

Osмосе Utilities Services, Inc.
O-CALC PRO SOFTWARE LICENSE AGREEMENT
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This **SOFTWARE LICENSE AGREEMENT** (the “Agreement”) is entered into by and between **OSMOSE UTILITIES SERVICES, INC.**, a Delaware corporation, with principal offices at 635 Hwy 74 S, Peachtree City, GA 30269 (hereinafter “Licensor”) and the organization or individual that has purchased licenses to install and use certain on-premise software provided by Licensor (hereinafter “Licensee”).

This Agreement is effective on the earliest of: (i) the date on which Licensee executes a purchase order or order form for the Software referencing this Agreement; (ii) the date on which Licensee accepts this Agreement by clicking to accept or agree within the Software; or (iii) the date on which Customer installs the Software.

1.0 Definitions: As used in this Agreement the following terms shall have the following respective meanings:

- a. “Authorized User” shall mean a single named individual user who is identified to Licensor and is authorized to use the Software under this Agreement.
- b. “Documentation” shall mean any information, direction, explanations or material that accompanies or concerns the Software that is provided by Licensor, in any form or medium.
- c. “Key” shall mean the user code for a specific Authorized User that will permit the Authorized User access to the Software. Each Key allows one Authorized User to access the Software.
- d. “Maintenance and Support Services Fee” shall mean the annual fees due for the performance of Maintenance and Support Services provided by Licensor.
- e. “Maintenance and Support Services” shall mean the services performed by Licensor to all similarly situated licensees in support of the Software, including, installation services, support, telephone support, and web based support which may include webinars, training modules, video, and frequently asked questions. Maintenance and Support Services do not include training or consulting which may be made available to Licensee at an additional charge as mutually agreed to by the parties in writing pursuant to a separate agreement.
- f. “Modification” shall mean any change, modification, enhancement, addition or correction to the Software, or any translation of the Software into other computer languages or other hardware or software environments, or any derivative work based on the Software. All modifications, reconfigurations, and/or enhancements are deemed part of the Software and are proprietary to Licensor.
- g. “Normal Business Hours” shall mean Monday through Friday (8 a.m. through 5 p.m. EST) excluding Holidays (Holidays are New Years Day, Memorial Day, Independence Day, the Day after Independence Day, Labor Day, Thanksgiving Day, the Day after Thanksgiving Day, Christmas Eve, and Christmas Day).
- h. “Software” shall mean Licensor’s proprietary O-Calc® Pro software, including all computer programs, object code, configuration files, and instructions and any Upgrades or Modifications, as provided by Licensor.
- i. “Upgrades” shall mean any new version(s) of the Software made available to Licensee by Licensor, in Licensor’s sole discretion, that contain(s) major enhancements and new features, and which are designated as “Upgrades” by Licensor in its sole discretion.

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- j. “Utility Programs” shall mean all third-party software, software code, and computer programs or instructions included with or integrated into the Software, or upon which the Software is layered for interoperability purposes.

2.0 License: Subject to the provisions of this Agreement, and provided the Licensee is not in default under any term or condition of this Agreement, Licensor grants the Licensee, and the Licensee accepts, a limited, non-exclusive, non-transferable, and non-assignable (except as provided in Section 17(d)) license to: download, install, use, and execute the authorized number of licensed copies of the Software in object code form on (a) specific assigned computers; or (b) on an application server, by Authorized Users during the period of time Licensee has timely paid for the Maintenance and Support Services as set forth herein. In addition, Licensee may make one additional copy of the Software solely for back-up or archival purposes, provided that such copy must retain the copyright notices, licenses and any other proprietary legends that appear on the originals; and use and reproduce the Documentation for Licensee’s own internal use, provided that all copies of the Documentation shall include any proprietary notice or stamp affixed by Licensor. Licensee agrees and acknowledges that the number of Authorized User(s) shall be limited by the number of purchased licenses. Licensor reserves all rights not expressly granted to the Licensee under this Agreement.

