

Master Agreement for all Product and services

1. Overview scope and purpose of the agreement.

The terms contained herein (the Proscola "Master Agreement") and any accompanying Proscola ordering document, executed as a standalone order form or agreed to by clicking "I agree" as part of an online order process on Proscola's website (in either case, an "Order Form"), constitute the entire agreement ("Agreement") between you (the entity listed in any Order Form; hereafter, "Customer" or "you") and Proscola (the Proscola entity listed in any Order Form; hereafter, "we", "us" or "Proscola") (each individually, a "Party" and collectively, the "Parties"), with respect to the products and/or services listed in any Order Form.

Regarding the Products and Services you acquire, the stipulations of this Master Agreement dictate: (a) your entitlements to access and utilize software provided under either a term-based or perpetual license ("Software"); (b) your entitlements to access and utilize software offered through a software-as-a-service (SaaS) model for a specified term ("SaaS Services"); (c) your entitlements to support and/or maintenance services that you procure or are eligible to receive in accordance with this agreement's provisions ("Support"); (d) any professional services you engage ("Professional Services"); (e) any managed hosting, cloud hosting, or other varieties of hosting services you utilize ("Hosting Services"); (f) any hardware and/or firmware that you purchase ("Equipment").

2. Agreement to terms by using the service.

2.1 SaaS Services License:

For the duration specified in the relevant Order Form, we grant you a non-exclusive, non-transferable, non-sublicensable license to access and utilize the SaaS Services provided by Proscola. These services are available to you via remote access on a subscription basis over the Internet, exclusively to support your operational needs.

2.2 License to Use Software Provided on a Perpetual or Term Basis.

With respect to Software, for the term specified in the applicable Order Form, or where a license is specified as "perpetual", on an ongoing basis unless and until terminated as provided herein, we grant you a non-exclusive, non-transferable, non-sublicensable, license to use the Software on a Designated Configuration solely in support of your operations.

2.3 API License:

Upon purchasing an application programming interface ("API") license, you receive a limited, non-exclusive, revocable, non-sublicensable, non-transferable license to access the APIs listed in the Order Form. These APIs are delivered as web services, facilitating a secure connection to our servers. We will supply the necessary details for secure API usage. The APIs may not be used or installed for any purpose other than what's agreed upon, without our explicit written consent. This includes prohibitions on copying, renting, adapting, disassembling, leasing, assigning, sublicensing, reverse engineering, modifying, or decompiling the APIs. We reserve the right to limit API requests or take measures to maintain our service integrity.

2.4 Authorized Users:

Access to the SaaS Services and/or Software is limited to individuals designated as "Authorized Users," specifically intended for such use.

2.5 License Restrictions:

The use of the Software or SaaS Services must not exceed the limitations on usage, storage, or other restrictions outlined in this Agreement. Without our prior written approval, you are prohibited from allowing any third party to install, configure, access, use, or copy the Software or SaaS Services; from modifying, reverse

engineering, decompiling, disassembling, distributing, creating derivative works from, copying, or exploiting the Software or SaaS Services, except as permitted by law; from selling, sublicensing, renting, leasing, or transferring rights to the Software or SaaS Services; from using the Software or SaaS Services in a time-sharing, outsourcing, or service bureau arrangement, or in any way that supports a third party's business; from concealing, removing, or altering any intellectual property notices on the Software or SaaS Services; or from using the Software or SaaS Services in a way that could pose a security risk or impair their performance or the performance of the hosting environment.

2.6 Delivery:

Unless stated otherwise in an Order Form, ProScola will make the Software or SaaS Services accessible to you as soon as it is commercially feasible after you complete the necessary steps for activation or access, as directed.

2.7 Reservation of Rights:

We expressly reserve any intellectual property rights not specifically granted to you under this agreement.

3. Support and Service Level Agreements

3.1 General Support

If you purchase or qualify for Support as outlined in an Order Form, ProScola will provide you with the Support detailed in the ProScola Customer Support Services Guide available on our website.

