limitations which apply with respect to liability and legal recourse. This licence is granted by abilis GmbH (hereinafter referred to as "abilis").

General licence agreement

Important information:

Read this licence carefully before you use the product. By installing, copying or otherwise making use of this product you confirm that you have read this licence and that you undertake to uphold the provisions outlined therein. If you do not agree, you shall no longer be entitled to use the product. If you do not agree to these conditions, you must delete the program from all of your drives and other data media.

A. Licence:

abilis has provided you with an electronic version or with recording media with a computer software program and accompanying documentation (hereinafter referred to as "the product") and hereby grants you the right to make use of the product in accordance with the conditions set out in this licence agreement. We or our suppliers retain the copyright and other rights applicable to the product, with the exception of those rights expressly conferred upon you within the framework of this licence agreement.

B. Unregistered version

The unregistered trial version of DriveOnWeb may be distributed freely in its original format. You must not repackage the software or in any way modify the set-up program or any other files. You may save the DriveOnWeb installation files onto CD-ROM or other media provided you do not demand payment from the end user for the use of the software and you submit a corresponding request to info@abilis.de in which you indicate when and how you intend to distribute the software.

C. Registered version

By using the DriveOnWeb software ("DriveOnWeb"), you indicate that you agree to adhere to the conditions of this licence agreement ("agreement"). In accordance with the conditions of this agreement, the DriveOnWeb Software provides you with a limited, personal, non-transferrable licence for the use of DriveOnWeb which you may not further licence out.

You may install a registered copy of DriveOnWeb either on computers only being used by one person or on workstations that are not used by several persons at once, but not both.

Network access to a copy of DriveOnWeb is allowed provided you have an individual licence for all of the workstations able to access the software via the network. Each workstation must have an individual licence, whether they use DriveOnWeb simultaneously or not.

You may only copy DriveOnWeb for the purposes of archiving. The registered version must NOT be handed over to parties other than the licence-holder.

D. What you may do:

1. Use the program in accordance with the specifications of this licence agreement only.
2. Use the program on a single computer only. You must have a licence for each copy of the program on each computer.
3. If the program is to be used by several users, you must obtain a licence for each additional user.
4. You may create a copy of the program for archiving and security purposes. You may transfer the licence for the use of the program permanently to a new user, provided you transfer all earlier versions as well as the current version of the program. All such transfers must also cover this licence agreement and the entire program documentation. The new user must agree to the conditions of the licence agreement prior to the transfer. We must also be informed of all such transfers.

E. What you may not do:

1. You may not use or copy this product in any manner not allowed by this licence.
2. You may not process, adapt, reverse engineer, decompile or disassemble the product in any manner, except in cases expressly permitted by law.
3. You may not rent out, lease out, transfer or cede the product, except in accordance with paragraph B above.
4. You may not alter the product or combine the product either in whole or in part with another product.
5. You may not pass the product on to other persons except on the original data media (CD-ROMS, diskettes provided by abilis or authorised by abilis). In particular, this product may not be made available on the internet (i.e. as a download).

6. You may not lend or rent out the product, create licences for the product or make copies of the product. You may not distribute the trial version of the product for commercial purposes.

The above does not affect your rights in accordance with the Directive of the European Council on the legal protection of computer programs.

F. Term

This licence agreement shall remain valid for the length of time for which you use the product. If you have received or downloaded the trial version of the product, this licence shall apply for the term of that trial period only. The length of the trial period is indicated on the product and/or in any corresponding offers made. Alternatively, it is set out on the website from which the product was downloaded.

If you fail to adhere to the conditions of the licence agreement, we reserve the right to terminate the licence agreement. In such cases, all copies of the product must be destroyed. The limitations applicable to the aforementioned guarantees and liability continue to apply after termination of the agreement.

This licence shall only remain valid for as long as you continue to uphold the conditions of the agreement. The licence shall automatically terminate should you fail to adhere to any of its provisions. You undertake to destroy all copies of the product as soon as the licence is terminated. The limitations applicable to the guarantees and liability set out below continue to apply after termination of the agreement.

