

BLUECUBE LEGAL NOTICES

End-User License Agreement "EULA" for Blue Cube Systems (Pty) Ltd Executable Computer Programme MMMC © Software Product

Effective May 2020



THIS SOFTWARE PRODUCT LICENSE IS APPLICABLE TO EVERY PRODUCT MANUFACTURED BY BCS

Definitions:

"BCS" means Blue Cube Systems (Pty) Ltd "Product" means any electronic product manufactured or assembled by BCS.

1. This EULA grants the LICENSEE an individual, personal, nonexclusive, non-transferable and limited license to use a single copy of the Software on a Product.
2. The Software is owned by the LICENSOR and is protected by copyright laws and international copyright treaties, as well as by other intellectual property laws and treaties.
3. The Software is licensed, not sold.
4. Only one copy of the Software may be installed for each Product Hardware component, which may be used by only one processor of the Computer.
5. The Software is licensed as a single product. Its component parts may not be separated for use on any Computer other than the Computer that forms part of the Hardware.
6. The Software is licensed with the Product Hardware component as a single integrated product.
7. The Software may only be used with the Product Hardware component that it accompanies.
8. Except as provided in this EULA, the LICENSEE receives no rights and agrees not to sell, cede, assign, transfer, rent, lease, lend, copy, modify, translate, port, localise, create derivative works of, market, distribute, sub-license, time-share or electronically transmit the Software, media or documentation. The LICENSEE acknowledges that the Software in source code form remains a confidential trade secret of the LICENSOR and/or its suppliers, and therefore, the LICENSEE agrees not to modify the Software or attempt to reverse-engineer, decompile, decompose or disassemble the Software, except and only to the extent that such activity is expressly permitted by applicable laws notwithstanding this limitation. The LICENSEE shall protect the proprietary or confidential information as a confidential trade secret, supplied by the LICENSOR in its Software (including any source code), in the same manner in which the LICENSEE would protect its own proprietary or confidential information, but not less than reasonable precautions to protect such proprietary or confidential information, and the LICENSEE shall not use such proprietary or confidential trade secret for its own benefit or the benefit of any other person or entity, except as may be specifically permitted in terms of this EULA.
9. The provisions of this EULA shall apply mutatis mutandis to all upgrades/new versions of the Software.
10. All rights not specifically granted in terms of this EULA are reserved by the LICENSOR.
11. The Software may include certain third party component products ('component products') which may contain their own license agreements (each a 'component agreement'). In the event of inconsistencies between this EULA and any component agreement, the terms of use of the component agreement shall only control that/those respective component product/s. The LICENSOR warrants, to the best of its knowledge, that the Blue Cube Executable Computer Programme MMMCC, with its supporting files, related media, and any on-line or printed documentation, does not infringe upon or violate any intellectual property rights of any third party.
12. Without prejudice to any of its other rights, the LICENSOR may terminate this EULA if the LICENSEE fails to comply with its terms and conditions.
13. Upon using and/or, inter alia, renting for demonstration and/or other purposes or purchasing a Product, each Product LICENSEE warrants that it is irrevocably bound by the terms and conditions of this EULA.
14. The LICENSEE shall allow the LICENSOR, after having been given reasonable notice, access to any place where the LICENSEE may use the Product, to audit the LICENSEE's compliance with this EULA.
15. Any Product Support Services 'PSS' required by the LICENSEE for the Software and the Hardware of the Product shall be provided exclusively by the LICENSOR in terms of a separate PSS Agreement between the Parties; however, this is subject to the said PSS Agreement having been concluded between the Parties.
16. The LICENSEE shall not be entitled to obtain support services for the Product from any other or third party unless thoroughly authorised by the LICENSOR in writing.
17. To the maximum extent permitted by applicable law, the LICENSOR and its suppliers provide the Product and PSS (if any) as is and with all faults, and hereby disclaim all other warranties and conditions, whether express, implied, or statutory, including, but not limited to, any (if any) implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of reliability or availability, of accuracy or completeness of responses, of results, of workmanlike effort, of lack of viruses in the case of the Software, and negligence and the provision of or failure to provide support or other services, information, software, and related content through the Software or otherwise, arising out of the use of the Product.
18. The LICENSOR specifically warrants that the Software, when properly used, will perform substantially in accordance with the accompanying documentation, and the Software media will be free from defects in materials and workmanship for a period of 90 (ninety) days from the date of receipt. The LICENSEE recognises and agrees that there are no implied warranties attached to the Product.
19. The LICENSOR and its suppliers' entire liability and the LICENSEE's exclusive remedy pertaining to the Limited Warranty shall be irrevocably limited to the repair or replacement of the Software that does not meet the LICENSOR's warranty, which becomes void if failure of the Software has resulted from accident, abuse or misapplication. Any replacement Software will be warranted for the remainder of the original warranty period.



20. There is furthermore no warranty or condition of title, quiet enjoyment, quiet possession, correspondence to description, or noninfringement with regard to the Product.
 21. In no event shall the LICENSOR or its suppliers be liable for any special, incidental, punitive, indirect, or consequential damages whatsoever (including, but not limited to, damages for loss of profits or confidential or other information, for business interruption, for personal injury, for loss of privacy, for failure to meet any duty including of good faith or of reasonable care, for negligence, and for any other pecuniary or other loss whatsoever) arising out of or in any way related to the use of or inability to use the Product; the provision of or failure to provide support or other services, information, software, and related content through the Software or otherwise arising out of the use of the Software; or otherwise under or in connection with any provision of the EULA, even in the event of the fault, tort (including negligence), strict liability, breach of contract, or breach of warranty of the LICENSOR (if any) or any supplier, and even if the LICENSOR or any supplier has been advised of the possibility of such damages.
 22. Notwithstanding any damages that the LICENSEE might incur for any reason whatsoever (including, without limitation, all damages referenced above and all direct, indirect, consequential or general damages), the entire liability of the LICENSOR and any of its suppliers under any provision of this Agreement, the LICENSEE's exclusive remedy for all of the foregoing shall be limited to the terms and conditions as provided for in 19, 20 and 21 above.
 23. The foregoing limitations, exclusions and disclaimers shall apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose.
 24. The Software is not fault-tolerant and is not designed, intended, or licensed for use with in-line control equipment or in hazardous environments or environments requiring fail-safe performance, including environments such as in the operation of nuclear facilities, aircraft navigation or communication systems, air-traffic control, and life-support or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage ('High Risk Activities'). Without limiting the generality of the foregoing, the LICENSOR and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities.
 25. In the event that the LICENSEE has elected not to conclude a separate agreement with the LICENSOR for PSS, the LICENSEE hereby indemnifies the LICENSOR against any claims that it may have as a result of the Product not being serviced and repaired.
 26. The LICENSEE shall at its own cost install the necessary UPS (uninterrupted power supply) equipment and congruent lightning protection measures.
-