3.2 SaaS Services Support

Beyond the standard Support detailed in the Services Guide, for SaaS Services, you will receive or have access to all relevant Corrections, Updates, and Upgrades that ProScola releases during your service term. Unless additional SaaS Services are purchased, you will utilize the version of the software currently hosted by ProScola, which includes any applicable Corrections, Updates, and Upgrades.

3.3 Definitions of Corrections, Updates, and Upgrades

Corrections: Changes such as fixes or modifications made by ProScola to address Software Errors, initially provided as temporary patches and later as permanent Updates.

Software Error: A deviation of the Software or SaaS Services from the standard end user documentation that can be replicated and verified by ProScola, excluding issues arising from your breach of the Agreement or unauthorized alterations of the Software or SaaS Services.

Updates: Object code versions developed by ProScola to fix Software Errors or add functionality, which are then released commercially.

Upgrades: Enhanced or modified versions of the Software or SaaS Services, created at ProScola's discretion to include new features, and released commercially as part of the existing services rather than as separate offerings.

4. Proprietary Rights

4.1 Customer and ProScola Property

Customer Property, including all graphics, text, content, and other materials provided by you or an Authorized User, remains your exclusive property. ProScola and its licensors retain all rights to the Products and Services, including all related materials and intellectual property developed or delivered in connection with our services. During the agreement term, you grant us a non-exclusive, royalty-free license to use Customer Property solely for fulfilling our obligations. This may involve processing by our support or hosting personnel, possibly in foreign countries, under the terms of this Agreement

4.2 Use and Restrictions

You are prohibited from using any Product or Service to store or transmit content that violates laws or is otherwise objectionable. ProScola acts as a passive conduit for online distribution and assumes no liability for Customer Property made available through the Products and Services. We reserve the right to remove content or suspend services if it poses a security risk, violates laws, or breaches this Agreement.

4.3 Rights and DMCA Policy

You grant us the right to use your name and logo for promotional purposes, with the option to request discontinuation. ProScola adheres to the DMCA, responding to infringement notices and taking action against repeat infringers. Notices should be directed to ProScola's General Counsel at the specified address and email. ProScola reserves the right to limit access or terminate services for users infringing intellectual property rights.

Attn: DMCA Notice, General Counsel

ProScola GmbH

Baendelgasse 1

4057 Basel

Email: GeneralCounsel@proscola.com

5. Personal information, Student and teacher Data

5.1 Definition

"Personal Information" (PI) refers to data that can identify an individual. ProScola will use and disclose PI only as outlined in this Agreement. "Student Data" includes PI related to identifiable students or teachers, maintained by educational institutions or by us

5.2 Confidentiality

ProScola commits to treating all PI as confidential, not sharing it with third parties except as specified in this Agreement.

5.3 Access to Information

You authorize ProScola to access or collect PI, including Student Data, as necessary for providing our Products and Services. You are responsible for all Student Data provided by you or others.

5.4 Use of Information

ProScola may use PI to deliver and improve our Products and Services, enforce our rights, and with consent, for other purposes. We will not use Student Data for targeted advertising and will protect the anonymity of such data.

5.5 Anonymized Data Use

We may use de-identified Student Data for our purposes, ensuring it cannot identify individuals.

5.6 Third-Party Access

ProScola may share PI with necessary employees, affiliates, and third-party service providers, all of whom are obligated to maintain its confidentiality. This may include processing in foreign countries, authorized by you under this Agreement.

5.7 Third-Party Services

Upon your authorization, ProScola can allow third-party access to Student Data through our services. You are responsible for the data practices of third parties accessing Student Data.

5.8 Consents and Authority

You warrant you have the authority to share PI and Student Data with ProScola and have made necessary disclosures to end users about this sharing.

5.9 Data Retention and Deletion

You can request deletion or retrieval of Student Data, which ProScola will execute in a reasonable timeframe or as required by law. Anonymized data derived from Student Data may be retained.