G. Guarantee:

If the product is provided on a storage medium produced by abilis, abilis guarantees that the product storage medium shall remain free of all material and processing defects for a period of ninety (90) days following the day on which it is provided. Should such defects nonetheless arise, return the recording medium to abilis, which will provide you with a replacement free of charge. Under this guarantee you may claim only such a replacement. You may also be entitled to exercise further statutory rights, which may vary according to jurisdiction. This paragraph does not apply where the program is downloaded in electronic format.

Where it can be proven that the program was misused or unauthorised modifications were made, your rights under paragraph E shall no longer apply.

H. Limitations on guarantee and liability :

With the exception of the aforementioned express guarantee the product is provided "as seen" without any further guarantees or assurances of specific features whether express or tacit, without any guarantee of standard market quality, satisfactory quality, market acceptance or suitability for a specific purpose and again without any guarantees based on applicable law,

standard business or trade practices, course of dealing or any other principles. The overall risk with respect to the results and performance of the product is borne by you. Neither abilis nor its distributors or suppliers shall be held liable for payment of compensation for any damage whatsoever incurred by yourself or any other individual or corporation. Damage here includes loss of income, loss of profit, loss of or damage to data or all other business or economic damage that arises occasionally, directly or indirectly as a result of the contractual relationship. This paragraph applies even where abilis was informed of the possibility of such damage and irrespective of whether such damage was foreseeable or not. abilis shall not be held liable for claims from third parties. In any event, the liability of abilis and its distributors and suppliers vis-à-vis yourself shall be limited to the amount you paid for the product. Where the licence is handed over free of charge, the amount of liability is limited to five (5) euro. The limitations set out in this provision apply independently of whether claims of negligence or omission constitute infringement or any of the basic provisions or basic infringement in general. In some countries it is not possible to exclude or limit liability for consequential or accessory damage. As such, the aforementioned limitations may not apply to you.

I. End of user rights:

If abilis granted the customer a fixed-term user right for any of the programs or advertising materials or if the user right comes to an end due to termination of the agreement, the following applies:

Following termination of the user right, the customer shall hand all data media containing programs, all copies and all written documentation and advertising materials back to abilis. The customer shall delete all programs saved from their computer systems, unless they are obliged by law to store these for a longer time frame. All further contractual undertakings of the customer with respect to abilis shall continue to apply subsequent to the termination or closure of the contract.

J. Delivery, services:

abilis guarantees average annual server availability of 99%. This excludes time periods during which the server cannot be accessed via the internet due to technical or other problems that do not fall within the sphere of influence of abilis (acts of God, errors on the part of third parties, etc.). abilis is entitled to restrict access to its services so as to protect the security of the network, maintain the network integrity and in particular prevent severe disruptions to the network, software and data saved.

abilis shall not install the contractual programs, unless this is expressly agreed.

No guarantee is provided of the functional compatibility of programs already installed by the customer and the new contractual programs, unless this is expressly agreed. abilis shall in no case – even where abilis does indeed complete the installation – adapt programs already used by the customer to the contractual software. This applies equally to programs already used by the customer and obtained from abilis. Any further services provided by abilis, such as providing a user introduction, shall only be deemed to be an integral part of the contract where this is expressly agreed.

K. End of user rights:

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Following termination of the user right, the customer shall hand all data media containing programs, all copies and all written documentation and advertising materials back to abilis. The customer shall delete all programs saved from their computer systems, unless they are obliged by law to store these for a longer time frame. All further contractual undertakings of the customer with respect to abilis shall continue to apply subsequent to the termination or closure of the contract.

L. Payment conditions:

(1) Inside the Federal Republic of Germany payment must be completed by bank transfer or on account. Outside the Federal Republic of Germany, payment must be made on account. The goods shall remain our property until such time as payment is completed in full.

(2) abilis shall deliver the product subject to advance payment or cash on delivery.