Licensee shall not:

- a. Modify, translate, or merge the Software with another program except as set forth in Section 9 of this Agreement;
- b. Prepare a derivative work of the Software;
- c. Sell, rent, lease, sub-license or otherwise distribute, transfer, or convey the Software or any portion thereof except as specifically stated in a separately executed sub-license agreement between the parties;
- d. Cause or permit any person or entity to do any act which the Licensee is prohibited from doing by this Agreement;
- e. Remove or modify any confidentiality or proprietary rights notices contained in or on the Software or the accompanying Documentation;
- f. Disclose the results of Software performance benchmarks to any third party without the prior written consent of Licensor;
- g. Export the Software in violation of any applicable law, including the US Department of Commerce export regulations;
- h. Cause or permit reverse compilation or reverse assembly of all or any portion of the Software;
- i. Attempt to discover the source code for the Software or determine how the Software is provided;
- j. Transfer the Software to an unauthorized user without the prior written consent of Licensor;
- k. Use the Software in a manner that would be reasonably anticipated to interfere with, degrade;

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disrupt the integrity or performance of Licensor’s technologies, services, systems, or offerings;
or

1. Use the Software for competitive purposes, including to develop or enhance a competing service or product.

3.0 Delivery:

- a. Delivery – Upon Licensee’s acceptance of this Agreement, Licensor shall deliver the Software to Licensee via electronic transfer or a download link and provide the appropriate number of Key(s) via e-mail such that Licensee and its Authorized Users can access and use the Software. The Documentation is accessible via a “help” menu to authorized Key holders.
- b. Risk of Loss – Upon delivery of the Software to Licensee, Licensee shall be responsible for protecting the Software from risk of loss, damage or destruction.

4.0 Maintenance and Support:

- a. Licensee is required to purchase Maintenance and Support Services for the Software and pay to Licensor the applicable Maintenance and Support Services Fee on an annual basis.
- b. Licensor shall provide Licensee Maintenance and Support Services, including (i) web based support which may include training modules, webinars, videos, and frequently asked questions; (ii) telephone, web-based and e-mail assistance with respect to Licensee’s installation of the Software, including clarification of functions and features of the Software; (iii) error verification, analysis and corrective efforts; and (iv) the provision of Upgrades that are provided generally to all similarly-situated licensees, if any. Licensee acknowledges that Licensor reserves the right, in its sole discretion, to charge for certain Upgrades and/or increase the price of the Maintenance and Support Services Fee (effective upon the next annual Maintenance and Support Services term).
- c. Maintenance and Support Services are available during Normal Business Hours.
- d. Maintenance and Support Services will be provided only with respect to versions of the Software that, in accordance with the following policy, are then being supported by Licensor. Licensor provides technical support for the current version of the current release and immediately prior version. Licensor provides bug fixes/patches/updates on the current version of the current release and the immediately prior version.
- e. Maintenance and Support Services will not include services resulting from (i) improper installation by Licensee or configuration of the Software that deviates from the standard configurations established by Licensor in the applicable Documentation; (ii) accident, electrical failure, or failure of air conditioning or humidity control; (iii) any version of the Software more than one release prior to the current commercially available release of the Software; and (iv) modification, customizations, additions or extensions to or of the Software, provided that Maintenance and Support Services will remain available for the unaffected, underlying software. Notwithstanding the above, upon mutual written agreement, Licensor may provide services to Licensee on a time and materials basis for the issues set forth in this paragraph. Such additional services may be subject to a separate written agreement.

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5.0 Authorized Users: Licensee shall not grant any third parties access to the Software. Licensee is responsible and liable for all uses of the Software resulting from access provided by Licensee, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Licensee is responsible for all acts and omissions of its Authorized Users, and any act or omission by an Authorized User that would constitute a breach of these this Agreement if taken by Licensee will be deemed a breach of this Agreement by Licensee.

6.0 Subscription License:

- a. Licenses may be purchased in individual units or multiple unit purchases. If multiple purchases are made, the number of Authorized Users is limited by the number of license(s) purchased by the Licensee. Any use of the Software that exceeds the number of license(s) purchased by Licensee shall constitute a material breach of this Agreement, and Licensor may terminate this Agreement pursuant to Section 11(a).
- b. Licensee is entitled to use the Software and to receive Maintenance and Support Services so long as the Maintenance and Support Services Fee is paid on an ongoing, annual basis. In the event Licensee ceases timely payment of the Maintenance and Support Services Fee then Licensor reserves the right to terminate the license and cease the provision of Maintenance and Support Services.