5.10 Data Localization

ProScola may store and process PI in global data centers, including outside the country of collection, as permitted by law. You confirm necessary consents have been obtained for such processing.

6. Data security

6.1 Security Measures and Incident Response

We commit to maintaining commercially reasonable administrative, physical, and technical safeguards to protect Customer Property and Personal Information (PI), including Student Data, against unauthorized access, disclosure, or use. This may involve, where appropriate or mandated by law, the use of encryption, firewalls, and controlled access to physical locations and data files.

In the case of a suspected security breach where unauthorized access to PI, including Student Data, is believed to have occurred, we will promptly notify you upon forming a good faith belief of such an incident. We will act in accordance with legal requirements to notify you within the timeframe mandated by applicable laws.

We will also support your efforts to investigate the breach by cooperating fully and providing necessary assistance. Should the breach necessitate notification to affected individuals or third parties as per legal obligations, you, as the PI owner, will manage the notification process, including its timing, content, and execution, unless specific laws dictate otherwise. You will also bear the responsibility for any costs associated with these notifications and ensuring compliance with relevant legal standards

7. User Responsibilities and Copyright Compliance

7.1 User Obligations Regarding Copyrighted Material

By agreeing to these Terms and Conditions, the User acknowledges and agrees that it is their sole responsibility to ensure that any content, including but not limited to lessons, tasks, images, texts, and videos ("User-Generated Content"), created, uploaded, or disseminated through the ProScola software package, does not infringe upon the intellectual property rights of any third party. The User affirms that they possess either the copyright or a valid license to use all components of the User-Generated Content and that such use does not violate or infringe upon the rights of any third party. When the users share their lesson they need to ensure that no copyright is violated.

7.2 Indemnification for Copyright Infringement

The User agrees to indemnify, defend, and hold harmless ProScola, its affiliates, officers, agents, employees, partners, and licensors from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of User-Generated Content the User submits, posts, transmits, or otherwise makes available through the ProScola software package, the User's use of the ProScola software package, the User's connection to the ProScola software package, the User's violation of these Terms and Conditions, or the User's violation of any rights of another.

7.3 Disclaimer of Responsibility for User-Generated Content

ProScola does not assume any responsibility for the monitoring of User-Generated Content for inappropriate or illegal material. Furthermore, ProScola assumes no responsibility for the deletion, failure to store, misdelivery, or untimely delivery of any User-Generated Content. ProScola expressly disclaims any responsibility to remove or delete any User-Generated Content unless expressly required by applicable law.

7.4 User Obligations in Content Sharing

When a User elects to share any lesson, task, or material ("Shared Content") with other teachers by making it publicly available through the ProScola software package, the User must ensure that they have all necessary rights, licenses, consents, and permissions to use and to authorize ProScola and other users of the ProScola software package to use the Shared Content in the manner contemplated by the service and these Terms and Conditions.

7.4 User Responsibility for Content Validity

It is the sole responsibility of the User to ensure that rights to use any User-Generated Content are maintained. In the event that the right of use for any material included in User-Generated Content expires or is otherwise revoked or invalidated, the User acknowledges and agrees that the responsibility to delete such material from the ProScola software package and to cease any further use of said material in new or existing User-Generated Content rests solely with the User. ProScola shall bear no responsibility for monitoring, deleting, or notifying Users of any such expiration or revocation of rights to use any User-Generated Content.

7.5 Limitation of Liability

Under no circumstances shall ProScola be liable for any direct, indirect, incidental, special, consequential, or exemplary damages resulting from any aspect of the User's use of the ProScola software package, whether or not ProScola has been advised of the possibility of such damages, arising from the use or inability to use the service, from reliance on the completeness, accuracy, or existence of any advertising, or as a result of any relationship or transaction between the User and any advertiser or sponsor whose advertising appears on the service.

