

# USER AND LICENSE AGREEMENT FOR KEB NOA



## Clause 1: Subject matter of the contract

1. THE OPPORTUNITY FOR USE OF KEB NOA IS LICENSED TO THE LICENSEE FOR A FEE. KEB NOA is protected by copyright. KEB Automation KG (KEB) is in possession of all rights, ownership, and all claims to KEB NOA, including all copyrights, patents, trade and business secrets, trademarks, and other intellectual property rights. This Usage and Licensing Agreement (Agreement) does not transfer ownership of KEB NOA to the Licensee. With the exception of the rights specified in clause 2, the Licensee does not acquire any rights to KEB NOA. This Agreement covers all web-based applications and services that KEB provides under the summarizing term "KEB NOA."
2. KEB as the Licensor shall provide the Licensee with access to KEB NOA including the software products, associated modules, and extensions. KEB is constantly developing the functionality and scope of KEB NOA. The current range of services is described at [www.KEB.NOA.de](http://www.KEB.NOA.de). KEB NOA is an innovative digital ecosystem with industrial IoT capabilities in which the Licensee can connect machines and human users in a web platform.
3. The users are users of the Licensee and its partners (in particular suppliers and customers).
  - 3.1. Authorization of the user: The Licensee shall set up its own user management correctly. It is responsible for implementing changes in the user group immediately. Access IDs and passwords must be kept secret by all users.
  - 3.2. Each user must be clearly listed in the user administration and must accept this Agreement accordingly. All obligations of the Licensee arising from this Agreement shall then apply accordingly to the user.
4. The Licensee may allow an unlimited number of users to use KEB NOA if these users are employees of the Licensee or employees of its customers and suppliers.
5. Changes and additions to this Agreement remain reserved to the extent to which they are effective to the benefit of the Licensee or are reasonable for the Licensee under consideration of the interests of KEB. In particular, KEB reserves the right to functionally expand KEB NOA at any time and to supplement new services as well as to amend or supplement this Agreement accordingly.

## Clause 2: terms of use

1. A prerequisite for the use of KEB NOA is a user account, unless specified otherwise in these terms of use. KEB shall provide the Licensee with access to KEB NOA in such a way that the Licensee can manage default settings ("user account").
2. Only the KEB NOA Connector (hardware) may be used exclusively in conjunction with KEB NOA. KEB NOA itself may also be used with other hardware that was not manufactured and/or acquired by KEB.
3. The Licensee shall receive a non-exclusive right to use KEB NOA. Permissible use covers the objectively intended use by the Licensee. KEB NOA is generally distributed for a fee, depending on the functional scope. The respective classification is based on:
  - 3.1. the Connectors (NOA Connector Economy, NOA Connector Comfort plus any individual modules), and
  - 3.2. the license type [Basis Connect, Integration, Independent, or Unconnected]
  - 3.3. any additional applications and modules, as well as
  - 3.4. the respective authorization of the users of a Licensee.

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The paid scope of the license shall be determined in the further contractual documents. The license key activates the acquired license scope.

4. The license is unlimited in time, unless test projects (“proof of concept”) are separately agreed. The license may be terminated by the Licensee in writing at the end of a calendar quarter after a notice period of six calendar weeks. KEB may terminate the license at the end of a calendar year after a notice period of six calendar months. In addition, both partners retain the right to extraordinary termination, in particular in the following cases:
  - Violation of these licensing terms and conditions, in particular in case of non-payment of the licensing fees after the initial reminder and fruitless expiry of a reasonable grace period.
  - Violation of the Agreement
5. In no case does the Licensee have the right to lease access to KEB NOA or to sublicense it in any other way, to make KEB NOA publicly available or to make it available to third parties who are not users within the meaning of this Agreement, either for a fee or free of charge.
6. In particular, the Licensee is not permitted and may not permit any other person:
  - 6.1. to modify KEB NOA in whole or in part or to create derived works that are based in whole or in part on KEB NOA. Any extensions are only permitted in individual cases after prior consultation with KEB.
  - 6.2. to remove owner identification marks, serial numbers, labels, or anti-copying functions from KEB NOA.
  - 6.3. to use KEB NOA in areas with special risk that necessitate error-free continuous operation of relevant systems and in which a failure of KEB NOA can lead to an immediate danger to life, limb, or health or significant property or environmental damage (high-risk activities, in particular the operation of nuclear power plants, weapons systems, flight navigation or flight communication systems, life-sustaining systems or devices).
  - 6.4. The Licensee commits not to upload any unlawful documents, viruses, Trojans, or other malicious codes.
  - 6.5. The Licensee commits not to carry out any actions that might violate the rights of other persons, impair the availability or appearance of KEB NOA, or interfere with a webpage offering or any other functionality of KEB NOA.
7. The embedding of KEB NOA in other online presences or in sub-windows is only permitted with the prior express and written approval of KEB.
8. For parts of KEB NOA for which KEB has only a derived right of use and which is not open-source software (external software), the terms of use agreed between KEB and its Licensor shall also apply and take precedence over the provisions of this clause 2, insofar as they concern the Licensee (such as an end user licensing agreement). KEB shall inform the Licensee of this fact and make it available to the Licensee upon request.
9. For open-source software, the terms of use to which the open-source software is subject shall apply with priority before the provisions of this clause 2. KEB shall only surrender or make available the source code to the Licensee to the extent required by the terms of use of the open-source software. KEB shall inform the Licensee of the existence and terms of use of the open-source software provided and shall make the terms of use accessible to the Licensee or, to the extent required by the terms of use, shall provide them.
10. The Licensee acknowledges that KEB is the sole owner of all rights to KEB NOA and the underlying know-how. The Licensee shall refrain from attacking these rights in any form and shall inform third parties in an adequate manner of the rights ownership of KEB.

