

# FENIKS.FINANCE TERMS AND CONDITIONS



**Feniks.Finance**

TERMS AND CONDITIONS  
LAST UPDATED: MAY 22, 2018

---

The following Terms and Conditions govern your (or “you”, “Purchaser”) purchase of Tokens (or “FENIKS”) from Feniks.Finance. Please read them carefully.

The tokens are not and will never be structured or sold as securities. These Terms and Conditions are not intended to constitute an offer of securities or an attempt to turn someone to invest in securities in any jurisdiction. No regulatory authority has approved of these Terms and Conditions or the tokens.

Feniks.Finance (the “Company”) is registered in Latvia, Riga, Ernesta Birznieka-Upisa iela 21. Each of you and the Company is a “Party” and, together, the “Parties” to these Terms and Conditions (“Terms”).

If you do not agree to these Terms, do not purchase tokens from the Company. By purchasing FENIKS from the Company, you will be bound by these Terms and any terms incorporated by reference.

If you have any questions regarding these Terms, please contact the company at [support@feniks.finance](mailto:support@feniks.finance). The Company reserves the right to revise these Terms at any time without prior notice, by posting the revised Terms on its website. The revised Terms will take effect immediately upon the Company publishing it.

By purchasing FENIKS you are agreeing not to hold any of the Company and its respective contractors, consultants or employees (the “Team”) liable for any losses arising from, or in any way connected, to the sale of FENIKS, including losses associated with the terms listed below.

If you are not an expert in dealing with blockchain-based systems and tokens do not purchase FENIKS. You should carefully consider the terms listed below and consult an appropriate professional. If any of the following terms are unacceptable to you, you should not purchase FENIKS.

Purchases of FENIKS should be undertaken only by individuals or entities that have understanding of the usage of tokens and blockchain-based systems. The company will not be responsible in any way for loss of ERC20 or other tokens resulting from actions taken by, or omitted by purchasers. Your participation in FENIKS sale is deemed to be your undertaking that you satisfy the requirements mentioned in this paragraph.

***IMPORTANT NOTICE:*** *As noted elsewhere in these Terms, the Tokens are not being structured or sold as securities or any other form of investment product. The Company expressly disclaims any and all responsibility for any direct or consequential loss or damage of any kind whatsoever arising directly or indirectly from:*

- *reliance on any information contained in these TERMS;*
- *any error, omission or inaccuracy in any such information;*
- *any action resulting from such information.*

The Parties hereby agree as follows:

## **1. Complete Agreement**

These Terms set forth the entire understanding between the Purchaser and the Company with respect to the purchase and sale of FENIKS. For facts relating to the sale and purchase, the Purchaser agrees to rely only on the Terms in determining purchase decisions and understands that the Terms govern the sale of FENIKS and supersede any public statements about the FENIKS token sale made by third parties or by the Team or individuals associated with any of the Team, past and present and during the FENIKS sale.

## **2. Severability**

The Purchaser and the Company agree that if any portion of these Terms is found illegal or unenforceable, in whole or in part, such provision shall, as to such jurisdiction, be ineffective solely to the extent of such determination of invalidity or unenforceability without affecting the validity or enforceability thereof in any other manner or jurisdiction and without affecting the remaining provisions of the Terms, which shall continue to be in full force and effect.

## **3. Conditions to FENIKS sale**

You may not purchase FENIKS if you are a citizen, resident or green card holder of the United States of America, China or Singapore.

When you receive FENIKS you may only do so by accepting the following conditions and you warrant and represent that the following are a true and accurate reflection of the basis on which you are acquiring FENIKS:

- neither the Company nor any of the Team has provided you with any advice regarding whether FENIKS is a suitable investment for you;
- you have sufficient understanding of the functionality, usage, storage, transmission mechanisms and intricacies associated with tokens as well as blockchain-based systems generally;
- you are legally permitted to receive and hold and make use of FENIKS in your and any other relevant jurisdiction;
- you will supply us with all information, documentation or copy documentation that we require in order to allow us to accept your purchase of FENIKS and allocate FENIKS to you;
- you have not supplied us with information relating to your acquisition of FENIKS or otherwise which is inaccurate or misleading;
- you will provide us with any additional information which may be reasonably required in order that we can fulfil our legal, regulatory and contractual obligations, including but not limited to any anti-money laundering obligation;
- you will notify us promptly of any change to the information supplied by you to us;

