

Sparx Systems Pro Cloud Server End User License Agreement (EULA)

Version 2.0

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In this End User Licence Agreement, unless the contrary intention appears,

- "Enterprise Architect Software" means the proprietary software wholly owned and controlled by SPARX;
- "EULA" means this End User License Agreement
- "SPARX" means Sparx Systems Pty Ltd A.C.N 085 034 546
- "Licensee" means YOU, or the organisation (if any) on whose behalf YOU are taking the EULA.
- "SOFTWARE PRODUCT" or "SOFTWARE" means "Sparx Systems Pro Cloud Server", which includes computer software and associated media and printed materials, and may include online or electronic documentation.
- "Support Services" means email-based support provided by SPARX, including advice on usage of Sparx Systems Pro Cloud Server, investigation of bugs, fixes, repairs of models, if and when appropriate, and general product support.
- "SPARX support engineers" means employees of SPARX who provide on-line support services.
- "WEBEA" means the html, php, css and all other associated files used to view Enterprise Architect Software model information via a web browser through the SOFTWARE PRODUCT's OSLC INTERFACE.
- "WORKER EDITION" means the copy of Enterprise Architect Software installed within the SOFTWARE PRODUCT service. It may be installed on a server and can only be used to update diagrams and document caches for models hosted by the Pro Cloud Server and WebEA.
- "OSLC INTERFACE" is the Application Programming Interface (API) exposed by the SOFTWARE PRODUCT over network protocols.

2. GRANT OF LICENSE IN THE SOFTWARE PRODUCT

In accordance with the terms of this EULA YOU are granted the following rights:

- To install, use copies of the SOFTWARE PRODUCT, or in its place, any prior version for the same operating system, on a single server run by YOU.
- YOU may make a second copy for backup purposes.
- To install the WebEA components to a single server in conjunction with a suitable web server to provide access to the Pro Cloud Server instance and configured repositories licensed under this EULA.
- To modify the WebEA components for your internal use only.
- To install the WORKER EDITION on a single server to directly support the functioning of the SOFTWARE PRODUCT
- To use the OSLC interface to support internal business processes and integration between systems within the business context of the licensee.
- To deploy WEBEA onto an internal or external web server to allow web consumption of your models. You must first agree to the WebEA license.

3. ADDITIONAL RIGHTS AND LIMITATIONS

All rights not expressly granted to you are reserve to Sparx. For the avoidance of doubt, and without limitation:

- You explicitly undertake not to sell, rent, lease, translate, adapt, vary, modify, decompile, disassemble, reverse engineer, create derivative works of, modify, sub-license, loan, resell or distribute the Software Product other than as expressly authorized by this EULA.
- SPARX does not allow you to virtualize features of the Software Product separately, or work around any technical restrictions or limitations in the Software Product.
- You undertake not to reproduce or distribute license key-codes except under the express and written permission of SPARX.
- The WebEA components may not be distributed, published, modified, copied or re-used except as indicated above in the Grant of License, and for the internal business purposes of the licensee.
- The WORKER EDITION is for the sole use of the SOFTWARE PRODUCT and may not be used in any other context or for any other purpose.
- Use of the OSLC interface by a 3rd Party as part of a commercial product requires authorization from SPARX and agreement to the Pro Cloud Server Commercial license.

4. ASSIGNMENT

YOU may only assign all your rights and obligations under this EULA to another party if YOU supply to the transferee a copy of this EULA and all other documentation including proof of ownership, and they agree to be bound by these terms, and inform SPARX of this fact. Your license is then immediately terminated.

5. TERMINATION

Without prejudice to any other rights, SPARX may terminate the license granted to you under this EULA if YOU fail to comply with the terms and conditions. For the avoidance of doubt, any use of the SOFTWARE PRODUCT outside the scope of this Agreement requires the written

consent of SPARX, and any such approval may be withheld at its discretion. Upon termination YOU or YOUR representative shall destroy all copies of the SOFTWARE PRODUCT and all of its component parts or otherwise return or dispose of such material in the manner directed by SPARX.

6. WARRANTIES AND LIABILITY

- SPARX warrants that:
 - The SOFTWARE PRODUCT will perform substantially in accordance with the accompanying written materials for a period of ninety (90) days from the date of receipt of the Software Product, and
 - Any Support Services provided by SPARX shall be substantially as described in applicable written materials provided to YOU by SPARX, and SPARX support engineers will make commercially reasonable efforts to solve any problems associated with the SOFTWARE PRODUCT.

7. EXCLUSIONS

To the maximum extent permitted by law, SPARX excludes, for itself and for any other supplier of software incorporated in the SOFTWARE PRODUCT, all liability for all claims, expenses, losses, damages and costs made against or incurred or suffered by YOU directly or indirectly (including without limitation lost costs, profits and data) arising out of:

- YOUR use or misuse of the SOFTWARE PRODUCT;
- YOUR inability to use or obtain access to the SOFTWARE PRODUCT;
- Negligence of SPARX or its employees, contractors or agents, or of any supplier of software incorporated in the SOFTWARE PRODUCT, in connection with the performance of SPARX's obligations under this EULA; or
- Termination of this EULA by either party for any reason.

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The SOFTWARE PRODUCT and any documentation are provided "AS IS" and all warranties, whether express, implied, statutory or otherwise, relating in any way to the subject matter of this EULA or to this EULA generally, including without limitation, warranties as to: quality; fitness; merchantability; correctness; accuracy; reliability; correspondence with any description or sample, meeting your or any other requirements; uninterrupted use; compliance with any relevant legislation; and being error or virus free are excluded. Where any legislation implies in this EULA any term, and that legislation avoids or prohibits provisions in a contract excluding or modifying such a term, such term shall be deemed to be included in this EULA. However, the liability of SPARX for any breach of such term shall, if permitted by legislation, be limited, at SPARX's option to any one or more of the following upon return of the SOFTWARE PRODUCT and a copy of the receipt:

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- The replacement of the SOFTWARE PRODUCT, or the supply of an equivalent SOFTWARE PRODUCT;
- The repair of such SOFTWARE PRODUCT, or the payment of the cost of replacing the SOFTWARE PRODUCT, or of acquiring an equivalent SOFTWARE PRODUCT; or
- The payment of the cost of having the SOFTWARE PRODUCT repaired.

If the breach relates to services in relation to the SOFTWARE PRODUCT:

- The supplying of the services again; or
- The payment of the cost of having the services supplied again.

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At SPARX we take your privacy seriously. A copy of our privacy policy can be found <<http://sparxsystems.com/privacy.html>>. Should you wish to contact us regarding privacy or any other matter contained in this EULA, please contact us at the following address sparks@sparxsystems.com

11. GOVERNING LAW

This agreement shall be construed in accordance with the laws of the Commonwealth of AUSTRALIA, in the state of Victoria.