7.0 Payment:

- a. Licensor shall invoice Licensee for the Maintenance and Support Services Fee on an annual basis. Licensee shall pay all undisputed invoices within thirty (30) calendar days from receipt of invoice. The initial invoice shall be sent to Licensee after the Key(s) is/are sent via e-mail to Licensee. Invoices shall be sent to Licensee at the e-mail address provided by the Licensee at the time the Key is requested with all applicable taxes included. All fees specified herein (i) are non-cancellable, non-refundable and non-contingent; (ii) are payable in USA dollars; and (iii) shall be sent to the attention of Licensee or designated company representative.
- b. Licensee shall be solely responsible for the payment of all taxes, whether federal, state, or local, however designated, that may be validly levied or based upon this Agreement or upon the Software furnished hereunder, excluding, however, taxes based on or measured by Licensor's net income.
- c. Failure to timely pay any annual Maintenance and Support Services Fee will result in the automatic cessation of Maintenance and Support Services.
- d. Licensor reserves the right to modify the Maintenance and Support Services Fee at any time upon written notice to Licensee. The modified Maintenance and Support Services Fee shall become effective upon the immediately following annual Maintenance and Support Services term.

8.0 Monitor and Audit:

- a. Licensor reserves the right to monitor Licensee's use of the Software. Licensee agrees and acknowledges that when Licensee uses the Software, information is sent to Licensor and Licensor reserves the right to monitor such usage to ensure that Licensee is not using the

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Software in a manner not authorized under this Agreement.

- b. Licensee agrees that Licensor shall have the right to perform a physical audit of Licensee's records and/or systems which are relevant to Licensee's use of the Software in order to confirm Licensee's compliance with this Agreement. Licensor will conduct any physical audit during Licensee's normal business hours and without undue inconvenience to Licensee or its employees. Licensee will immediately pay Licensor the amount of any additional fees that are found to be payable as a result of an audit, including any additional fees due to use of the Software in excess of the number of licenses purchased. In addition, if an audit reveals that Licensee has underpaid any fees by more than five percent of the amount properly payable, then Licensee will reimburse Licensor for its reasonable costs of conducting the audit. Failure to reimburse Licensor for any amounts due under this Section within thirty (30) days from the date of notice of underpayment shall constitute a material breach of this Agreement, and Licensor may terminate this Agreement immediately.

9.0 Modifications: Licensee shall not have the right to make Modifications to the Software, without the express written approval of Licensor. Licensee has the right to use and configure the Software through the user interface as specified in the Documentation. Licensee acknowledges that Licensor has no responsibility for unauthorized Modifications to the Software. All Modifications shall be deemed unauthorized if they have not been approved in writing by Licensor.

10.0 Suspension: Licensor may temporarily suspend Licensee's or any Authorized User's access to any portion or all of the Software, if Licensee or any Authorized User is in breach of this Agreement. Licensor shall use commercially reasonable efforts to provide written notice of any such suspension to Licensee. Licensor shall use commercially reasonable efforts to resume providing access to the Software as soon as reasonably possible after the event giving rise to the suspension is cured.

11.0 Termination of Agreement and/or License:

- a. Default – Each party has the right to terminate this Agreement if the other party breaches or is in default of any obligation hereunder, which default is incapable of cure or which, being capable of cure, has not been cured within thirty (30) days after the defaulting party's receipt of written notice of such default by the non-defaulting party (or such additional cure period as the non-defaulting party may authorize).
- b. Acts of Insolvency – Either party may immediately terminate this Agreement by written notice to the other and may regard the other party as in default of this Agreement, if the other party becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated, voluntarily or otherwise. In the event that any of the above events occurs, the affected party shall immediately notify the other party of its occurrence.
- c. Automatic Termination – This Agreement shall automatically terminate in the event Licensee fails to pay any amounts due under this Agreement in accordance with the terms set forth herein.
- d. Licensor Termination – Licensor reserves the right to terminate this Agreement at any time in Licensor's sole discretion. Any prepaid Maintenance and Support Services Fee(s) shall be

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refunded on a pro-rata basis to Licensee in the event this Agreement is terminated solely in accordance with Licensor's sole discretion.

