End User Licence Agreement (EULA)
For Commercial and Professional Use

23-DEC-2021, version 1.10

Chapter 1. General provisions

Article 1 - Applicability of the EULA

1. This End User Licence Agreement (hereinafter "EULA") applies to the use of ProSim Software and any and all legal relationships and/or (other) agreements between ProSim and Licensee.
2. Deviations from and additions to this EULA shall only be valid if they are agreed upon with ProSim in writing.
3. The applicability of any purchasing or other conditions of Licensee is specifically excluded.
4. All offers and other communications of ProSim are subject to confirmation unless ProSim has indicated otherwise in writing.
5. If any provision of this EULA is null and void or is voided, the other provisions of this EULA shall remain fully in effect. ProSim and the Licensee shall in such case consult each other for the purpose of agreeing new provisions to replace the null and void or voided provisions.

Article 2 - Definitions

1. In this EULA the following terms shall apply in the following meaning:

   Customer: the person or legal entity that has concluded an agreement with ProSim, subject to the Terms and Conditions, for the delivery of a licence to use the Software, and possibly an Update Subscription for the benefit of the Licensee. The Customer may be a Partner, a Training Device Manufacturer or it may be the Licensee itself;

   EULA: the End User Licence Agreement between ProSim and the Licensee consisting of the EULA itself and the Licence Certificate thereto containing the type and details of the licence granted, the registered Flight Simulation Device, the identity of the Licensee and other particulars of the agreement;

   Flight Simulation Device: the equipment with a specific and unique identifier such as the simulator serial number, as registered with ProSim, on which the Software may be installed and/or used by Licensee;

   Licensee: the person or legal entity that is entitled to operate the Software in accordance with the agreement and the applicable EULA and provided the Licensee is registered as such with ProSim. The Licensee may or may not be a Customer;

   Licence Type: the Licence specified in the agreement for which the Software may be used in strict accordance with the Use Description in the Licence Type Matrix included in this EULA;

List Price: the price of a Product applicable to a (potential) Licensee and basis for price calculation of an Update Subscription;

National Aviation Authority (NAA): a government statutory (civil aviation) authority in a country that maintains an aircraft register and oversees the approval and regulation of civil aviation and certification.

Price List: statement of List Prices per Product and other related information and as regularly (e.g. each year) updated by ProSim;

ProSim: the ProSim corporation named in the Licence Certificate that has entered into an agreement subject to the conditions of this EULA with Licensee or – if not mentioned therein – ProSim Aviation Research B.V.;

SDK Licence: the licence to use the Software Development Kit (SDK) for personal use by Licensee for private home use only as further detailed in article 20 of this EULA;

Software: the flight simulation software provided by ProSim;

Software Development Kit: the materials provided by ProSim for the benefit of developers under applicability of the provisions of this EULA as set out further in article 20 of this EULA.

Terms and Conditions: the Terms and Conditions of ProSim applicable to the agreement with the Customer;

Trial Licence: a temporary licence to use the Software up to a maximum of 30 days for the purpose of evaluation only and under which any operational use is expressly prohibited.

Update Subscription: the subscription under which Licensee is granted the right to use updates to the Software that are made available by ProSim;

User(s): person(s) acting under or that are deemed to be acting under the responsibility of Licensee in the broadest sense of the word, bound by the EULA and without prejudice to the user's own responsibility;

Use Description: the description of the (licence) use of the ProSim Software allowed by ProSim to the Licensee as set out in the Licence Type Matrix and under as further set out in more detail in the provisions of this EULA;

Article 3 - Price and payment

1. Prices and payment for the licence to use the Software by Licensee and any possible services and applicability of the Update Subscription are determined by the agreement between Licensee and the third party with which Licensee has concluded an agreement to that effect. The third party must have an agreement between itself as Customer and ProSim. The grant of licence to use the Software by ProSim to Licensee and any other rights is dependent on the (continuing) existence of a valid agreement between the (third party) Customer for the use of the Software by Licensee and upon termination or expiry of which the grant of licence to use the Software and any other rights shall end and Licensee shall cease or all use.

2. ProSim is entitled to suspend any and all rights and any and all services provided to Licensee if payment for the licence to use the Software and Update Subscription is not timely received by ProSim.