8. Term and Termination

8.1 Term and Renewal

This Agreement becomes effective from the date an Order Form is signed by both parties, accepted by you online, or as specified on an Order Form ("Effective Date") and remains valid until the expiration or termination of the term outlined in the Order Form. Certain Products and Services, such as SaaS Services, may have license terms that are renewable beyond their initial period as detailed on the Order Form. The Agreement will remain in force through any such renewal periods. Apart from the termination rights provided herein, neither party has the right to early termination and is obligated to fulfill their payment and other contractual duties for the duration of the initial and any renewal terms.

8.2 Termination for Breach

Should either party materially violate any duty, representation, or warranty under this Agreement, the non-violating party has the right to terminate the Agreement in its entirety, or, at their discretion, only the specific Product or Service related to the breach, assuming the breach remains unremedied thirty (30) days following written breach notification. Notwithstanding, ProScola reserves the right to immediately terminate the Agreement upon written notice if you materially breach any license usage restrictions outlined in the Agreement.

8.3 Effect of Termination

Upon the Agreement's termination, or the termination or expiry of any license or authorization to use any Products or Services, you and your Authorized Users must immediately stop using the applicable Products and Services (or all, in the case of the Agreement's termination), and you must promptly settle any outstanding payments for such Products and Services. Furthermore, if termination occurs before the end of any term for a Product or Service due to your breach, you are required to pay all fees due or that would have been due without the termination. Following any termination or expiration of the Agreement, each party must: (a) cease using the other party's Confidential Information immediately, (b) delete the other party's Confidential Information from all storage media to the extent commercially feasible; and (c) return or, if preferred by the other party, destroy all copies of the other party's Confidential Information.

8.4 Survival

The termination or expiration of this Agreement does not absolve either party of any accrued obligations or liabilities, nor does it hinder the exercise of any rights accrued under this Agreement prior to such termination or expiration.

9. General Warranties

9.1 By ProScola

ProScola guarantees that (a) the Software or SaaS Services provided to you will be free from Software Errors (as previously defined) for one year following delivery, or throughout the duration of the relevant SaaS Services; (b) Professional Services and Hosting Services will be executed professionally in line with industry norms; and (c) we will adhere to all laws regulating our performance under this Agreement. Should you promptly inform us in writing of any warranty breach, we will undertake commercially reasonable efforts to rectify or otherwise resolve the non-compliance to ensure substantial fulfillment of the warranty. For breaches related to subsections (a) or (b), our resolution may involve a code correction, a workaround, or another form of modification. If we fail to correct the issue within a reasonable timeframe, then YOUR SOLE AND EXCLUSIVE REMEDY will be: (i) for Professional Services or Hosting Services, to request a refund of the fees paid for the services that remained deficient; and (ii) for licensed Software or SaaS Services, to seek compensation for direct damages resulting from the breach, within the bounds of the liability limitations set forth below. These warranties from us are void if you materially breach this Agreement.

9.2 By Customer

You warrant that: (a) you possess or have adequate rights to the Customer Property, enabling you and your Authorized Users to utilize, and allow the use of, the Products and Services, in accordance with the warranties related to Proprietary Rights and PI, including Student Data; (b) you will observe all laws pertinent to your utilization of our Products and Services; and (c) the individual signing or accepting the Order Form and this Agreement on behalf of the Customer has the proper authority to do so.

9.3. Disclaimer of Other Warranties. EXCEPT AS EXPRESSLY AND SPECIFICALLY PROVIDED IN THE AGREEMENT: (A) THE PRODUCTS AND SERVICES ARE PROVIDED "AS IS" AND, TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE AND OUR LICENSORS AND SUPPLIERS DISCLAIM ALL OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; (B) NEITHER WE NOR OUR LICENSORS WARRANT THAT THE PRODUCTS AND SERVICES WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION; AND (C) WE DISCLAIM ALL REPRESENTATIONS OR WARRANTIES, AND ASSUME NO LIABILITY, FOR ANY THIRD PARTY SOFTWARE OR SERVICES OR FOR THE CONTENT OR OPERATION OF ANY THIRD PARTY WEBSITE (INCLUDING A WEBSITE TO WHICH A LINK IS PROVIDED FROM OUR PRODUCTS AND SERVICES).

