

Calypso

Networks Association

Calypso Card Applet User License

Effective date: effective date

Between:

CALYPSO NETWORKS ASSOCIATION, a non-profit association under Belgian law created on 12/12/2003 (date of publication in the Belgian official gazette) and whose registered office is at 'Rue Royale 76, 1000 Brussels, Belgium', represented here by its Chairman, M Philippe VAPPEREAU, hereinafter referred to as "CNA",

and:

[NAME OF RECEIVING ENTITY] with its head office at [head office address], represented by [name of representative], as [appointment], hereinafter referred to as the "Licensee",

Hereinafter jointly referred to as the "Parties".

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Preamble

- a) Technological changes now provide the opportunity of remotely downloading “on demand” a Calypso ticketing application onto ordinary portable objects with the built-in contactless technology of the infrastructure of the mass transit networks and a Java Card/ GlobalPlatform multi-application platform.
- b) The CALYPSO NETWORKS ASSOCIATION has developed a Calypso card applet downloadable and executable in a Java Card environment in compliance with different GlobalPlatform (GP) protocols.
- c) This applet, named the Calypso Card Applet and hereinafter referred to as the “Software”, is provided free of charge by CNA to its members.
- d) Access to the Software at any level requires authorization by CNA. The entity intending to use and distribute the Software signs the following agreement with CNA:

The Calypso Card Applet User License, i.e. this document
- e) The membership in CNA is a mandatory condition for the signature of the Agreement.
- f) [Optionally, presentation of the Licensee and its needs]

IN WITNESS WHEREOF, it is agreed as follows:

Article 1. Definitions

- 1.1 “Secure Element” is a tamper-proof chip operating a Java Card platform, embedded in a Calypso portable object, such as a contactless Java Card, or an NFC phone, and having a reasonably high security level (e.g. protecting keys, secrets and applicative data at level VLA.4 or VAN.5 or equivalent security levels).
- 1.2 “Ticketing Application” means all the software and data of a portable object, allowing management of the signatory’s commercial offering. It uses and protects the cryptographic resources that make transactions secure.
- 1.3 “Calypso Revision N specifications” means the specification documents for a Calypso Revision N application in a portable object, that are available on the CNA technical support website (<http://www.calypsostandard.net/>).
- 1.4 “Agreement” refers to this document, the *CNA Calypso Applet User License*.
- 1.5 “Software” means the CNA Calypso Applet, subject of the current agreement.
- 1.6 “Calypso Card Manufacturer” refers to a company that has signed a license for the usage of the Calypso brand on the portable objects it is producing and selling.
- 1.7 “Calypso Activation Module” refers to the secure prepaid component which is required to activate the CNA Calypso applet when it is not delivered in an already active mode by a Calypso Card Manufacturer. This component is available on the CNA technical support website (<http://www.calypsostandard.net/>).
- 1.8 “Affiliated Compan(y), (ies)” shall mean any company, corporation, partnership or any other legal entity, now and thereafter, controlling, controlled by, or under common control with the Licensee, as the case may be, provided that such entity shall be considered an Affiliated Company only for the time during which such control exists.
For the purpose of this Agreement, “Control” shall mean the direct or indirect ownership of more than fifty percent (50%) of the voting interest in such corporations or other legal entities.
- 1.9 “Subcontractor” means a third-party company, to which the Licensee wishes to transmit the Software, and to grant permission to load the Software in the Secure Elements.

Article 2. Purpose

- 2.1 This Agreement defines the rules for the use and the redistribution of the Software.
This Agreement is intended for a party willing to get the Software directly from CNA.
- 2.2 Through this Agreement, CNA grants the Licensee and its Affiliated Companies a worldwide, non-exclusive and nontransferable license to use the Software during the term of the contract. The license includes all rights required by the Licensee:
 - (i) to operate and use the Software as part of its activities,
 - (ii) to download the Software into Secure Elements and to distribute the Software when loaded into Secure Elements,
 - (iii) to allow its use by its customers.

- 2.3 The rights assigned in this way relate solely to the Software and in no way to the license for the Calypso brand usage, whose fees are paid to the INNOVATRON company, which acts on behalf of CNA, by manufacturers of products incorporating Calypso technology.
- (i) These fees could be collected during the activation phase, if handled by a Calypso Activation Module.
 - (ii) Otherwise for a factory activation by a Calypso PO Manufacturer, the fees could be post declared to INNOVATRON.

