

# USER LICENSE AGREEMENT FOR ANYLINE® SDK

## **1. SCOPE OF APPLICATION OF THE USER LICENSE AGREEMENT**

1.1 This user license agreement (the "**Agreement**") is a legal agreement between the licensee (the "**Licensee**") and the licensor (the "**Licensor**") both as defined in the binding order (the "**Order**"). The Licensee and Licensor each being a "**Party**" and together the "**Parties**".

1.2 Licensor has developed, owns and licenses software referred to as ANYLINE® SDK (hereinafter referred to as "**Licensed Technology**") which is implemented as a software library to be linked to and integrated in software products to be developed by Licensee and to be installed and executed on IT-devices of Licensee's end users. In accordance with the scope of the license (as defined below), Licensee desires to develop and distribute applications to its end users to be used and executed on IT-devices using the functions and procedures provided by Licensed Technology. Licensed Technology shall be linked to Licensee's applications according to the terms and conditions of this Agreement and the functionality provided will be integrated into those applications. Licensee's software applications using Licensed Technology shall be provided to Licensee's end users only in the form of object code as part of compiled executable binary files.

By signing the Order, electronically submitting the Order, accepting the terms of this Agreement or downloading, installing, copying, or otherwise using Licensed Technology, Licensee agrees to be bound by this Agreement and acknowledges and confirms that he/she has read, understood and agreed to comply with all terms, conditions and notices contained in or referenced by this Agreement and the relevant Order.

1.3 If Licensee does not agree to be bound by this Agreement (including the documents referenced herein), no agreement or license to use the Licensed Technology shall exist between Licensee and Licensor. If the Licensee does not agree to be bound by this Agreement, then the Licensee must not download, install, use, or in any way make available the Licensed Technology.

## **2. SOFTWARE DESCRIPTION**

Licensed Technology is implemented as a software library providing diverse functions and procedures to be used for the development of software applications to be executed on IT-devices ("**Derived Works**"). Therefore, Licensed Technology is designed as a software package (library) to be included in Licensee's software development environment in order to develop Derived Works. For selling and/or distributing/providing such Derived Works to Licensee's end users, Derived Works have to be compiled to an executable binary application. For this compilation, Licensed Technology has to be statically linked to a software application developed by or for Licensee, in order to create

the final version of this software application in the form of one or more binary files, which is to be distributed/sold/provided to Licensee's end users ("**Licensee Application**"). In order to enable Licensee to use Licensed Technology, Licensors provide detailed documentation and description of the interfaces.

### **3. GRANT OF LICENSE AND REDISTRIBUTION**

- 3.1 Licensee understands and agrees that, in order to use Licensed Technology, Licensee needs to purchase the required licenses for the "iOS SDK" framework from Apple Inc. and/or the "Android SDK" from Google Inc. and/or the "Windows 10 SDK" software from Microsoft Corporation separately and at Licensee's own expense and responsibility.
- 3.2 In consideration of Licensee's payment as specified in the Order (hereinafter referred to as "**Consideration**") Licensors grant to Licensee certain personal, revocable, non-exclusive, non-assignable, non-transferable and non-licensable rights to use the Licensed Technology limited by the terms of this Agreement (the "**License**"). Licensors shall supply one copy of Licensed Technology to Licensee by making it available to Licensee via an electronic download pursuant to Section 0 of this Agreement. Licensed Technology is licensed and not sold to Licensee. Licensee may only use the Licensed Technology pursuant to the terms of this Agreement, and Licensors reserve all rights, title and interests not expressly granted to Licensee herein.
- 3.3 In case the Parties have agreed in the Order on a specific number of scans, snaps, transactions, metering points or other variables for measuring Licensee's volume of usage based on the Licensed Technology (the "**Variables**"), Licensee understands and agrees that any use exceeding the agreed number of Variables will result in Licensee being liable to pay to Licensors the fees for the amount of Variables actually used by Licensee according to the terms set out in the Order.
- 3.4 Licensee is entitled to include Licensed Technology in their software development environment, to link Licensed Technology to Licensee Applications and to re-distribute Licensed Technology in a binary form as a part of a Licensee Application to be distributed, directly and indirectly, to Licensee's end users in the form of a single compiled binary file under the following conditions:
  - 3.4.1 Licensed Technology shall only be distributed/provided as part of Derived Works, incorporated into and forming an integrated part of Licensee Applications, accessible by end users on designated devices, running the iOS operating system, the Android operating system or Windows 10 UWP. Therefore, Licensed Technology must be linked to Licensee Applications. Licensee Applications must be compiled to binary object code and Licensed Technology embedded into the binary program code as an inseparable part. Licensed Technology shall only be redistributed as a part of a Licensee Application. Any plain redistribution of Licensed Technology as licensed as well as a redistribution of Licensed Technology in a re-linkable "library" or similar form is expressly and strictly prohibited.
  - 3.4.2 Derived Works must be one single binary file that includes the incorporation of Licensed Technology's binary object code.

