

PikeOS Application Suite Node-Locked License Agreement Contract: xx-xxxxx



between

and

SYSGO AG

Am Pfaffenstein 14

55270 Klein-Winternheim

Germany

.....
.....
.....
.....

hereinafter referred to as "SYSGO" or "Licensor"

hereinafter referred to as "Licensee"

Software Product: PikeOS Development License, Version x.x for Architecture xxxx
Personality:
Number of Licenses:

This is a legal agreement between SYSGO and Licensee to use the Software Product provided by SYSGO. By installing the Software Product Licensee agrees to be bound by the terms of this Agreement.

This copy of the Agreement together with the license number above is a proof of license and shall be treated as valuable property.

1. Grant of License

- 1.1 Subject to Customer's compliance with the terms and conditions of this Agreement and payment of any applicable fees, Licensor hereby grants Licensee a non-exclusive, non-transferable, non-assignable internal-use license to use the Software Product, consisting of the PikeOS operating system ("RunTime Software") and the PikeOS development tools ("Development Software") together with the documentation for the purpose as described in clause 1.2, and in accordance with the terms of this Agreement.
- 1.2 The Licensee may only use the Development Software to develop customer specific software and integrate it with the RunTime Software to become an integral part of a device or system designed for a specific purpose ("Target System"). The distribution (whether in form of a sale, lease, loan or otherwise) of Target Systems to third parties, including but not limited to customers of Licensee, requires a separate "Deployment License Agreement" from Licensor.
- 1.3 Development Software
 - 1.3.1 Licensee may install and use the Development Software at the Designated Site in Licensee's organization. This license is restricted to the maximum Number Of Users accessing or using the Development Software simultaneously. The users must be employees or agents of the Licensee and must be based at the Designate Site. Users may access the Development Software from a secure network server located at the Designated Site over a secure VPN or equivalent secure network, provided they have a unique network log-in.
 - 1.3.2 Licensee shall be entitled to change the Designated Site once per calendar year, provided Licensee informs Licensor in writing on such change and Licensor consents in writing to such change prior to the installation and use of the Development Software at a new designated site. Licensor's consent shall not be unreasonably withheld. In particular but not limited to, Licensor may refuse such consent if the new designated site is not in the same country or otherwise materially differs from the type or location of the initial Designated Site. Licensee shall immediately remove the Development Software from the initial Designated Site once the Development Software has been installed at the new Designated Site.
 - 1.3.3 Any other use of the Development Software requires additional licenses.
- 1.4 RunTime Software
 - Licensee may install the RunTime Software on a limited number of Target Systems for on-site development and testing purposes. The number of Target Systems is restricted to the maximum Number Of Users. Any other use is prohibited and requires a separate "Deployment License Agreement" from Licensor.
- 1.5 Licensee shall be allowed to duplicate the Software Product for back up purposes. However, the Licensee shall make and keep only (2) two back up copies of the Software Product.
- 1.6 Licensee may not reproduce the documentation and any other materials provided by Licensor in connection with the Software Product without Licensor's prior written consent except for a reasonable number of copies for the internal use of the Software Product by the Licensee.
- 1.7 Licensee acknowledges and agrees that it is not entitled to any source code relating to the Software Product unless Licensor grants a specific source code license to Licensee.
- 1.8 Licensor provides license management tools together with the Software Product, intended to cause the software to cease operating upon expiration or termination of the license. Licensee shall not circumvent the license management tools, or any other security devices, access logs, or other protective measures provided with the Software Product or permit or assist any user or any third party to do the same. The license management tools and any other protective

PikeOS Application Suite

Node-Locked License Agreement

Contract: xx-xxxxx



measures are included solely as a matter of administrative convenience, and Licensee has no right or license in or to such protective measures. Licensor will also provide those license keys that are reasonably necessary to permit Licensee to gain access to the Software Product. Except as may be expressly permitted under this Agreement, Licensee shall not disclose these keys to any third party. Licensor reserves the right to encode additional features into the Software Product to prevent any use inconsistent with the rights granted to the Licensee under this Agreement.

- 1.9 When requested by Licensor, Licensee will allow Licensor to audit Licensee's use of the Software Product or any part thereof during usual working hours and at the expense of Licensor to ensure that Licensee is in compliance with the terms of this Agreement and to give full and reasonable cooperation to the Licensor in carrying out such audit.

2. Third Party Software

- 2.1 Licensee acknowledges that the Software Product contains Open Source software under licenses such as the "GNU Public License" provided by third parties ("Third Party Software"). Such Third Party Software is specified in the documentation. Licensee shall inform itself about the license rights in respect to such Third Party Software. In case of any doubt, Licensor will provide Licensee at its request with the source of Third Party Software's license terms.
- 2.2 Licensee shall be bound and abide by and benefit from any terms included or referenced herein with respect to any Third Party Software and such terms shall take precedence to the terms herein in relation to the Third Party Software only.

3. Copyrights

- 3.1 The Software Product and any parts and materials thereof, including the documentation, manuals and instructions, if any, are protected by copyrights. Licensee acknowledges that it owns no copyright or other intellectual property rights in the Software Product or any part thereof, in the materials or any part thereof developed for or supplied to Licensee.
- 3.2 Licensee shall not and shall procure that none of its users, employees, agents or suppliers delete proprietary information, copyright or trademark notices appearing on any documentation or software media or other materials supplied to it by Licensor under this Agreement. Further, Licensee shall add and encode such notices verbatim on all copies made by it pursuant to the provisions hereof.
- 3.3 Licensee shall not and shall procure that none of its users, employees, agents or suppliers decompile or disassemble the Software Product or reverse compile, reverse assemble or reverse engineer the Software Product from object code into source code or attempt, authorize or permit the same in any manner or for any purpose whatsoever without Licensor's prior written consent. The restrictions contained in this clause 3.3 shall not apply where said restrictions would contravene applicable law.

