

**ProSAir Software
COMMERCIAL LICENCE AGREEMENT**

This Agreement made the day of two thousand

BETWEEN Cranfield University, whose address is at Cranfield, Bedford, MK43 0AL (hereinafter referred to as "Licensor")

AND whose registered office is at (hereinafter referred to as "Licensee").

The Licensee should complete:

1. Their organisation name location above,
2. The Licensee and Licensee Contact details on page 10
3. The Schedule on pages 11-13

Then email a scanned copy of the entire licence agreement to prosair@cranfield.ac.uk.

NOW, IT IS HEREBY AGREED as follows:-

1. DEFINITIONS

In this Agreement, unless the context otherwise requires, the following definitions will apply:-

"Documentation"

means such operating manuals, user instructions and other related materials supplied by the Licensor to the Licensee (in electronic or written form) for aiding the use of the Software including any part or copy of it;

"Equipment"

as specified in the Schedule;

"Installation of the Software"

Means to copy the Software from ftp server or supplied CD/DVD onto the Equipment;

"Licence Fee"

means the fee specified in, and for the purposes set out in the Schedule;

"Location"

means the location of the Equipment specified in the Schedule;

"Licensee's Contact Staff Member"

means the member of the Licensee's staff to whom all correspondence will be directed and who is nominated on page 10;

"Operational Unit"

The Licensee's company/organisation if it has less than 31 employees, or otherwise some sub unit (e.g., department, group) the name of which is given under licensee above;

"Site"

The licensee's company/organisation if it has more than 30 but less than 501 employees or otherwise some sub-unit in one geographical location (for the avoidance of doubt geographical location shall mean within a 10 mile radius of the usual place of work of the Licensee's Contact Staff member)

"Corporation"

The licensee's company/organisation if is has more than 500 employees and may include multiple sites in multiple countries.

"Processor Cores"

Means the collection of processing units of the Equipment that are able to synchronously act to enable a single Use of the Software with access to a single main memory.

"Software"

means the computer program[s] in object code form only developed by the Licensor and known as "ProSAir Workstation" and "ProSAir Workstation HP" as described briefly in the Schedule including any copies but excluding source code material and all preparatory design material;

"Use the Software"

means run and display the Software on the Equipment in accordance with the terms of this Agreement;

"User Support"

means assistance given by the Licensor to the employees of the Licensee in order to use the Software or correct any deficiencies in the Software;

2. LICENCE

2.1 Subject to the terms and conditions of this Agreement and in consideration of payment of the Licence Fee for the Software in the amount and frequencies indicated and for the purposes and uses specified in the Schedule, Licensor hereby grants to Licensee for the period set out a non-exclusive non transferable revocable licence to Use the Software for internal or external business purposes by the Licensee's direct employees at the Location only. Licensee shall not and shall not have the right to sell, assign, transfer, rent, lease, sublicense, lend, give or make available to others or otherwise transfer or dispose of the Software in its present form or as converted or modified by Licensee or Licensor, or make the Software available in any manner for use by any subsidiary of Licensee or by any other person, or firm, or customer. Other than as permitted by law, Licensee shall not reverse assemble, decompile, or reverse engineer the whole or part of the Software nor copy, modify, adapt or translate the Software in any way, or otherwise attempt to reveal the source code of the Software, or extract ideas, algorithms, procedures, work flows or hierarchies from the Software for the purposes of creating any software or tools to be used as a substitute therefor, nor merge the whole or part of the Software with any other software.

3. PROPRIETARY RIGHTS AND CONFIDENTIALITY

The Software is a proprietary product of Licensor and is protected by Copyright law and Licensor reserves all rights of ownership and copyright and all other intellectual property rights in any version of the Software in any format or any medium.

Licensee agrees that, during the term of this Agreement and thereafter, the Software including any versions modified by Licensor for use by Licensee and all other material, information and documentation made available to it by Licensor under this Agreement which is not already in the public domain or already lawfully in Licensee's possession are and shall remain the exclusive property of Licensor and are proprietary, and Licensee further agrees during the term of this Agreement and thereafter to maintain in confidence and not to disclose to any person, firm or company and to use its best efforts to prevent and protect the Software and all parts thereof and all such other material, know-how information and documentation from disclosure by its agents or employees to any person, firm or company. Licensee shall use the Software and all information and documentation only for the purpose of this Agreement. Neither the Software nor any parts thereof shall be copied or reproduced by Licensee for any purpose outside the scope of this Agreement, nor shall they be made available for use by Licensee's customers or any other person, firm or company without the prior written consent of Licensor.

