

Software License Agreement - COTS Software

Version No. 1.4, Nov 2012

THIS IS A LEGAL AGREEMENT. PLEASE READ THIS DOCUMENT CAREFULLY. By opening this sealed software package, or downloading, or installing, or using the Software (as such term is defined below) you agree to be bound by the terms and conditions of this Software License Agreement, including the grant of license and disclaimer of warranties contained in this Agreement. If you are not willing to be bound by all of the terms of this Software License Agreement, promptly return the media contained herein to the place where or to the person from whom you obtained it and destroy any electronic copies.

This Software License Agreement (the "Agreement") governs the grant of licenses, in object code only, by Presagis Canada Inc., a Canadian corporation having a place of business at 4700 de la Savane, Suite 300, Montreal, Quebec, H4P 1T7; Presagis USA Inc., a United States company duly incorporated under the laws of the State of California, having its principal place of business at 1301 W. George Bush Highway, Suite 120, Richardson, TX 75080, and/or Presagis Europe S.A., a company duly incorporated under the laws of France, having its principal place of business at 16-18, avenue Morane Saulnier, 78140 Vélizy, France (hereinafter collectively referred to as "PRESAGIS"). The country of origin of each Product dictates the applicable PRESAGIS entity designated as Licensor. Licenses are strictly provided subject to the entering of a Commercial Agreement (as defined below).

PRESAGIS Standard Terms and Conditions of Sale and Licensing is applicable to all PRESAGIS software and services Order. Any consulting services to be supplied by PRESAGIS to Licensee as per the Commercial Agreement shall be provided pursuant to PRESAGIS Additional Terms and Conditions for Consulting Services.

This Agreement shall supersede and prevail over any customer terms and conditions contained in a purchase order or otherwise.

1. Definitions and Interpretation

1.1. The preamble forms an integral part of this Agreement.

1.2. Whenever used in this Agreement, including in the preamble, the following terms have the meaning set out below:

"**Application**" means a computer-based system or product that Licensee intends to develop using the Product.

"**Commercial Agreement**" or "**Order**" means documentation, including but not limited to the PRESAGIS Quote accepted by Licensee through the issuance to PRESAGIS of a purchase order issued by Licensee or on behalf of Licensee and accepted by PRESAGIS, a contract, a term sheet, an addendum or any other document accepted by PRESAGIS evidencing the commercial agreement between PRESAGIS and Licensee, including no less than the following information: Product name, Product quantity, applicable fee, buyer information and end user information.

"**Confidential Information**" means any and all scientific, technical and commercial information which is in the possession of or belonging to PRESAGIS and relating to the Product, including without limitation, all data, specifications, Software, trade secrets, know-how, processes, methodologies, samples, components, marketing strategies, prices, analyses, compilations, guides and other information or documents prepared by PRESAGIS, its subsidiaries and affiliates and/or their officers, servants, agents, representatives, employees or advisers which contain or are otherwise generated from or reflect any PRESAGIS proprietary information, whether or not covered by intellectual property rights or explicitly designated as confidential or proprietary, which is disclosed by any means in written, oral, electronic, or any other form.

"**Libraries**" refers to non-executable code and data subprograms contained within the PRESAGIS Software that may be linked and/or copied to each unit of Licensee's Application as authorized in this Agreement.

"**License**" refers to the right to use indicated in Section 2.

"**Licensee**" means, notwithstanding any other designation in the Commercial Agreement, the entity being provided with a License by PRESAGIS.

"**Product**" means, individually and collectively, any and all of the PRESAGIS proprietary items or product(s) provided by PRESAGIS, including any licensed Software, data, documentation, CD-Rom, DVD or other digital media, keys, hardware if any, as well as any Confidential Information related thereto.

"**Purpose**" means the use of the Product by Licensee for its own use for the modeling, visualization and/or simulation of systems, real or virtual, as well as the development of visual simulation capabilities.

"**Quote**" means the sales quotation prepared by PRESAGIS and delivered to Licensee identifying the Products, the fees and such other terms and conditions for the licensing of the Products, including the PRESAGIS terms and conditions for sale and licensing.