- 3.4.3 Any redistribution of source or header files is strictly prohibited.
- 3.4.3 The brand names "ANYLINE® SDK", "ANYLINE", any other brand names or trademarks of the Licensor, or the names of its contributors are not to be used to endorse or promote products derived from Licensed Technology without Licensor's prior express written permission.
- 3.4.5 Licensed Technology shall only be used for the development and compilation of a Licensee Application by a Licensee who owns a valid fully paid License granted, under a currently applicable Agreement that has not been terminated or expired, that is in full force and effect at the time Licensed Technology is included into Licensee's software development environment, distributed, redistributed and/or compiled as an executable Licensee Application.
- 3.4.6 A redistribution or disclosure to third parties of provided documentation or descriptions of interfaces is strictly prohibited.
- 3.5 Each individual License purchase of Licensed Technology entitles Licensee to distribute Derived Works in a Licensee Application under one specific App-ID (meaning either (i) one specific bundle identifier in case of a Licensee Application for the iOS operating system, (ii) one specific package name in case of a Licensee Application for the Android operating system, or (iii) one specific App-Store ID in case of a Licensee Application for Windows 10 UWP) that is not a wildcard App-ID (as described in 'Technical Q&A QA1713' of Apple currently located at [http://developer.apple.com/library/ios/qa/qa1713/\\_index.html](http://developer.apple.com/library/ios/qa/qa1713/_index.html)).
- 3.6 In case Licensee wishes to distribute Licensee Applications in multiple (Enterprise) App Stores or in other ways and/or applies different brandings (by way of example only and not limited to specific Licensee Applications used for individual Licensee's end users), one License per distribution channel and/or branded Licensee Application is needed, even if Licensee uses the same App-ID. If Licensee owns additional App-IDs for the purpose of a testing environment, Licensor may grant to Licensee an extension of the License to these additional App-IDs upon Licensee's prior written request and at Licensor's sole discretion. Any such extension is valid only if provided to the Licensee in writing by an authorized representative of Licensor.
- 3.7 The termination or suspension of this Agreement does not affect any Licensee Applications or sublicenses that, at the time prior to termination or suspension, have already legitimately been provided to Licensee's end users in accordance with the terms set out in this Agreement.

## **4. TERMS OF PAYMENT**

- 4.1 The Consideration set out in the Order shall become due and payable on the dates set out in the Order subject to prior receipt of a corresponding invoice.