Notwithstanding the above, Licensee may make such copies of the Software as are necessary for back-up purposes. The Licensee agrees to maintain records of the number and location of all copies of the Software, made by them and all copies shall bear the words "© This is copyright material and

may not be copied in whole or in part without the express written permission of Cranfield University." The terms of this Licence shall apply to all such copies as it applies to the Software licensed hereunder.

4. SECURITY AND CONTROL

4.1 The Licensee shall during the continuance of the Licence:

4.1.1 effect and maintain adequate security measures to safeguard the Software and Documentation from access or use by any unauthorised person;

4.1.2 retain the Software and Documentation and all copies thereof under the Licensee's effective control; and

4.1.3 maintain a full and accurate record of the Licensee's copying and disclosure of the Software and Documentation and shall produce such record to the Licensor on request from time to time.

5. TERM

5.1 The duration of this Agreement shall be for a period of one (1) Year from the date of execution of this Agreement, unless sooner terminated in accordance with the provisions of this Agreement;

6. TERMINATION

6.1 After delivery of the Software Licensee may terminate this Agreement at any time upon sixty (60) days written notice to Licensor. If Licensee decides to terminate, there is to be no refund of any part of the Licence fee payment.

6.2 In the event that Licensee makes any use of the Software outside the rights granted hereunder or commits any other material breach of this Agreement, Licensor shall give written notice to Licensee and if such default has not been remedied within thirty (30) days after such notice, Licensor may thereafter terminate this Agreement.

6.3 Licensor shall have the right to terminate this Agreement forthwith without notice if Licensee becomes insolvent, compounds with its creditors, files a petition in bankruptcy, enters into liquidation, has a receiver appointed or has any distress or execution levied against it.

6.4 Upon expiration or termination of this Agreement, the Software shall promptly be deleted from any files of Licensee and all copies taken for back-up purposes promptly be destroyed, Licensee shall make no further use of the Software. Licensee agrees to provide to Licensor written confirmation of the deletion and destruction of all copies.

Licensee shall promptly return all documentation provided by Licensor hereunder relating to the Software.

7. TITLE

Legal title to the Software and any modifications or enhancements thereto made by Licensor shall at all times be vested in Licensor and legal title to reproductions, converted versions or duplications of the Software and any other supporting documentation and information delivered to Licensee shall remain vested in Licensor and shall be returned to Licensor upon termination of this Agreement.

8. RESPONSIBILITY AND LIABILITY

8.1 Warranties;

8.1.1 Any publication that utilises results produced by the Software shall include a reference to "ProSAir User Guide", Shaun Forth, Applied Mathematics and Scientific Computing, Cranfield University, 2012 and an electronic copy of any open publication (journal article, conference paper etc), including full citation details, shall be sent to S.A.Forth@cranfield.ac.uk.

8.1.2 Licensee agrees and acknowledges that it retains full control over the use of the Software and any modifications or enhancements thereof, and, accordingly, that Licensee shall be solely responsible for any designs, systems, products or any use made of the Software.

8.1.3 Other than as set out in this Agreement Licensor shall not be liable to the Licensee for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with this Licence Agreement, the Software, its use or otherwise.

8.1.4 Licensor expressly excludes liability for consequential loss or damage which may arise in respect of the Software, its use, the system or in respect of other equipment or property, or for loss of profit, loss of production, business revenue, loss of contracts, goodwill or anticipated savings.

8.1.5 Licensor accepts no liability for any design, system or use of any product resulting from the use of the Software and makes no warranty as to its completeness or accuracy nor that the Software is free of defects, error-free or is of a satisfactory quality.

8.1.6 Notwithstanding the above, nothing herein shall be deemed to restrict or exclude any liability of the Licensor for death or personal injury to the extent only that the same arises as a result

of the negligence of the Licensor, its employees, servants, agents or authorised representatives.

8.1.7 In the event that Licensee is not satisfied with the Software during a period of sixty (60) days from delivery, Licensee shall put any complaint in writing to Licensor. If the Licensor considers such complaint is reasonable the Licensor agrees at its option, to rectify or replace the Software or remedy any defect or refund the Licence Fee, whichever the Licensor deems to be appropriate. In the event that the Licensor refunds the Licence Fee under this Clause, this Agreement shall terminate and the provisions of Clause 6.4 shall apply. Licensor's decision shall be final and conclusive.

8.1.8 Subject to the provisions of this clause the Licensor's entire liability whether in contract or in tort and whether or not attributable to negligence, shall be limited to £1,000,000 if arising out of or in connection with any damage to property of the Licensee or in any other case, shall be limited to the amount of the Licence Fee specified in the Schedule.

8.1.9 Licensee shall protect, indemnify, save harmless and defend Licensor from and against any and all liabilities, claims, demands, loss, costs, damages or expenses including legal fees, arising from any claim asserted against Licensor that is in any way associated with Licensee's use of the Software.