Article 4 - Confidentiality

1. The Licensee and ProSim must ensure that all information received from the other party that the receiving party knows or should reasonably know is confidential is kept secret. This duty of confidentiality shall not apply to ProSim if and insofar as ProSim is required to provide the information concerned to a third party in accordance with a court decision or a statutory requirement, or if and insofar as doing so is necessary for the proper performance of the agreement by ProSim. The party that receives the confidential information may only use it for the purpose for which it was provided. Information shall in any case be deemed to be confidential if it has been deemed as such by one of the parties.

2. The Licensee acknowledges that Software originating from ProSim is confidential in nature, contains trade secrets, and needs to be handled confidentially.

Article 5 - Privacy, data processing and access codes

1. Licensee entitles ProSim to collect data relevant and necessary for its performance under this EULA. ProSim may collect Software user statistics for the purpose of tracing piracy, abuse or misuse of its Software and the conditions applicable to it use.

2. The Licensee is fully responsible for the data that it processes using the Software. The Licensee guarantees vis-à-vis ProSim that the content, use and/or processing of the data are not unlawful and do not infringe any right of a third party. The Licensee indemnifies ProSim against any claim of a third party instituted for whatever reason in connection with this data or the performance of the agreement.

3. The access or identification codes and the licence keys provided to the Licensee by or on behalf of ProSim are confidential and must be treated as such by the Licensee, and may only be made known to authorised personnel in the Licensee's own organisation.

4. The Licensee is at all times responsible to adequately secure its systems and infrastructure and to have adequate active antivirus Software protection at all times.

5. The Licensee shall be liable for any loss arising from failure to comply with the obligations under this article.

Article 6 - Risk transfer

1. The risk of loss, theft, misappropriation or damage of items, information including licence keys, documents or Software supplied or used shall remain with or pass to the Licensee at the time at which the Licensee or an auxiliary person of the Licensee comes into actual possession of the items and information referred to.

Article 7 - Intellectual Property Rights

1. All intellectual property rights to the Software and to websites, data files, testing and examination materials, as well as other materials like reports and offers, developed or made available to the Licensee are held exclusively by ProSim, its licensors or its suppliers. The Licensee shall have the rights of use expressly granted under this EULA and the applicable law.

2. The Licensee may not remove or change any indication concerning the confidential nature of or concerning the copyrights, brands, trade names or any other intellectual property rights pertaining to the Software or have any such indication removed or changed.

3. ProSim may at any time take technical measures to protect the Software and information made available to the Licensee for the purpose of limitation of use by Licensee in terms of the content or duration of the right of use of these items. The Licensee may not remove or bypass such technical measures or have such technical measures removed or bypassed.

4. ProSim indemnifies the Licensee against any claim of a third party based on the allegation that the Software or other materials developed by ProSim itself infringe an intellectual property right of that third party, subject to the condition that the Licensee immediately informs ProSim in writing about the existence and content of the claim and leaves the settlement of the claim, including any arrangements made in this regard, entirely to ProSim. The Licensee shall provide the powers of attorney and information required to ProSim and assist ProSim to defend itself against such claims. This obligation to indemnity shall not apply if the alleged infringement concerns or is caused by:

(i) materials made available to ProSim by the Licensee for use, modification, processing or maintenance, or

(ii) changes made or commissioned by the Licensee in the Software or other materials without ProSim's written permission, or

(iii) any use of the Software that falls outside the scope of the agreed user licence rights and restrictions.

If it is irrevocably established in court that Software or other materials developed by ProSim itself is or are infringing any intellectual property right held by a third party, or if, in the opinion of ProSim, there is a good chance that such an infringement is occurring, ProSim shall if possible ensure that the Licensee can continue to use, or use functional equivalents of the Software or materials supplied. Any other or further obligation to indemnify or any liability on the part of ProSim due to infringement of a third party's intellectual property right is excluded.

Article 8 - Cooperation and information

1. The Licensee guarantees that the information it has provided or that has been provided on its behalf to ProSim is or are accurate, complete, truthful and at all times up-to-date.

2. The Licensee is responsible for the management, including checking the settings, and use of the Software and/or services provided by ProSim, and the way in which the results of the use of Software and/or services are used. The Licensee is at all times responsible for appropriately instructing its Users and for the use made of the Software.

