

## **Software License Agreement**

XtalPi Inc.(hereinafter referred to as "XtalPi") is the owner of the website [xff.xtalpi.com](hereinafter referred to as "Site") and the software "GENXFF" and the related software to be developed by XtalPi in the near future.

These terms and conditions (hereinafter referred to as "Agreement") are the terms on which the Site is made available to you (hereinafter referred to as "You"/"Your"). By accessing this Site and apply the software "GENXFF" you agree to be bound by this Agreement.

### **1 License of Software**

#### **1.1 Software to Be Licensed**

The software shall include the software "GENXFF" which has been already developed as well as the related software to be developed by XtalPi in the near future.

#### **1.2 License Areas**

All the countries, regions and areas around the world.

#### **1.3 Term and Termination**

1.3.1 Term. This Agreement commences upon you register for an account or apply the software.

1.3.2 The termination of the license term. XtalPi may terminate this Agreement at any time on 60 days before written notice by XtalPi or if you breach this Agreement and fail to cure such breach within 30 days of receiving written notice thereof.

#### **1.4 License**

1.4.1 Content. XtalPi authorizes you to implement and use its software, and/or data generated by the software online or offline for academic, not-for-profit and non-commercial purposes.

1.4.2 Patents. XtalPi only authorizes you to implement the patents which are necessary to implement the software owned by XtalPi.

1.4.3 Copyrights. XtalPi only authorizes you the copyrights to reproduce and amend the works contained in the software and are necessary to implement the software.

1.4.4 Sublicense or redistribution. You do not have the right to sublicense or redistribute the software and/or data generated by the software to any third party without the permission of XtalPi.

1.4.5 Assignment. You do not have the right to assign the license under this Agreement.

1.4.6 License restrictions. You will not: (a) remove any copyright notices or other proprietary rights notices placed or embedded on or in any part of the software (including all copies of any deliverables of the software).

1.4.7 Reservation of rights. Except for the licenses expressly granted to you in this Agreement, all rights, title and interest in and to the software, and IP Rights and technology of XtalPi, and all copies, revisions, modifications, updates, and upgrades of any of the foregoing are reserved by XtalPi. No additional rights are granted by

implication, estoppel or otherwise. Except for the express licenses outlined in this Agreement, nothing in this Agreement grants you any rights in, title to, interest in or license to XtalPi's IP Rights. XtalPi retains all rights, title or interest to all of its IP Rights. For the avoidance of doubt, any use by you of any situation in conjunction with (or on top of) the software shall be subject to XtalPi's underlying rights in terms of this Agreement.

- 1.4.8 Defending rights. You do not have the right to initiate any legal actions such as sending C&D letters to infringers or filing complaints to courts or any third parties regarding the infringements of the software unless under the written permission of XtalPi.

### **1.5 Method of License**

Ordinary license, XtalPi can use the software and license any other third party to use the software under this Agreement except for you.

## **2 License Fee**

Voluntary. XtalPi agrees that all the software under the Agreement is a voluntary license, and you shall not bear any license fees.

## **3 Warranties and Representations**

- 3.1 Necessary fees. All fees including installation, test, evaluation, maintenance, etc. related to the implementation of the software by you shall be heard by yourself.
- 3.2 The co-ownerships of the deprivations of the software. You promise that, if you apply for, register, exploit software or any patents, technical knowledge, know-how based on XtalPi's technology patents, technical knowledge, or know-how related to the software under this Agreement, the aforementioned intellectual properties shall be owned by XtalPi and you. XtalPi shall have the rights to use, implement, and assign such software, patents, technical knowledge, know-how or copyrights without your permission.
- 3.3 Infringement. You promise that you will not infringe XtalPi's patents, trade secrets, copyrights and other legal rights and interests related to the software in any form.
- 3.4 Return and destroy. Upon the termination of this Agreement, you will promptly return to XtalPi, or at the request of XtalPi, destroy all Confidential Information of XtalPi, and all copies of any of the foregoing (including, without limitation, those copies distributed by you to third parties).
- 3.5 Advertising and marketing. You represent and warrant that, in advertising and marketing the software and otherwise performing under this Agreement, you will not: (a) engage in any deceptive, misleading, illegal, or unethical practices; and (b) make any representations, warranties, or guarantees concerning the software that is inconsistent with those generally made by you, including under this Agreement.
- 3.6 Disclaimers. Except as expressly provided in this section, XtalPi neither makes additional representations nor warranties, of any kind whether express, implied (either in fact or by operation of law), or statutory, as to any matter whatsoever, and XtalPi disclaims and waives any implied warranties imposed by law.
- 3.7 Infringement notice. You will notice the infringing actions of third parties regarding the

software within 5 business days upon awareness of the infringement to XtalPi.

