



**LYNX SOFTWARE TECHNOLOGIES INC.  
PERPETUAL DEVELOPMENT SOFTWARE LICENSE AGREEMENT**

This Perpetual Development Software License Agreement is a legal agreement between the customer identified in the Order Form (“You” or “Customer”) and Lynx Software Technologies Inc. (“Lynx Software Technologies” or “LYNX”). This agreement sets forth the terms and conditions under which you may receive and use the LYNX software products described in the Order Form (“Software”). Please read the following binding terms and conditions of this agreement before using the Software. If you do not want to be bound by the terms and conditions of this Agreement, you should not use the Software. By clicking on the “accept” button, signing an associated Order Form, or downloading, installing and/or using the Software, you become an End User and agree to the following terms and conditions on behalf of the Customer. Each of LYNX and Customer is a “party” and are collectively, the “parties.” If you are entering into this Agreement on behalf of your employer or another legal entity, then you represent and warrant that you have the authority to bind that entity as the Customer.

Lynx may amend this agreement from time to time by posting an amended version at its website and sending Customer notice thereof (an email to Customer’s designated contact shall be deemed sufficient in this case). Such amendment will be deemed accepted and become effective thirty (30) days after such notice (the “Proposed Amendment Date”) unless Customer first gives Lynx written notice of rejection of the amendment. In the event of such rejection, this agreement will continue in its existing form. Customer’s continued use of the Software following the Proposed Amendment Date will confirm Customer’s consent thereto.

**1. DEFINITIONS** (Terms not otherwise defined have the meanings set forth below):

**"Agreement"** means, collectively, this Perpetual Development Software License Agreement and all executed Order Forms, including any addenda and exhibits.

**"Authorized Architecture"** means the single processor family upon which the Software may be used in accordance with the terms of this Agreement.

**"Authorized Project"** means the Customer project designated and described on the Order Form.

**"License Fees"** means the fees for the Software as set forth in a valid Order Form.

**"License Term"** means in perpetuity.

**"Named User"** means the named individual (as initially designated on the Order Form) who is authorized to log into the network license server where the Software is installed and use the Software in accordance with the terms and conditions of this Agreement. Subject to the payment of applicable fees, Customer may change the Named User upon written request to Lynx.

**"Order Form"** means one or more ordering documents signed by Customer and Lynx.

**"Production License"** means a license that authorizes the reproduction, distribution, sale, deployment and sublicense of the binary Runtime system image (a System Runtime Package “SRP” and/or a kernel downloadable image “KDI”). Customer must possess an active Commercial Development License in order to purchase or deploy a Production License.

**"Support"** means maintenance and support services provided under a separate Support Services Agreement upon payment of any applicable fees.

**2. GRANT OF LICENSE:** Subject to payment of the applicable License Fees, LYNX grants to you a nonexclusive, non-transferable, right to use the Software, during the applicable License Term and subject to the terms and conditions of this Agreement, to create a binary Runtime system image for a target system. Depending on the licensed product, this binary bootable image may be comprised of a System Runtime Package (“SRP”) and/or kernel downloadable image (“KDI”). The SRP may contain the LynxSecure runtime, a kernel downloadable image (“KDI”) runtime, Lynx provided buildroot Linux, LynxSecure Applications, Virtual Device Server runtime, customer provided third party software or OS, and/or other software elements as included within the licensed product. This License allows Customer to make any configurations necessary to build an SRP or KDI for a specific target platform. This is not a license to reproduce, sell, sublicense or deploy an SRP or a KDI. Customer shall not reproduce, distribute, sell, sublicense or otherwise use the Software for any purpose other than development and testing without the prior written authorization from LYNX. Production License rights are available only upon execution of a separate Production License Agreement and payment of the applicable Production License fees. The purchase of a valid Production License is required to deploy any software that is produced pursuant to Lynx tools. Use of the Software Source Code, where applicable, shall be governed by the Lynx Source Code License Agreement. LYNX OR ITS SUPPLIERS OR LICENSORS RESERVES ALL RIGHTS NOT EXPRESSLY GRANTED HEREIN.

**3. OPEN SOURCE SOFTWARE:** The Software may contain open source software (as commonly defined in the industry) which is not subject to the terms of this Agreement. Any software programs provided for use with the Software which have been copied or derived from Open Source Software, including without limitation GNU software developed by the Free Software Foundation, Inc., and/or any software programs that have been copied or derived from the Eclipse Foundation, are subject to and supplied to You under their own license terms. For open source software that falls under either the GNU General Public License or the GNU Library General Public License, as in the case of libg++ or the Eclipse Public License, You have the right, valid for three years, to obtain a machine-readable copy of the source code for the LYNX distributed GNU software at a price that covers the cost of handling. Please contact LYNX for ordering information.

**4. PERMITTED USES AND RESTRICTED USES OF THE SOFTWARE:**

**4.1 You MAY:**

- a. use the Software in accordance with the terms and conditions of this Agreement only on the Authorized Architecture as specified on the Order Form and only in connection with the Authorized Project as specified on the Order Form; and
- b. make one (1) back-up copy of the Software in machine-readable form solely for back-up purposes. The back-up copy shall be reproduced with all proprietary notices.

