

# License Agreement, Terms and Conditions

## ScriptRunner Software GmbH

### 1. SCOPE OF APPLICATION

1.1 This License Agreement and these Terms and Conditions apply to all agreements between ScriptRunner Software GmbH and the customer regarding the ScriptRunner® software solution (hereinafter: AUTOMATION SOFTWARE). The AUTOMATION SOFTWARE is provided to the customer for the agreed duration and at the customer's discretion either as term-based license or subscription, including support.

With its AUTOMATION SOFTWARE, ScriptRunner Software GmbH provides customers with a professional platform for automating and managing IT infrastructures using the PowerShell scripting language.

1.2 In the event of contradictions, the provisions of the individual agreement take precedence over the specific provisions of this Agreement. These Agreements also apply to follow-up orders related to the AUTOMATION SOFTWARE, for example, optional functions, additional user licenses, and additional services.

1.3 This License Agreement and these Terms and Conditions of ScriptRunner Software GmbH apply exclusively. Any diverging terms and conditions of the customer will not be accepted, even if they were not expressly rejected. Diverging provisions apply only if ScriptRunner Software GmbH has agreed to them in writing.

### 2. CONCLUSION OF AN AGREEMENT

2.1 Offers apply exclusively to entrepreneurs (B2B). An entrepreneur within the meaning of these Agreements is any natural or legal person or a legal partnership that concludes transactions in their capacity as an independent professional or commercial entity. In concluding the agreement, the customer declares that they are acting as an entrepreneur.

2.2 Agreements are effected with the offer and acceptance subject to the terms of these Agreements. ScriptRunner Software GmbH transmits its offer to the customer by email or letter. The customer may accept this offer by means of a declaration of acceptance (order) to be submitted to ScriptRunner Software GmbH within 30 days of the offer date (email or letter). The agreement in accordance with these Agreements is concluded when the customer submits their acceptance by the deadline. If the customer does not accept the offer within the deadline, ScriptRunner Software GmbH is no longer bound to its offer.

2.3 Product descriptions and prices provided by ScriptRunner Software GmbH are non-binding as long as they are not part of a contractual agreement or of an offer specified as being binding for a specific term.

### 3. SUBJECT MATTER OF THE AGREEMENT

3.1 The AUTOMATION SOFTWARE is provided for the agreed term. When concluding an agreement, the customer may choose between

➤ a **term-based license** with a fixed term of at least three years or

➤ a **subscription** that may be terminated yearly with a minimum term of one year.

3.2 The AUTOMATION SOFTWARE may only be used with a valid **license file** provided as a soft dongle (a file that is alterable only with one-time activation keys and may not be copied). ScriptRunner Software GmbH transmits the necessary activation keys to the customer for activating the AUTOMATION SOFTWARE in the contractual scope and term within the customer's own IT infrastructure. Any changes to the installation of the AUTOMATION SOFTWARE in the IT infrastructure require a new license file and new activation keys. The customer may request them. Each activation key has a preset validity term for operating the AUTOMATION SOFTWARE.

As a rule, ScriptRunner Software GmbH provides temporary, term-limited licenses for test purposes or other provisional purposes without requiring prior payment. The activation keys for the final license are provided to the customer without delay after receipt of payment, and in the case of a subscription, are valid for the minimum term or for the respective agreement year, and in the case of a term-based license, they are valid for the entire term of the agreement.

3.3 The customer receives the AUTOMATION SOFTWARE in the agreed scope, as a download ready for installation in object code, that is, in executable form. The customer is not entitled to access the source code. The customer installs it personally in their own IT infrastructure. If the IT infrastructure is modified or the AUTOMATION SOFTWARE is reinstalled, the customer must reinstall the existing installation of the AUTOMATION SOFTWARE without delay after reinstallation.

3.4 The type and scope of the services are determined by the individual services ordered by the customer, and in particular, by the number of **user licenses, function modules and individual functions** ordered. Apart from that, the service description applies as set out in the offer or order, in the scope agreed with the customer. Optional function modules, functions, and other additional services are only included in contractual services if expressly agreed.

### 3.5 User licenses

Only licensed users are permitted to use the software. Users within the meaning of the provisions of this Agreement are:

- natural persons and/or
- machines, whether hardware or software.