3. The Licensee shall itself and under its own responsibility install, organise, parameterise and tune the Software on its own equipment and, if necessary, modify the equipment, other software and support software and operating environment used in this regard, and effect the interoperability that it desires.

4. ProSim is entitled to use Licensee as a reference and/or refer to the use of the ProSim Software by Licensee in publications (including press releases) or advertisements.

Article 9 - Termination and rescission

1. Each party shall only be authorised to rescind an agreement due to an attributable failure in the performance of the agreement if the other party, in all cases after a written notice of default that is as detailed as possible and that grants a reasonable term to remedy the breach that has been issued, is culpably failing to fulfil essential obligations under the agreement.

2. ProSim may rescind the agreement in writing, without notice of default being required and with immediate effect, if the Licensee is abusing or has abused its rights under the licence or if Licensee makes, or cooperates to, unauthorized use of the Software.

3. If, at the time of rescission, the Licensee has already received goods or services in the performance of the agreement, these goods or services and the associated payment obligations shall not be undone unless the Licensee proves that ProSim is in default with respect to the essential part of such goods or services. With due regard to the stipulation of the preceding sentence, amounts invoiced by ProSim prior to rescission in connection with what it already properly performed or delivered in the performance of the agreement shall remain payable in full and shall become immediately due and payable at the time of termination.

4. Either of the parties may terminate the agreement in writing, in whole or in part, without notice of default being required and with immediate effect, if the other party is granted a moratorium, whether or not provisional, a petition for bankruptcy is filed for the other party or the company of the other party is liquidated or dissolved other than for restructuring or a merger of companies. ProSim may also terminate the agreement, in whole or in part, without notice of default being required and with immediate effect, if a direct or indirect change occurs in the decisive control of the Licensee's company. ProSim is never obliged to repay any amount in money already received or pay any amount in compensation due to rescission or termination as referred to in this paragraph. If the Licensee goes irrevocably bankrupt, its right to use the Software and other materials made available to it shall end, as shall its right to access and/or use ProSim's services, without termination by ProSim being required.

Article 10 - Liability

1. ProSim's total liability due to an attributable failure in the performance of the agreement or on any legal basis whatsoever, expressly including each and every failure to fulfil a warranty obligation agreed with the Licensee, shall be limited to compensation for direct loss up to a maximum of ProSim's List Price of the licence of use (excluding VAT) at the time of delivery of the Software.

2. ProSim's liability for indirect loss, consequential loss, loss of profits, lost savings, reduced goodwill, loss due to business interruption, loss as a result of claims of the Licensee's customers is excluded. ProSim's liability for corruption, destruction or loss of data or documents is likewise excluded.

3. ProSim's liability for any loss from, or any loss resulting out of, the use of the Software other than the use as expressly stated in this EULA or agreed with ProSim, is excluded.

4. The exclusions and limitations of ProSim's liability described paragraph 1 ,2 and 3 of this article are entirely without prejudice to the other exclusions and limitations of ProSim's liability described in this EULA.

5. The exclusions and limitations referred to in paragraph 1 up to and including paragraph 4 of this article shall cease to apply if and insofar as the loss is the result of deliberate intent or recklessness on the part of ProSim's management.

6. Unless performance by ProSim is permanently impossible, ProSim shall only be liable due to an attributable failure in the performance of the agreement if the Licensee declares ProSim to be in default in writing without delay and grants ProSim a reasonable term to remedy the breach, and ProSim culpably fails to fulfil its obligations also after this term has passed. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give ProSim the opportunity to respond adequately.

7. For there to be any right to compensation, the Licensee must always report the loss to ProSim in writing as soon as possible after the loss has occurred. Each claim for compensation against ProSim shall be barred by the mere expiry of a period of 24 months following the inception of the claim unless the Licensee has instituted a legal action for damages prior to the expiry of this period.

8. The Licensee indemnifies ProSim against any and all claims of third parties due to product liability as a result of a defect in a product or system that the Licensee offers to a third party and that consisted in part of the Software or other materials supplied by ProSim.

9. The Licensee shall take out and will maintain liability insurance that is appropriate and customary by prevailing standards. The liability insurance policy must provide cover third party claims for at least € 1,250,000 per claim and for a minimum annual payment of 200% of this amount. On request, the Licensee will immediately present proof to ProSim of the payment of premiums and, save where barred by statutory obligations, at the same time report any previous claims under the same policy in the current policy year.

