

TERMS OF USE

www.fintracklive.com (“<https://fintracklive.com>”, “we,” “us,” or “our”) welcomes you. We provide you access to our services through our “Website” (defined below) subject to the following Terms of Service, which may be updated by us from time to time without notice to you. By browsing the public areas or by accessing and using the Website, you acknowledge that you have read, understood, and agree to be legally bound by the terms and conditions of these Terms of Service and the terms and conditions of our Privacy Policy, which are hereby incorporated by reference (collectively, this “Agreement”). If you do not agree to any of these terms, then please do not use the Website.

DEFINITIONS

- “**Agreement**” is a reference to these Terms and Conditions, the Privacy Policy, any order form and payment instructions provided to you;
- “**Privacy Policy**” means "<https://fintracklive.com>" the policy displayed on our Website which details how we collect and store your personal data;
- “**Service**” or “**Services**” is a reference to any service defined below, which we may supply and which you may request via our Website;
- “**User**”, “**you**” and “**your**” are refers to the person who is accessing for taking any service from us. User shall also refers to the company, partnership, sole trader, person, body corporate or association taking services of this website;
- “**We**”, “**us**” and “**our**” are references to PHOENIX SOFTWARE LTD, NZ Company Number 5761890.;
- “**Website**” shall mean and include "<https://fintracklive.com>", mobile application of the Company, any successor website/applications, any website of the Company’s affiliates or any other channel facilitated and permitted by the Company;
- “**Applicable Law**” means in respect of a person, any statute, law, regulation, ordinance, rule, judgment, decree, by-law, approval from the concerned authority, government resolution, order, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision, or determination, or any interpretation or adjudication having the force of law of any of the foregoing, by any concerned authority or other requirements of any governmental or regulatory authority, to which such person is subject;
- “**User**” Account shall mean an electronic account opened by the User with the Website to take the services offered through the Website;

Interpretation

- All references to singular include plural and vice versa and the word "includes" should be construed as "without limitation".
- Words importing any gender shall include all the other genders.
- Reference to any statute, ordinance or other law includes all regulations and other instruments and all consolidations, amendments, re-enactments or replacements for the time being in force.

- All headings, bold typing and italics (if any) have been inserted for convenience of reference only and do not define limit or affect the meaning or interpretation of the terms of this Agreement.

INTRODUCTION AND SCOPE

- **Acceptance.** By using the Website or Services in any manner, you are bound by these Terms of Service, as well as the terms of the Agreement identified above. If you do not agree to the Terms, then do not use the Website or Services. If you are accepting these Terms on behalf of a company, organization, government, or other legal entity, you represent and warrant that (a) you are authorized to do so, (b) the entity agrees to be legally bound by the Terms, and (c) neither you nor the entity are barred from using the Services or accepting the Terms under the laws of the applicable jurisdiction.
- **Scope.** These Terms govern your use of the Website and the Services. Except as otherwise specified, these Terms do not apply to Third-Party Products or Services, which are governed by their own terms of service.
- **Eligibility:** Certain Service of the Website is not available to minors under the age of 13 or to any users suspended or removed from the system by us for any reason. Additionally, users are prohibited from selling, trading, or otherwise transferring their accounts to another party.

SERVICES

This website is an online solution to keep in control of customer's project or business unit finances, resourcing and key info.

EXCLUSION OF LIABILITY

In no event shall PHOENIX SOFTWARE LTD, nor its directors, employees, partners, agents, suppliers, or affiliates, be responsible for any indirect, incidental, special, eventful or exemplary damages, including without limitation, loss of profits, data, use, goodwill, or other intangible losses, resulting from (i) your access to or use of or inability to access or use the Service; (ii) any conduct or content of any third party on the Service; (iii) any content obtained from the Service; and (iv) unauthorized access, use or alteration of your transmissions or content, whether or not based on warranty, contract, civil wrong (including negligence) or any other legal theory, whether or not we've been aware of the likelihood of such harm, and even if a remedy set forth herein is found to have failed of its essential purpose.

USE RESTRICTION

This is an Agreement for Services, and you are not granted a license to any software by this Agreement. You will not, directly or indirectly: reverse engineer, decompile,

disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of or included in the Services or any software, documentation or data related to the Services (“Software”); modify, translate or create derivative works based on the Services or any Software; or copy (except for archival purposes), distribute, pledge, assign or otherwise transfer or encumber rights to the Services or any Software; use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.

DESCRIPTION OF SERVICE

- The Company provides an opportunity for You to offer Services or to avail the offered Services from Company Website.
- The Company does not provide any warranty or guarantee that the Service descriptions are accurate, complete, reliable, current, or error-free. If a Services offered by the Website/s is not as described, Your sole remedy is to intimate the Company about Services for taking further action.