- 4.2 In case of an unlimited term of the Agreement stipulated in the Order, Licensor reserves the right to adjust the Consideration set out in the Order annually (effective at the end of a calendar year) by reference to the Austrian consumer price index 2015 (*Verbraucherpreisindex 2015*). The reference value for December 2016 shall serve as basis for all future adjustments of the Consideration.
- 4.3 The Test Version, as defined below, is made available free of charge.
- 4.4 Unless agreed otherwise between the Parties, all prices are "ex works", in Euros and exclusive of any taxes, duties and levies, such as VAT and import charges, costs or fees for packaging, costs of program carriers, costs for transportation and travel expenses (including travel time spent by employees of Anyline), each if and as applicable.
- 4.5 Invoices submitted by Licensor to Licensee are payable within fourteen (14) days from receipt of the invoice at the latest without any deductions or offsets and free of charges. Licensor may issue invoices also for Licensee's usage of Variables exceeding the number of Variables initially agreed to between the Parties in the Order as well as invoices for the Licensee's distribution of Derived Works in a Licensee Application through more than one specific App-ID.
- 4.6 Payment on the agreed-upon dates is a material condition of this Agreement. Licensee's failure to comply with the payment schedule agreed to between the Parties entitles Licensor to terminate this Agreement for cause according to Section 0. Licensee shall reimburse Licensor for all costs and loss of profits of Licensor connected with Licensee's delayed payment. Licensee shall pay to Licensor default interest on due but outstanding payment in accordance with applicable Austrian law. If the Parties have agreed on payment in installments and Licensee fails to pay an instalment by the time it becomes due, Licensor shall be entitled to accelerate the remainder due and owing to claim from the Licensee all outstanding installments with immediate effect.
- 4.7 Licensee is not entitled to withhold or set-off payment for any reason whatsoever.

## **5. DELIVERY AND UPDATES**

- 5.1 Licensor will make available Licensed Technology to Licensee within a maximum of seven (7) working days after the Consideration has been received by Licensor via electronic download.
- 5.2 Further, Licensor may make available updates and error corrections of Licensed Technology (collectively, "**Updates**") to the Licensee (such Updates may be labelled by the Licensor as "Version 3.1", "Version 3.2" etc). In case Licensor makes available Updates to Licensee, Licensee shall install and use such Updates for receiving the latest functions and functionalities of the Licensed Technology. Licensor will under no circumstances be obliged to develop Updates or upgrades of Licensed Technology or provide any support or maintenance services to Licensee.

- 5.3 Licensor may also develop new versions of the Licensed Technology, which the Licensor may decide to make available to its customers against payment of certain license fees (each a "**New Version**", which may be labelled by the Licensor as "Version 3.0", "Version 4.0" etc). In such case, Licensor may offer the Licensee a license for the use of the New Version pursuant to the terms and conditions used by the Licensor at the time such New Version is made available to the Licensee.
- 5.4 Notwithstanding the right to terminate this Agreement, Licensor is entitled to suspend Licensee's access to Updates, if Licensee is in breach of any obligations under the Order or this Agreement.

## **6. DURATION AND TERMINATION OF AGREEMENT AND MAINTENANCE**

- 6.1 This Agreement shall automatically expire and terminate following the term specified in the Order and may be renewed thereafter upon the signing or electronic submission of a new binding order.
- 6.2 In case of an unlimited term of the Agreement stipulated in the Order, either Party may terminate this Agreement by giving the other Party three (3) months' prior written notice. In case of termination according to this Section 0, Licensee shall pay any Consideration on a pro rata basis for the periods until the effective date of termination according to this Section 0 (the "**Termination Date**"). Any Consideration that Licensee has paid to Licensor in advance for periods after the Termination Date shall be reimbursed by Licensor to Licensee within thirty (30) days following the Termination Date.
- 6.3 In case the Licensee is using a non-commercial test version of the Licensed Technology downloaded from the Licensor's website (the "**Test Version**"), such use shall be restricted to a period of forty-five (45) days as of the date of the download (the "**Test Period**"). By means of the Test Version made available by the Licensor free of charge, Licensee has the opportunity to test the Licensed Technology, its functions and usability. For the avoidance of doubt, for the purpose of this Agreement the term Licensed Technology shall include the Test Version, unless stated otherwise.
- 6.4 In the case of a material breach of this Agreement by one Party, the other Party shall have the right to terminate the Agreement for cause. With respect to Licensor, valid reasons for termination, include, but are not limited to, non-compliance by Licensee with any provision of this Agreement, including default of payment and use of a Test Version for commercial purposes or after the Test Period.
- 6.5 Upon termination of this Agreement, Licensee shall remove all Licensed Technology in full from its software development environment and remove/delete any and all corresponding files. Licensee shall not grant any further sublicenses to its end users or distribute Licensee Applications or otherwise make available the Licensed Technology. Upon Licensor's reasonable request, Licensee shall provide Licensor with evidence of compliance with its obligations under this Section 0.