"**Software**" means, individually and collectively, any and all PRESAGIS proprietary software and programs included in the Product or licensed as a stand-alone product under the Commercial Agreement, as well as all data, information, specifications, publications or documentation related thereto provided by PRESAGIS under the Commercial Agreement, and whether or not any portion is protected by copyrights law or other intellectual property rights.

1.3. In this Agreement, a reference to the Commercial Agreement shall be deemed to include a reference, individually and collectively, to all agreements expressly referred to in the Commercial Agreement.

1.4. This Agreement shall form an integral part of the Commercial Agreement between the parties on the subject matter thereof.

1.5. This Agreement may only be amended in writing by the duly authorized representatives of PRESAGIS.

1.6. The division of this Agreement into clauses, articles, sections, subsections and other subdivisions and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement.

2. License

- 2.1. In consideration of the payment by Licensee of the License fees stipulated in the Quote and of the mutual promises and covenants contained herein, PRESAGIS grants to Licensee, and Licensee accepts, a personal, non-exclusive, non-transferable license to use the Product, solely in the quantity provided and strictly for the Purpose.
- 2.2. Unless expressly stipulated otherwise in the Commercial Agreement, all Software provided to Licensee shall be in object code only.
- 2.3. Except for the License granted herein and except as otherwise expressly provided in the Commercial Agreement, PRESAGIS grants no express or implied right under any patent, copyright, mask work right, integrated circuit topography, trademark, know how or other intellectual property rights. Without limiting the foregoing, the Licensee shall not obtain any rights to PRESAGIS' property, or any part thereof, by implication, estoppel or otherwise.

3. Licensee's Obligations

- 3.1. Licensee agrees to pay the License fees in the time and manner indicated in the Quote.
- 3.2. In addition to the License fees, Licensee is responsible for the payment of any and all income, sales, use, consumption, value added, turn over, excise, custom duties or other taxes and like charges in connection with the License, levied or required to be withheld from payment(s) to PRESAGIS by any taxing authority or any other body having jurisdiction under any present or future law, whether now hereafter in force and effect.
- 3.3. PRESAGIS reserves the right to apply a late payment charge of one percent (1%) per month (12.00% per annum) on all overdue amounts. Licensee agrees to pay any such late payment charges promptly upon receipt of an invoice therefore.
- 3.4. Licensee shall be solely responsible for obtaining and complying with (i) all import laws and regulations, and government approvals or permits necessary to either import or use the Product in Licensee's country; and (ii) all export laws and regulations, and government approvals or permits necessary to return the Product from Licensee's country to PRESAGIS upon the termination in whole or in part of this Agreement as set out in Section 6 hereof.
- 3.5. Should Licensee wish to hire any consultants, contractors or subcontractors in the performance of any of its obligations under the Commercial Agreement, Licensee agrees to ensure that such consultants, contractors or subcontractors are bound by all the obligations set forth in this Agreement and in the Commercial Agreement. Licensee further agrees to be responsible for enforcing the terms of such Agreements and to take such action, legal or otherwise, to the extent necessary to cause any of such consultants, contractors or subcontractors to comply with the terms and conditions set forth therein (including all actions that Licensee would take to protect its own trade secrets and confidential information). Licensee shall be responsible and indemnify, defend and hold harmless PRESAGIS for any damage, loss, damage to property, claims, actions, costs and expenses arising out or caused by any act or omission of such consultants, contractors and/or subcontractors.
- 3.6. PRESAGIS reserves the right to: a) embed a software security mechanism within the Product to monitor usage of the Product to verify Licensee's compliance with the terms of this Agreement and the Commercial Agreement; b) use a hardware lock device; and/or, c) use license administration software and/or a license authorization key to control access to the Software (collectively, the "Key"). In the event a Key included as a part of the Product is lost or stolen, it will not be replaced by PRESAGIS, and such loss or theft will require that you purchase another Key or another copy of the Software or Product, at PRESAGIS's sole discretion. PRESAGIS may from time to time, at its sole discretion, replace a Key or a hardware lock device that is damaged, destroyed or rendered inoperable due to flood, riot, fire, act of God or other cause beyond Licensee's control (the "Disaster Event"). If a Disaster Event occurs and Licensee elects to request a replacement hardware lock device, Licensee must notify PRESAGIS in writing no later than thirty (30) days following such Disaster Event and the notice must include the following: (i) a request that Presagis replace the damaged or destroyed hardware lock device; (ii) the specific date of the Disaster Event, a brief description of the type of event and the extent of the damage; and, (iii) the identification information for the system for which Licensee is requesting the replacement. Licensee agrees and accepts that Presagis is under no obligation to provide a replacement Key or hardware lock device and the decision to grant or deny your request for a replacement is at the sole discretion of PRESAGIS.

