



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

This Subscription 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, and the amendment will become effective at the start of Customer’s next License Term following the Proposed Amendment Date. 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 Subscription Development Software License Agreement and all executed Order Forms, including any addenda and exhibits.

"IR&D License" means a license to use the Software in accordance with the terms and conditions of this Agreement for non-commercial internal research and development purposes only, without any deployment in production rights. Under an IR&D License, Customer may use the Software for prototyping and proof of concept purposes.

"Geographical Region" means one of the following:

Region 1: “North and South America” from -12 to -2 hours

Region 2: “Europe and Africa” from – 1 to +3 hours

Region 3: “Asia-Pacific” from +4 to +12 hours

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

"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.

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4. PERMITTED USES AND RESTRICTED USES OF THE SOFTWARE:

4.1 You MAY:

- a. use the Software in accordance with the terms and conditions in this Agreement;
- b. if under an IR&D License as specified on the Order Form, use the Software for non-commercial internal research and development, prototyping and proof of concept purposes only; and
- c. 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.

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- f. remove any proprietary notices, labels, or marks on the Software;
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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. Once the License Term commences, the License and this Agreement shall remain in effect for a period of twelve (12) months.
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 current year License Fee on a prorated basis. 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.
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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.