Article 11 - Force majeure

1. None of the parties shall be obliged to fulfil any obligation, including any statutory and/or agreed warranty obligation, if it is prevented from doing so by force majeure. Force majeure on the part of ProSim means, among other things:
   a) force majeure on the part of suppliers of ProSim;
   b) the failure to properly fulfil obligations on the part of suppliers that were prescribed to ProSim by the Licensee;
   c) defects in items, equipment, Software or materials of third parties the use of which was prescribed to ProSim by the Licensee;
   d) government measures;
   e) power failures;
   f) internet, data network or telecommunication facilities failures;
   g) war and
   h) general transport problems.

2. Either of the parties shall have the right to rescind the agreement in writing if a situation of force majeure persists for more than 60 days. In such an event, that which has already been performed under the agreement shall be paid for on a proportional basis without the parties owing each other anything else.

Article 12 -Transfer of rights and obligations

1. The Licensee may not sell, transfer or pledge its rights and obligations under this EULA or any right of use to a third party.
2. ProSim is prepared upon written request of the Licensee to transfer the EULA to a third party upon the following conditions:
   a) The transfer is part of a transfer of the (entire) Flight Simulation Device for which the licence is registered, and
   b) the third party has concluded a EULA and Update Subscription with ProSim, and
   c) the third party has provided all adequate and required information, and
   d) no other reasonable objections for ProSim exist for granting a requested transfer such as e.g. but not limited to applicable export restrictions.

Article 13 - Applicable law and disputes

1. This agreement and any further agreement between ProSim and Licensee shall be governed by Dutch law.
2. Any dispute that may arise on the basis of this agreement or as a result of any further agreements between ProSim and Licensee shall be resolved by the Court of Rotterdam, The Netherlands.

Chapter 2. The Software

LICENCE TYPE MATRIX	
Licence Type	**Use Description**
Non-commercial Use	Private home use only by Licensee. The Licensee is entitled to use the Software for its own private use only in its capacity of private person or consumer. The grant of licence specifically does not include facilitating or allowing the – paid or unpaid – use by others except together with family and friends at its own registered home address. The Licensee bears the burden of evidence that use by others than Licensee itself is within the scope of this Licence Type. Any other use is forbidden.
Commercial Use Class A	Any use except for training. The Licensee is entitled to offer and use the Software for offering paid or unpaid entertainment use by others but only for enjoyment or fun, not for any form of formal or informal credit or non-credit training use or purpose. Any other use is forbidden.
Commercial Use Class B	Any use except for credit training. The Licensee is entitled to use the Software for offering paid or unpaid entertainment and training use (such as system and cockpit familiarization) but only for non-credit training use or purposes provided it does not count for earning credit(s) towards a degree or certificate and so far the use is in accordance with NAA regulations. Credit training consists of all forms of training that require a certification of the Flight Training Device by the NAA.
Professional Use Class A	Allows training use in accordance with NAA regulations and NAA certification (only) for: Generic: EASA BITD or FAA AATD
Professional Use Class B	Allows training use in accordance with NAA regulations and NAA certification (only) for: Generic: EASA FNPT II (MCC).
Professional Use Class C Standard	The device shall not have primary flight controls, allows training use in accordance with NAA regulations and NAA certification (only) for: Type specific: EASA FTD 1 or FAA Level 4
Professional Use Class C Enhanced	Allows training use in accordance with NAA regulations and NAA certification (only) for: Type specific: EASA FTD 1 or FAA Level 4
Professional Use Class D	Allows training use in accordance with NAA regulations and NAA certification (only) for: Type specific: EASA FNPT II MCC or FAA Level 5
Professional Use Class E	Allows training use in accordance with NAA regulations and NAA certification (only) for: Type specific: EASA FTD 2 or FAA Level 6