Article 3. Features and Deliverables

- 3.1 The Software is a generic applet complying with Calypso Prime Revision 3 specifications and can support the restricted compatible options of Calypso Rev 2.4 authorized by the Rev 3.1 and later revision when applicable. It integrates Calypso "Stored Value" and "Shared Files between Instances" optional features.
- 3.2 The applet package is delivered under several different compilations to comply with the different existing versions of Java Card and GlobalPlatform on the market and with the available memory sizes of current portable objects.
- 3.3 Considering the Software is delivered free of charge, under no circumstances may the licensee claim any support from CNA for its implementation. CNA offers the possibility of contracting the maintenance service and the supply of the necessary technical support.
- 3.4 When fees are collected during the activation phase with the Calypso Activation Module, the Software incorporates the activation protocol required by INNOVATRON. This protocol ensures the collection of the relevant Calypso brand usage royalties during the activation of the first instance of a package.
- 3.5 The following documentation is part of the deliverables:
- (i) Calypso Card Applet User Guide
 - (ii) Calypso Card Applet Release Note

Article 4. Obligations of CNA

- 4.1 Grant this Software license free of all royalties.
- 4.2 Deliver to the Licensee the documents and components listed in Article 3 above.
- 4.3 Give access to the Calypso Activation Module, its user manual, and related information delivered by the Calypso Activation Module provider accredited by CNA.
- 4.4 Carry out any curative and predictive maintenance operations of the applet and bear the costs of the said operations.
- 4.5 Analyze any failure case and/or misbehavior reported by the Licensee and correct or have corrected promptly the Software, at no additional cost for the Licensee.
- 4.6 Inform the Licensee of Software updates and upgrades on a regular basis and provide to the Licensee such relevant updates and upgrades, free of charge to the Licensee.

Article 5. Obligations of the Licensee

The Licensee shall:

- 5.1 Realize Software downloading / installing using confidential keys in the conditions defined in Annex 2 CNA agrees that the Licensee performs the loading/installing of the Software at Licensee sites – according to Licensee’s existing production flows – by using alternative (proprietary) loading mechanisms (other than GlobalPlatform Secured Channel Protocol), provided that such mechanisms grant the Software code confidentiality. It is understood by the Parties that the Software activation shall always be done by using a GlobalPlatform Secured Channel Protocol.
- 5.2 Not use or exploit the Software code otherwise than for the purpose of this Agreement.
- 5.3 Never reverse engineer the Software code or analyze the code, even for test purposes.
- 5.4 Not copy or reproduce partly / totally the Software code out of the rules of Article 10.
- 5.5 Carry out the downloading tests to ensure that the different relevant protocols are properly understood, and that the Software complies with the said protocols and run the Software operating tests to make sure that the Software is in perfect working order.
- 5.6 Accept the Software as is, after its departments have tested and controlled the Software
- 5.7 Only download/install the Software on Secure Elements with which it has been functionally evaluated and for which certification has been granted, except for test and development purposes. The Calypso certificates are available on the CNA-Paycert website : <https://www.cna-paycert-certification.eu/cpoc/prime/>.
- 5.8 Inform CNA promptly when it remarks any Software operating errors, operation shutdowns, or any other Software defects.
- 5.9 Not claim or invoke any consequential damages or compensation from CNA or from the Calypso Activation Module provider. In no event will CNA nor the Calypso Activation Module provider be held responsible for any direct or indirect consequence or damage whatsoever that might result from the utilization of the Software or the Calypso Activation Modules to the prejudice of the Licensee and its clients and customers. In no event shall CNA nor the Calypso Activation Module provider be bound to substitute themselves for the Licensee to carry out the guarantees which the Licensee is contractually or legally under the obligation to ensure to its clients and customers.
- 5.10 Inform the CNA of any attempts to counterfeit the Software that the Licensee might have knowledge of during the performance of this Agreement.
- 5.11 When supplying the Calypso Activation Modules:
 - (i) not use or exploit said Calypso Activation Modules and related information otherwise than for the activation of the Software.
 - (ii) under no circumstances to transmit a Calypso Activation Module to any third party, unless authorized in writing by CNA, except the Affiliated Companies and the Subcontractors listed in Annex 1.