- you are of a sufficient age (if an individual) to legally obtain FENIKS, and you are not aware of any other legal reason to prevent you from obtaining FENIKS;
- you take sole responsibility for any restrictions and risks associated with receiving and holding FENIKS, including but not limited to these set out in these Terms;
- by acquiring FENIKS, you are not making a regulated investment, as this term may be interpreted by the regulator in your jurisdiction;
- you are not obtaining or using FENIKS for any illegal purpose, and will not use FENIKS for any illegal purpose;
- your acquisition of FENIKS not involve your purchase or receipt of shares, ownership or any equivalent in any existing or future public or private company, corporation or other entity in any jurisdiction;
- to the extent permitted by law and provided we act in good faith, the Company makes no warranty whatsoever, either expressed or implied, regarding the future success of FENIKS;
- you accept that FENIKS is created and you obtain FENIKS on an “as is” and “under development” basis. Therefore, provided the Company acts in good faith, you accept that the Company is providing FENIKS without being able to provide any warranties in relation to FENIKS, including, but not limited to, title, merchantability or fitness for a particular purpose;
- you accept that you bear sole responsibility for determining if
  - (i) the acquisition, the allocation, use or ownership of FENIKS
  - (ii) the potential appreciation or depreciation in the value of FENIKS over time, if any,
  - (iii) the sale and purchase of FENIKS; and/or
  - (iv) any other action or transaction related to FENIKS has tax implications.

#### **4. The Company will not purchase FENIKS during the FENIKS sale**

The Company warrants that neither it nor its shareholders will purchase FENIKS during the FENIKS sale. Furthermore, the Company warrants that neither it nor its shareholders will purchase FENIKS from any third party during the period of the sale.

## **5. All purchases of FENIKS are final. Refusal of Purchase Requests**

All purchases of FENIKS are final. Purchases of FENIKS are non-refundable. By purchasing FENIKS, the purchaser acknowledges that neither the Company nor any of its affiliates, directors or shareholders are required to provide a refund for any reason.

If the Company believes, in its sole discretion, that any individuals or entities owning FENIKS creates material regulatory or other legal risks or adverse effects for the company and/or FENIKS, the company reserves the right to:

- (a) buy all FENIKS from such FENIKS owners at the then-existing market price;
- (b) sell all cryptocurrency assets of the company;
- (c) refuse or cancel Token purchase requests at any time in its sole and absolute discretion.

## **6. Taxation**

The Purchaser bears the sole responsibility to determine if the purchase of FENIKS with ETH or the potential appreciation or depreciation in the value of FENIKS over time has tax implications for the Purchaser in the Purchaser's home jurisdiction. By purchasing FENIKS, and to the extent permitted by law, the Purchaser agrees not to hold any of the Company, its affiliates, shareholders, director, or advisors liable for any tax liability associated with or arising from the purchase of FENIKS.

## **7. Privacy**

The Purchasers may be contacted by email by the Company. Such emails will be informational only.

## **8. Force Majeure**

The Team is not liable for failure to perform solely caused by:

- unavoidable casualty,
- delays in delivery of materials,
- embargoes,
- government orders,
- acts of civil or military authorities,

- acts by common carriers,
- emergency conditions (including weather conditions),
- security issues arising from the technology used,
- or any similar unforeseen event that renders performance commercially implausible. If an event of force majeure occurs, the party injured by the other's inability to perform may elect to suspend the Terms, in whole or part, for the duration of the force majeure circumstances. The party experiencing the force majeure circumstances shall cooperate with and assist the injured party in all reasonable ways to minimize the impact of force majeure on the injured party.

## **9. Disclaimer of Warranties**

The Purchaser agrees that the Purchaser is purchasing FENIKS at the Purchaser's sole risk and that FENIKS is provided on an "as is" basis without warranties of any kind, either express or implied, including, but not limited to, warranties of title or implied warranties, merchantability or fitness for a particular purpose. Without limiting the foregoing, none of the the Team warrants that the process for purchasing FENIKS will be uninterrupted or error-free.

Some jurisdictions do not allow the exclusion of certain warranties or disclaimer of implied terms in contracts with consumers, so some or all of the exclusions of warranties and disclaimers may not apply to you.

