

SPEA AMERICA Software License Agreement

This Agreement defines the license terms and conditions under which SPEA America LLC, ("SPEA") grants user rights to selected software and the undersigned ("Customer") will use such selected software. These terms apply only to software owned or controlled by SPEA that is delivered to Customer by SPEA ("Software").

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. SPEA grants a license to Software, as outlined herein, effective when Software is delivered to Customer and, if required, a license key to enable use of Software and accepts payment of license fees in effect at the time of order or delivery. The license grants Customer and its consolidated subsidiaries the limited, non-exclusive and non-transferable right to use Software and related documentation only for their internal use. Software that operates on a test system, equipment or instrument is licensed for use only with the specific test system or equipment for which it is authorized by SPEA, except temporary use on another test system or other equipment is permitted if due to malfunction of the identified test system or equipment. Unless otherwise specified by SPEA, in associated purchase documents or license keys, the term of this license shall extend only for so long as Customer owns the test system or equipment. Unless otherwise specified in writing by SPEA, the license of Software is not transferable or sublicenseable by Customer or its consolidated subsidiaries to any other party.
2. Customer's rights in Software and documentation are user's rights only, and all title and ownership rights in them remain with SPEA (or third party supplier to SPEA). Customer acknowledges that the Software and related documentation contain trade secret and proprietary information of SPEA, and agrees not to disclose it to any others, using the same degree of care as with its own materials of a similar nature, but in no event less than reasonable care. Customer shall not modify, decompile, disassemble or otherwise reverse engineer Software. Customer will not copy the Software or related documentation, except for archival or emergency backup purposes. Any such copy must contain the copyright or proprietary notice as furnished with the original. Customer agrees to allow SPEA to monitor compliance with these conditions in a manner that does not interfere with normal business operations. When additional licenses or license terms exist or are required for any third party material incorporated in or delivered with Software, the terms of that third party license will supersede any conflicting terms in this Agreement as it relates to the third party material.
3. **If a warranty applies to any item of Software, the duration of the warranty will be one year from the date of delivery of the Software, or any other duration specified in the SPEA quotation. SPEA's warranty is that Software prepared by SPEA will function in accordance with the description contained in documentation accompanying the Software. If Customer notifies SPEA within the warranty period that it suspects an error in the program logic of the Software, SPEA shall use reasonable commercial efforts to confirm the existence of such error. If the error is confirmed, SPEA shall undertake, at no charge to Customer, sufficient efforts as it determines necessary to: (i) apply a temporary correction or (ii) develop an emergency bypass if the test system or equipment associated with the Software is inoperable. If SPEA determines that neither (i) nor (ii) is practical, then SPEA may satisfy its warranty obligations by returning any license fee paid in exchange for return of the Software. If SPEA reasonably determines that no such error exists, Customer agrees to pay SPEA for its services at SPEA's standard charges, including reasonable travel and living expenses. This warranty extends to the original Customer only, and applies only to the then current unaltered form of the Software. This paragraph states the sole remedy of Customer and exclusive liability of SPEA for Software provided by SPEA. SPEA MAKES NO OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
4. **IN NO EVENT WILL SPEA BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL PENALTIES OR DAMAGES, INCLUDING LOST PROFITS, EVEN IF SPEA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER AGREES THAT ANY LIABILITY OF SPEA HEREUNDER FOR DAMAGES, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE LICENSE CHARGES PAID BY CUSTOMER FOR THE ITEM OR ITEMS OF SOFTWARE INVOLVED.**
5. SPEA can terminate Customer's rights to use any specific item or items of Software for any material failure to perform Customer's obligations under this License with respect to that item or items of Software that is not remedied within thirty (30) days of written notice, or failure to pay any required fees related to an item or items of Software, or Customer's ceasing to do business or becoming bankrupt. If SPEA terminates the license to such item or items of Software for such cause, Customer agrees to return such item of Software and documentation including any copies or partial copies thereof. Licenses to other items of Software not so terminated shall continue in full force and effect. In the case of Customer's ceasing to do business or becoming bankrupt, the Agreement is terminated including all licenses to specific items of Software. Customer agrees to return all Software and documentation.
6. Except as expressly stated herein, terms governing provision of any specific item or items of Software including license fees and Software maintenance fees shall be the Standard SPEA Terms and Conditions, incorporated herein by reference, and associated SPEA invoices and other purchase documents at the time the order is received.
7. The parties agree that the laws of the state of Texas in the United States of America will govern interpretation of this License Agreement. SPEA makes no grant of license rights to any third party software, source code, applications or open source software not delivered by SPEA (hereinafter "**Third Party Software**") necessary to use the Software on Customer's workstations or at its facilities. Customer is responsible for securing all licenses for Third Party Software.
8. Customer shall not export, re-export or release any specific item or items of Software, the source code for any specific item or items of Software, or any product incorporating any Software to a national of a country or to any country to which restrictions are applied. This restriction shall survive the expiration or termination of this License Agreement.