- 6.6 Further, all fees and outstanding Consideration owed to Licensor by Licensee in relation to periods ending prior to the termination effective date shall become immediately due and payable.

## **7. WARRANTY AND LIMITATION OF LIABILITY**

- 7.1 Licensee expressly acknowledges and agrees that:
- 7.1.1 Licensee has had the opportunity of downloading and testing the Licensed Technology, its functions and usability by means of the Test Version made available of the Licensor free of charge;
- 7.1.2 LICENSED TECHNOLOGY IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND THE USE OF LICENSED TECHNOLOGY IS AT LICENSEE'S SOLE RISK AND EXPENSE; LICENSOR CANNOT GUARANTEE THAT LICENSED TECHNOLOGY PROVIDES A FLAWLESS OPTICAL CHARACTER RECOGNITION OF 100% ACCURACY, BUT PROVIDES A "MOST ACCURATE SUGGESTION" RESULT OF OPTICAL CHARACTER RECOGNITION;
- 7.1.3 LICENSOR EXPRESSLY DISCLAIMS ALL WARRANTIES, ENDORSEMENTS, GUARANTEES, CONDITIONS AND REPRESENTATIONS WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY CONDITIONS, ENDORSEMENTS, GUARANTEES, REPRESENTATIONS OR WARRANTIES OF DURABILITY, MERCHANTABILITY, MERCHANTABLE QUALITY, SATISFACTORY QUALITY, ACCURACY, TITLE, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ARISING FROM A STATUTE OR CUSTOM OR A COURSE OF DEALING OR USAGE OF TRADE IN RELATION TO THE AGREED SERVICES OR THE LICENSED TECHNOLOGY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS AND REGULATIONS;
- 7.1.4 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY THE LICENSEE FROM LICENSOR SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.
- 7.2 IN PARTICULAR, AND WITHOUT LIMITING THE FOREGOING, LICENSOR MAKES NO WARRANTY THAT:
- 7.2.1 LICENSED TECHNOLOGY OR ITS FUNCTIONALITY AND QUALITY WILL MEET THE LICENSEES REQUIREMENTS AND EXPECTATIONS;
- 7.2.2 LICENSED TECHNOLOGY WILL BE UNINTERRUPTED, TIMELY, SECURE, OR FREE OF DEFICIENCIES AND INTERRUPTIONS OR WORK ACCURATELY;
- 7.2.3 THE RELEVANT LICENSED TECHNOLOGY DOCUMENTATION (INCLUDING ANY MANUALS) IS COMPLETE, ACCURATE AND NOT MISLEADING; OR
- 7.2.4 ANY DEFICIENCIES AND ERRORS IN LICENSED TECHNOLOGY WILL BE CORRECTED.