Article 6. Reports

- 6.1 For statistical purposes only, CNA may request from the Licensee the list of the ticketing services for which instantiations are operated (just application installation, not the package load). CNA undertakes to keep this information confidential. The Licensee reserves the right not to provide this information.

Article 7. Property

- 7.1 CNA warrants that it has the right to grant the license granted under this Agreement and is the sole author and the exclusive owner of the Software, which is protected under the applicable laws, including the provisions of Articles L. 111-1 of the Intellectual Property Code (Act no. 92.597 of 1 July 1992, Official Journal of 3 July 1992).
Consequently, the CNA does not hold Licensee liable for damages sustained or incurred as a result of failure by CNA in its obligations in respect of the intellectual property, or any other legal or contractual rights of third parties that may affect the subject of the Agreement.
- 7.2 On or before the Effective Date, CNA warrants:
- (i) that it is the beneficial owner or it is the rightfully entitled of the Intellectual Property Rights contained in the Software, including the INNOVATRON activation protocol, enabling to conclude the present Agreement and that, to the best of its knowledge, the Software does not infringe any copyright nor any trade secret of any third party which might prevent the use thereof.
 - (ii) that it has not been notified of any claim made by, and is not subject to any legal proceeding brought by any third party (a) alleging the invalidity or unenforceability of the Software; or (b) alleging that any use or license of the Software infringes or misappropriates any IP Rights of any third party.
- 7.3 CNA shall be the sole party to take recourse, claim or suit, in his name and at his own cost, against any counterfeiters, in compliance with the law. For the sake of clarity, the Licensee will not be required to make any payment to any person, according to the terms and conditions of this Agreement, for or in connection with of the Software, with the exception of applet activation protocol as specified below and only if applicable to Licensee.
- 7.4 This Agreement gives to the Licensee no right of ownership whatsoever of the Software.
- 7.5 This Agreement does not entail, to the benefit of any one of the Parties, the assignment or licensing of any patent, trademark, logo, design or other industrial property rights belonging to one of the Parties.
- 7.6 The Licensee understands that in the event the Licensee decides to make the activation of the Software, it shall acquire the rights of the usage of the Calypso brand by supplying Calypso Activation Modules

If the Licensee is registered to INNOVATRON as a Calypso Card Manufacturer, the Licensee is eligible to get a version of the Software which does not involve the activation process. This version should be fully loaded and personalized in a secure factory before the issuance of the platform. These operations have to be declared by the Licensee to INNOVATRON in the same way as for the production of any native Calypso card.

Article 8. Confidentiality

- 8.1 The Licensee undertakes to consider and treat strictly confidential the Calypso Card Applet binary code documents, the Calypso Activation Module User Manual and other related electronic files marked as “confidential”.(the “Information”)
- 8.2 The Licensee agrees not to publish the Information under any circumstances and not to disclose the Information to a third party without the prior written consent of CNA.
- 8.3 The Licensee undertakes to strictly limit communication of the Information to members of its staff who need them for the proper performance of the present Agreement.
- 8.4 The Licensee’s obligations set out above shall remain in force even beyond the termination date of this Agreement, as long as the relevant data and information are not freely available to the public.
- 8.5 It is agreed, however, that the obligations shall not apply to data or information that:
- (i) is in the public domain at the time it is communicated by CNA or;
 - (ii) enters the public domain at a later point, other than through the action of the Licensee or members of its staff who have received that information or;
 - (iii) the Licensee can prove it possessed previously, or can prove the data or information was communicated lawfully without obligation of confidentiality or limitation of use by a third party lawfully holding it without obligation of confidentiality or limitation of use;
 - (iv) is approved for release by written authorization, but only to the extent of such authorization;
 - (v) has been disclosed in order to comply with a judicial issued by a Court of competent jurisdiction or with government laws or regulations, in which event the Party shall give prior written notice to the other Party of such required disclosure as soon as practicable and shall cooperate with them, at it is expense, in obtaining an appropriate protective order or equivalent.
- 8.6 In the event that CNA received Licensee 's confidential information, formally identified as such, the same terms that are recognized in this clause shall be applied to CNA.

Article 9. Nontransferable Agreement

- 9.1 Unless otherwise provided under this Agreement, neither Party shall be entitled to assign or transfer all or any of its rights, benefits and obligations under this Agreement without the prior written consent of the other Party. Any attempted assignment in violation of this Section 9 shall be null and void and deemed a material breach of this Agreement.