GENERAL CONDITIONS

- You will comply with all applicable laws in your use of the Website and will not use the Website for any unlawful purpose;
- You will not upload, post, e-mail, transmit, or otherwise make available any content that:
 - infringes any copyright, trademark, right of publicity, or other proprietary rights of any person or entity; or
 - is defamatory, libelous, indecent, obscene, pornographic, sexually explicit, invasive of another’s privacy, promotes violence, or contains hate speech (i.e., speech that attacks or demeans a group based on race or ethnic origin, religion, disability, gender, age, veteran status, and/or sexual orientation/gender identity; or
 - discloses any sensitive information about another person, including that person’s e-mail address, postal address, phone number, credit card information, or any similar information.
- You will not “stalk,” threaten, or otherwise harass another person;
- You will not access or use the Website to collect any market research for a competing business;
- You will not impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity;
- You will not interfere with or attempt to interrupt the proper operation of the Website through the use of any virus, device, information collection or transmission mechanism, software or routine, or access or attempt to gain access to any data, files, or passwords related to the Website through hacking, password or data mining, or any other means;
- You will not cover, obscure, block, or in any way interfere with any advertisements and/or safety features (e.g., report abuse button) on the Website;

- You will not use any robot, spider, scraper, or other automated means to access the Website for any purpose without our express written permission; provided, however, we grant the operators of public search engines permission to use spiders to copy materials from the public portions of the Website for the sole purpose of and solely to the extent necessary for creating publicly-available searchable indices of the materials, but not caches or archives of such materials;
- You will not take any action that imposes or may impose (in our sole discretion) an unreasonable or disproportionately large load on our technical infrastructure; and
- You will let us know about inappropriate content of which you become aware. If you find something that violates any law, please let us know, and we'll review it.

We reserve the right, in our sole and absolute discretion, to deny you access to the Website, or any portion of the Website, without notice, and to remove any content.

MODIFICATIONS TO THE SERVICE AND PRICES

We reserves the right, in its discretion, to change, modify, add to, or remove portions of the Terms (collectively, "Changes"), at any time. We may notify you of Changes by sending an email to the address identified in your Account or by posting a revised version of the Terms incorporating the Changes to its Website. Your continued use of the Website or Services following notice of the Changes (or posting of the Terms incorporating the Changes in the event your email address is no longer valid, is blocked, or is otherwise not able to receive the notice) will mean that you accept and agree to the Changes. Such Changes will apply prospectively beginning on the date the Changes are posted to the Website.

SERVICES

We reserve the right, but not the obligation, to limit the sales of the Services to any person, geographic region or jurisdiction. We may exercise this right on a case-by-case basis. We reserve the right to discontinue any Service at any time. Any offer for any Service made on this Website is void where prohibited.

We do not warrant that the quality of any Service, information, or obtained by You will meet Your expectations, or that any defects in the Services will be corrected.

THIRD PARTY LINKS

The Website may contain links to third-party websites ("External Sites"). These links are provided solely as a convenience to you and not as an endorsement by us of the content on such External Sites. The content of such External Sites is developed and provided by others. You should contact the site administrator or webmaster for those External Sites if you have any concerns regarding such links or any content located on such External Sites. We are not responsible for the content of any linked External Sites and do not make any representations regarding the content or accuracy of materials on such External Sites. You should take precautions when downloading files from all websites to

protect your computer from viruses and other destructive programs. If you decide to access linked External Sites, you do so at your own risk.

FEEDBACK

You may provide us with ideas, opinions, recommendations, feedback, or advice in connection with your use of the Services (collectively, "Feedback"). If you submit Feedback to us, you hereby grant us an irrevocable, perpetual, transferable, non-exclusive, fully-paid-up, royalty-free, worldwide license (sublicensable through multiple tiers) to: (a) use, copy, distribute, reproduce, modify, create derivative works of, adapt, publish, translate, publicly perform, and publicly display such Feedback (or any modification thereto), in whole or in part, in any format, medium or application now known or later developed; and (b) use, and permit others to use, Feedback in any manner and for any purpose (including, without limitation, commercial purposes) that we deems appropriate in its discretion (including, without limitation, incorporating Feedback, in whole or in part, into any technology, product or service).

PERSONAL INFORMATION AND PRIVACY POLICY

By using this Website, you authorise us to use, store or otherwise process your personal information in order to provide the website Services to you and for marketing and credit control purposes (the "Purpose"). The Purpose may include the disclosure of your personal information to selected third parties from time to time where we believe that the services offered by such third parties may be of interest to you or where this is required by law or in order to provide the Goods or Service to you. More information can be found in our Privacy Policy.

ERRORS, INACCURACIES AND OMISSIONS

Great care has been taken to ensure that the information available on this Website is correct and error free. We apologise for any errors or omissions that may have occurred. We cannot warrant that use of the Website will be error free or fit for purpose, timely, that defects will be corrected, or that the site or the server that makes it available are free of viruses or bugs or represents the full functionality, accuracy, reliability of the Website and we do not make any warranty whatsoever, whether express or implied, relating to fitness for purpose, or accuracy.

DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY

THE WEBSITE AND THE CONTENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND, INCLUDING THAT THE WEBSITE WILL OPERATE ERROR-FREE OR THAT THE WEBSITE, ITS SERVERS, OR THE CONTENT ARE FREE OF COMPUTER VIRUSES OR SIMILAR CONTAMINATION OR DESTRUCTIVE FEATURES.

WE DISCLAIM ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTIES' RIGHTS, AND FITNESS FOR PARTICULAR PURPOSE AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. IN CONNECTION WITH ANY WARRANTY, CONTRACT, OR COMMON LAW TORT CLAIMS: (I) WE SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, LOST PROFITS, OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION RESULTING FROM THE USE OR INABILITY TO ACCESS AND USE THE WEBSITE OR THE CONTENT, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (II) ANY DIRECT DAMAGES THAT YOU MAY SUFFER AS A RESULT OF YOUR USE OF THE WEBSITE OR THE CONTENT SHALL BE LIMITED TO THE MONIES YOU HAVE PAID US IN CONNECTION WITH YOUR USE OF THE WEBSITE DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM.

THE WEBSITE MAY CONTAIN TECHNICAL INACCURACIES OR TYPOGRAPHICAL ERRORS OR OMISSIONS. UNLESS REQUIRED BY APPLICABLE LAWS, WE ARE NOT RESPONSIBLE FOR ANY SUCH TYPOGRAPHICAL, TECHNICAL, OR PRICING ERRORS LISTED ON THE WEBSITE. THE WEBSITE MAY CONTAIN INFORMATION ON CERTAIN SERVICES, NOT ALL OF WHICH ARE AVAILABLE IN EVERY LOCATION. A REFERENCE TO A SERVICE ON THE WEBSITES DOES NOT IMPLY THAT SUCH SERVICE IS OR WILL BE AVAILABLE IN YOUR LOCATION. WE RESERVE THE RIGHT TO MAKE CHANGES, CORRECTIONS, AND/OR IMPROVEMENTS TO THE WEBSITE AT ANY TIME WITHOUT NOTICE.

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estoppel, or otherwise, any license or right to use the Trademarks, without our prior written permission specific for each such use. None of the Content may be retransmitted without our express, written consent for each and every instance.

INDEMNIFICATION

You agree to defend, indemnify, and hold us and our officers, directors, employees, successors, licensees, and assigns harmless from and against any claims, actions, or demands, including, without limitation, reasonable legal and accounting fees, arising or resulting from your breach of this Agreement or your misuse of the Content or the Website. We shall provide notice to you of any such claim, suit, or proceeding and shall assist you, at your expense, in defending any such claim, suit, or proceeding. We reserve the right, at your expense, to assume the exclusive defense and control of any matter that is subject to indemnification under this section. In such case, you agree to cooperate with any reasonable requests assisting our defense of such matter.

SEVERABILITY

If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that the Terms will otherwise remain in full force and effect and enforceable.

TERMINATION

Term. The Services will be provided to you can be cancelled or terminated by us. We may terminate these Services at any time, with or without cause, upon written notice. We will have no liability to you or any third party because of such termination. Termination of these Terms will terminate all of your Services subscriptions.

Effect of Termination. Upon termination of these Terms for any reason, or cancellation or expiration of your Services: (a) We will cease providing the Services; (b) you will not be entitled to any refunds or usage fees, or any other fees, pro rata or otherwise; (c) any fees you owe to us will immediately become due and payable in full; and (d) we may delete your archived data within 30 days. All sections of the Terms that expressly provide for survival, or by their nature should survive, will survive termination of the Terms, including, without limitation, indemnification, warranty disclaimers, and limitations of liability.

ENTIRE AGREEMENT

These Terms are the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of these Terms, and any modifications must be in a writing signed by both parties, except as otherwise provided herein.

GOVERNING LAW AND JUDICIAL RECOURSE

The terms herein will be governed by and construed in accordance with the laws of New Zealand without giving effect to any principles or conflicts of law. The competent courts of New Zealand shall have exclusive jurisdiction over any dispute arising from use of the Website.

FORCE MAJEURE

We will have no liability to you, your users, or any third party for any failure us to perform its obligations under these Terms in the event that such non-performance arises as a result of the occurrence of an event beyond the reasonable control of us, including, without limitation, an act of war or terrorism, natural disaster, failure of electricity supply, riot, civil disorder, or civil commotion or other force majeure event.

HOSTING SERVICES

We have entered into arrangements with one or more third parties for hosting services that are essential to the Services, incorporated within the Services and without which the Services could not be provided to you.

ASSIGNMENT

The Company shall have the right to assign/transfer these presents to any third party including its holding company, subsidiaries, affiliates, associates and group companies, without any consent of the User.

CONTACT INFORMATION

If you have any questions about these Terms, please contact us at info@phoenixsoftware.co.nz