4. Use of the Product

- 4.1. Licensee's use of the Product is restricted to the Purpose. Without limiting the foregoing or any other terms in this Agreement, Licensee shall, and shall ensure that any person authorized to access the Product under the Commercial Agreement:
 - a) not copy the Product, or any part thereof, except to make one copy of the Software or information solely for back-up purposes and in such case ensure that the copy includes the same proprietary notices contained in the original version;
 - b) not modify the Product in any way, or reverse engineer, screen scratch, decompile or disassemble any Software nor otherwise attempt to create or derive the source code related thereto;
 - c) unless specifically authorized in the Commercial Agreement, not (i) permit any parent, subsidiaries, affiliated entities or third parties to use the Product, (ii) to use and access the Software over five (5) mile radius from the designated site on the Commercial Agreement, or (iii) make the Product available for concurrent use. Any multi-user license or multi-site license shall be approved first in writing by a PRESAGIS's duly authorized representative. PRESAGIS reserves the right to inspect the Licensee's facility to ensure compliance with this Section.
 - d) not use the Product without the Key, if provided with the Product, or attempt to develop or develop any means or technology which would enable Licensee to bypass the use of the Key to operate the Product;
 - e) not copy, distribute, ghost, export, rent, lease, sublicense or derive training material and/or devices from all or any part of the Product; and,
 - f) unless expressly authorized in the Commercial Agreement and under a separate Right to Use License for Commercial Gain as described in Section 13 hereto, not incorporate the Product, in whole or in part, to any product or service that Licensee would make available to a third party, nor distribute on a commercial basis or not.
- 4.2. PRESAGIS may provide the Product on media that contains various executables or in multiple forms of media. Regardless of the number or types of executables or media Licensee receives from PRESAGIS, Licensee is authorized to use only the media and executables specified in the Commercial Agreement under which the Product was

obtained. The Product media may contain executables that have not been licensed to Licensee; any such unlicensed executables may not be used unless a license is first acquired by Licensee from PRESAGIS.

- 4.3. Unless expressly authorized in the Commercial Agreement, Licensee may not use the Product or any part thereof to develop and/or produce and reproduce adaptations, enhancements, modifications, derivative works and improvements of the Product or any part thereof or works containing functionality similar to the Product or any part thereof.
- 4.4. Notwithstanding anything else contained in this Agreement, in no event shall Licensee use the Product and/or Confidential Information to enable, support, or otherwise aid Licensee or a third party to develop any product, software or service competitive with PRESAGIS products.
- 4.5. Licensee agrees to grant PRESAGIS, its agents and representatives, at any time during Licensee's normal business hours and upon reasonable prior notice, the right to access to Licensee's premises to ensure that the use of the Product is done at all times in compliance with the terms and conditions of this Agreement.

5. Term

- 5.1. This License shall become effective as of the date of delivery of the Product, until termination in whole or in part pursuant to Section 6 (Termination) hereto.