Article 14 - User rights and Licence Type

1. ProSim grants the Licensee the right to use the Software for the duration of the agreed licence term and to its Updates if these are provided following an applicable Update Subscription.
2. The right to use the Software is non-exclusive and shall not be pledged or sublicensed.
3. The right of use of the Software is determined by the Licence Type granted. Licensee is not allowed to use the Software for any other use than permitted under the Use Description of the applicable Licence Type. The Licence Types are as stated in the Licence Type Matrix.
4. If the Licence Type allows Certification, certification is allowed only for a one-time request for Certification with a NAA for the specified level. The Licensee shall notify ProSim immediately of requests for certification by a NAA made and the award or withdrawal of a certification and supply ProSim with a copy of the certification certificate.
5. The Licensee is entitled to terminate its right of use at any time in writing. ProSim is under no obligation to pay a refund or any compensation due to the Licensee's termination.
6. Upon rescission or termination of the agreement or upon termination of the licence for use the Licensee shall cease all use of the licenced Software and delete all Software and other materials provided by ProSim.
7. Only the Licensee shall be entitled to use the Software. Use by others is permitted dependent on the Licence Type. The Licensee shall be registered with ProSim by its registered (company) name and actual address. The Licensee shall designate a contact person or contact persons who shall act in that capacity. ProSim is entitled to request and the Licensee shall be under obligation to provide sufficient evidence of the Licensee's identity and of its use of the Software.
8. ProSim's obligation to make available and the Licensee's right of use extend only to the Software's object code and the Software's licence keys as provided by ProSim. The Licensee's right of use does not extend to the Software's source code. The Software's source code and/or technical documentation shall under no circumstances be made available to the Licensee or others.
9. The Licensee is responsible for End Users and all use or abuse of the Software it permits, fails to or does not prevent. The Licensee shall actively inform End Users of the obligations and restrictions under the EULA and monitor that all use shall be in compliance with the EULA and in accordance with applicable safety standards and best practices.
10. Licensee is solely responsible for compliance with all laws and regulations concerning its use of the Software and for compliance with United States export laws, rules, and regulations and other national or international export laws, rules and regulations (such as embargoes) if and when applicable.

Article 15 - Restrictions

1. The Licensee shall comply strictly, at all times, with the obligations and restrictions of article 14, 15 of this EULA. If the Licensee fails to comply with these obligations and restrictions, the Licensee shall be liable towards ProSim for a penalty of € 5,000 (five thousand euros) for each day the Licensee fails to comply with the obligations and restrictions with a maximum of € 100,000 (one hundred thousand euros) per year. This penalty is without prejudice to any other rights and remedies available to ProSim.

2. The Software shall only be used on one Flight Simulation Device with the specific and unique ID of the simulator serial number provided in writing to ProSim and registered with ProSim.

3. In the event of any malfunction to or intended change of the Flight Simulation Device the Licensee shall notify ProSim immediately. The Licensee is not allowed to install the Software on any other Flight Simulation Device without previous written consent by ProSim.

4. The Licensee shall only be able to use the Software after having activated the Software on its Flight Simulation Device via the activation server with the product licence key. The Software shall function only and insofar as a connection to the activation server is made at least once every 30 (thirty) days. Connection to the activation server requires an internet connection capable of reaching the host https://activation.prosim-ar.com.

5. The Licensee agrees that the Software automatically checks Licensee's compliance with the terms and conditions of this EULA by connecting to the activation server. ProSim is at any time entitled to take technical measures to protect the Software against unlawful use and/or against use in a manner or for purposes other than the manner or purposes agreed between the parties. The Licensee shall never remove, or bypass technical measures intended to protect the Software or have such technical measures removed or bypassed.

6. The Licensee may only use the Software in and for its own company or organisation and only insofar as doing so as is necessary for the intended use. The Licensee shall not use the Software for third parties, for example in the context of Software as a Service (SaaS) or outsourcing, unless allowed under the Licence Type granted.

7. The Licensee may only use the Software for education or professional training purposes if this right is granted under the Licence Type. In case the Licensee would like to use the Software for the aforementioned purposes, the Licensee shall contact ProSim to arrange the provisions applicable. In all cases it is the responsibility of the Licensee to validate the Software with local authorities' standards. ProSim's liability for any loss from, or resulting out of, the use of the Software for the aforementioned purposes is in any case excluded.

8. The Licensee may never sell, rent out, dispose of or grant limited rights to, or make available to third parties (any version or copy of) the Software and the carriers on which the Software is or will be recorded. The Licensee may also not grant, whether or not remotely (online), a third party access to the Software or place the Software with a third party for hosting, not even if the third party concerned only uses the Software for the Licensee, unless agreed otherwise in writing.