- e. Rights and Obligations of the Parties on Termination – In the event that this Agreement is terminated, Licensee will pay all of its outstanding obligations to Licensor, all of Licensee's rights under this Agreement shall be terminated, and Licensee shall delete or destroy all copies of the Software and all Documentation and any other data, materials, and other properties of Licensor in its possession at time of termination. Upon termination of this Agreement, each party shall further return, delete, or destroy all Confidential Information of the other party in its possession or control to such party. Upon request, Licensee shall certify in writing it has deleted or destroyed all required copies of the Software and Documentation and all Confidential Information as required under this paragraph. Licensee acknowledges that at time of termination the Key may be invalidated and access to the Software shall be made inaccessible at Licensor's discretion.

12.0 Third Party Software: Licensee shall have sole responsibility to obtain and pay for any third-party software (with the exclusion of Utility Programs) necessary or desirable to operate the Software (e.g., operating systems, Internet software, network protocol software). EXCEPT AS EXPRESSLY PROVIDED IN THE LIMITED SOFTWARE WARRANTY CONTAINED IN THIS AGREEMENT, LICENSOR DOES NOT WARRANT THAT THE SOFTWARE IS COMPATIBLE OR INTEROPERABLE WITH ANY THIRD-PARTY SOFTWARE. All use of third-party software is at Licensee's own risk. Licensee shall defend, indemnify, and hold harmless Licensor from any claims related to Licensee's breach of the obligations specified in this Section 12.

13.0 Limitation and Disclaimer of Warranties and Liability; Limitation on Remedies:

- a. Limited Software Warranty – Licensor represents and warrants, for the benefit only of Licensee, that: (i) Licensor has the right to license the Software to Licensee under this Agreement, and (ii) the Software, when used in accordance with this Agreement, will function substantially in accordance with the current version of the Documentation ("Software Warranty"), for a period of thirty (30) days from the date of delivery of the Software ("Software Warranty Period").
- b. Exclusive Remedy – If, within the Software Warranty Period specified in paragraph (a) above, the Software fails to comply with the Software Warranty, Licensee shall provide written notification to Licensor specifying such failures within ten (10) days of their occurrence. Licensor shall employ prompt, commercially reasonable efforts to correct the Software upon receipt of written notice of the warranty defect during the Software Warranty Period. IF LICENSOR IS UNABLE TO MAKE SOFTWARE CONFORM TO THE SOFTWARE WARRANTY, THE SOLE REMEDY OF LICENSEE SHALL BE TO SEEK FROM LICENSOR A REFUND OF THE MAINTENANCE AND SUPPORT SERVICES FEE FOR THE NON-CONFORMING SOFTWARE. However, Licensor shall not be obligated to correct, cure, or otherwise remedy any error or defect in the Software, and the Software Warranty shall not apply, if: (i) the error or defect was caused by Modifications performed on the Software by Licensee without Licensor's express written approval; (ii) the Software has been misused or damaged in any respect other than by personnel of Licensor; or (iii) Licensor has not been notified of the existence and nature of such error or defect within ten (10) days of its discovery.

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- d. Limitation of Liability – LICENSOR SHALL NOT BE LIABLE, UNDER ANY THEORY OF LIABILITY, HOWEVER ARISING, FOR ANY: (i) SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT OR THE OPERATION OR USE OF THE SOFTWARE AND MAINTENANCE AND SUPPORT SERVICES, INCLUDING, WITHOUT LIMITATION, DAMAGES ARISING FROM LOSS OF DATA, INFORMATION, OR PROGRAMMING, LOSS OF REVENUE OR PROFITS, BUSINESS INTERRUPTION, FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS, DAMAGE TO EQUIPMENT, AND CLAIMS AGAINST LICENSEE BY ANY THIRD PERSON, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; (ii) DAMAGES (REGARDLESS OF THEIR NATURE) FOR ANY DELAY OR FAILURE BY LICENSOR TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT DUE TO ANY CAUSE BEYOND LICENSOR’S REASONABLE CONTROL; OR (iii) CLAIMS BROUGHT IN ANY COURT OR OTHER GOVERNMENTAL AUTHORITY OF COMPETENT

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JURISDICTION MORE THAN ONE (1) YEAR AFTER ANY SUCH CAUSE OF ACTION FIRST AROSE.