Each user has at least one personal account. Each account is counted as an individual, separate license and is registered in the AUTOMATION SOFTWARE.

The accounts may be used only by the entity (licensed person or machine) authorized for the respective accounts. The access data may not be disclosed.

The customer is not entitled to use the AUTOMATION SOFTWARE beyond the purpose defined in the individual contractual agreement nor to allow third parties use it or to make it available to third parties.

3.6 The AUTOMATION SOFTWARE may be used only in the scope and by the persons and machines as specified in the order and the license. In order to verify the licenses and user rights, the AUTOMATION SOFTWARE can set up a connection to a license service supplied by ScriptRunner Software GmbH.

If ScriptRunner Software GmbH has legitimate concerns regarding contractual use, it may verify the conformity of actual use with contractually agreed use of the AUTOMATION SOFTWARE on site or by remote access. In this event, the customer provides access to the AUTOMATION SOFTWARE so that the actual use can be determined by ScriptRunner Software GmbH. ScriptRunner Software GmbH will inform the customer at least 10 days beforehand of this audit.

3.7 The AUTOMATION SOFTWARE and the accompanying online documentation are always provided in English and if necessary, additional languages.

3.8 **Support** is available in English at [support@scriptrunner.com](mailto:support@scriptrunner.com) during service hours in case of questions and for processing error messages. Support includes 2nd-level and 3rd-level support and is available only to the IT administrators responsible for the customer's AUTOMATION SOFTWARE.

If an error analysis determines that a problem reported by the customer is not attributable to a defect in the AUTOMATION SOFTWARE, ScriptRunner Software GmbH may charge the customer for costs incurred during the error analysis, unless it was not apparent to the customer that there was no defect.

Support may also include **new program levels** (versions, releases, and fix releases) of the AUTOMATION SOFTWARE that are provided as downloads. However, ScriptRunner Software GmbH is not obligated to provide new program levels except for remedying any defects.

If ScriptRunner Software GmbH provides the customer with new program levels free of charge, the customer is obligated to regularly update the AUTOMATION SOFTWARE if such effort is reasonable for the customer while taking the interests of ScriptRunner Software GmbH into account.

3.9 Beyond this, additional services may be agreed at additional costs, such as consulting, training, customer support for installation, integration, parameterization, or adapting the AUTOMATION SOFTWARE to specific customer needs, including support in creating additionally requested scripts, defining and programming interfaces, as well as other support services. The parties agree that the additional services are services; there is no obligation to produce a certain result or outcome if the service cannot be executed or if it is unreasonable.

3.10 There is no obligation to provide on-site services. ScriptRunner Software GmbH is permitted to outsource services partially or in total to one or more subcontractors.

Guarantees are not provided unless expressly agreed in writing.

## 4. RIGHTS OF USE AND AUTHORIZATION FOR USE

4.1 ScriptRunner Software GmbH grants the customer the simple (non-exclusive), non-sublicensable, time-limited right to use the AUTOMATION SOFTWARE for the specific contractual purpose, in accordance with the agreed scope for their own purposes. Only licensed users are authorized to use the AUTOMATION SOFTWARE (see section 3.5 of this Agreement).

The customer does not have any rights beyond this, particularly regarding the AUTOMATION SOFTWARE.

The customer is only authorized to copy the AUTOMATION SOFTWARE if and to the extent, this is necessary for contractual use or if the copy is a backup. The backup must be deleted when the agreement is terminated, and copies may not be retained.

Identifiers of the AUTOMATION SOFTWARE, in particular, copyright information, marks, version numbers, serial numbers, or similar may not be removed, altered, or made unidentifiable.

The customer is not authorized without written consent of ScriptRunner Software GmbH to provide the AUTOMATION SOFTWARE to third parties and in particular to sell or rent it, whether for compensation or free of charge.

Third-party software (software components that were not developed by ScriptRunner Software GmbH, for example, open-source software) is subject to the license terms and provisions of the respective third-party software. The contractual language for this third-party software is English unless otherwise indicated.