9. The Licensee nor its End Users or any (other) third party may reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Software.

10. If so requested, the Licensee shall cooperate without delay in an investigation into compliance with the EULA carried out by or for ProSim. Should ProSim so demand, the Licensee shall grant ProSim access to its premises and systems. Insofar as such information does not concern the use of the Software itself, ProSim shall treat all confidential business information that it obtains from the Licensee or at the Licensee's business location in the context of an investigation as confidential. Licensee shall in all cases immediately notify ProSim in writing in advance when using the Software for any other use than allowed under the agreed Licence Type.

11. The parties maintain that the agreement concluded between the parties, insofar as the object of this agreement is the making available of Software for use, shall never be deemed a purchase agreement.

12. The Licensee is strictly prohibited to advertise or offer any services (commercial or non-commercial and paid or unpaid) that consist of or include making available the Software for any use that is not allowed under the specific Licence that Licensee holds.

13. For certain Licence Types the Licensee is required to close a further third-party contract, such as for the benefit of using third party software or data (e.g. use of an aircraft OEM data pack). The licence term for the use of the Software is expressly limited to the validity and/or license term for the use of such third party software or data.

Article 16 - Acceptance

1. ProSim shall make the Software available to the Licensee via the internet. At ProSim's discretion, user documentation shall be made available in digital form.

2. The Licensee shall accept the Software in the state that it is in when delivered ("as is, where is"), therefore with all visible and invisible errors and defects. The Software shall be deemed to have been accepted by the Licensee upon delivery.

3. ProSim does not guarantee that the Software is suitable for actual use and/or the intended use other than explicitly granted or agreed. ProSim also does not guarantee that the Software will operate without interruption.

4. Except if provided for by law, the Licensee may not and is not entitled to change all or part of the Software without the prior written permission of ProSim. ProSim is entitled to refuse or to stipulate conditions for such permission. The Licensee shall bear the entire risk of all changes that it makes or changes made by third parties on its instructions, whether or not with ProSim's permission.

Chapter 3. Provision of services, updates and support

Article 17 - Performance

1. If the Licensee and ProSim have agreed to the provision by ProSim of services to the Licensee ProSim shall perform its services with care and to the best of its ability, if applicable in accordance with the agreements and procedures agreed in writing with the Licensee. All services by ProSim shall be performed on the basis of an obligation to use best endeavours unless and insofar as ProSim has expressly promised a result in the written agreement and the result concerned has also been defined with sufficient determinability in the agreement.

2. ProSim shall not be liable for loss or costs that are the result of the use or misuse of access or identification codes or licence keys unless the misuse is the direct result of deliberate intent or recklessness on the part of ProSim's management.

Article 18 - Updates of Software, Updates Subscription and re-enrolment

1. Updates of the Software shall be made available at ProSim's discretion and only if and insofar as the Licensee is entitled to Updates under an applicable Updates Subscription. Updates shall be made available by means of an update key.

2. If the Update Subscription is not or is no longer applicable and later Licensee wishes to re-enrol in the Update Subscription, Licensee shall receive Updates of the Software as became available up to one day the update service stopped, or Licensee may become actual:

   (i) by paying the amount of Update fees that would have been paid for the period of time that Licensee had not enrolled in the Update Subscription, or

   (ii) a reinstatement fee to be determined by ProSim.

3. Updates include fixing errors in the Software and other maintenance. In the agreement between the parties an error shall mean a substantial failure of the Software to meet the functional or technical specifications of the Software expressly made known by ProSim or agreed upon in writing. The Licensee shall report errors discovered in the Software in detail. Following receipt of the report, ProSim shall strive to the best of its ability to fix errors and/or implement improvements of the Software in accordance with its usual procedures. Depending on the urgency and ProSim's update and release policy, the results shall be made available to the Licensee in a manner and within a term determined by ProSim. ProSim is entitled to install temporary solutions, program bypasses or problem avoiding limitations in the Software. The Licensee shall itself install, organise, parameterise and tune the corrected Software or the new update of the Software made available, and, if necessary, modify the equipment and operating environment used. The Licensee shall extend the cooperation required by ProSim in the context of maintenance, including temporarily ceasing use of the Software. The maintenance work performed by ProSim does not affect the Licensee's own responsibility for managing the Software, including checking the settings and the way in which the results arising from operating the Software are used. The Licensee shall itself install, organise, parameterise and tune the Software and support Software required and, if necessary, modify the equipment, other Software and support Software and operating environment used in this regard, and effect the interoperability that it desires.