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- f. Exclusions – Licensor shall not be responsible or liable for any claims arising from: (a) Software other than the then-current release and the immediately prior release of the Software; (b) errors, damage or problems caused by the Licensee’s failure to provide a suitable operating environment within which to run the Software; (c) any third-party software; (d) accidental or willful damage by Licensee or its Authorized Users; or (e) other matters beyond Licensor’s reasonable control, including any force majeure event.
- g. Indemnity – Licensee agrees to hold harmless, defend and indemnify Licensor from any and all claims arising from (i) Licensee’s or its Authorized Users’ use of the Software, and (ii) actual or alleged infringement, misappropriation, or other violation of a third party’s intellectual property rights by the Licensee Data. This paragraph shall survive any termination of this Agreement.

14.0 Data:

- a. Licensee Data – As between Licensee and Licensor, Licensee is and will remain the sole and exclusive owner of all right, title and interest in and to all information, data and other content provided to Licensor by or on behalf of Licensee through or in connection with the Software (collectively, the “Licensee Data”). Licensee grants Licensor the right to host, use, process, display and transmit Licensee Data to provide the Software pursuant to and in accordance with this Agreement. Licensee has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of Licensee Data, and for obtaining all rights related to Licensee Data required by Licensor to provide the Software. Licensee is solely responsible for all data within its possession or control, including any Licensee Data, its databases and for maintaining suitable backups of such data and databases to prevent data loss in the event of any hardware or software malfunction.
- b. De-Identified Data – Licensee grants to Licensor a non-exclusive, perpetual, royalty-free, assignable, transferrable, sublicensable license to reproduce, distribute, display, create derivative works of, and otherwise exploit the Licensee Data solely for the purposes of providing the Software to Licensee and creating the De-Identified Data. Licensor and its licensors may use the De-Identified Data for any lawful purposes, including for the purposes of marketing, promoting, benchmarking, improving and further developing the Software. “De-Identified Data” means all data derived by Licensor through processing or analyzing the Licensee Data and otherwise through the operation of the Software, provided that the De-Identified Data will not be in a form that could be used to identify Licensee or its Authorized

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Users.

15.0 Confidential Information: Each party acknowledges and agrees that any and all information emanating from the other's business in any form and designated as confidential or ought to be reasonably understood to be confidential under the circumstances of disclosure is "Confidential Information". For the avoidance of doubt, Confidential Information of Licensor includes all non-public elements of the Software. Each party agrees that it will not, during or after the term of this Agreement, permit the duplication, use, or disclosure of any such Confidential Information to any person (other than an employee, agent or representative of the other party who must have such information for the performance of its obligation hereunder), unless such duplication, use or disclosure is specifically authorized by the other party in writing prior to any disclosure. Confidential Information shall not prohibit or limit either party's use of information of the other party (including without limitation ideas, concepts, know-how, techniques and methodologies) which (i) was previously known to it, (ii) was or is independently developed by it, (iii) was or is acquired by it from a third party having no obligation of confidentiality regarding the information, (iv) is, or becomes, publicly available through no breach by it of this Agreement, or (v) is disclosed pursuant to law or the order, requirement or request of a court or government authority. Each party shall use reasonable diligence, and in no event less than that degree of care that such party uses in respect to its own Confidential Information of like nature, to prevent the unauthorized disclosure or reproduction of such information. Without limiting the generality of the foregoing, to the extent that this Agreement permits the copying of Confidential Information, all such copies shall bear the same confidentiality notices, legends, and intellectual property rights designations that appear in the original versions and the copying party shall keep detailed records of the location of all Confidential Information. The parties agree and acknowledge that any breach or threatened breach of this Section 15 may cause irreparable injury to the disclosing party and that the disclosing party shall be entitled to seek injunctive relief, in addition to any other remedies that may be available to it under this Agreement or at law or in equity. This provision shall survive any termination of this Agreement.