(3) The prices indicated on the invoices are always final retail prices exclusive of value added tax.

(4) Following late payment, the customer undertakes to pay interest of 5% above the base rate to abilis, unless abilis is able to justify a higher level of interest. An interest rate of 8% above the base rate shall apply to corporate customers.

M. Delivery and dispatch costs :

We shall also charge you a lump sum dispatch cost for all deliveries both inside and outside Germany. The price of the optional media package DriveOnWeb pro (available on CD) is an additional EUR 19.95 inclusive of delivery costs. The delivery costs apply both inside and outside Germany. An additional charge of EUR 5.00 is billed for payment by cash on delivery.

N. Delivery:

1. All partial deliveries agreed with the customer shall be considered to be independent deliveries with respect to payment obligations, transfer of risk and guarantee undertakings.
2. We reserve the right to choose the optimum method and route of delivery as well as the best company to complete the delivery, provided the ordering party does not issue any express instructions to the contrary.
3. As a general rule, all deliveries shall be dispatched within 5 working days. If the articles ordered are not available within 14 days and should the delivery time therefore be extended, abilis shall inform the customer.

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4. The goods shall be delivered subject to payment of cash on delivery or advance payment.
 5. As soon as the package containing the delivery goods is handed over by the courier to the buyer, the corresponding risk is transferred to the ordering party. This applies irrespective of which party is covering the transport costs. The buyer must inform the courier or freight transporter (usually the post office or postal worker) of all transport damages immediately, whether these are instantly visible or noted at a later stage. The buyer must also inform the seller of this with a view to exercising the relevant claims against the seller.

O. Cancellations/returns:

1. In accordance with the act governing remote sales, the consumer is entitled to return the articles ordered to abilis within a period of 14 days following receipt of the goods. This cancellation right must be exercised in writing or simply by returning the goods received within that deadline. After receipt of the returned goods we shall reimburse you all payments already made towards the purchase price as well as for the costs incurred for returning the goods. This does not apply to shrink-wrapped and sealed products. Such products may only be returned in the original packaging with the seal intact.
2. The buyer shall bear the costs of returning orders for amounts of up to EUR 40.00.
3. The seller shall bear the costs of returning orders for amounts of more than EUR 40.00. As a rule, deliveries that are not prepaid shall not be accepted and the buyer shall be reimbursed the costs of returning the goods.
4. All deliveries must be returned in letter or standard package format via the post office. Should the buyer opt for a more expensive method of delivery, only the corresponding costs for sending a standard package via the post office shall be reimbursed.
5. CDs opened by the consumer and goods ordered or produced to precise customer specifications are not covered by these cancellation rights.

P. Return following termination of the cancellation period:

Following termination of the cancellation period, goods shall only be returned where the delivery can be shown to have been erroneous. Requests for an exchange or return of goods or for issue of a corresponding credit note for errors not attributable to abilis shall only be accepted subject to written confirmation. In any event, this shall only be granted where the goods are suitable for resale. The amount to be reimbursed shall be calculated in accordance with the target resale price applicable when the goods are returned. Furthermore, abilis shall invoice a cancellation and processing charge of 20% of the invoice amount, or alternatively a minimum of EUR 20.00.

The buyer recognises the applicable copyright when opening all software packaging. Where the original packaging has been opened or damaged, the software shall not be exchanged, unless the data medium is defective or cannot be read.

Q. General:

This licence stipulates the joint agreements entered into by yourself and abilis and replaces all previous verbal and written agreements and arrangements. This licence may only be amended by means of a jointly signed agreement. This licence is subject to the legislation of the Federal Republic of Germany and is construed in accordance with the corresponding laws, to the exclusion of those provisions governing choice of jurisdiction and the United Nations Convention on Contracts for the International Sale of Goods and all other laws implemented by

said Convention and which would otherwise apply. Should any of the provisions of this licence be ruled to be invalid, legally unacceptable or impossible to implement by a competent court of law, said provision shall be removed from the licence and the remaining provisions shall remain wholly effective and valid.

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