6. Termination

- 6.1. PRESAGIS may terminate this License, immediately upon written notice to the Licensee, should Licensee:
 - a) make an assignment for the benefit of creditors, or any proceedings are instituted by any party or against it seeking to declare it bankrupt or insolvent, or seeking liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee or other similar official for it or for any substantial part of its property;
 - b) attempt to, directly or indirectly, assign or transfer any of the rights granted to it pursuant to this Agreement or the Commercial Agreement without PRESAGIS' prior written authorization;
 - c) disclose, or attempt to use, otherwise than as authorized in this Agreement, in whole or in part, any Confidential Information in contravention of this Agreement or the Commercial Agreement; or
 - d) breach any of the restrictions and use conditions in this Agreement, including, without limitation, for breach of Section 17.3.
- 6.2. In addition, should Licensee fail to comply with any other terms and conditions of this Agreement or the Commercial Agreement and such failure is not cured or remedied to PRESAGIS' satisfaction within ten (10) days after receipt of PRESAGIS' written notice, PRESAGIS may terminate this License immediately.
- 6.3. Upon termination of this License, Licensee agrees to immediately discontinue use of the Confidential Information and the Product(s), and to return same to PRESAGIS, as well as any copies, summaries or extracts thereof, with any associated CD ROM(s), Keys, dongles or other media or devices as may be directed by PRESAGIS. At PRESAGIS' request, Licensee shall promptly provide a written certificate signed by an officer of Licensee confirming that such items have been returned to PRESAGIS or destroyed as so directed by PRESAGIS.
- 6.4. Notwithstanding any termination of the License and the Commercial Agreement, the obligations of Licensee under Sections 2 (License), 3 (Licensee's Obligations), 4 (Use of Product), 6 (Termination), 7 (Title), 8 (Non-Disclosure), 9 (Irreparable Harm), 10 (Warranty), 11 (Limitation of Liability) and 16 (Dispute Resolution), as well as any other Sections which by their nature and context are intended to survive, shall survive and continue in full force and effect.

7. Title

- 7.1. Title to and full ownership of any trade secrets, copyright and other intellectual property rights related to the Product(s) shall remain with PRESAGIS, its suppliers or licensors, as applicable.
- 7.2. Licensee acknowledges that the Product is PRESAGIS proprietary and/or is PRESAGIS Confidential Information.

8. Non-Disclosure

- 8.1. Licensee agrees to keep all Confidential Information obtained hereunder in strict confidence and further agrees not to disclose, directly or indirectly, to any third party, nor to use, copy, evaluate or incorporate within or outside of its business, any of the Confidential Information for any purpose other than the Purpose.
- 8.2. The obligations of confidentiality, use and non-disclosure referred to in this Section 8 shall not apply to information which: (i) is or becomes publicly available through no fault of Licensee; (ii) was already in the rightful possession of Licensee prior to its receipt from PRESAGIS; (iii) is independently developed by Licensee, provided it is not, in whole or in part, related to the Product; (iv) is obtained by Licensee in good faith and on a non-confidential basis and without a use restriction from a third party who lawfully obtained and disclosed such information; (v) is required to be disclosed by law and only to the extent of such disclosure and limited to the purpose requested. However, Confidential Information does not come within the foregoing exceptions merely because features of it may be found separately or within a general disclosure in the public domain.
- 8.3. Licensee undertakes to provide access to the Confidential Information only to those among Licensee's employees, consultants, subcontractors and agents who have a need to know same and provided that: (i) such persons have signed a confidentiality agreement incorporating the terms of the non-disclosure and use provisions stated in this Agreement or in the Commercial Agreement; or, (ii) they are bound by confidentiality and use obligations at least as stringent as those contained in this Agreement or in the Commercial Agreement, and provided also that such access to the Product(s) conforms, at all times, to this Agreement and to the Commercial Agreement.

9. Irreparable Harm

- 9.1. Licensee acknowledges that the Product and Confidential Information constitute a special, irreplaceable asset of great value to PRESAGIS, and that a breach, in any way, of any of the obligations under Sections 2 (License), 3 (Licensee's Obligations), 4 (Use of Product), 8 (Non-Disclosure), 17.3 (PRESAGIS Product Special Use and Export Terms) and 17.7 (Transfer, Assignment or Sub-License) hereof would cause serious and irreparable harm to PRESAGIS which may not be adequately compensated for in damages. If the Licensee breaches any of such provisions, Licensee

consents to an injunction being issued against it restraining it from any further breach of such provision, without derogation from any other remedy that PRESAGIS may have in the event of such a breach.

