

COMMERCIAL SOFTWARE LICENSE AGREEMENT – TERMS OF SERVICE

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By checking the box to accept the terms of service, or by installing or otherwise using SAFIR, you acknowledge having read and understood this Software License Agreement and expressly agree to be bound by all its terms and conditions. If you are entering into this Agreement on behalf of an entity, you represent and warrant that you have the legal authority to bind such entity to these terms.

Background

SAFIR is a software allowing to model the behavior of building structures exposed to fire. A description of SAFIR is available in the scientific publications posted in open access at <https://orbi.uliege.be>.

Licensee wishes to obtain a personal, non-exclusive, non-assignable and non-sublicensable license to use SAFIR as set forth herein and agrees to assume all liability for any damages that may result from its use.

Gesval owns or has rights in SAFIR and agrees to grant such license in accordance with the terms and conditions set forth herein.

1. Grant of rights

Subject to the provisions of this Agreement, Gesval grants to Licensee a personal, non-exclusive, non-assignable, non-transferrable and non-sublicensable (including to Affiliates) limited License to use SAFIR in binary form solely for its own business activities. For sake of clarity, such business activities shall strictly exclude processing data, hosting, or performing any services or operations using SAFIR for, or on behalf of, any Affiliate. Affiliate means any entity directly or indirectly controlling, controlled by, or under common control with Licensee.

Licensee shall not reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of SAFIR (except as and only to the extent the foregoing restriction is prohibited by applicable law).

Licensee is responsible for the installation of SAFIR. SAFIR must be installed and run locally; it cannot be hosted on a network server or shared over a network.

Gesval reserves all rights except those expressly granted to Licensee herein.

2. No Support - Updates - New Releases

Licensee acknowledges that Gesval shall not maintain, correct or provide support with respect to SAFIR. However, during a period of one year starting from the date this Agreement is effective, Gesval shall provide Licensee with Updates free of charge on a when-and-if available basis. Updates means a generally available revision of SAFIR with minor changes and/or error corrections.

This Agreement also entitles Licensee to a single new Release at a discounted price of One thousand eight hundred Euros (€1800) plus VAT. Release means a generally available new version of Safir with new features and/or significant enhancements.

3. License fee and Payment

In consideration of the license rights granted in article 1 above, Licensee shall pay to Gesval a one-time non-refundable license fee of 9000 € (nine thousand EUR) plus VAT. Upon payment of the license fee, Licensee will be sent details on where to download SAFIR and will be provided with a personal SAFIR “identity.key” file.

4. Acknowledgement

All written communications and publications of results obtained with SAFIR shall display the following acknowledgement: "The results presented in this communication/publication were obtained using SAFIR software, reference: *“Modeling structures in fire with SAFIR®: Theoretical background and capabilities”*. Franssen J.-M., Gernay T. Journal of Structural Fire Engineering, 8(3), 300-323, 2017

5. Warranty disclaimer - No liability

Licensee acknowledges and agrees that SAFIR, as a tool for modelling the behaviour of structures subjected to fire, is intended to assist Licensee in Licensee's experimentations and requires some level of expertise and judgment for its correct use and for the interpretation and appropriate reliance of the computed results. SAFIR is not intended to be nor is it a substitute for rigorous and comprehensive physical/structural testing by Licensee.

Licensee acknowledges that SAFIR is provided on an “as is” basis without warranty of any kind, either expressed or implied, including without limitation any warranties of merchantability, operability, fitness for a particular purpose or that the use of the SAFIR and exercise of the licensed rights hereunder will not infringe any intellectual property rights or other rights of third parties. Gesval does not warrant that SAFIR will meet Licensee’s requirements or that the SAFIR will operate uninterrupted or error-free.

SAFIR was created in the course of academic research. Licensee acknowledges and agrees that the consideration which Gesval is charging hereunder does not include any consideration for assumption by Gesval of the risk of Licensee’s direct or indirect damages which may arise in connection with Licensee’s use of SAFIR and reliance on the results obtained from its use and exercise of its rights hereunder. Accordingly, Licensee expressly agrees that Gesval shall not be responsible for any damages whatsoever (including without limitation loss of data, loss of profits or claims from third parties) arising out of Licensee’s

use of SAFIR and the results obtained from such use. By using SAFIR and exercising its licensed rights hereunder, Licensee expressly agrees to assume all responsibility for any and all such use and exercise and agrees that neither Gesval nor University of Liege nor Gernay LLC, nor Safir Support SRL, nor any of their respective researchers, directors, officers, employees, contractors and agents involved in the development of SAFIR (together the “Beneficiaries”) shall be liable in any manner whatsoever for any damages however caused and regardless of the theory of liability arising out of such use and exercise.