- 7.3 LICENSOR SHALL ONLY BE LIABLE FOR DAMAGES CAUSED BY INTENT OR GROSS NEGLIGENCE. LIABILITY FOR DAMAGES CAUSED BY SLIGHT NEGLIGENCE IS EXPRESSLY EXCLUDED. A CLAIM AGAINST LICENSOR MUST BE BROUGHT WITHIN SIX (6) MONTHS OF THE LICENSEE HAVING KNOWLEDGE OF THE DAMAGE AND THE PARTY RESPONSIBLE FOR SUCH DAMAGE.
- 7.4 LICENSEE UNDERSTANDS AND AGREES THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS AND REGULATIONS, LICENSOR SHALL NOT BE LIABLE FOR LACK OF ECONOMIC SUCCESS, CONSEQUENTIAL DAMAGES, NOT REALIZED OR MISSED SAVINGS, COSTS CAUSED BY AN INTERRUPTION OF OPERATIONS, ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, INTEREST, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), DAMAGES RESULTING FROM THIRD PARTY CLAIMS OR DAMAGES RESULTING IN THE LOSS OF DATA OR FROM THEIR RECOVERY AS WELL AS DAMAGES TO THE LICENSEE'S SYSTEMS RESULTING FROM THE LICENSEE'S INSTALLATION OR USE OF THE LICENSED TECHNOLOGY OR OTHERWISE RESULTING FROM LICENSED TECHNOLOGY. FURTHER, LICENSOR SHALL HAVE NO LIABILITY WITH RESPECT TO ANY DATA THAT IS READ, ACCESSED, STORED OR PROCESSED IN RELATION TO THE LICENSED TECHNOLOGY, OR FOR THE COSTS OF RECOVERING ANY SUCH DATA.
- 7.5 Any claims shall be directed solely against Licensor, excluding the personal liability of all of Licensor's officers, representatives, employees and subcontractors.
- 7.6 Licensor is not aware of any rights of third parties which oppose the utilization purposes of Licensee in relation to the Licensed Technology, except the necessity of purchasing appropriate licenses of the "iOS SDK" software from Apple Inc. or "Android SDK" software from Google Inc. or "Windows 10 SDK" software from Microsoft Corporation as described in Section 0. LICENSOR IS NOT LIABLE, HOWEVER, FOR THE LICENSED TECHNOLOGY AND THE LICENSED KNOW-HOW BEING FREE OF RIGHTS OF THIRD PARTIES.
- 7.7 Licensed Technology's source code contains and uses source code developed and owned by third parties according to specific license agreements. These third party products and the appropriate licenses included may be accessed via [<https://www.anyline.io/imprint-and-legal/>]. In order to fulfill the various open source licenses included in these license agreements, Licensee is obliged to make available the information regarding third party products and the appropriate licenses included, which is accessible via [<https://www.anyline.io/imprint-and-legal/>] to Licensee's end users by including it into Licensee's end user license agreements.
- 7.8 Nothing herein shall be construed as a warranty or representation that products made with Licensed Technology will meet any safety, performance or other standards, whether imposed by any instrumentality of government or otherwise. Licensor makes no representations or warranties of any kind, either express or implied, and assumes no responsibilities whatsoever with respect to the manufacture, use, sale, or other disposition by Licensee of products made with or derived from methods employed with Licensed Technology.

- 7.9 LICENSOR'S MAXIMUM AGGREGATE LIABILITY – IRRESPECTIVE OF THE LEGAL GROUND – IN CASES ARISING OUT OF THE LICENSEE'S USE OF THE LICENSED TECHNOLOGY, ANY DEFECTS OF THE LICENSED TECHNOLOGY OR ANY ACTION OR OMISSION BY LICENSOR SHALL – TO THE EXTENT LEGALLY POSSIBLE – SHALL NOT EXCEED THE CONSIDERATION LICENSOR RECEIVED UNDER THIS AGREEMENT.
- 7.10 THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS AND REGULATIONS.

## **8. INDEMNIFICATION**

Licensee shall indemnify and hold Licensor and its affiliates, their respective directors, officers, employees, co-branders, agents and independent contractors (the "**Indemnified Parties**") harmless from and against any loss, liability, claim, demand, damages, costs and expenses including attorney's and other legal fees and disbursements, incurred by the Indemnified Parties, including by way of a third party claim, as a consequence of Licensee's breach of its obligations under the Order, this Agreement or any applicable laws or otherwise due the use of Licensed Technology.

