

End-User Licence Agreement

Terms and Conditions

between

Panua Technologies Sagl,
via alle Casine 8, CH-6978 Gandria

“Panua”

and

You as defined in the Order Confirmation,

“You”

1. Terms of the Agreement

- 1.1 By downloading, installing or otherwise using in any manner Pardiso personally or through any of Your employees You agree to be bound to Panua by the agreement (“**Agreement**”) entered into on the basis of Your order and Panua’s order confirmation (“**Order Confirmation**”) and You accept these Terms and Conditions to form an integral part of the Agreement.
- 1.2 In the event that Your order and the Order Confirmation contain different terms, You agree by downloading, installing or otherwise using in any manner Pardiso personally or through any of Your employee that the terms of the Order Confirmation shall prevail.
- 1.3 “**Pardiso**” shall mean a software library tool for solving large-scale sparse matrices in object code/file format comprising a user guide version, one license key code and any other materials and upgrades or updates thereto including, but not limited to:
 - a. exemplary source code files exhibiting and illustrating certain limited functions included in the software library (“**Open Sample Sources**”) and/or
 - b. any other supplementary materials, which may be found and viewed under <http://www.panua.ch/products/pardiso>.

2. Grant of Licence

2.1 Upon payment in full of the Licence Fee and receipt of the licence key from Panua, Panua grants to You a non-exclusive, non-transferable and non-sublicensable license to download, install and use one (1) copy of Pardiso on one designated computer by one designated user under the designated user-id (“**Licence**”) during the Licence Period.

2.2 If, pursuant to the Order Confirmation, this Agreement is for an academic or a trial Licence, the following terms shall also apply:

2.2.1 Limitations:

- a. Academic Licence: You may use Pardiso only for internal research or education. Any business and commercial use and any use for research sponsored by any industry shall be excluded.
- b. Trial Licence: You may use Pardiso only for evaluation purposes. Any use for research and/or commercial purposes is not allowed.

2.2.2 In any publication, presentation or other work for which Pardiso was used in any manner to produce, confirm, derive or process any data and/or results which are the subject of the publication, presentation or other work, You shall mention Pardiso and refer to the following publications:

- a. *O. Schenk and K. Gärtner*, Solving Unsymmetric Sparse Systems of Linear Equations with PARDISO, Journal of Future Generation Computer Systems, 20(3):475--487, 2004.
- b. *O. Schenk and K. Gärtner*, On fast factorization pivoting methods for symmetric indefinite systems, Elec. Trans. Numer. Anal., 23:158--179, 2006.
- c. *G. Karypis and V. Kumar*, A fast and high quality multilevel scheme for partitioning irregular graphs, SIAM Journal on Scientific Computing, 1999 (20) 1, 359-392.

2.3 During the License Period You may store one (1) backup copy of Pardiso for archival and recovery purposes.

2.4 You shall specifically not be permitted to:

- a. reproduce or copy Pardiso except Open Sample Sources as otherwise provided in this Agreement;
- b. reverse engineer, decompile, decrypt, disassemble, modify, adapt, extract or translate Pardiso in whole or in part;
- c. export and/or market Pardiso in whole or in part or sell, offer for sale, distribute, rent or lease it to any third party;
- d. remove, obscure or alter notices as to the proprietary rights of Panua and its Licensors, serial numbers or other identifiers from Pardiso User Guide or any copies thereof You make or use.

3 **Licence Period**

3.1 The Licence shall be valid during the period set forth in the Order Confirmation ("**Licence Period**").

3.2 Upon expiry of the Licence Period, You shall:

- a. destroy all copies of Pardiso received by You and purge Pardiso from all Your computer systems, storage media and other files version received together with all copies, modifications, derivatives of Pardiso in any form whatsoever;
- b. confirm in writing within thirty (30) days from expiry to Panua that it has complied with clauses 3.2.a above.

4 **Licence Fee**

In consideration of the grant of the Licence You shall pay to Panua the licence fee set forth in the Order Confirmation ("**Licence Fee**") at the due date given therein.

5. **Property Rights**

5.1 Panua is and shall remain the sole owner of all property rights to Pardiso. This Agreement does not convey, nor shall You attempt to obtain, any title to property rights in Panua.

- 5.2 Clause 5.1 does not apply to existing intellectual property rights in certain components of Pardiso that may be owned by a third party. Third party intellectual property rights exist in METIS and AMD and the respective licence terms are referred to in clause 6 below. To other rights of third parties their respective licence terms shall apply to You.
- 5.3 Should any third party claim against You for infringement of property rights by Pardiso be upheld by a final judgement of a court having competent jurisdiction, Panua may terminate this Agreement and return to You the License Fee paid pro rata for any time You have been unable to use Pardiso in full in accordance with this Agreement due to such claim. This clause states the entire liability for infringement of third-party rights by Panua.

