

END USER LICENSE AGREEMENT (EULA)

for

TERRA PHOENIX TECHNOLOGY PRODUCTS and SERVICES

A. Agreement Definitions

“You” and “your” refers to the legal entity that has executed this agreement (“agreement” or “EULA”) and ordered Terra Phoenix Technology programs and/or hardware and/or services from Terra Phoenix Reseller. The term “ancillary programs” refers to third party materials specified in the program documentation which may only be used for the purposes of installing or operating the programs with which the ancillary programs are delivered. The term “program documentation” refers to the program user manual and program installation manuals. The term “programs” refers to the software products owned by Terra Phoenix Technology and distributed by Terra Phoenix Reseller, which you have ordered, program documentation, and any program updates acquired through technical support. The term “services” refers to technical support, education, hosted/outsourcing services, consulting or other services which you have ordered.

B. Applicability of Agreement

This agreement is valid for the order to which this agreement accompanies.

C. Rights Granted

Upon Terra Phoenix Technology’s acceptance of Terra Phoenix Reseller’s order, you have the non-transferable, non-assignable, royalty free perpetual, limited right to use the programs and receive any services you ordered solely for your internal business operations and subject to the terms of this agreement, including the license definitions and rules set forth in the program documentation. You may allow your agents and contractors (including, without limitation, outsourcers) to use the programs for the purposes set forth in the end user license agreement, subject to the terms of such agreement, you are responsible for their compliance with this agreement in such use. For programs that are specifically designed to allow your customers and suppliers to interact with you in the furtherance of your internal business operations, such use shall be allowed under this agreement. Terra Phoenix Technology’s license definitions and rules are subject to change and are available at Terra Phoenix Technology’s website (log in, select Membership / Agreements & Policies). Terra Phoenix Technology’s license definitions and rules are hereby incorporated by reference into this agreement.

Services are provided based on Terra Phoenix Technology’s policies for the applicable services ordered, which are subject to change, and the specific policies applicable to you, and how to access them, will be specified on your order (Except technical support services which are as specified in section H of this agreement). Upon payment for services, you will have a perpetual, non-exclusive, non-assignable, royalty free license to use for your internal business operations anything developed by Terra Phoenix Technology and delivered to you under this agreement; however, certain deliverables may be subject to additional license terms. The services provided under this agreement may be related to your license to use programs which you acquire under a separate order. The agreement referenced in that order shall govern your use of such programs. Any services acquired from Terra Phoenix Technology are bid separately from such program licenses, and you may acquire either services or such program licenses without acquiring the other.

Terra Phoenix Technology is a third party beneficiary of this agreement.

D. Ownership and Restrictions

Terra Phoenix Technology or its licensor retains all ownership in the intellectual property rights to the programs, hardware, operating system and integrated software. Furthermore, Terra Phoenix Technology retains all ownership and intellectual property rights to anything developed by Terra Phoenix Technology and delivered to you under this agreement resulting from the services. Use of the operating system delivered with the hardware is limited to the terms of the license delivered with the hardware and only as incorporated in, and as part, of the hardware. Use of the integrated software, which is defined as software embedded in the hardware that is essential to hardware functionality (e.g., firmware) is limited to your internal business operations subject to the terms of the end user agreement.

Third party technology that may be appropriate or necessary for use with Terra Phoenix Technology programs and/or hardware is specified in the program documentation and/or hardware documentation and that such third party technology is licensed to you under the terms of the third party technology license agreement specified in the program documentation and/or hardware documentation and not under the terms of the end user agreement.

Hardware and integrated software are not specifically designed, manufactured, or intended for use as parts, components, or assemblies for the planning, construction, maintenance, or operation of a nuclear facility and prohibit use of the hardware and/or integrated software for these purposes.

Some programs may include source code that Terra Phoenix Technology may provide as part of its standard shipment of such programs, which source code shall be governed by the terms of the end user agreement.

You may not:

- a) use the programs for rental, timesharing, subscription service, hosting, or outsourcing;
- b) remove or modify any program or hardware markings or any notice of Terra Phoenix Technology's or its licensors' proprietary rights;
- c) make the programs, operating system, integrated software available in any manner to any third party for use in the third party's business operations (unless such access is expressly permitted for the specific program license);
- d) transfer title to the programs, operating system and/or integrated software from you to any other party;
- e) reverse engineer (unless required by law for interoperability), disassemble or decompile the programs (the foregoing prohibition includes but is not limited to review of data structures or similar material produced by programs), operating system and/or integrated software and prohibit duplication of the programs, operating system and/or integrated software except for a sufficient number of copies for your licensed use and one copy of each program media.
- f) publish any results of benchmark tests run on the programs and/or hardware; and
- g) assign, give, or transfer the programs, operating system, integrated software and/or any services ordered or an interest in them to another individual or entity (in the event you grant a security interest in the programs, operating system, integrated software and/or any services, the secured party has no right to use or transfer the programs, operating system, integrated software and/or any services).