Without prejudice to the foregoing, the aggregate and maximum liability of Gesval and the Beneficiaries whatsoever in connection with Licensee’s use of SAFIR shall in no case exceed the license fee set out in article 3 above.

Warranty and liability disclaimers set forth herein are fundamental elements of this Agreement and Licensee agrees that Gesval would not be able to provide SAFIR without such limitations.

6. Indemnification

Licensee shall protect, defend, and indemnify Gesval and the Beneficiaries (together, “Indemnities”) from and against any claims, losses, or damages of third parties (i) allegedly arising from or related in any way to any act or omission of Licensee performing or exercising rights granted under this Agreement, or (ii) allegedly caused by or arising in any way from SAFIR. Licensee shall defend the Indemnitees against any claim subject to this article 6 with counsel reasonably acceptable to Indemnities and shall hold the Indemnities harmless as against any judgments, fees, expenses, or other costs arising from or incidental to any such lawsuit, claim, demand or other action, whether or not any Indemnitees are named as a party defendant in any such lawsuit.

7. Export control

Licensee acknowledges that it is responsible for complying with the applicable laws and regulations of the United States relating to exports and re-exports. Licensee warrants that it is and will remain in compliance with all such laws and regulations with respect to SAFIR. Licensee agrees that it will not sublicense, distribute, transfer, release, or otherwise export or re-export SAFIR in violation of any such laws and regulations, including regulations prohibiting export to or transactions with countries, entities or persons subject to U.S. economic sanctions laws enforced by the Office of Foreign Assets Control (“OFAC”) (the “OFAC Regulations”). Countries subject to the OFAC Regulations can and do change from time to time. Countries which are currently comprehensively sanctioned under the OFAC Regulations include: the Russian Federation, Cuba, Iran, North Korea, Syria and Ukraine (Crimea, Donestsk and Luhansk region only) (the “Comprehensively Sanctioned Country(ies)”). Additional countries, entities and persons are also subject to targeted sanctions and require screening prior to engaging with them. SAFIR may not be downloaded, sublicensed, transferred or otherwise exported or re-exported, directly or indirectly, including via remote access into any country (especially a Comprehensively Sanctioned Country) or to anyone whose name is on the U.S. Treasury Departments List of Specially Designated Nationals (“SDN List”) in violation of these U.S. laws and regulations.

By downloading and/or using SAFIR, Licensee represents and warrants that (i) he is not in or from a country for which download /use is prohibited; and; (ii) it is not on the SDN List.

8. Construction

Licensee acknowledges that it has had full opportunity to consult with legal counsel regarding the terms of this Agreement and any ambiguity or uncertainty in this Agreement will not be construed against the drafter.

9. Entire agreement - Severability

This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes any prior agreements, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter hereof. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

10. Term and Termination

This Agreement is effective upon the provision of SAFIR identity.key by Gesval as set out in article 3 above and shall continue until terminated as provided below.

Licensee may terminate this Agreement at any time by ceasing to use SAFIR. Gesval may terminate this Agreement immediately if Licensee materially breaches any provision of this Agreement.

In case of termination of this Agreement, Licensee will immediately uninstall SAFIR from the computer(s) on which it is installed and will certify to Gesval that SAFIR is no longer installed. For sake of clarity, the license fee is non-refundable.

Any liabilities accrued prior to termination shall survive and in particular the provisions of Articles 5, 6, 7 and 11 which shall remain in full force and effect.

11. Governing law

This Agreement shall be governed by, and construed in accordance with, the laws of Belgium without giving effect to any choice of law principle that would require the application of the laws of a different country. The Parties agree that in the event of a dispute arising from, or in any way related to this Agreement, they shall undertake good faith efforts to resolve the matter amicably. Any dispute which cannot be settled amicably by negotiation between the parties shall be exclusively referred to Liège Courts, Belgium.