



LICENSE AGREEMENT
„PACTware Consortium e.V. OEM License”
Version 1.0
for the Computer Program PACTware

Licensor

PACTware Consortium e. V,
Panoramastr. 16
76327 Pfinztal, Germany

Licensee

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LICENSE AGREEMENT
„PACTware Consortium e.V. OEM License“
Version 1.0
for the Computer Program PACTware

between

PACTware Consortium e. V, Panoramastr. 16; 76327 Pfinztal, Germany

- hereinafter called „Licensor“ -

and

.....

- hereinafter called “Licensee” –

- both hereinafter called „the Parties“ -

Preamble

1. The Licensor has developed the computer program „PACTware,“ (hereinafter called “Computer Program” which serves the configuration and parameterization of field devices and field busses. The Computer Program has the following characteristics and capabilities:
 - a. PACTware interface “PW2-IDL” according to the implementation of the PACTware Edition 2 Version 1.3.0 and followers.
 - b. Field Device Tool (FDT) interface according to the PNO-specification FDT 1.2 and coming Versions implemented in the PACTware Edition 2 Version 1.4.0 and followers.
 - c. Functions for the configuration and parameterization of field busses and field devices
 - d. Look-and-feel:
 - Menu rail according to VDI/VDE 2187
 - Conforming to FDT DTM Style guide
 - Main window parted into

Navigation window

Left side (also dock able), reversible via tabulator folders
between different views (Project View, TAG-View, Plant-View, Service View, or

other Plug In-Views e.g. as tree view or grid as in the case of Microsoft Visual Studio)

and

Processing window

Right side (dock able at project window: main window), depending from selected project window used e.g. in the

PROJECT-View for the representation of the

- user interface (UI: Device-DTM or Communication-DTM of the field devices and the communication devices (generally: DTMs: device type manager according to FDT wording),
- devices catalogue, which displays the DTMs similar to the windows explorer,
- unchanged PACTware -Signets (obligatory) as centered background picture of the processing window.

TAG-View for the representation of the

- gauging point designation and parameter
- unchanged PACTware –Signets (obligatory) as centered background picture of the processing window.

PLANT-View for the representation of the

- gauging point designation and parameter
- unchanged PACTware -Signets (obligatory) as centered background picture of the processing window.

SERVICE-View for the representation of the

- gauging point designation and parameter
- unchanged PACTware -Signets (obligatory) as centered background picture of the processing window.

Plug-In View for the representation of

- any other device or field bus management module
- without the need to display the PACTware-Signets in the processing window.

The PROJECT-View is obligatory, the other views can be dropped, insert further views acc. to the same principle.

The Computer Program has the following registration number at Licensor: PW2-SH-OS

For the executable Computer Program the Licensor grants the Licensee the non-exclusive non-open source licenses “Distribution License” and User License” (named OEM LICENSE).

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5. The Licensee is OEM Member of the Licensor. The statutes of the Licensor define the aims of the Licensor. The present Agreement has to be interpreted considering the aims of the Licensor as the present Agreement is deemed to contribute to the achievement of such aims.

Therefore, the Parties conclude following

**LICENSE AGREEMENT
„PACTware Consortium e. V., OEM License“
Version 1.0
for the computer program PACTware**

§ 1

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§ 2

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2. The Licensee shall not grant sublicenses of the OEM License.

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3. Licensee shall not reengineer nor change nor recompile the Computer Program.
4. The Licensee shall check the Computer Program before its first startup with a current anti-virus-program and report any difficulties immediately to the Licensor. This obligation also applies for later modifications of the Computer Program, such as e.g. new program versions and updates.
5. In case of any violation of any of the Licensees obligations, the licensee upon the licensors request is obliged to immediately reconstitute the license to the Licensor.
6. In any single case of violation of the Licensees obligation or any single case of violation of the Licensors trademark rights by the Licensee, the Licensee agrees to pay the Licensor a penalty amounting to EUR 50.000,-, renouncing on the objection of a continued violation („Fortsetzungszusammenhang“). Such penalty is not to be computed on any indemnity, which the Licensor is entitled to demand in connection with such violation.