8.2 Licensor gives no further warranty or representation as to the fitness of the Software or any part thereof nor as to its performance. The express warranties given by the Licensor in Clause 8.1 are given to the exclusion of all other warranties and conditions and representations whether express or implied or otherwise.

8.3 Licensor gives no undertakings to provide User Support. Any User Support given is on a "best endeavours" basis.

9. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

9.1 The Licensor will indemnify the Licensee and keep the Licensee fully and effectively indemnified on demand against all costs, claims, demands, expenses and liabilities of whatsoever nature arising out of or in connection with any claim that the Use of Software infringes the Intellectual Property Rights (including without limitation of patents, copyright, registered design, design right or trademark) of any third party, subject to the following conditions:-

9.1.1 the Licensee shall promptly notify the Licensor in writing of any allegations of infringement of which it has notice and will not make any admissions without the Licensor's prior written consent;

- 9.1.2 the Licensee, at the Licensor's request and expense, shall allow the Licensor to conduct and/or settle all negotiations and litigation resulting from any such claim;
- 9.1.3 the Licensee shall, at the request of the Licensor, afford all reasonable assistance with such negotiations or litigation, and shall be reimbursed by the Licensor for any out of pocket expenses incurred in so doing.
- 9.2 The indemnity given under sub-clause 9.1 above will not apply to infringement arising out of the use of the software or any part thereof in combination with any equipment and/or computer programs not supplied or approved by the Licensor for use with the Software.
- 9.3 If the Licensee's normal use or possession of the Software is held by a Court of competent jurisdiction to constitute an infringement of the third party's Intellectual Property Rights or if the Licensor is advised by legal counsel that such use or possession is likely to constitute such an infringement, then the Licensor shall promptly and at its own expense:-
 - 9.3.1 procure for the Licensee the right to continue using and possessing the Software; or
 - 9.3.2 modify or replace the Software, so as to avoid the infringement; or
 - 9.3.3 remove the Software from the Location and refund the Licence Fee to the Licensee.
- 9.4 The foregoing states the Licensor's entire liability to the Licensee in respect of the infringement of the Intellectual Property Rights of any third party.

10. NOTICE

Any notice or other communication given hereunder shall be in writing and mailed, if to Licensor, to Dr S.A. Forth, Cranfield University, Centre for Simulation and Analytics, Cranfield Defence and Security, Defence Academy of the United Kingdom, Shrivenham, SN6 8LA, and if to Licensee to the Licensee's Contact Staff Member specified on page 9 or to such other address as either party shall have previously designated by notice in writing. Such notice or communication shall be deemed delivered when sent by registered post or facsimile transmission and subsequently confirmed in writing.

11. ENTIRE AGREEMENT

This Agreement represents the entire Agreement between Licensor and Licensee and shall supersede all representations, agreements, statements

and understandings made prior to the date of this Agreement whether oral or in writing other than those representations, agreements, statements and understandings which have been expressly incorporated into this Agreement.

12. UNCONTROLLABLE CIRCUMSTANCES

Licensor shall not be responsible for any failure on its part to fulfil any obligations to Licensee caused by events or circumstances outside Licensor's control.

13. VARIATION OF CONDITIONS

The terms and conditions of this agreement shall not be varied except in writing, signed by the parties, each by its duly authorised representatives.

14. NON-ASSIGNMENT

Licensee shall not assign this Agreement or any interest therein to any person without the prior written consent of Licensor.

15. NON-WAIVER

Failure to terminate this Agreement following a breach or other failure to comply shall not be deemed to be a waiver of a Party's defences rights or causes of action arising from such or any future breach or non-compliance. Nor shall failure on the part of either Party at the time or from time to time to enforce or to require the strict adherence and performance of any of the terms and conditions affect or impair its right to enforce such terms or conditions in any way.

16. HEADINGS AND SEVERABILITY

The clause headings are for convenience only and shall not affect their interpretation. If any part of this Agreement shall be held to be unenforceable to any extent, the remainder of the Agreement shall nevertheless remain in full force and effect.

17. SURVIVAL

The provisions of clauses 3, 7, 8 and 18 shall remain binding upon Licensee after the expiry or termination of this Agreement.

18. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

19 DATA PROTECTION

The Licensee personal data of page 10 and any electronic or written communications held by Licensor will be treated as confidential and reasonable measures will be taken to ensure that it is processed securely and in accordance with current UK Data Protection legislation. It will be not be shared with any Third Parties and will be used for the sole contractual purpose of administrating the use and functionality of the software provided.

The Licensor will process personal data on persons with whom it has a relationship when concluding a contract. These personal data are collected directly from these persons or from the service provider as part of the business relationship. The Licensor makes use of the following categories of personal data: names, surnames and professional contact address, email and telephone number.