6 **METIS and AMD**

Pardiso includes Metis and AMD, for which the following licence terms shall apply:

6.1 METIS

The licence terms for METIS are available via WWW at URL:
<http://www.apache.org/licenses/LICENSE-2.0>

6.2 AMD

- 6.2.1 AMD copyright: AMD Version 2.2, Copyright © 2007 by Timothy A. Davis, Patrick R. Amestoy, and Iain S. Duff. All Rights Reserved.
- 6.2.2 AMD License: Redistribution and use in source and binary forms, with or without modification, are permitted provided that the following conditions are met:
- a. Redistributions of source code must retain the above copyright notice, this list of conditions and the following disclaimer.
 - b. Redistributions in binary form must reproduce the above copyright notice, this list of conditions and the following disclaimer in the documentation and/or other materials provided with the distribution.
 - c. Neither the name of the University of Florida nor the names of its contributors may be used to endorse or promote products derived from this software without specific prior written permission.

THIS SOFTWARE IS PROVIDED BY THE COPYRIGHT HOLDERS AND CONTRIBUTORS "AS IS" AND ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED. IN NO EVENT SHALL <COPYRIGHT HOLDER> BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THIS SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

7 Warranty and Liability

- 7.1 You acknowledge that Pardiso is a research tool, provided as is, with all faults, without any maintenance, debugging, improvement or any other kind of support. Panua makes no representations and extends no warranties, neither express nor implied, of merchantability, satisfactory quality or fitness for any particular purpose. Panua does not warrant that the operation of Pardiso will be uninterrupted or error-free, or that defects in Pardiso will be corrected.
- 7.2 You are solely responsible for the selection and the use of Pardiso as well as of the hardware and other software programmes to be used together with Pardiso or with which Pardiso is integrated.
- 7.3 Panua shall not be liable for any damage or loss suffered by You or Your employer except if caused by wilful intent or gross negligence. Any liability of Panua for any consequential, incidental, indirect or special damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business or scientific information and the like) or direct loss of business, business profits, business information or revenues arising out of the use of or inability to use Pardiso, regardless of the legal basis of the claim (contract or tort).
- 7.4 This clause 7 states the entire liability of Panua under this Agreement.

8 Further Understanding

- 8.1 You may provide reasonable feedback related to the performance and usability of Pardiso, bugs, test results, problems or deficiencies encountered by You

while using Pardiso, suggested solutions to such bugs, problems or deficiencies, and recommended action for modification of Pardiso.

- 8.2 Any such feedback may be provided to the Licensor by e-mail to info@panua.ch or any other e-mail address communicated by the Panua.
- 8.3 Any and all feedback provided by You to Panua may be used by Panua for the purpose of correcting and developing further Pardiso and You hereby grant a royalty-free, unlimited licence to Panua for such use.

9 Termination for Cause

- 9.1 This Agreement and the Licence granted hereunder may be terminated with immediate effect:
- a. by Panua if You have failed to pay any sums due under this Agreement for more than 30 days after such sum becomes due and payable;
 - b. by either Party if any breach or non-performance of the Agreement by the other Party affecting the first Party to such a degree that continuation of the Agreement can in good faith no longer be expected, in particular, but not exclusively after a breach by You of Your obligations pursuant to clause 2.4.
- 9.2 Upon any termination for cause the Licence Period shall expire with immediate effect.
- 9.3 If You have rightfully terminated the Agreement for cause, Panua shall return to You the License Fee paid pro rata for any time from termination to the date the Licence Period had expired if you had not terminated the Agreement for cause.

10 Miscellaneous

- 10.1 Notices: Any notice under this Agreement shall be effective only if made in writing and mailed to the addresses as given first above or to such address as may hereafter be designated by like notice. Such notice shall become effective upon receipt by the Party to which it is addressed.
- 10.2 Assignment: You shall not assign or transfer this Agreement as a whole or in part to any third party without the prior express and written consent of SPEAG.

- 10.3 Entire Agreement: The Order Confirmation and this Agreement encompass the entire understanding between Panua and You with respect to Pardiso and it supersedes all prior or contemporaneous agreement, arrangement and/or understanding regarding Pardiso.
- 10.4 Amendments: Modifications or amendments to, or waivers of any right under the Order Confirmation and/or this Agreement, including this requirement of written form, are only binding if executed in writing, signed by authorised representatives of both Parties, and provided that express reference to this Agreement is made.
- 10.4 Waivers: No failure or delay by Panua in exercising its rights or remedies shall operate as a waiver unless made by specific written notice. No single or partial exercise of any right or remedy of Panua shall operate as a waiver or preclude any other or further exercise of that or any other right or remedy.

11 **Applicable Law and Jurisdiction**

- 11.1 This Agreement shall be governed by the substantive law of Switzerland to the exclusion of the Vienna Sales Convention.
- 11.2 Any and all disputes arising out of or in connection with this Agreement shall exclusively be settled by the courts of Zürich 1, Switzerland. However, Panua shall be entitled to bring action before any other court having competent jurisdiction.