## **9. INTELLECTUAL PROPERTY RIGHTS**

- 9.1 Retention of Ownership. Except for the License granted to the Licensee under this Agreement and the Order, the Licensor will retain all right, title and interest in Licensed Technology, including all worldwide technology and intellectual property and proprietary rights therein. Licensee shall own all right, title and interest to Licensee Applications, excluding the Licensed Technology components integrated therein and being granted use to therein pursuant to this Agreement.
- 9.2 Preservation of Notice. Licensee shall not remove, efface or obscure any copyright notices or other proprietary notices of Licensor from Licensed Technology or materials provided under this Agreement, and shall reproduce all such notices and legends when incorporating Licensed Technology or materials into any Derived Works and/or Licensee Applications. Failure to incorporate any copyright notices or other proprietary notices from Licensed Technology or materials provided under this Agreement into Derived Works and/or Licensee Applications shall be a material breach of this Agreement.
- 9.3 No Alterations. Licensee may not modify, edit, adapt, reverse-engineer, copy, disassemble, decompile or duplicate in any way Licensed Technology nor apply any other technical or logical procedures to Licensed Technology in order to influence or gain information about its structure, processes, functioning or other protectable attributes.

## **10. RELEVANT COMMUNICATIONS**



- 10.1 All relevant notifications concerning or required pursuant to this Agreement are to be carried out in writing to the address set out in the Order, provided no other form is mandatory by law. A notification via fax or e-mail shall be deemed to be given as in writing.
- 10.2 Each Party is obligated to notify the other Party of any changes in their contact addresses. Otherwise, notifications to address set out in the Order are deemed to be delivered and given.

## **11. DATA PROTECTION**

- 11.1 The Parties agree to observe any applicable provisions of the Austrian Data Protection Act (*Datenschutzgesetz 2000*) and to ensure that their employees observe the provisions of § 15 of the Austrian Data Protection Act.
- 11.2 Licensor's Privacy Policy [<https://www.anyline.io/imprint-and-legal/>], as amended from time to time, forms an integral part of this Agreement.

## **12. GOVERNING LAW AND PLACE OF JURISDICTION**

- 12.1 This Agreement, the Order and any non-contractual obligations arising out of or in relation to this Agreement shall be governed by, and construed in accordance with, the laws of Austria, without reference to or application of any conflict of law rules and the UN Convention on Contracts for the International Sale of Goods.
- 12.2 The courts of Vienna shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this agreement) and/or the Order.

## **13. MISCELLANEOUS**

- 13.1 This Agreement, any agreements referenced herein, and the Order constitute the complete and exclusive understanding and agreement between the Parties regarding its subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to its subject matter. Licensee agrees that additional or different terms from any other previous oral or written discussions or negotiations shall not apply. Failure to enforce any provision of this Agreement shall not constitute a waiver of future enforcement of that or any other provision.
- 13.2 Any waiver, modification or amendment of this Agreement must be made in writing and signed by authorized representatives of the Parties. This also applies to a change of or deviation from this writing requirement.

- 13.3 This Agreement is personal to Licensee and may not be assigned or transferred for any reason whatsoever (including, without limitation, by operation of law, merger, reorganization, or as a result of an acquisition or change of control involving Licensee) without Licensor's prior written consent and any action or conduct in violation of the foregoing shall render this Agreement and the Order null and void and cancel the License granted by the Licensor to the Licensee with immediate effect. Licensor expressly reserves the right to assign this Agreement and to delegate any of its obligations hereunder.
- 13.4 Licensor and Licensee are independent parties. Nothing in this Agreement will be construed to make either Party an agent, employee, franchisee, joint venture or legal representative of the other Party.
- 13.5 Should any provision of this Agreement be invalid or become invalid or should this Agreement contain an omission, then the legal effect of the other provisions shall not be affected thereby. Instead of an invalid provision, a valid provision is deemed to have been agreed upon between the Parties, which comes closest to what the Parties intended commercially. The same applies in case of an omission.
- 13.6 Licensor or any future owner of Licensed Technology is permitted to list and disclose Licensee's name and/or company name and those products of the Licensee using or including Licensed Technology on Licensor's product website and related material.