These personal data are necessary for the legitimate interests pursued by the Licensor and are received by the Licensor services concerned and, when necessary, by its subcontractors or other providers. The Licensor stores personal data during the execution of the Agreement and, in addition, for a seven-year period.

At any time, these persons have a right of access, rectification or erasure of their personal data, the right to restriction or object to its processing and the right to data portability. Any request can be sent by post to the Data Protection Officer, Cranfield University, College Road, Bedford, MK43 0AL, UK or by email to GDPR@Cranfield.ac.uk. A copy of an identity document must be attached to the request. Moreover, they can make a complaint to the competent authority if they consider that these rights have not been respected.

Licensor and Licensee Signatures and Contacts

IN WITNESS WHEREOF the parties hereto have executed this Agreement effective on the day and year first written above.

Licensor - Cranfield University

Signature:

Name: Mr G M Say

Title: Chief Operating Officer

Date:

Licensee

Signature:

Name:

Title:

Date:

Licencee's European Union Customer VAT number (if applicable):

Licensee's Contact Staff Member

Name:

Email:

Tel:

Full Postal Address:

SCHEDULE

All prices are exclusive of VAT.

Software : Please tick one if required

£1,900 **ProSAir Workstation License**

Allows

1. installation of the Software on the Equipment.
2. Use the Software for one year from the date of the Licensor signing this license.
3. at most one member of the Operational Unit to Use the Software at any one time.
4. a maximum of 3 simultaneous Uses of the Software.
5. each Use of the Software to utilise up to and including four simultaneous Processor Cores of the Equipment.

£3,500 **ProSAir Multiuser License**

Allows:

1. installation of the Software on the Equipment.
2. Software Execution for one year from the date of the Licensor signing this license.
3. At most three members of the Operational Unit to perform Software Executions at any one time.
4. A maximum of 9 simultaneous Software Executions
5. each Software Execution using up to and including four simultaneous Processor Cores of the Equipment.

£12,500 **ProSAir Site License**

Allows:

1. installation of the Software on the Equipment.
2. Software Execution for one year from the date of the Licensor signing this license.
3. An unlimited number of members at the Licensee's Site to perform Software Executions at any one time.
4. An unlimited number of simultaneous Software Executions
5. each Software Execution using up to and including twenty simultaneous Processor Cores of the Equipment.

[CONTINUED ON FOLLOWING PAGE]

£32,000 **ProSAir Corporate License**

Allows:

1. installation of the Software on the Equipment.
2. Software Execution for one year from the date of the Licensor signing this license.
3. An unlimited number of members of the Licensee's Corporation to perform Software Executions at any one time.
4. An unlimited number of simultaneous Software Executions
5. each Software Execution using up to and including twenty simultaneous Processor Cores of the Equipment.

Add-ons Please tick if required

£750 **ProSAir 8 Core Add-on**

In conjunction with a valid ProSAir Workstation or ProSAir Multiuser license allows the use of up to and including 8 simultaneous Processor Cores per simulation for one year.

£1400 **ProSAir 20 Core Add-on**

In conjunction with a valid ProSAir Workstation or ProSAir Multiuser license allows the use of up to and including 20 simultaneous Processor Cores per simulation for one year.

In all cases the Software is supplied by internet download with supporting documentation and test cases.

[CONTINUED ON FOLLOWING PAGE]

Renewals : Current/expired licence expiry date:.....

Please tick if required (for those who wish to renew a license about to expire, or recently expired, to run from the end date of the expired/expiring licence)

ProSAir Workstation Renewal £950

Continues existing ProSAir Workstation license for an additional year and allows installation of latest version of ProSAir

ProSAir Multiuser License Renewal £1750

Continues ProSAir Workstation Multiuser license for an additional year and allows installation of latest version of ProSAir

ProSAir Site License Renewal £6250

Continues ProSAir Workstation Site license for an additional year and allows installation of latest version of ProSAir

ProSAir Corporate License Renewal £16000

Continues ProSAir Workstation Corporate license for an additional year and allows installation of latest version of ProSAir

ProSAir 8 Core Renewal £375

Continues ProSAir 8 Core upgrade for an additional year in conjunction with Workstation or Multiuser Licence

ProSAir 20 Core Renewal £700

Continues ProSAir 20 Core upgrade for an additional year in conjunction with Workstation or Multiuser Licence

Equipment : An unlimited number of 32 or 64 bit Windows 7/10 Computers used by the Operational Unit of the Licensee

Location of the Software :

Purpose of Use: Model the propagation of shock waves in air and resultant loading on structures.

Licence and/or Renewal Fee : (Please add total fees)