E. Warranties, Disclaimers and Exclusive Remedies

The provisions of this section do not apply to third party programs. Terra Phoenix Technology warrants that a program licensed to you will operate in all material respects as described in the applicable program documentation for one year after delivery. You must notify Terra Phoenix Technology of any program warranty deficiency within one year after delivery. Terra Phoenix Technology also warrants that services ordered will be provided in a professional manner consistent with industry standards. You must notify Terra Phoenix Technology of any services warranty deficiencies within 90 days from performance of the services described in your purchase order.

If you purchase Terra Phoenix Technology's hardware, the standard Terra Phoenix Technology hardware warranty in effect at the time of purchase will apply. This warranty information is available at Terra Phoenix Technology's website.

Terra Phoenix Technology does not guarantee that the programs will perform error-free or uninterrupted or that Terra Phoenix Technology will correct all program errors.

For any breach of the above warranties, your exclusive remedy, and Terra Phoenix Technology's entire liability, shall be: (a) The correction of program errors that cause breach of the warranty, or if Terra Phoenix Technology cannot substantially correct such breach in a commercially reasonable manner, you may end your program license and recover no fees paid, or (b) The re-performance of the deficient services, or if Terra Phoenix Technology cannot substantially correct a breach in a commercially reasonable manner, you may end the relevant services and recover no fees for the deficient services.

To the extent permitted by law, these warranties are exclusive and there are no other express or implied warranties, including warranties or conditions of merchantability and fitness for a particular purpose.

F. Trial Programs

You may order trial programs, or Terra Phoenix Technology may include additional programs with your order which you may use for trial, non-production purposes only. You may not use the trial programs to provide or attend third party training on the content and/or functionality of the programs. You have 30 days from the delivery date to evaluate these programs. If you decide to use any of these programs after the 30 day trial period, you must obtain a license for such programs from Terra Phoenix Technology. If you decide not to obtain a license for any program after the 30 day trial period, you will cease using and will delete any such programs from your computer systems. Programs licensed for trial purposes are provided "as is" and Terra Phoenix Technology does not provide technical support or offer any warranties for these programs.

G. Indemnification

If a third party makes a claim against either you or Terra Phoenix Technology ("Recipient" which may refer to you or Terra Phoenix Technology depending upon which party received the Material), that any information, design, specification, instruction, software, data, or material ("Material") furnished by either you or Terra Phoenix Technology ("Provider" which may refer to you or Terra Phoenix Technology depending on which party provided the Material), and used by the Recipient infringes its intellectual property rights, the Provider, at its sole cost and expense, will defend the Recipient against the claim and indemnify the Recipient from the damages, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by the Provider, if the Recipient does the following:

- a) notifies the Provider promptly in writing, not later than 30 days after the Recipient receives notice of the claim (or sooner if required by applicable law);
- b) gives the Provider sole control of the defence and any settlement negotiations; and

- c) gives the Provider the information, authority, and assistance the Provider needs to defend against or settle the claim.

If the Provider believes or it is determined that any of the Material may have violated a third party's intellectual property rights, the Provider may choose to either modify the Material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, the Provider may end the license for, and require return of, the applicable Material and refund any fees the Recipient may have paid to the other party for it and any unused, prepaid technical support fees you have paid to Terra Phoenix Technology for the license. If you are the Provider and such return materially affects Terra Phoenix Technology's ability to meet its obligations under the relevant order, then Terra Phoenix Technology may, at its option and upon 30 days prior written notice, terminate the order. The Provider will not indemnify the Recipient if the Recipient alters the Material or uses it outside the scope of use identified in the Provider's user documentation or if the Recipient uses a version of the Materials which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Material which was provided to the Recipient. The Provider will not indemnify the Recipient to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by the Provider. Terra Phoenix Technology will not indemnify you to the extent that an infringement claim is based upon the combination of any Material with any products or services not provided by Terra Phoenix Technology. Terra Phoenix Technology will not indemnify you for infringement caused by your actions against any third party if the Terra Phoenix Technology program(s) as delivered to you and used in accordance with the terms of this agreement would not otherwise infringe any third party intellectual property rights. Terra Phoenix Technology will not indemnify you for any infringement claim that is based on: (1) a patent that you were made aware of prior to the effective date of this agreement (pursuant to a claim, demand, or notice); or (2) your actions prior to the effective date of this agreement. This section provides the parties' exclusive remedy for any infringement claims or damages.

H. Technical Support

For purposes of this agreement, technical support consists of annual technical support services you may have ordered for the programs. If ordered, annual technical support (including first year and all subsequent years) is provided under Terra Phoenix Technology's technical support policies in effect at the time the services are provided. Terra Phoenix Technology's technical support policies are hereby incorporated by reference into this agreement, and are subject to change at Terra Phoenix Technology's discretion; however, Terra Phoenix Technology policy changes will not result in a material reduction in the level of services provided for supported programs during the period for which fees for technical support have been paid. You should review the policies prior to entering into your purchase order for the applicable services. Technical support is effective upon the effective date of the order to which this agreement accompanies otherwise stated in your order.