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11. The Licensee warrants that it holds the necessary rights for all content transferred to KEB that is protected by intellectual property rights (including documents, images, audio files, or videos). The Licensee hereby grants to KEB a worldwide, non-exclusive, transferable, sublicensable, free right to use, host, transfer, display, modify, copy, access, analyze, and reproduce the data of the Licensee and all users in order to provide them with the functionalities of KEB NOA in accordance with the Agreement and to further develop KEB NOA. However, the use of personal data is not governed by this paragraph no. 11, but rather exclusively by Clause 5 of this Agreement.
12. KEB reserves the right to deactivate the services for security reasons (e. g. in case of security gaps) or other good cause.

## Clause 3: Prerequisites for use

1. In order to be able to use KEB NOA, the Licensee must have a compatible terminal device. The technical requirements listed on the website [www.keb.noa.de](http://www.keb.noa.de) exist for the use of individual services.
2. Taking into account the current state of the art, the provision and use of KEB NOA may be subject to restrictions that are outside the sphere of influence of KEB. This relates in particular to the availability of the mobile phone data connection, mobile phone network, and internet access provided by mobile phone carriers. Thus, the services are spatially limited to the receiving and transmitting range of the radio stations operated by the respective mobile phone carrier. In individual cases, the non-availability of the mobile phone network can result in individual services of KEB NOA not being available because the necessary data transfer cannot take place. In addition, short-term capacity bottlenecks can arise due to peak loads on services, mobile and landlines, and the internet. Disruptions may also arise due to force majeure, including strikes, lockouts, and official orders, as well as due to technical and other measures (e. g. repair, maintenance, software updates, extensions) that are required at the facilities of KEB or upstream or downstream service providers, content providers, and network operators which are required for a proper or improved provision of the services.
3. In accordance with the above provision, KEB fundamentally strives to enable “24/7” access to KEB NOA with as little disruption as possible. (See also service level agreements, Clause 4 para. 3)
4. Any costs for mobile phone data connections that arise when the Licensee accesses the customer portal or its user account with its compatible terminal device or by means of other transmission media and telecommunications equipment are to be borne by the Licensee and are governed by the tariffs of the respective carrier used by the Licensee.

## Clause 4: Support

1. KEB generally offers support on business days (Monday to Friday) from 8 a.m. to 4 p.m. CET. Actual availability depends on demand.
2. The support services are included in the “Integration” module. Licensees of the “Basic Connect” module can use the support for an additional fee.
3. KEB offers consulting services and service level agreements separately.

## Clause 5: Miscellaneous

1. In addition to this Agreement, the respectively valid General Conditions of Sale of KEB apply, in particular the so-called “software clause”. If necessary, these General Conditions of Sale can be accessed at [www.keb.de/de/agb](http://www.keb.de/de/agb) or sent by KEB upon request.

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2. KEB does not acknowledge any terms and conditions of the Licensee that conflict with or deviate from this Agreement, unless KEB has expressly agreed to their validity in writing. The provisions of this Agreement shall also apply if KEB, in the knowledge of terms and conditions of the Licensee that conflict with or deviate from these terms and conditions, transfers KEB NOA to the Licensee without reservation.

## Clause 6: Data protection and data security

1. As the controller, KEB processes the personal data of the Licensee and user, including the usage data, insofar as this is necessary for the purpose of providing the services, insofar as this results from the Agreement, or insofar as the customer has consented to the processing.
2. For the processing of personal data in connection with the services, KEB shall only engage staff who have been trained in the applicable data protection regulations.
3. Within this framework, KEB may also pass on the personal data and usage data to the respective national distribution company, partners, and service providers commissioned by KEB with the implementation of individual services, insofar as this is necessary for the provision of the services. KEB shall ensure that in this case, the respective national distribution company, the partners, and the service providers are subjected to the same data protection obligations.
4. If the Licensee provides the service access to a user, it is obligated to inform the user about the services and the associated processing of personal data and usage data.
5. The Licensee is responsible for the data protection-compliant management of the user data itself, in particular for compliance with erasure and blocking obligations. KEB does not carry out any control of the management of the user master data as permitted under data protection law.
6. The Licensee shall ensure the fulfillment of the data subject rights under data protection law for the users managed by it in the user administration: Right to information, rectification, erasure, restriction of processing, data portability, and objection.
7. In the user management, KEB may not correct, erase, or restrict the processing of the user data of the Licensee on its own authority, but rather only according to the documented instructions of the Licensee. If a user contacts KEB directly in this regard, KEB shall forward this request directly to the customer.
8. KEB may process the data and the usage behavior in anonymized form for the purpose of the needs-based design of services.
9. KEB may process personal data in connection with the services and make it available to third parties (in particular authorities) in order to clarify violations of the terms of use, the misuse of services, or the attempt at unauthorized access to the data of other licensees or users.
10. In addition, KEB shall provide personal customer data arising from the use of the services outside of the service provision to third parties (in particular authorities) only on the basis of a contractual agreement with the Licensee or with its consent, or insofar as KEB is obligated to surrender such data in the event of a mandatory legal provision, court ruling, or official order.
11. KEB implements technical and organizational security measures in order to protect the information and data of the Licensee against manipulation, loss, unauthorized disclosure, and access by unauthorized third parties. KEB shall regularly monitor the technical and organizational measures and continuously improve them in accordance with technological developments.
12. In all cases, KEB shall notify the customer if KEB or the persons employed by KEB have violated regulations regarding the protection of personal data of the Licensee.

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13. The Licensee and the users have rights to information, objection, rectification, and erasure in accordance with the statutory provisions.
14. If the Agreement ends, KEB shall erase the Licensee's user data if and to the extent to which it is no longer required for the contractual purpose.

**Version: June 2021**