4.2 Rights of use of work products: Upon full payment by the customer of the compensation agreed in the agreement, ScriptRunner Software GmbH grants the customer the non-exclusive right to use the work products created in the context of the agreement (service and development results), as long as they serve the purpose and area of use of the agreement. The customer is granted rights of use for the term of the agreement in accordance with the existing Agreements. Unless expressly agreed otherwise in an individual agreement, i) the customer is not granted rights to processing; and ii) the rights of use of the software is limited to the term of the agreement between the customer and ScriptRunner Software GmbH.

In particular, ScriptRunner Software GmbH has exclusive rights to scripts, special programming, and other individual adaptations of the AUTOMATION SOFTWARE. It is authorized but not obligated to use software-related work products for its own or other purposes. In particular, ScriptRunner Software GmbH is authorized to incorporate work products into the standard version of the AUTOMATION SOFTWARE available to all customers.

## 5. REMUNERATION AND PAYMENT ARRANGEMENTS

5.1 The remuneration for the AUTOMATION SOFTWARE is to be paid in advance for the agreed duration of use. Remuneration for subscriptions is to be paid at the beginning of the year of the contractual term, and for term-based licenses for the entire contractual term (three years, unless otherwise agreed).

The remuneration is dependent on the scope of the order (number of users, function modules, and functions). If used-based remuneration is agreed, a service quota for specific functions of the AUTOMATION SOFTWARE is purchased and paid for in advance. If the quota has been used up, the function is no longer available. If the quota has not been used up by the end of the agreement, it expires.

5.2 If services for set-up, onboarding, or other services are paid for as a one-time fee, this fee is due for payment when the agreement is concluded. This also applies to other one-time fees agreed at the conclusion of the agreement, such as training.

5.3 If additional services are agreed, they will be invoiced in accordance with an agreed service quota, unless a fixed fee has been agreed. Services are billed in advance.

5.4 Prices in offers and invoices are denominated in USD, CAD, GBP, or EUR, net of any applicable statutory taxes.

5.5 Unless agreed otherwise, the invoiced amount is due for payment in full 14 days after the invoice date. A payment is deemed to have been received as soon as it has been credited to an account of ScriptRunner Software GmbH. In case of default, ScriptRunner Software GmbH may charge default interest in the amount of five percentage points above the respective base interest rate. Other rights ScriptRunner Software GmbH has in the event of payment default remain unaffected.

5.6 With regard to subscription agreements, ScriptRunner Software GmbH is entitled to increase the annual remuneration at the earliest after twelve months from the beginning of the term of the agreement with a written notification of four months effective at the end of the month. Additional price increases may be made at the earliest 12 months after the previous price increase became effective. The price increase must be reasonable and may take customary market conditions into account. The customer has the right to terminate the agreement within six months after having received notification of a price increase.

5.7 Customer claims may only be set off against amounts owed to ScriptRunner Software GmbH if the customer claims are undisputed or have been determined to be final and non-appealable. The customer has no right of retention against claims of ScriptRunner Software GmbH unless the customer's counterclaims are undisputed and final and non-appealable.

## 6. CUSTOMER'S OBLIGATION TO COOPERATE

6.1 The customer ensures that cooperation required on their part to fulfill the contractual services is provided in due time at their expense. In particular, the customer will provide ScriptRunner Software GmbH in due time with the information necessary for provision of the contractual services and ensure that the status of the IT infrastructure is maintained as required under the agreement and the system prerequisites for the AUTOMATION SOFTWARE are provided. In particular, the customer is responsible for providing the PowerShell software modules and keeping them updated. The AUTOMATION SOFTWARE must also be regularly updated. The customer is to install the new program levels provided as soon as possible and within a reasonable time period in order to remedy defects. The obligation to cooperate is a material contractual obligation.

