

Device Driver Adaptation & Distribution License

1. Scope of Agreement

- 1.1. Swissbit develops, manufactures and distributes flash memory based security products such as microSD cards which, to be used in connection with certain operating systems, require a computer program in order to communicate with the operating system. Swissbit has to that end developed, and is entitled to license to others, a device driver program called *Swissbit TSE API* (the "Software").
- 1.2. This agreement sets forth the terms and conditions pursuant to which Swissbit will license the Software in binary code supplied via the internet including a documentation in English language to you.

2. Purpose of Use

- 2.1. The Software serves to perform TSE transactions and is provided
 - a) as a driver DLL in object form for Windows 7, 8 and 10 OS coming along with a test project in source code
 - b) as a driver SO in object form for Linux.
- 2.2. The Software has neither been developed for nor is it intended to be used in connection with online control of aircraft, air traffic, aircraft navigation or communications, or for the development, erection, operation or maintenance of nuclear installations. You shall not use the Software for these purposes or in these fields.

3. Rights of use

- 3.1. Subject to the terms and conditions of this Agreement, Swissbit hereby grants you a non-exclusive, worldwide, royalty-free, perpetual, and transferable license to use the Software solely for developing your own device driver software to be used in connection with Swissbit products. *Please note:* Any use for developing driver software for other products is not covered by this license. A commercial license to that end is available on request.
- 3.2. You shall have the right to copy or reproduce the Software either in its original form or your adaptations, for free or against royalties, solely in object code form to third parties always provided that:
 - a) You shall distribute and license the Software only in combination with or as part of a Swissbit based product distributed by you (Derivative Product) that can use the respective driver functions of the Software,
 - b) The Software may only be distributed in combination with a fully automatic installer file or integrated into a device firmware which makes sure the Software gets properly installed,
 - c) Notwithstanding any more extensive statutory rights, you agree to defend, indemnify and hold Swissbit harmless from and against all claims or lawsuits that arise or result from the use or distribution of Derivative Products,
 - d) You may not grant the third party any rights of use to the Software that are more extensive than those set forth in this Agreement.

4. Derivative Products

- 4.1. You may, in your sole discretion, incorporate the Software into your products, provided you comply with the terms and conditions of this Agreement.
- 4.2. Title to and ownership of the Software incorporated into a Derivative Product shall at all times remain with Swissbit, and you shall not have any title or ownership interest therein.
- 4.3. Title to and ownership of any portion of a Derivative Product created by you and not owned by Swissbit pursuant to section 4.2 shall be held by you.

5. Modifications

- 5.1. Swissbit will in its sole discretion provide you with error corrections, bug fixes, patches or other updates to the Software licensed hereunder in object code form to the extent available in accordance with Swissbit's future release schedules.
- 5.2. You may, from time to time, request that Swissbit incorporate certain features, enhancements or modifications into the Software. Should you suggest any new feature, enhancement or modification for the Software that Swissbit subsequently incorporates into future versions of the Software, you hereby grant Swissbit a world-wide, non-exclusive, royalty-free, perpetual right to use and incorporate such suggestions into the Software.
- 5.3. Swissbit may, in its sole discretion, undertake to incorporate such changes and distribute the Software so modified to all or any of Swissbit's licensees.

6. Development Support

- 6.1. Swissbit agrees to provide development services to you to enable the embedment of the Software in Derivative Products as may be mutually agreed upon with you in cases where you cannot perform the applicable development activities with your own resources.
- 6.2. Such support services shall be remunerated according to the then actual Swissbit service price list.

7. Limited Warranty

- 3.1. Swissbit represents its belief that it is the owner of the entire right, title, and interest in and to Software, and that it has the sole right to grant licenses thereunder, and that it has not knowingly granted licenses thereunder to any other entity that would restrict rights granted hereunder except as stated herein.
- 3.2. Swissbit provides the Software without any further warranties or representations whatsoever on an "as-is, where-is" basis "with all faults" known or unknown.
- 3.3. Swissbit provides no guarantee for any Derivative Products created by incorporating the Software.

8. Liability, Infringement of Property Rights

- 8.1. No claims for damages brought against Swissbit, on whatever legal grounds, shall be accepted, except in cases where Swissbit has acted deliberately or with gross negligence.
- 8.2. In the event that claims are brought against you on the grounds of an infringement of property rights due to use of the Software within the agreed scope, you shall inform Swissbit of such claims immediately in writing. In the event that use of the Software as contractually agreed is adversely affected by property rights owned by third parties, Swissbit shall have the right, within the limits of what can reasonably be imposed on you, at its option either to modify the contractual performance in such a way that it is no longer affected by the property rights, but still complies with the terms of the agreement, or to terminate this Agreement with immediate effect.

9. Export

The Software may be subject to Export Control laws and regulations in Germany or other countries. You are responsible for your compliance with all relevant export laws and regulations.

10. General Provisions

- 10.1. This Agreement may not be supplemented, modified, amended, released or discharged except by an instrument in writing signed by each party's duly authorized representative. The use of electronic mail does not constitute a written form.
- 10.2. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

- 10.3. To the extent that you are a commercial enterprise, the courts of St. Gallen shall have exclusive jurisdiction and venue over any dispute arising out of this Agreement.
- 10.4. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of Switzerland, with the exception of the UN Convention of April 11, 1980, on the International Sales of Goods (CISG).