## **10. Limitations Waiver of Liability**

The Purchaser acknowledges and agrees that, to the fullest extent permitted by any applicable law, the disclaimers of liability contained herein apply to any and all damages or injury whatsoever caused by or related to

- (i) use of, or inability to use, FENIKS or
- (ii) the Team under any cause or action whatsoever of any kind in any jurisdiction, including, without limitation, actions for breach of warranty, breach of contract or tort (including negligence) and that none of the Team shall be liable for any indirect, incidental, special, exemplary or consequential damages, including for loss of profits, goodwill or data, in any way whatsoever

arising out of the use of, or inability to use, or purchase of, or inability to purchase, FENIKS, or arising out of any interaction with the smart contract implemented in relation to FENIKS.

The Purchaser further specifically acknowledges that the Team is not liable for the conduct of third parties, including other Purchasers of FENIKS, and that the risk of purchasing and using FENIKS rests entirely with the Purchaser. To the extent permissible under applicable laws, under no circumstances will any of the Team be liable to any Purchaser for more than the amount the Purchaser have paid to the company for the purchase of FENIKS. Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for certain types of damages. Therefore, some of the above limitations in this section and elsewhere in the Terms may not apply to a Purchaser.

## **11. No Waiver**

The failure of the Company to require or enforce strict performance by the Purchaser of any provision of these Terms or the Company's failure to exercise any right under these Terms shall not be construed as a waiver or relinquishment of the Company's right to assert or rely upon any such provision or right in that or any other instance. The express waiver by the Company of any provision, condition, or requirement of these Terms shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.

## **12. Cooperation with Legal Authorities**

The Company will cooperate with all law enforcement enquiries, subpoenas, or requests provided they are fully supported and documented by the law in the relevant jurisdictions.

## **13. Indemnification**

To the fullest extent permitted by applicable law, you will indemnify, defend and hold harmless the Team from and against all claims, demands, actions, damages, losses, costs and expenses (including attorneys' fees) that arise from or relate to:

- (i) your purchase or use of FENIKS;
- (ii) your responsibilities or obligations under these Terms;

- (iii) your violation of these Terms; or
- (iv) your violation of any rights of any other person or entity.

## **14. Security**

You are responsible for implementing reasonable measures for securing the wallet or other storage mechanism you use to receive and hold FENIKS purchased from the Company, including any requisite private keys or other credentials necessary to access such storage mechanisms. If your private keys or other access credentials are lost, you may lose access to your Tokens. The Company is not responsible for any losses, costs or expenses relating to lost access credentials.

## **15. Assumption and Acknowledgment of Risks**

You acknowledge and agree that there are risks associated with purchasing, owning and using FENIKS. By purchasing FENIKS, you acknowledge that you have read, understood and agree to assume the following risks:

### ***Risk of Losing Access to Tokens Due to Loss of Private Key, Custodial Error or Purchaser Error***

A private key is necessary to control and dispose of Tokens stored in your digital wallet. Loss of requisite private key associated with your digital wallet storing Tokens will result in loss of such Tokens. Moreover, any third party that gains access to such private key may be able to misappropriate your Tokens. Any errors or malfunctions caused by or otherwise related to the digital wallet you choose to receive and store Tokens in, including your own failure to properly maintain or use such digital wallet, may also result in the loss of your Tokens. Additionally, your failure to follow precisely the procedures set forth in for buying and receiving Tokens, including, for instance, if you provide the wrong address for the Token Receipt Address, may result in the loss of your Tokens.

### ***Risk of Hacking and Security Weaknesses***

Hackers or other malicious groups or organizations may attempt to interfere with the platform or the Tokens in a variety of ways, including, but not limited to, malware attacks, denial of service attacks,



consensus-based attacks, Sybil attacks, smurfing and spoofing. Furthermore, because the platform is based on open-source software, there is a risk that a third party or a member of the Company team may intentionally or unintentionally introduce weaknesses into the core infrastructure of the platform, which could negatively affect the platform and the Tokens, including the utility of the Tokens for obtaining Services.