#### 4.2 You MAY NOT (nor allow anyone else to):

- a. modify, translate, reverse engineer, decompile, disassemble, create derivative works based on, or copy in whole or in part the Software (except for the back-up copy);
- b. if under a Named User License, allow anyone other than the Named Users specified on the Order Form to access the Software;
- c. if under a Floating User License, allow individuals who are located outside of the Commercial Entity and Geographical Region(s) as specified on the Order Form to use the Software;
- d. transfer, distribute or grant any rights in the Software, in any form, to any person, or to another site or server without the prior written consent of LYNX;
- e. remove any proprietary notices, labels, or marks on the Software;
- f. separate any Java™ technology from the runtime application or use the Java™ technology except in connection with the runtime application;
- g. make copies of an SRP and/or KDI for any use other than development and testing without the purchase of a valid Production License;
- h. assign this Software License without LYNX'S written approval and a signed contract; or
- i. disclose to any third party the results of any benchmark testing or comparative or competitive analyses of the Software without Lynx's prior written approval.

**5. SOFTWARE SUPPORT:** You may purchase support services for the Software from Lynx. Terms and conditions relating to Support for the Software are provided under a separate Support Services Agreement. Any updates and/or bug fixes for the Software are part of the Software and subject to the terms of the license set forth herein.

#### 6. LIMITED WARRANTY:

LYNX WARRANTS THAT THE MEDIA ON WHICH THE SOFTWARE IS DELIVERED WILL BE FREE FROM DEFECTS FOR A PERIOD OF THIRTY (30) DAYS FROM THE DATE OF SHIPMENT OF SUCH MEDIA TO THE CUSTOMER ("WARRANTY PERIOD"). IF DURING THE WARRANTY PERIOD THE MEDIA ON WHICH THE SOFTWARE IS DELIVERED PROVES TO BE DEFECTIVE, LYNX SHALL REPLACE SUCH MEDIA. THIS IS CUSTOMER'S SOLE REMEDY FOR ANY BREACH OF WARRANTY HEREUNDER.

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**7. LIMITATION OF LIABILITY:** LYNX'S LIABILITY ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED THE AMOUNTS PAID BY YOU TO OBTAIN THE SOFTWARE LICENSE(S). IN NO EVENT WILL LYNX, ITS SUPPLIERS, DISTRIBUTORS OR LICENSORS BE LIABLE FOR ANY LOSS OF DATA, SECURITY VULNERABILITIES, LOST OPPORTUNITY OR PROFITS, COST OF COVER OR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES ARISING FROM THE USE OF ANY SOFTWARE PROVIDED UNDER THIS AGREEMENT, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY. THESE LIMITATIONS WILL APPLY EVEN IF LYNX OR AN AUTHORIZED DISTRIBUTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SUCH LIMITATION OF LIABILITY DOES NOT APPLY IN THE CASE OF FRAUD, WILLFUL INJURY TO PERSONS OR TANGIBLE PROPERTY, OR FOR WILLFUL OR NEGLIGENT VIOLATION OF LAW. YOU ACKNOWLEDGE THAT THE AMOUNT PAID FOR THE SOFTWARE REFLECTS THIS ALLOCATION OF RISK.

**8. PROPRIETARY RIGHTS:** The Software is licensed, not sold to you. Title, copyright and all related intellectual property rights in and to the Software, including the enclosed copies and any copy made by you, remain with LYNX and its suppliers or licensors.

**9. RIGHT TO AUDIT:** At any time during the term of this Agreement, LYNX may conduct an audit of your use of the Software to ensure compliance with the terms and conditions of this Agreement (the "Audit"). LYNX shall provide reasonable notice to you prior to performing an Audit. You shall cooperate fully with LYNX during an Audit.

**10. EXPORT RESTRICTIONS:** LYNX Software is under the jurisdiction of the U.S. Department of Commerce Export Administration Regulations (EAR). You may use or otherwise export or reexport the LYNX Software and documentation ONLY as authorized by United States law and the laws of the jurisdiction in which the LYNX Software was obtained. In particular, but without limitation, the LYNX Software may not be exported or re-exported (a) into (or to a national or resident of) any U.S. embargoed country, or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List, Entity List, or Unverified List. By using the LYNX Software, you represent and warrant that you are not located in, under control of, or a national or resident of any such country or on any such list.

**11. TERM:** The License Term shall commence on the date that Customer receives the Software authorization key. Customer shall request the authorization key within thirty (30) days of receipt of the Software. If Customer fails to request the authorization key within thirty (30) days of receipt of the Software, then the License Term shall commence thirty (30) days after Customer receives the Software. The License Term shall remain in effect in perpetuity unless terminated in accordance with this Agreement.