#### **4 Confidentiality**

- 4.1 Definition. As used in this Agreement, the term “Confidential Information” means (a) any nonpublic, confidential or proprietary information of XtalPi (including this Agreement and its terms, any trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing) that is disclosed to you (whether disclosed orally or disclosed or accessed in written electronic or other form, and whether or not marked or otherwise identified as "confidential") in connection with the performance of this Agreement.
- 4.2 Exclusions. Confidential Information will not include information that: (a) is already known to you without restriction on use or disclosure before receipt of such information from XtalPi ; (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of you; (c) is developed by you independently of, and without reference to, any Confidential Information of XtalPi; or (d) is received by you from a third party who is not under any obligation to XtalPi to maintain the confidentiality of such information.
- 4.3 Non-use and non-disclosure. You agree not to disclose or otherwise make available Confidential Information of XtalPi to any third party, except as may be required by law, without the prior written consent of XtalPi; provided, however, that you may disclose the Confidential Information of XtalPi to its affiliates and their directors, members, managers, officers, employees, agents, legal advisors and service providers (“Representatives”) who have a “need to know” that Confidential Information and who have been apprised of this restriction and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Section and you will assume full responsibility and liability for any unauthorized use or disclosure of any Confidential Information by any such Representatives of you .
- 4.4 Disclosures required by law. If you are required to comply with any applicable law or the requirement of any regulatory body or government agency which results in you compelled to disclose any Confidential Information, whether, by oral questions, interrogatories, requests for information, or documents, subpoenas, or other processes, you will promptly provide XtalPi with written notice of any such request or requirement so that you may seek an appropriate protective order or other appropriate remedy, or may waive compliance with the non-disclosure provisions of this Agreement. If such protective order or other remedy is not obtained, or XtalPi waives compliance with the non-disclosure provisions of this Agreement, you will disclose only that portion of the information as to which it has been advised by legal counsel that disclosure is required by law, and you will exercise its best efforts to obtain reliable assurances that confidential treatment will be accorded to the information that is disclosed in response to such requests or requirements. You further agree to use the Confidential Information of XtalPi only for the purposes of performing its obligations under this Agreement.

#### **5 Default**

- 5.1 Breach of the Agreement. It is a breach of the Agreement when you implement the software

for any commercial purpose otherwise in Section 1.4.1 without the permission of XtalPi.

- 5.2 Compensation. You fail to perform your obligations under the Agreement or violates your warranties or representations under the Agreement shall be deemed as a breach of the Agreement. You will indemnify the damaged party [Ten Hundred Thousand US dollars] (\$ [100,000]) and continue to perform obligations according to the request of the damaged party.
- 5.3 Your indemnification. You will indemnify, defend, and hold harmless XtalPi and its directors, officers, and employees from and against all taxes, losses, damages, liabilities, costs, and expenses, including attorneys' fees and other legal expenses, arising from (a) any negligent, reckless, or intentionally wrongful act of you or its employees or agents; or (b) any infringement or claimed infringement of a third party's rights resulting in whole or in part from any use of the software in accordance with this Agreement to the extent that such infringement or claimed infringement is not due to the software (other than the modifications and derivative works of the software made by any party other than XtalPi or its affiliates or subcontractors) or any other XtalPi's IP Rights.
- 5.4 Indemnification procedure. The party seeking indemnification from the other party due to a claim set forth in the Agreement must give the indemnifying party: (a) prompt written notice of such claim; (b) full and complete control over the defense and settlement of such claim; (c) assistance in connection with the defense and settlement of such claim as the indemnifying party may reasonably request; and (d) its compliance with any settlement or court order made in connection with such claim.

## **6 Governing Law and Dispute Resolution**

- 6.1 Governing law. All matters arising from or relating to the Agreement shall be governed and interpreted by the laws of the People's Republic of China.
- 6.2 Arbitration. Any dispute arising from or in connection with this Contract shall be submitted to Shenzhen Court of International Arbitration for arbitration which shall be conducted in accordance with its arbitration rules in effect at the time of applying for arbitration, the arbitration shall be held in Shenzhen. The arbitral award is final and binding upon both parties.
- 6.3 Injunctive relief. Notwithstanding the foregoing, XtalPi may apply to any court of competent jurisdiction for injunctive relief without breach of this arbitration provision.

## **7 Miscellaneous**

- 7.1 Changes to the Agreement. XtalPi is constantly looking for new ways to improve this Site and the software. XtalPi therefore reserves the right to amend these Agreement at any time. All such changes will take effect once they have been posted on the Site and you will be deemed to have accepted any such changes by your use of the Site from such time.
- 7.2 Assignment. Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by you, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of XtalPi, provided that XtalPi may assign this Agreement in connection with a merger, acquisition, stock purchase, or sale of all or substantially all of the assets or business to which this Agreement relates. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties

and their respective successors and assigns. Any assignment in violation of the foregoing will be null and void.

- 7.3 Waiver. Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed as a waiver of the party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice the party's right to take subsequent action. Exercise or enforcement by either party of any right or remedy under this Agreement will not preclude the enforcement by the party of any other right or remedy under this Agreement or that the party is entitled by law to enforce.
- 7.4 Severability. If any term, condition, or provision in this Agreement is found to be invalid, unlawful, or unenforceable to any extent, the parties will endeavor in good faith to agree to amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on an amendment, the invalid term, condition, or provision will be severed from the remaining terms, conditions, and provisions of this Agreement, which will continue to be valid and enforceable to the fullest extent permitted by law.
- 7.5 Integration. The appendices, additional terms or supplementary agreement hereto are an integral part of this Agreement and have the same legal effect as the main contract hereof. No terms, provisions, or conditions of any purchase order, acknowledgment, or other business form that either party may use in connection with the transactions contemplated by this Agreement will have any effect on the rights, duties, or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of a receiving party to object to those terms, provisions, or conditions. If there is any conflict between the terms of this Agreement, the terms of this Agreement will prevail solely to the extent of the conflict.