16.0 Proprietary Protection of Software:

- a. Limited Right of Use – This Agreement does not provide Licensee with title or ownership of the Software but only a limited right of use as provided herein and a right to make only the copies authorized hereunder in support of such use. Licensee further acknowledges and agrees that no license, right, or interest in any Licensor trademark, trade name, or service mark is granted hereunder. Licensee shall keep the Software free and clear of all claims, liens, and encumbrances.
- b. Reservation of Rights; Acknowledgment of Reservation of Rights – Licensee acknowledges that the Software constitutes commercially valuable, proprietary products of Licensor, the design and development of which reflect the effort of skilled development experts and the investment of considerable time and money. Licensee acknowledges that the Software contains substantial trade secrets of Licensor, which Licensor shall entrust to Licensee in confidence to use and copy only as expressly authorized by this Agreement. Licensee further acknowledges and agrees that the Software and any prior, derivative or new versions, releases, upgrades or enhancements of the Software (including, without limitation Modifications and Upgrades) and all rights with respect to the Software, and any prior derivative or new versions, releases, upgrades or enhancements thereof including, without limitation, copyrights, trademarks, service marks, trade names, patents, inventions, and trade secrets, are confidential and proprietary to Licensor or its Licensors, and shall remain at all times the exclusive property of Licensor or its licensors. To the extent any right, title or interest in or to the Software,

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including any Modifications or Upgrades thereof, vests in Licensee or any Authorized User, Licensee, on behalf of itself and its Authorized Users, hereby assigns to Licensor all such right, title and interest. Licensee shall use its best efforts to protect Licensor's proprietary interests in the Software. Any distribution, copying, or modification of such materials not expressly authorized by this Agreement is strictly forbidden.

- c. Property Rights – Licensee acknowledges and agrees that this Agreement does not create any property right in favor of Licensee or other third party in or to the Software or any other work product developed by Licensor, nor shall this Agreement in any way limit or restrict Licensor's right to sell, rent, lease, grant a license, or otherwise transfer the Software or any portion of the Software to any third party.
- d. Trade Secret Information – Licensee shall not, at any time, disclose or disseminate the trade secrets embodied in the Software to any other person, firm, or organization or to any employee or agent of Licensee who does not need to obtain access thereto in connection with Licensee's exercise of its rights under this Agreement. Under no circumstances may Licensee disclose or distribute the Software or disseminate any Licensor's trade secrets to any competitor of Licensor. Licensee shall devote its best efforts to ensure that all persons afforded access to the Software protect Licensor's trade secrets against unauthorized use, dissemination, or disclosure.
- e. Copyright Information – All patents, copyrights, source code, trade secrets and other proprietary rights in or related to the Software are and will remain the exclusive property of Licensor or its Licensors, whether or not specifically recognized or perfected under the laws of the jurisdiction in which the Software is used or licensed.
- f. Survival of Obligations – Licensee's obligations under this Section shall survive termination of this Agreement for any reason.

17.0 Miscellaneous:

- a. Law Governing – The validity, construction, interpretation and performance of this Agreement shall be governed by and construed in accordance with the substantive domestic laws of the State of Georgia, exclusive of conflict of laws principles. Each party irrevocably agrees that any legal action, suit or proceeding brought by it in any way arising out of or relating to this Agreement must be brought solely and exclusively in the United States District Court for the Northern District of Georgia or the Superior Court of Fayette County, Georgia. The provisions of the United Nations Convention on the International Sale of Goods do not apply to this Agreement.
- b. Compliance with Laws – Licensor and Licensee each shall comply with the provision of all applicable federal, state, county and local laws, ordinances, regulations and codes including, but not limited to, Licensor's and Licensee's obligations as employers with regard to the health, safety and payment of its employees, and identification and procurement of required permits, certificates, approvals and inspections in Licensor's and Licensee's performance of this Agreement.
- c. Force Majeure – Licensor shall not be held liable or responsible to Licensee nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement when such failure or delay is caused by or results from causes

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beyond the reasonable control of Licensor including, but not limited to, failure, interruption, or outage of any communication facility, web host, or internet service provider; malicious code, tools, or devices designed to disable or disrupt systems, infrastructure, and operations; earthquakes, fire, floods, and other acts of God; embargoes, insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances; acts of war or terrorism; epidemics, pandemics, or other public health events; and omissions or delays in acting by any governmental authority or the other party.