Article 10. Software Reproduction Rights

- 10.1 The Licensee shall not be allowed to make copies of the Software unless such a copy or reproduction is strictly necessary for the proper performance of the loading or for back up purpose.
- 10.2 Under no circumstances the Licensee is authorized to transmit any copy of the licensed software to a third party except as permitted under this Agreement or otherwise authorized by CNA. For the sake of clarity, selling or distributing a secure element with the Software loaded on board shall not be considered a transmission of a copy of the software.
- 10.3 If the Licensee wishes to subcontract the loading process of the Software and therefore transmit the Software to a third party, the Licensee remains solely liable to CNA for the compliance with the terms of the Agreement, and the Licensee shall:
- (i) provide CNA with the list of Subcontractors, which is reproduced in Annex 1;
 - (ii) warrant that the Subcontractors follow the rules and procedures set out in this Agreement.

In these conditions, CNA authorizes:

- (i) the Licensee to securely deliver the Software to the Subcontractors;
- (ii) the Subcontractor to load the Software in the secure elements of the Licensee, under the responsibility of the latter.

Article 11. Entry into force, Duration and Termination

- 11.1 The Effective Date of this Agreement is the date shown on the front of the document.
- 11.2 This Agreement shall have a term of a 1 (one) year which shall start on the Effective Date.
- 11.3 Upon expiry of the term defined in Article 11.2, this Agreement shall be tacitly renewed from one year to the next unless one of the parties sends a registered letter with acknowledgement of receipt, notifying the other party of contract termination. The said letter must be sent to the other party 3 (three) months before the expiry date of the current year.
- 11.4 In the event of default by any Party hereto on one of its obligations provided in this Agreement, the Agreement shall be terminated ipso jure, within 60 (sixty) days following the formal notice of the default in a registered letter with acknowledgment of receipt that has failed to produce any correction of the said default.

- 11.5 The Licensee shall have the right to terminate this Agreement at any time with 10 days prior written notice.
- 11.6 The Agreement shall terminate automatically and without notice upon the end of the Licensee's membership in CNA.
- 11.7 When the present Agreement is terminated for any reason whatsoever, the Licensee undertakes to stop downloading the Software in Secure Elements, to erase the Software without retaining any reasonably accessible copies. The Calypso Activation Modules and related Information shall be returned to CNA. The customers of the Licensee are allowed to continue to use the Software already distributed in Secure Elements.

Article 12. Completeness of Agreement

- 12.1 This Agreement constitutes the entire arrangements between the Parties in respect of its subject. From its Effective Date specified above, it cancels and supersedes all previous arrangements envisaged or decided between the Parties with regard to the subject of the Agreement and all exchanges of correspondence or statements which negotiation of the arrangements has previously given rise to.
- 12.2 Any changes and/or additions to this Agreement as may be mutually agreed by the Parties shall be in writing, by way of amendments duly signed by duly accredited representatives of each of the Parties.

Article 13. Applicable Law

- 13.1 This Agreement and all its terms and conditions are governed by French law. Should any dispute arise between the parties concerning the interpretation and/or performance of this Agreement, and should they be unable to reach an amicable settlement, the said dispute shall be referred to the Commercial Court of PARIS at the instigation of the Party who first takes action.

IN WITNESS WHEREOF, the Parties hereto have caused two original identical copies of this Agreement to be duly signed as of the Effective Date indicated above.

For CALYPSO NETWORKS ASSOCIATION,

Name: Philippe VAPPEREAU

Title: *Chairman*

Date: _____

Signature:

For the Licensee.

Name: Name

Title: Title

Date: _____

Signature:

Annex 2 Loading and Activation rules

The loading and activation of the Calypso Applet into a Secure Element (SE) shall follow the rules listed hereafter.

A2.1 The loading shall either:

- (i) be realized entirely in a physically secured environment, or-
- (ii) shall be done with confidential keys by using the following GlobalPlatform mode: SCP02 option "i"='55' with ENC+MAC, which ensures the Calypso Activation Module confidentiality.

A2.2. The loading shall be done only into Secure Elements having a reasonably high security level (e.g. protecting keys, secrets and applicative data at level VLA.4 or VAN.5).