**12. FEES:** Customer shall pay to LYNX all fees and other charges pursuant to this Agreement, including the License Fees, within thirty (30) days of Customer's receipt of a correct and complete invoice. Any amount not paid within thirty (30) days after receipt of a correct and complete invoice shall bear interest at the lesser of 1.5% per month or the maximum rate allowed by law. All such fees and charges do not include federal, state, and local sales, use, license, and similar taxes or assessments which are the responsibility of Customer. License Fees are nonrefundable. License Fees for all Subscription License renewals are due thirty (30) days prior to the expiration of the then current term in order to avoid interruption in use of the License or rights to purchase and deploy Production Licenses.

**13. TERMINATION:** Either party may terminate this Agreement at any time by giving written notice to the other party. If Customer terminates this Agreement other than for an uncured default of LYNX, no refund of License Fees shall be given. Upon termination of this Agreement, the license granted herein shall terminate, Customer shall immediately return the Software and accompanying documentation and all back-up copies thereof to Lynx and Customer's rights to elect to pay for and deploy Production Licenses shall terminate. If either party defaults in the performance of any provision of this Agreement the non-defaulting party may give written notice to the defaulting party that if the default is not cured within ten (10) days, the Agreement will automatically terminate. If LYNX is the defaulting party, LYNX shall refund the License Fee on a prorated basis after accounting for depreciation on a straight-line basis on a five (5) year useful life. Unauthorized copying of the Software or the accompanying documentation or otherwise failing to comply

with the terms and conditions of this Agreement will result in automatic termination of this Agreement and will make available to LYNX other legal remedies. Any provision of this Agreement that by its language or context implies its survival shall survive termination of this Agreement.

- 14. U.S. GOVERNMENT END USERS:** The LYNX Software and related documentation are “Commercial Items”, as that term is defined at 48 C.F.R. §2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation,” as such terms are used in 48 C.F.R. §12.212 and 48 C.F.R. §227.7202. Consistent with 48 C.F.R. §12.212 and 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are licensed to U.S. Government end users and Prime Contractor end users under Government contracts and Government prime contracts (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished rights reserved under the copyright laws of the United States. Use, duplication and disclosure of the Software and accompanying documentation by U.S. Government end users and Prime Contractor end users are subject to the license rights listed in this agreement. Contractor/Manufacturer is LYNX SOFTWARE TECHNOLOGIES INC., 855 Embedded Way, San Jose, CA 95138.
- 15. CONFIDENTIALITY:** You agree that the Software contains proprietary non-public information including, without limitation, trade secrets, know-how, data, software, user interface, user manuals, screens, legal terms, product or services pricing, product development plans and other confidential information about the Software, that is the exclusive property of LYNX (“LYNX Confidential Information”). You and your users shall safeguard the confidentiality of the LYNX Confidential Information from unauthorized use, access, or disclosure using at least the degree of care you use to protect your own confidential information and in no event less than a reasonable degree of care and you shall not use such information except as authorized by this Agreement. You shall only disclose any information concerning the LYNX Confidential Information to your employees or agents that are legally bound by confidentiality, any other person requires the prior written consent of LYNX. Upon termination or expiration of the License Term, You shall immediately cease all use of the Software and return to LYNX or destroy all tangible embodiments of any LYNX Confidential Information (and all copies and portions thereof) residing in any electronic or other systems and records in Your possession or control. At LYNX’s request, You shall certify in writing that You have fully complied with this requirement
- 16. MISCELLANEOUS:** This is the entire agreement between the parties relating to the subject matter hereof. In no event shall any pre-printed terms or conditions found on Customer’s purchase order, invoice or other ordering document be considered an amendment or modification of this Agreement. Such pre-printed terms or conditions shall be considered null and of no effect and shall not be binding upon Lynx unless specifically agreed to in writing by an authorized agent of Lynx. No modification of the Agreement shall be valid unless in writing signed by each party. This Agreement and the License provided hereunder are not assignable without the prior written consent of LYNX. Any attempt at assignment without such consent shall be null and void and of no force and effect. The parties are independent contractors, and this Agreement does not create an agency, joint venture or partnership between the parties. The failure of either party to enforce at any time any of the provisions of this Agreement, or the failure to require at any time performance by the other party of any of the provisions of this Agreement, will in no way be construed to be a present or future waiver of such provisions, nor in any way affect the right of either party to enforce each and every such provision thereafter. The express waiver by either party of any provision, condition or requirement of this Agreement will not constitute a waiver of any future obligation to comply with such provision, condition or requirement. If any provision in this Agreement will be found or be held to be invalid or unenforceable in any jurisdiction in which this Agreement is being performed, then the meaning of said provision will be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, it will be severed from the remainder of this Agreement, which will remain in full force and effect. In such event, the parties shall negotiate, in good faith, a substitute, valid and enforceable provision, which most nearly effects the parties’ intent in entering into this Agreement. This Agreement is governed by the laws of the State of California without reference to its conflict of laws principles. All disputes arising out of this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California, and the parties agree and submit to the personal and exclusive jurisdiction and venue of these courts. In the event of litigation relating to this Agreement, the prevailing party will be entitled to recover its reasonable attorney’s fees and expenses. Early and partial deliveries are permitted pursuant to this Agreement and shall not, under any circumstances, justify the refusal to pay for the delivered goods. Headings used in this Agreement are included for reference purposes only and shall not be considered in construing or interpreting this Agreement.