10. Warranty

- 10.1. PRESAGIS warrants to Licensee, and no other third party, that for a period of ninety (90) days from the date of delivery of the Product:
- a) the Product will perform substantially in accordance with the published specifications of the Product provided that no modifications (authorized or unauthorized) have been made to the Product and that Licensee makes proper use of the Product as authorized hereunder; and,
 - b) the media on which any Software or other part of the Product is provided will be free from defects in materials and workmanship.
- 10.2. EXCEPT FOR THE LIMITED AND EXCLUSIVE WARRANTIES MENTIONED IN THIS SECTION 10.1 a) AND b), THE PRODUCT AND SOFTWARE ARE PROVIDED "AS IS". TO THE EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE ACKNOWLEDGES THAT PRESAGIS PROVIDES NO FURTHER WARRANTY NOR ANY INDEMNITY TO LICENSEE HEREUNDER AND ALSO EXCLUDES ALL INDEMNITIES OR WARRANTIES WHETHER EXPRESS, IMPLIED, OR STATUTORY, ARISING IN LAW OR IN EQUITY IN RESPECT OF THE SOFTWARE OR PRODUCT, AND ANY OTHER WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INFRINGEMENT, TITLE, OR OF LATENT DEFECTS ARISING IN LAW OR OTHERWISE WITH RESPECT TO THE SOFTWARE OR THE PRODUCT. PRESAGIS MAKES NO WARRANTIES AS TO THE ADEQUACY OF THE SOFTWARE OR PRODUCT OR TO THE SUITABILITY OF THE SAME FOR USE BY LICENSEE. NO WRITTEN OR ORAL INFORMATION OR ADVICE GIVEN TO LICENSEE BY PRESAGIS OR ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS SHALL CREATE A WARRANTY OF ANY TYPE. PRESAGIS DOES NOT WARRANT A) THAT THE OPERATION OF THE SOFTWARE OR PRODUCT WILL BE UNINTERRUPTED OR ERROR-FREE; OR, B) THAT ALL PRODUCT ERRORS WILL BE CORRECTED.

11. Limitation of Liability

- 11.1. PRESAGIS SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR, AND LICENSEE SHALL INDEMNIFY AND HOLD PRESAGIS HARMLESS FROM, ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR EXEMPLARY DAMAGES WHETHER IMMEDIATE, NON-IMMEDIATE, FORESEEABLE OR UNFORESEEABLE OR OF WHATSOEVER KIND OR NATURE, EVEN IF PRESAGIS HAD BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY THEREOF, INCURRED BY LICENSEE OR ANY THIRD PARTY AS A RESULT OF, OR ARISING OUT OF THE LICENSE GRANTED IN THIS AGREEMENT AND/OR USE OR PERFORMANCE OF THE PRODUCT OR LACK, OR LOSS OF USE OF THE PRODUCT, FOR ANY REASON WHATSOEVER. PRESAGIS EXPRESSLY DISCLAIMS ALL LIABILITY WITH RESPECT TO, AND LICENSEE AGREES THAT PRESAGIS SHALL HAVE NO LIABILITY WITH RESPECT TO, ANY DAMAGES CAUSED BY THE USE OF THE PRODUCT OR ANY MALFUNCTION OF THE PRODUCT.
- 11.2. PRESAGIS'S MAXIMUM LIABILITY SHALL BE:
- a) IF PRESAGIS IS IN BREACH OF THE WARRANTY DESCRIBED IN SECTION 10.1 (a), TO REQUIRE PRESAGIS TO USE COMMERCIALY REASONABLE EFFORTS TO CORRECT WITHIN A REASONABLE TIME AFTER LICENSEE'S REQUEST, AT NO COST TO LICENSEE, ANY PROGRAMMING ERRORS IN THE SOFTWARE TO MAKE THE SOFTWARE MEET THE SAID WARRANTY. LICENSEE SHALL DOCUMENT ANY REPORTED PROBLEM IN RELATION TO SOFTWARE WITH SUFFICIENT DETAILS IN ORDER TO ENABLE PRESAGIS TO REPRODUCE OR RECREATE THE PROBLEM.
 - b) IF PRESAGIS IS IN BREACH OF THE WARRANTY DESCRIBED IN SECTION 10.1 (b) TO REQUIRE PRESAGIS TO REPLACE THE DEFECTIVE MEDIA WITH NON-DEFECTIVE MEDIA;
 - c) IF PRESAGIS IS CONDEMNED OR ORDERED TO PAY ANY DAMAGES TO LICENSEE, SUCH DAMAGES AWARD SHALL NOT EXCEED THE LESSER OF: A) THE DIRECT DAMAGES ACTUALLY INCURRED BY LICENSEE AS A RESULT OF PRESAGIS' BREACH HEREOF; OR, B) THE AMOUNT ACTUALLY PAID BY LICENSEE TO PRESAGIS FOR THE PRODUCT TO WHICH THE CLAIM RELATES DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING SUCH CLAIM.