## 6.2 The customer is obligated

➤ to provide 1st-level support for the AUTOMATION SOFTWARE within the company;

➤ to use the email addresses or the ticket system provided by ScriptRunner Software GmbH for purposes of 2nd-level and 3rd-level support;

➤ to take appropriate technical and organizational measures to ensure that the contractual use of the AUTOMATION SOFTWARE is possible;

➤ to carefully store access data including passwords, PINs, digital certificates, etc., and protect it from third-party access and not disclose it to unauthorized persons. The customer must ensure adequate protection from abuse and unauthorized access by third parties and must obligate any users who are natural persons to do the same. It is the customer's responsibility to ensure that access data is kept confidential and not disclosing it to other persons;

➤ to take appropriate precautions such as regular data backups, error diagnosis, and verification of data processing results for the event that the AUTOMATION SOFTWARE does not work properly. In particular, the customer is obligated to make proper, regular data backups;

➤ to report errors with as much detail as possible, for example, the exact wording of error messages of the AUTOMATION SOFTWARE, a screenshot of the error situation, steps for reproducing the error, log protocols, necessary information regarding the IT infrastructure. The customer will assist in error detection to the best of their ability. This also includes support regarding the IT infrastructure components relevant to the AUTOMATION SOFTWARE (for example, operating systems, services, and third-party components);

➤ if requested by ScriptRunner Software GmbH to provide remote access to relevant IT infrastructure, if and to the extent that this is required for providing the contractual services.

6.3 If a third party asserts claims against the customer regarding infringement of intellectual property rights by the AUTOMATION SOFTWARE and if use of the AUTOMATION SOFTWARE is thereby impaired or not permitted, ScriptRunner Software GmbH guarantees that it will attempt to create a legally permissible way to use the AUTOMATION SOFTWARE. This may be, at the discretion of ScriptRunner Software GmbH, a workaround, new programming, or acquisition of rights as necessary.

In case of any infringement of intellectual property rights, the customer will inform ScriptRunner Software GmbH without delay of the third-party claims; they will not accept allegations of infringements of intellectual property; they will give ScriptRunner Software GmbH priority in dealing with the third party, including any out-of-court settlements, or will deal with the dispute only in communication with and with the consent of

ScriptRunner Software GmbH. If the customer caused the infringement of intellectual property rights, they shall have no claims against ScriptRunner Software GmbH.

## 7. LIABILITY

ScriptRunner Software GmbH is liable for all contractual, quasi-contractual, statutory, and tort claims to damages or compensation of costs as follows. ScriptRunner Software GmbH is liable: under law for any legal reason for a maximum amount limited to the contractual value in case of intent or gross negligence, unless otherwise agreed; and under mandatory liability statutes such as the Product Liability Act.

7.1 If ScriptRunner Software GmbH negligently breaches a material contractual duty, its liability is limited to the foreseeable damage typical for this type of agreement, however at a maximum to the amount of the contractual value. Material contractual duties are duties that the agreement requires of the vendor in accordance with the contents of the contract to facilitate fulfillment of the purpose of the agreement and whose fulfillment is necessary for proper execution of the agreement in the first place and on which the customer may ordinarily rely.

7.2 In the event of loss of data of the installed AUTOMATION SOFTWARE caused by simple negligence, ScriptRunner Software GmbH is liable only for damage that would have also occurred if the customer had made proper and regular data backups adequate for the importance of the data, at the most however half of the contractual value.

7.3 Apart from that, ScriptRunner Software GmbH has no other liability.

7.4 Strict liability of ScriptRunner Software GmbH for defects already acknowledged or present at the time of conclusion of the agreement is excluded.

## 8. TERM AND TERMINATION OF THE AGREEMENT

8.1 The term-based license agreement has a fixed term of three years and is terminated automatically at the end of this period without notice of termination.

8.2 A subscription agreement has an indefinite period, with a minimum term of one year. The agreement is automatically renewed by another year unless one of the parties terminates it. The agreement may be terminated with three-months' notice period effective at the end of the respective agreement year.

8.3 The right of either party to terminate the agreement without observing a notice period for good cause remains unaffected. ScriptRunner Software GmbH is in particular entitled to terminate without notice if the customer has enabled and is responsible for third-party access in violation of the agreement.

8.4 Termination must be made in writing.

8.5 Use of the AUTOMATION SOFTWARE after termination of the contractual relationship is not permitted. When the agreement has terminated, the customer must completely and irreversibly delete the AUTOMATION SOFTWARE provided to it and any copies. Copies may not be retained. If requested by ScriptRunner Software GmbH, the customer must provide written proof of the deletion. Any information and documentation must be destroyed.