4. After a new update of the Software has been made available, ProSim shall no longer fix errors in the previous update and/or provide support and/or perform maintenance services with respect to previous updates.

5. ProSim may require that the Licensee enters into a further written agreement with ProSim for a update with new functionality and that a further payment be made for this this update. ProSim may incorporate functionality from a previous update of the Software in unaltered form, but does not guarantee that each new update includes the same functionality as the previous update. ProSim is not obliged to maintain, modify or add certain features or functionalities of the Software specifically for the Licensee.

6. ProSim may require that the Licensee modifies its system (equipment, Software and the like) if doing so is necessary for the proper functioning of a new update of the Software.

Article 19 - Support Services

1. Support Services shall be made available at ProSim's discretion and only if and insofar as the Licensee is entitled to Updates under an applicable Updates Subscription. The support services shall only be available to the registered contact person of the Licensee. ProSim shall handle properly substantiated requests for support within a reasonable term in accordance with its usual procedures. ProSim does not guarantee the accuracy, completeness or timeliness of replies or the support offered. Support services shall be performed on working days during ProSim's usual business hours.

2. ProSim may refuse support or charge for the costs of support in accordance with its usual rates if such support services are required as a result of user errors or improper use on the part of the Licensee, or as a result of other causes that cannot be attributed to ProSim.

Article 20 – Licence for the Software Development Kit (SDK)

For the benefit of solution development ProSim has an SDK that consists of file(s), documentation and other material(s) to support the interfacing with ProSim Software. The use of the SDK is intended for creating software for private home use only by Licensee itself. The provisions of this article 20 are applicable if the Licensee is provided a SDK Licence in addition to the other provisions of this EULA. The grant of a Licence for the SDK does not itself grant a right to use the Software and the SDK Licence is only valid in combination with a valid licence to use the Software.

The use of the SDK is subject to restrictions. The following acts are expressly prohibited:

- Use the SDK to design or develop for anything other than for creating software for personal private home use only by Licensee itself without any right to make public, reproduce or distribute the software or other products based on use of the SDK, unless with previous written permission by ProSim, which permission may be granted under conditions stipulated by ProSim.
- Reverse engineer, decompile, disassemble or otherwise reduce the software included in the SDK to a human-readable form, or modify, adapt or translate the SDK materials, except to modify and create software, unless such reverse engineering is expressly allowed by law in Licensee's jurisdiction;
- Publish or otherwise disclose or allow access to the SDK for others to access or copy in whole or in part the SDK;

- Sell, assign, sublicence, rent, lease, lend or otherwise transfer, either in whole or in part, the SDK or any right or obligation under the SDK Licence;
- Make any more copies of the SDK than are reasonably necessary for authorized use under this SDK Licence and backup for archival purposes;
- Use the SDK to design or develop software to upload or otherwise transmit any material containing software viruses or other computer code, files or programs designed to interrupt, destroy, or limit the functionality of any software or hardware;
- Represent that software developed using the SDK is certified or otherwise endorsed by ProSim or its licensors;
- Use the name of ProSim, its product names, airlines or airplane names or types or any other trademarks or service marks in connection with anything developed using the SDK;

1. ProSim reserves the right to revoke of terminate the SDK Licence at any time if Licensee violate the provisions of this EULA, the SDK Licence provisions of this article 20 or the provisions of the SDK Policy applicable at that time.

2. The SDK Licence shall automatically and without formal notice terminate and end upon the expiration or termination of the licence for the ProSim software.

3. In case of termination of the SDK Licence Licensee must immediately cease and desist all use of SDK and destroy all copies.

4. This SDK Licence does not constitute, and shall not be deemed to constitute, a transfer, assignment or any other form of alienation by ProSim of any of its rights, title, and interests, either in whole or in part, in the SDK, including without limitation ownership and title. ProSim retains all rights not specifically granted to Licensee under this SDK Licence.

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