Software Update License & Support (or any successor technical support offering to Software Update License & Support, "SULS") acquired with your order may be renewed annually and, if you renew SULS for the same number of licenses for the same programs, for the first and second renewal years the fee for SULS will not increase by more than 10% over the prior year's fees. If you decide not to purchase technical support, you may not update any unsupported program licenses with new versions of the program.

I. End of Agreement

Upon the termination of the agreement, you will discontinue use and destroy or return to Terra Phoenix Technology all copies of the programs and documentation. Provisions that survive termination or expiration are those relating to limitation of liability, infringement indemnity, payment, and others which by their nature are intended to survive.

J. Fees and Taxes

You agree to pay any sales, value-added or other similar taxes imposed by applicable law that Terra Phoenix Technology must pay based on the programs and/or services you ordered. Also, you will reimburse Terra Phoenix Technology for reasonable expenses related to providing the services. Fees for services listed in an order are exclusive of taxes and expenses.

You agree that you have not relied on the future availability of any programs or updates in entering into the payment obligations in your purchase order; however, (a) if you order technical support from Terra Phoenix Technology for the programs, the preceding sentence does not relieve Terra Phoenix Technology of its obligation to provide updates under such order, if-and-when available, in accordance with Terra Phoenix Technology's then current technical support policies, and (b) the preceding sentence does not change the rights granted to you for any program licensed under the end user agreement, per the terms of such end user agreement.

K. Non-Disclosure

By virtue of this agreement, the parties may have access to information that is confidential to one another ("confidential information"). We each agree to disclose only information that is required for the performance of obligations under this agreement. Confidential information shall be limited to the terms and pricing under this agreement and all information clearly identified as confidential at the time of disclosure; subject to the law of Singapore.

A party's confidential information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party.

We each agree to hold each other's confidential information in confidence for a period of three years from the date of disclosure. Also, we each agree to disclose confidential information only to those employees or agents who are required to protect it against unauthorized disclosure. Nothing shall prevent either party from disclosing the terms or pricing under this agreement or orders submitted under this agreement in any legal proceeding arising from or in connection with this agreement or disclosing the confidential information to a federal or state governmental entity as required by law.

L. Entire Agreement

If any term of this agreement is found to be invalid or unenforceable, the remaining provisions will remain effective and such term shall be replaced with a term consistent with the purpose and intent of this agreement. Any notice required under this agreement shall be provided to the other party in writing.

M. Limitation of Liability

To the extent not prohibited by applicable law, neither party shall be liable for any indirect, incidental, special, punitive, or consequential damages, or loss of profits, revenue, data, or data use arising from the use of the programs. To the extent not prohibited by applicable law, Terra Phoenix Technology shall not be liable for any direct, indirect, incidental, special, punitive, or consequential damages, or any loss of profits, revenue, data, or data use arising from the use of the programs. Terra Phoenix Technology's maximum liability for any damages arising out of or related to this agreement or your order, whether in contract or tort, or otherwise, shall be limited to the zero amount (SGD0.00) under this agreement, and if such damages result from your use of programs or services, such liability shall be limited to zero amount (SGD0.00) for the deficient program or services giving rise to the liability.

N. Export

Export laws and regulations of Singapore and any other relevant local export laws and regulations apply to the programs. You must comply fully with all relevant export laws and regulations of Singapore and other applicable export and import laws to assure that neither the programs, the hardware nor any direct product thereof, are exported, directly or indirectly, in violation of applicable laws.

O. Other

1. This agreement is governed by the substantive and procedural laws of Singapore in any dispute arising out of or relating to this agreement.
2. If you have a dispute with Terra Phoenix Technology or wish to provide a notice you may notify Terra Phoenix Technology via written notice to: V.Box 883888, Singapore 919191
3. If you have a dispute with Terra Phoenix Technology or if you wish to provide a notice under the Indemnification section of this agreement, or if you become subject to insolvency or other similar legal proceedings, you will promptly send written notice to: Terra Phoenix Technology, V.Box 883888, Singapore 919191, Attention: General Counsel, Legal Department.
4. Except for actions for non-payment or breach of Terra Phoenix Technology's proprietary rights, no action, regardless of form, arising out of or relating to this agreement may be brought by either party more than two years after the cause of action has accrued.
5. Upon 45 days written notice, Terra Phoenix Technology (or Terra Phoenix Technology upon assignment) may audit your use of the programs. You agree to cooperate with such audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with your normal business operations. You agree to pay within 30 days of written notification any fees applicable to your use of the programs in excess of your license rights. If you do not pay, Terra Phoenix Technology can end your technical support, licenses and/or this agreement. You agree that Terra Phoenix Technology shall not be responsible for any of your costs incurred in cooperating with the audit.
6. Any third party firms retained by you to provide computer consulting services are independent of Terra Phoenix Technology and are not Terra Phoenix Technology's agents. Terra Phoenix Technology is not liable for nor bound by any acts of any such third party firm.