- d. Assignment – Licensee shall not assign, pledge, or transfer any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Licensor and any assignment, pledge, transfer or delegation made without such consent shall be null and void. In the event of an acquisition of substantially all or all of its assets or the majority of its outstanding shares carrying voting rights by a third party or merger with or into a third party, Licensee shall be required to notify Licensor within thirty (30) days of such event. The obligations of either party may be performed by parent, subsidiary, affiliate, or successor corporation of party and nothing in this paragraph shall prevent assignments in the event of merger or consolidation by the merging or consolidating party. In the event of assignment or delegation, neither party shall withhold its consent unreasonably.
- e. Independent Parties – The parties are and will act at all times as independent contractors, and nothing contained in this Agreement will be construed or implied to create an agency, association, partnership or joint venture between the parties or to obligate either party to deal with the other on an exclusive basis.
- f. No Waiver – No waiver of breach or failure to exercise any option, right or privilege under the terms of this Agreement on any occasion or occasions shall be construed to be a waiver of the same or any other option, right or privilege on any other occasion.
- g. Survival – All provisions that by their nature are intended to survive termination or expiration of this Agreement shall survive, including the following provisions: Sections 7, 11(e), 12, 13, 14, 15, 16, 17, 18, 19, and 20.
- h. U.S. Government Restricted Rights – The Software is provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. Manufacturer is Osмосе Utilities Services, Inc., 635 Highway 74 S, Peachtree City, GA 30269.
- i. Export Restrictions – Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Software. Licensee agrees to comply with all such export laws and regulations, and shall not, directly or indirectly, export or transmit the Software or Documentation, or any data, information, software programs, or materials resulting from the Software, in violation of such export laws and regulations.
- j. Severability. If any provision of this Agreement is found invalid or unenforceable under any applicable laws or regulations, that provision will be deemed stricken from this Agreement, but its invalidity or unenforceability will not invalidate any other provisions of this Agreement.

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- k. Notices. Any notice to a party under this Agreement must be in writing and be delivered by personal delivery, by facsimile or by overnight or express courier service to the address set forth on Licensee's applicable purchase order or invoice. A notice will be deemed delivered upon personal delivery, or upon electronic confirmation of facsimile receipt, or one day after delivery by overnight or express courier service. Notwithstanding the foregoing, notices of an administrative nature from Licensor, such as invoice approvals and electronic invoices, may be communicated via email.
- 18.0 Changes to this Agreement:** Licensor reserves the right to make changes or modifications to this Agreement from time to time with or without notice. All revised versions of this Agreement will be available at <https://www.o-calcpro.com/Help/PriorVersions/O-Calc%20Pro%20-%20Software%20License%20Agreement.pdf> and/or within the Software. Licensee's or its Authorized Users' use of the Software thirty (30) days following the posting of the revised Agreement constitutes acceptance of changes.
- 19.0 Entire Agreement:** This Agreement, any appendices and subordinate documents referenced in this Agreement constitute the entire agreement between the parties with respect to the subject matter contained herein, superseding all previous agreements pertaining to such subject matter. All prior agreements, representations, warranties, statements, negotiations, understandings and undertakings are superseded hereby and Licensee hereby represents and acknowledges that in entering into this Agreement it did not rely on any representations or warranties other than those warranties explicitly set forth in this Agreement.
- 20.0 Construction:** The language used in this Agreement shall be deemed to be the language chosen by Licensor and the Licensee to express their mutual intent, and no rule of strict construction, nor any presumption in the case of ambiguity, shall be applied against the drafter.