4. Delivery, Installation and Operation

- 4.1 Licensor shall deliver the Software Product on machine-readable data carriers together with any pertaining documentation, instructions and user manuals.
- 4.2 Licensee shall install the Software Product at the Designated Site at its own risk.
- 4.3 Licensee hereby acknowledges that the Software Product will operate only on the type of hardware with the indicated software components set forth in the Licensor's description of the Software Product (or if there is no specific reference then as specified in the documentation) or any compatible upgrade thereto authorized by Licensor. Failure by Licensee to configure, maintain and upgrade the environment for the proper and efficient operation of the Software Product shall relieve Licensor of all warranties and undertakings in this Agreement pertaining to the operation of the Software Product until such failure is cured by Licensee.
- 4.4 Licensee shall keep safe the data carrier with the delivered Software Product and procure that no unauthorized person, including but not limited to its own users, employees and agents, have access thereto or to any copies of the Software Product.

5. Warranties

- 5.1 Licensor warrants that the Software Product will perform materially in accordance with the documentation and is generally suitable for the purpose of use as agreed in this Agreement. However, all specifications do not constitute a guarantee, unless otherwise explicitly agreed in writing. Licensor cannot warrant that the Software Product will meet any individual requirements Licensee may have, unless such requirements have been specifically agreed to. Furthermore, Licensor cannot warrant that the running of the Software Product will be always uninterrupted or error free.
- 5.2 Licensee's warranty remedies provide that Licensee, in accordance with § 377 of the German Commercial Code, inspects immediately the Software Product (including any documentation and instructions) upon delivery and duly complains about detectable defects without delay after inspection and about hidden defects without delay after detection. Complaints shall be made in writing and specifically state the defects.
- 5.3 All warranty claims, including but not limited to claims for damages, are excluded in case of insignificant defects, and if the Software Product (or any parts thereof)
 - 5.3.1 is manufactured, designed or supplied by Licensor in accordance with any design or special instruction furnished by the Licensee;
 - 5.3.2 is used by Licensee in a manner or for a purpose not contemplated by this Agreement;
 - 5.3.3 is used or located by the Licensee at a site other than the Dedicated Site for which it is licensed;

PikeOS Application Suite Node-Locked License Agreement Contract: xx-xxxxx



- 5.3.4 has been superseded by a release(s) of the Software Product that has been made available to the Licensee free of costs which makes the License and/or Software Product non-defective or non-infringing;
 - 5.3.5 is used by Licensee in combination with other Products, software or applications not provided by the Licensor or where such combination with other Products, software or applications are not specifically approved in writing by Licensor, including any software developed by the Licensee through the permitted use of the Software Product, provided that the defect arises from such combination or the use thereof; or
 - 5.3.6 is modified by Licensee or a third party without the Licensor's written authorization,
- unless the Licensee proves that the defect (including any defects in right) has not been caused hereby.

- 5.4 In case of any defects, Licensor shall have the right to decide at its own discretion whether it remedies any defect by new delivery or repair of the Software Product (or parts thereof).
- 5.5 If it turns out that the Licensee unjustly complained, for reasons for which Licensor is not responsible, about a defect for which Licensor is responsible, Licensor shall be entitled to charge Licensee all reasonable costs that Licensor incurred to remedy and/or establish the defect.
- 5.6 All warranty claims of Licensee shall be barred with the expiry of a period of 12 months after delivery of the Software Product, unless Licensor fraudulently concealed or intentionally caused the defect.
- 5.7 Clause 5 shall apply mutatis mutandis for defects in right. However, Licensor, unless stipulated otherwise, is only obliged to supply the Software Product free from third-party rights in the country of the Designated Site. In the event of a violation of third-party rights for which Licensor is responsible, Licensor may, at its discretion, either at its expense obtain adequate rights of use and assign it to Licensee, or alter the Software Product in such manner that the right is not infringed, or replace the Software Product, provided that the agreed use of the Software Product by Licensee is not substantially impaired.

6. Liability of Licensor

- 6.1 Licensor's liability for damages is exclusively governed by Licensor's General Terms and Conditions.
- 6.2 Licensee is solely responsible for using the Software Product and for the accuracy and adequacy of information and data furnished for processing of the Software Product.

7. Liability of Licensee

Licensee shall indemnify Licensor in respect of any infringement of the copyright, know-how or other proprietary rights relating to the Software Product in the event that the Software Product is infringing due to the circumstances defined in clauses 5.3.1-5.3.6.

8. License Fees

- 8.1 In consideration of the rights granted to Licensee under this Agreement, Licensee shall pay to Licensor the license fees as defined in the Licensor's invoice for the Software Product.
- 8.2 The license fees are due upon delivery of the Software Product. Payment conditions shall be governed by Licensor's General Terms & Condition.
- 8.3 All of Licensee's rights under this Agreement are subject to Licensee's proper payment of the license fees.

9. Miscellaneous

- 9.1 If any provision of this Agreement shall be held by a court to be invalid or voidable such provision shall be deleted and the remainder thereof shall remain in full force and effect, and the Parties shall substitute for the invalid or voidable provision a valid provision most closely approximating the economic effect and intent of the invalid or voidable provision.
- 9.2 Licensor's General Terms and Conditions shall apply in addition. The application of Licensee's terms & conditions is expressly excluded.
- 9.3 This Agreement and all obligations and rights hereunder shall be construed in accordance with and governed by the laws of the Federal Republic of Germany, excluding the United Convention on the International Sale of Goods. The competent courts at Licensor's seat shall have exclusive jurisdiction, save that Licensor shall be entitled to sue Licensee at the courts having general jurisdiction.