12. Infringement

- 12.1. In the event Licensee learns that there is, or may be, any infringement or unauthorized use of the Product or disclosure of Confidential Information, Licensee shall promptly notify PRESAGIS in writing of same. In the event of a possible infringement or unauthorized use of the Product, PRESAGIS retains the sole right, in its sole discretion, to commence a legal action or to take any action in response thereto. Licensee shall cooperate and provide all available information and assistance to PRESAGIS in such regard. PRESAGIS shall not be bound by any settlement or compromise of any charge of infringement made without its written consent. Licensee acknowledges that PRESAGIS shall have the right to take such measures that PRESAGIS deems appropriate to minimize any potential damages due to any alleged claim. Licensee agrees not to assert against PRESAGIS infringement claims on the Software and/or Products.
- 12.2. If a final judgment is obtained prohibiting the use by Licensee of any part of the Product by reason of infringement of a copyright or patent, PRESAGIS will, at its option and expense, either (i) procure for Licensee the right to continue to use the Product; (ii) modify the Product so that it becomes non-infringing; or (iii) repurchase from Licensee the Product and/or documentation less depreciation at the rate of twenty-five percent (25%) per year, or pro rata for part of the year, from the date of commencement of the term of use of the Product to the date of repurchase of the Product.

13. Right to Use License for Commercial Gain

- 13.1. A Right to Use License for Commercial Gain for certain PRESAGIS Software Libraries, if applicable, must be purchased separately from PRESAGIS, in advance of deployment, where Licensee wishes to incorporate the Libraries into its Applications for the purpose of distributing same for commercial gain. In such cases, the terms of the Right to Use License for Commercial Gain will also apply.

14. Right to Use License for Non-Commercial Gain ("RTU License").

- 14.1. This Section sets out the terms of license relating to certain PRESAGIS Software Libraries, if applicable, used for non-commercial gain. In all cases where Licensee wishes to incorporate the Libraries into its Applications for non-commercial gain, the following grant of license will apply.

14.2. PRESAGIS grants the Licensee a non-transferable and non-exclusive right to use the Libraries for the purpose of copying and/or linking into Licensee's Application. Licensee shall retain all copyright notices and intellectual property notices contained in the Libraries. Licensee agrees not to reverse compile, disassemble, reproduce, reverse engineer, modify, adapt, translate, lease, transfer for commercial gain or loan the Product or Libraries except pursuant to a written license from PRESAGIS. The Libraries cannot be used in derivative works that will directly or indirectly compete with PRESAGIS Products or Software. Except as provided in this Agreement, any sale, lease, sublicense or transfer of this RTU License or of Applications using the Libraries by Licensee to other parties for commercial purposes are expressly prohibited without the prior written consent of PRESAGIS and purchaser of a Right to Use License for Commercial Gain as indicated above. PRESAGIS reserves the right to use an external auditor of its choice to conduct examinations and/or audits of all of Licensee's records and accounts that may contain information relating to the Licensee's obligations under this RTU License. Any confidential information revealed to PRESAGIS regarding these accounts and records shall be used solely for the purposes of verifying Licensee's compliance with this RTU License and shall be kept in confidence. In the event that these examinations and/or audits reveal non-compliance with this RTU License, the cost of such examinations and/or audit shall be borne entirely by Licensee.