## 9. CONFIDENTIALITY AND DATA PROTECTION

9.1 ScriptRunner Software GmbH and the customer are obligated to treat confidentially any information, trade, or industrial secrets of which they have gained knowledge in the scope of activities under the agreement; in particular they may not disclose such information to third parties nor use it for non-contractual purposes. This obligation does not apply to information or parts of information for which the receiving party can prove that it and/or the general public had prior knowledge of such information or that after receiving it, it was generally accessible, or that the general public obtained knowledge of it or that it was generally accessible, without this being attributable to the receiving party. Statutory obligations of disclosure remain unaffected.

9.2 Both parties will observe the relevant and applicable data protection laws. If the customer collects, processes or uses personal data itself or via ScriptRunner Software GmbH, the customer ensures that it is authorized to do so under applicable data protection laws. If a data processing agreement exists, it is made clear that the customer still owns the data, both in general in the scope of the processing agreement and also as set out in data protection laws. ScriptRunner Software GmbH does not monitor the data and content stored by the customer regarding legal permissibility of collection, processing, and use. The customer bears this responsibility. If necessary, the parties will conclude a separate agreement on processing data.

## 10. FINAL PROVISIONS

10.1 The language of the agreement is English. If there is an English version, a German version is used for legal disputes.

10.2 The place of performance is Karlsruhe. All legal relationships between the parties are subject to the laws of the Federal Republic of Germany. Private international law is excluded, as well as the UN Convention on Contracts for the International Sale of Goods (CISG).

10.3 If the customer is acting as a merchant, a legal entity under public law, or a special fund under public law domiciled in the Federal Republic of Germany, the courts of Karlsruhe have exclusive jurisdiction for disputes under this Agreement. If the

customer is domiciled outside of the territory of the Federal Republic of Germany, the courts responsible for the registered office of ScriptRunner Software GmbH have exclusive jurisdiction for all disputes under this Agreement, if the Agreement or claims under the Agreement can be attributed to the customer's professional or business activities. ScriptRunner Software GmbH is however in the foregoing cases also entitled in any case to apply to the court responsible for the registered office of the customer.

Version: 08/2022

<b>General</b>	
<b>ScriptRunner Software GmbH</b>	Manufacturer of the ScriptRunner <sup>®</sup> brand automation software <a href="http://www.scriptrunner.com/en/imprint">www.scriptrunner.com/en/imprint</a>
<b>ScriptRunner<sup>®</sup></b>	Word and figurative mark of ScriptRunner Software GmbH registered in trademark and patent offices under EU013122312 and UK00003353090
<b>third-party intellectual property rights</b>	Intellectual property rights, rights to marks, as well as industrial property rights that ScriptRunner Software GmbH does not own.
<b>automation software</b>	Software for automating and managing IT infrastructures, especially for recurring IT tasks, for IT service management, and for supporting IT-based business processes.
<b>IT infrastructure (components)</b>	The entirety of all hardware and software components and services that comprise the customer's IT.
<b>PowerShell</b>	PowerShell (also Windows PowerShell and PowerShell Core) is a Microsoft cross-platform framework for automating, configuring, and managing systems that provides a command line interpreter, including scripting language.
<b>scripting language, script</b>	A scripting language is a programming language that is executed using an interpreter. A script is a computer program for executing commands and necessary inputs and outputs.
<b>account</b>	An account refers to a computer account of a user. An account can belong to only one user. A user can be assigned several accounts, that is, computer accounts, e.g., one or more accounts with administrative rights, and one account as a standard user.
<b>user, person, machine</b>	A user within the meaning of these provisions is an account. A person within the meaning of these provisions is a user who is a natural person. A machine within the meaning of these provisions is an account for a technical entity such as a computer, software, or service.
<b>access data</b>	Access data is information to be treated confidentially that is used for authentication and authorization and comprises a username, password, PIN, fingerprint, or digital certificates.
<b>Licenses</b>	
<b>term-based license</b>	A term-based license is a license limited in time to three, four, or five years with a fixed term and a specified termination date. An extension requires and establishes a new contract. A paid term-based license entitles the user to use the software during the contract term and includes new versions, releases, and fix releases.
<b>subscription</b>	A subscription is valid for an indefinite period of time, covers an annual usage period, and can be terminated annually with a notice period of three months before the end of the usage period. A paid subscription entitles the user to use the software during the period of use and includes versions, releases, and fix releases.