### ***Risks Associated with Markets for Tokens***

The Tokens are intended to be used solely within the platform, and the Company will not support or otherwise facilitate any secondary trading or external valuation of Tokens. This restricts the contemplated avenues for using Tokens and could therefore create illiquidity risk with respect to the Tokens you own. Even if secondary trading of Tokens is facilitated by third party exchanges, such exchanges may be relatively new and subject to little or no regulatory oversight, making them more susceptible to fraud or manipulation. Furthermore, to the extent that third-parties do ascribe an external exchange value to Tokens (e.g., as denominated in a digital or fiat currency), such value may be extremely volatile and diminish to zero.

### ***Risk of Uninsured Losses***

Unlike bank accounts or accounts at some other financial institutions, Tokens are uninsured unless you specifically obtain private insurance to insure them. Thus, in the event of loss or loss of utility value, there is no public insurer, such as the Federal Deposit Insurance Corporation, or private insurance arranged by Company, to offer recourse to you.

### ***Risks Arising from Taxation***

The tax characterization of FENIKS is uncertain. You must seek your own tax advice in connection with purchasing FENIKS, which may result in adverse tax consequences to you, including withholding taxes, income taxes and tax reporting requirements.

### ***Risks Associated with Uncertain Regulations and Enforcement Actions***

The regulatory status of the Tokens and distributed ledger technology is unclear or unsettled in many jurisdictions. It is difficult to predict how or whether regulatory agencies may apply existing regulation with respect to such technology and its applications, including the platform and the Tokens. It is likewise difficult to predict how or whether legislatures or regulatory agencies may implement changes to law and regulation affecting distributed ledger technology and its applications, including the platform and the Tokens. Regulatory actions could negatively impact the platform an

### ***Risk of Competing platforms***

It is possible that alternative platforms could be established that utilize the same open source code and protocol underlying the platform and attempt to facilitate services that are materially similar to the Company services.

### ***Risks Associated with the Development and Maintenance of the platform***

The platform is still under development and may undergo significant changes over time. Although the Company intends for the Tokens and platform to function as described and intends to take commercially reasonable steps toward those ends, the Company may have to make changes to the specifications of the Tokens or platform for any number of legitimate reasons. Moreover, the Company has no control over how other participants will use the platform, what products or services will be offered through the platform by third parties, or how third-party products and services will utilize Tokens (if at all). This could create the risk that the Tokens or platform, as further developed and maintained, may not answer your expectations at the time of purchase. Furthermore, despite the Company's good faith efforts to develop and participate in the platform, it is still possible that the platform will experience malfunctions or otherwise fail to be adequately developed or maintained, which may negatively impact the platform and Tokens, and the potential utility of the Tokens.

### ***Risk of an Unfavorable Fluctuation of ETH or BTC Value***

If the value of ETH or BTC fluctuates unfavourably the Company team may not be able to fund development, or may not be able to develop or maintain the platform in the manner that it intended. In

addition to the usual market forces, there are several potential events which could exacerbate the risk of unfavorable fluctuation in the value of ETH and/or BTC, including significant security incidents or market irregularities at one or more of the major cryptocurrency exchanges.

#### ***Risk of Dissolution of the Company or platform***

It is possible that, due to any number of reasons, including, but not limited to, an unfavorable fluctuation in the value of ETH and/or BTC (or other cryptographic and fiat currencies), decrease in the Tokens' utility (including their utility for obtaining Services), the failure of commercial relationships, or intellectual property ownership challenges, the platform may no longer be viable to operate or the Company may dissolve.

#### ***Risks Arising from Lack of Governance Rights***

Because Tokens confer no governance rights of any kind with respect to the platform or the Company, all decisions involving the Company's products or services within the platform or the Company itself will be made by the Company at its sole discretion, including, but not limited to, decisions to discontinue its products or services in the platform, to create and sell more Tokens for use in the platform, or to sell or liquidate the Company. These decisions could adversely affect the platform and the utility of any Tokens you own.

#### ***Unanticipated Risks***

Cryptographic tokens such as the FENIKS are a new and untested technology. In addition to the risks included in these Terms, there are other risks associated with your purchase, possession and use of the Tokens, including unanticipated risks. Such risks may further materialize as unanticipated variations or combinations of the risks discussed in these Terms.

## Contact Us

If you have any questions about this Terms and Conditions, please contact us at [support@feniks.finance](mailto:support@feniks.finance) or the address provided below:

Feniks.Finance SIA., Latvia,  
LV-1011 Riga,  
Ernesta Birznieka-Upisa 21