15. Right to Distribute OpenFlight Models

15.1. Notwithstanding any other terms and conditions set forth in this Agreement, solely with regard to OpenFlight models, textures, and associated samples and resources which may be contained within the model library of the Software (collectively, the "OpenFlight Models"), Licensee may distribute the OpenFlight Models in conjunction with or as a part of Licensee's independently developed application or database. In the event Licensee elects to distribute the OpenFlight Models, the following limitations will apply:

- a) Distribution of the OpenFlight Models must be in accordance with United States and Canada Export regulations;
- b) Licensee acknowledges that the OpenFlight Models are and will remain the sole and exclusive property of PRESAGIS; and,
- c) Licensee agrees and acknowledges that the OpenFlight Models are copyrighted proprietary information of PRESAGIS. Licensee will not remove any PRESAGIS proprietary markings from the OpenFlight Models. Licensee will include any such PRESAGIS proprietary markings with any distribution of the OpenFlight Models to any third party. Licensee will include in any distribution to any third party a statement declaring any derivative content created by Licensee is based upon PRESAGIS copyrighted and proprietary information and may not be redistributed in any way.
- d) The rights granted to Licensee in this Section do not apply to that portion of the Software identified as "OpenFlight API Libraries" or "CDB Libraries". Distribution of these API Libraries requires prior written approval from PRESAGIS and execution of an Amendment to this Agreement.

16. Dispute Resolution

16.1. Any dispute arising out of or relating to this Agreement or the Commercial Agreement shall be submitted for discussion and settlement to a committee consisting of a senior representative of PRESAGIS and of Licensee. If no settlement is reached within fifteen (15) days then either Party shall be entitled to bring such matter before the competent courts of either the State of California, U.S.A., or the Province of Ontario, Canada, as applicable for the PRESAGIS entity designated as Licensor, the Parties hereby agreeing to consent to the exclusive jurisdiction of the applicable courts. However if the dispute is related to a third party claim brought in a different jurisdiction and for injunctive proceedings for the matters referred to in Section 9 (Irreparable Harm) then either party is entitled to obtain injunctive relief before the competent tribunal of any jurisdiction.

17. Miscellaneous

17.1. Governing Law: This Agreement shall be governed and interpreted in accordance with the laws of the State of California, U.S.A. or the Province of Ontario, Canada, as applicable for the PRESAGIS entity designated as Licensor, excluding any conflict of law rules. The country of origin of each Product dictates the applicable PRESAGIS entity designated as Licensor. The parties expressly exclude and waive the application of the United Nations Convention on the International Sale of Goods (1980) (Vienna Sales Convention) as amended.

17.2. United States Government Restricted Rights: If Licensee is the United States Government ("U.S. Government") or a unit or agency of the U.S. Government, the Software and related documentation are deemed to be "commercial computer software" and "commercial computer software documentation", respectively, pursuant to DFARS Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display, or disclosure of the Software and/or related documentation by the U. S. Government, or any of its units or agencies, shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent permitted by this Agreement and the Commercial Agreement. Any technical data provided that is not covered by the above provisions is deemed to be "technical data-commercial items" pursuant to DFARS Section 252.227-7015.

17.3. PRESAGIS Product Special Use and Export Terms:

- a) PRESAGIS Products may be subject to one or more United States and Canada export laws and regulations including the Export Administration Regulations, 15 C.F.R. §§ 730-774, the International Traffic in Arms Regulations, 22 C.F.R. §§ 120-130 and the Canadian Export and Import Permits Act, R.S., 1985, c. E-19.
- b) No PRESAGIS Products may be disclosed, downloaded or otherwise exported or re-exported directly or indirectly: into (or to a national or resident of) any other country to which the United States or Canada has a trade embargo.
- c) There are additional restrictions that may apply regarding export or re-export of a PRESAGIS Product, specially that the export or reexport of the Product may be prohibited to 1) any organization or company on the United States Department of Treasury Office of Foreign Assets Control lists of Specially Designated Nationals, Terrorists, and Narcotic Traffickers, 2) is listed on the United States Department of Commerce Entities List, Table of Denial orders or Denied Party Lists or 3) is listed as a prohibited country by the U. S. State Department, or listed on the Canadian Area Control List.
- d) Licensee warrants that it is not under the control of, located in, or a resident or national of any such country or on any such list.