<b>license file, soft dongle</b>	A license file is an encrypted file that contains the required information about licensed accounts, functions, function modules, and quota information. The file has the function of a soft dongle, may not be copied, and may be altered only with corresponding activation keys.
<b>activation key</b>	An activation key is used to lock or unlock accounts, functions, function modules, and quota information in the license file during the paid term of use. If changes are made to the installation in the IT infrastructure, a new license file and new activation keys are required.
<b>Software</b>	
<b>program version</b>	Generic term for the current, published development status of the AUTOMATION SOFTWARE with a unique build number, consisting of version, release or fix release, sequential number, and release identifier 0; Example: 6.7.1659.0 The current program version is published on the support page.
<b>version</b>	This term specifies the version of the AUTOMATION SOFTWARE. A new version is usually provided every 12 to 18 months.
<b>release</b>	This term specifies a release within a version of the AUTOMATION SOFTWARE. Usually, new releases are provided every 3 to 6 months. Up to 6 releases can be published within one version.
<b>fix release</b>	Fix releases fix bugs exclusively within a version and release cycle. They are created and published as required.
<b>source code</b>	Source code (also source text) is software program code in a programming language in a readable form.
<b>object code</b>	The object code is the sum of all instructions in the software's source code that have been translated into machine code and are executable.
<b>prohibition on decompilation</b>	The customer is not permitted to alter or convert the executable software code in any form into a readable source code of any form.
<b>third-party software (components), SDK</b>	Third-party software (components) is a software element provided by a third party that is used conformably in the software and can be executed. The respective software component, regardless of whether it is open source or commercial, is subject to a corresponding license, which, unless otherwise described, is covered by the license for the period of use. The terms and conditions for the respective software components are stored in the installation directory.
<b>download</b>	A downloadable copy of the software for standalone installation as ZIP executable object code. A download of the latest program version is available on the support page.

<b>Technical Support</b>	
<b>online documentation</b>	Online documentation comprises the scriptrunner.com website and the online guides on the support page support.scriptrunner.com of the website.
<b>email support, tickets</b>	A customer who has paid for a term-based license or subscription is entitled to email and online support. Contact and communication are traceable at any time via a ticket system. A ticket is created by sending an email to support@scriptrunner.com or using the support functions in the software. Each ticket is given a unique number. It is possible to view the ticket history by registering in the ticket portal scriptrunner.zendesk.com.
<b>1st-level support</b>	First point of contact for user inquiries and problems. The first-level support is to be provided by the customer internally.
<b>2nd-level support</b>	The ScriptRunner support team represents the second-level support and is, therefore, the point of contact for the customer's IT administrators for inquiries and problems. The second-level support of ScriptRunner Software GmbH is ensured by qualified and trained personnel.  Contact and communication are traceable at any time via a ticket system. A ticket is created by sending an email to support@scriptrunner.com or using the support functions in the software.
<b>3rd-level support</b>	The internal contact point for the ScriptRunner support team for product bugs and fixes. Third-level support can contact the customer directly if this is required for isolating bugs. The customer does not get direct access to third-level support.
<b>remote access</b>	Access provided to the installed software by second-level or third-level support during an online session with the customer to identify the causes of errors and understand the error behavior. Activating access to the systems within the online session is entirely the customer's responsibility.
<b>service hours</b>	Technical questions about the product or problem reporting are made by email to <a href="mailto:support@scriptrunner.com">support@scriptrunner.com</a> , via the form on the website <a href="https://support.scriptrunner.com">https://support.scriptrunner.com</a> or within the software.  Requests can be submitted to our support 24/7. A ticket will be created, and confirmation with the corresponding ticket ID will be sent to the requester. Qualified processing of errors takes place during our regular business hours from Monday to Friday.
<b>Additional Services and Remuneration</b>	
<b>service quotas</b>	A service to be paid for in advance that can be requested within an agreed period of time.
<b>fixed price</b>	A contractual scope of services at a fixed agreed price.
<b>individual software adaptations and customized programming</b>	Development of customized adaptations and specific functions in the software for an agreed remuneration. The unrestricted rights of use and exploitation remain with ScriptRunner Software GmbH.

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