§ 6

Obligations of the Licensor

The Licensor will keep the Computer Program available for downloading or in machine-readable form. The installation of the Computer Program is executed by the Licensee at his own risk.

§ 7

Liability

1. The liability of the Licensor is limited to typical foreseeable damages.
2. The Licensor does not guarantee that the Computer Program runs and can be used especially for a certain purpose.

Without any prejudice to the qualification of the present Agreement, the description of the characteristics and abilities in para. 1 of the preamble is no warranty (“Beschaffenheits- und Haltbarkeitsgarantie”) pursuant to sec. 443 of the German Civil Code.

3. The Licensor does not guarantee that the granted licenses do not infringe upon third parties’ intellectual property rights or copyrights or do not cause any damages for third parties.
4. The Licensor is not liable for damages arising from the combination of the Computer Program with other programs.
5. The Licensor is not liable for damages arising from the fact that the Licensee did not check the Computer Program with an anti-virus-program.
6. The liability of the Licensor for the breach of essential duties of this Agreement or by intent or gross negligent behavior is not affected by above-mentioned provisions.

§ 8

Data protection

The Parties shall obey the provisions of the data protection acts in force at any place where the Parties perform duties or exercise rights arising out of this Agreement. The Parties shall oblige all their employees, suppliers and other persons who have contact with the Computer Program accordingly.

§ 9

Duration, Termination

1. This Agreement shall come into force not before the Licensee is OEM Member and after signature by the Parties.
2. This Agreement shall be valid as long as the Licensee is OEM Member of the PACTware Consortium e. V.
3. Notwithstanding the above mentioned term, any Party due to substantial reasons can terminate this Agreement. A substantial reason for the Licensor is especially if the Licensee passes on the Computer Program or parts hereof not free of charge, changes the authorization designation or the registration number of the Computer Program, breaches any provision of this Agreement if the Licensor has prior given the Licensee the opportunity to restore the situation within 30 days after the reception of a written warning; the Licensee's admission of insolvency, the institution of voluntary proceedings in bankruptcy or other similar insolvency proceedings according to foreign law by or against the Licensee. A substantial reason for the Licensee is especially if the Licensor after receiving the signed License Agreement does not make available the Computer Program for downloading, in machine-readable form or by means of another electronic medium or if he does not make available alterations of the Computer Program although the Licensee had made an according request.

§ 10

No waiver

Failure of either party to enforce at any time any of the provision of this Agreement shall not be deemed to be a waiver of such provision or of the right of either party thereafter to enforce each and every provision.

§ 11
Miscellaneous

1. This Agreement shall be construed and governed by and in accordance with the laws of the Federal Republic of Germany.
2. Any dispute, controversy or claim arising under, out of or relating to this Agreement and any subsequent amendments of this Agreement shall be referred to and finally determined in accordance with the Arbitration Rules of the World Intellectual Property Organization (WIPO) without recourse to the ordinary courts of law.
3. Unless otherwise agreed by the Parties, the number of arbitrators shall be 3 (three).
4. The place of arbitration shall be Karlsruhe, Germany. The arbitral tribunal may hold one or more arbitral meetings in any other place, such as for example in Switzerland.
5. The language to be used in the arbitral proceeding shall be English.
6. If any provision of this Agreement is determined to be ineffective, invalid or illegal or if a gap arises all other provisions of this Agreement shall remain effective and valid, and the Parties shall negotiate amicably such amendments to this Agreement as may be reasonably required to overcome such an ineffective, invalid or illegal provision or gap.
7. At the time of conclusion of this Agreement there are no collateral clauses existent. Should other circumstances arise which call for modifications or supplements of this Agreement - including this provision - these shall be made by mutual written consent or in case of an online contact by mouse-click and a printout of the modification of the Agreement.

PACTware Consortium e.V.

Chairman of the Board:

.....
(Date, Signature)

Board Member:

.....
(Date, Signature)

<Licensee>

.....
(Date, Signature)