- e) PRESAGIS Products may not be used for any purposes prohibited by United States or Canada law, including, without limitation, for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction. By downloading, installing or using the PRESAGIS Products and/or receiving any maintenance services, for such PRESAGIS Products, Licensee agrees and warrants to fully comply with all applicable laws, including, without limitation, import and export laws and regulations of the United States and Canada. For clarification, the obligations under this Section are in addition to the obligations of Licensee under Section 3 (Licensee's Obligations).
- 17.4. Support: PRESAGIS is not obligated to maintain or assist Licensee to use the Product, and is not required or obligated to make available any updates, fixes or support (collectively, the "Upgrade") for the Product, except if the Licensee purchase separately the maintenance services. Maintenance services are subject to the PRESAGIS Standard Terms and conditions of Sales and Licensing. Any Product Upgrades that may be provided shall be subject to this Agreement; provided, however, that if any Upgrade includes a PRESAGIS Software License Agreement that contains terms additional to or inconsistent with this Agreement, then such additional or inconsistent terms shall supersede the applicable portions of this Agreement when applied to the Upgrade.
- 17.5. No Waiver: The failure of PRESAGIS to enforce at any time any of the provisions of this Agreement or the Commercial Agreement, or to require at any time the performance by Licensee of any of the provisions hereof, shall not be construed to be a waiver of such provisions, nor in any way affect the validity of this Agreement, the Commercial Agreement, or any part thereof, or the right of PRESAGIS thereafter to enforce any such provision.
- 17.6. Notices: Notices or communications pertaining to this Agreement or the Commercial Agreement must be given in writing and delivered to the addressee at the address indicated in the Commercial Agreement (or such change thereto duly communicated in writing to PRESAGIS) by hand, messenger, or fax, and, if so delivered shall be deemed to have been received by the addressee on the day on which it shall have been actually received, signed as received, or if faxed, shall be deemed to have been received by the addressee upon the next business day following electronic acknowledgement.
- 17.7. Transfer, Assignment or Sub-License:
Neither Party can assign (by operation of law, merger or otherwise) this Agreement, or any of its rights, interests and obligations under it, without the prior written consent of the other Party. Any purported assignment by a Party without the other Party's consent will be without effect. In the event of corporate merger, amalgamation, divestiture or asset sale, PRESAGIS will have the right to transfer and assign its rights, interests and obligations under the Agreement to any third party (Assignee), upon written notice to the other party, provided that the Assignee agrees, in writing, to all of the provisions set out in the Agreement. Notwithstanding any provision in the Agreement to the contrary, the Agreement may be assigned without notice in whole or in part by PRESAGIS to any of its subsidiaries and affiliated companies.
A fee will be charged for any license transfer request if the Licensee has not purchased the separate maintenance services as per Section 17.4. PRESAGIS reserves the right to charge a fee for any assignment or sub-license request.
- 17.8. Force Majeure: Dates and times by which PRESAGIS is required to perform any obligations under the Commercial Agreement shall be postponed automatically for the period of time that PRESAGIS is prevented from meeting such obligations by reason of any cause beyond its reasonable control, provided PRESAGIS promptly notifies Licensee and in detail of the commencement and nature of such cause and the probable consequences thereof.
- 17.9. Severability: If any term or provision of this Agreement or the Commercial Agreement is determined to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions hereof shall remain in full force and effect so long as the economic and legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party; and the parties hereto shall negotiate in good faith to modify this Agreement or the Commercial Agreement, as applicable, so as to effect the original intent of the parties as closely as possible so that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- 17.10. Language: The parties declare that they have requested and hereby confirm their express wish that this Agreement, the Commercial Agreement and any related Agreements and documents are drawn up in the English language, and that any modification, letter or any other communication from a party to the other party shall be solely in the English language.
- 17.11. Entire Agreement: This Agreement, the Commercial Agreement and any other agreement(s) referred to therein, constitutes the entire agreement between the parties and supersedes and overrides all prior discussions, representations, understandings or Agreements, whether verbal or written, between the parties hereto or their agents with respect to or in connection with the subject matter hereto. In the event of inconsistencies between the terms of this Agreement, the Commercial Agreement and any other document, the terms of the Commercial Agreement shall prevail and override. However, in the event that Licensee issues a purchase order or other instrument covering the Product, any terms and conditions in such purchase order or other instrument, whether stated in text or incorporated by reference, other than those expressly accepted by PRESAGIS, and in particular any standard terms and conditions of Licensee, be it in small print or printed on the back of such document, or available on the Licensee's website, shall be deemed to be inapplicable and shall have no force or effect.

End of Agreement