10. Mutual Limitations of Liability

10.1. Consequential Damages Exclusion. EXCEPT AS EXPRESSLY PROHIBITED BY LAW AND OTHER THAN WITH RESPECT TO A BREACH OF YOUR LICENSE OR CONTENT RESTRICTIONS, AND EACH PARTY'S INDEMNITIES SET FORTH IN THE AGREEMENT, IN NO EVENT WILL EITHER PARTY OR SUCH PARTY'S LICENSORS' BE LIABLE, EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY, FOR: (A) ANY LOSS OF BUSINESS, CONTRACTS, PROFITS, ANTICIPATED SAVINGS, GOODWILL OR REVENUE; (B) ANY LOSS OR CORRUPTION OF DATA, OR (C) ANY INCIDENTAL, INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES).

10.2. Mutual Limitations of Liability. EXCEPT AS EXPRESSLY PROHIBITED BY LAW AND OTHER THAN WITH RESPECT TO A BREACH OF YOUR LICENSE OR CONTENT RESTRICTIONS, YOUR PAYMENT OBLIGATIONS, AND EACH PARTY'S INDEMNITIES SET FORTH IN THE AGREEMENT, IN NO EVENT SHALL EITHER PARTY'S OR SUCH PARTY'S LICENSORS' CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING FROM OR RELATING TO THE AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM, EXCEED THE AMOUNTS PAID BY CUSTOMER FOR THE AFFECTED PRODUCTS AND SERVICES DURING THE TWELVE (12)-MONTH PERIOD IMMEDIATELY PRIOR TO THE FIRST CLAIM ASSERTED HEREUNDER. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THE AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE OR HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

10.3. Essential Basis. The Parties agree that the warranty disclaimers, liability exclusions, indemnities, fees and limitations of the Agreement form an essential basis of the Agreement.

11. Mutual Indemnities

11.1 ProScola's Indemnity Obligations

Should a third party claim that our Products and Services infringe on a European or U.S. patent, copyright, or result from our gross negligence or willful misconduct, you must inform us promptly in writing without admitting fault. If you've met all obligations and aren't materially breaching this Agreement, we will indemnify, defend, and hold you harmless at our expense. For infringement claims, we may either secure the right for you to continue using the Products and Services, modify or replace them to avoid infringement without reducing functionality, or refund the fees for the current term, ceasing their use. We retain the right to manage the defense or settlement of such claims, requiring your cooperation at our expense, while consulting with you and any legal advisors you appoint at your expense.

11.2 Exceptions

Our indemnity does not cover infringement claims arising from integrating the Products and Services with non-provided materials unless they are essential to the patent claim and not a common commodity with substantial non-infringing uses. We are not liable for claims based on: (a) unauthorized use of the Products and Services; (b) Customer Property or content submitted through your account; (c) your legal violations, gross negligence, or willful misconduct; (d) access by others using your security details; or (e) unauthorized modifications to the Products and Services ("Customer Matters").

11.3 Your Indemnity Obligations

You will indemnify, defend, and hold ProScola and its affiliates harmless against losses from third-party claims arising from Customer Matters, at your expense. You control the defense or settlement of these claims, keeping us informed and consulting with our appointed legal advisors at our expense. We will notify you promptly of any claims without admitting fault and assist in the defense at your request and expense.

12. Miscellaneous Matters.

12.1 Severability

Should any part of this Agreement be deemed illegal, invalid, or unenforceable by a court, the remainder of the Agreement shall continue in force. The Agreement will be modified to reflect the intent of the invalidated provision as closely as possible.

12.2 Conflict Resolution

For any disputes arising from or related to this Agreement, the parties will first seek a mutual resolution. Failing resolution within thirty (30) days, the dispute will proceed to arbitration under the International Chamber of Commerce (ICC) Rules by a panel of up to three arbitrators. Arbitration will be in English, in Basel, Switzerland, and enforceable by any competent court. Costs will be shared equally by the parties. The U.N. Convention on Contracts for the International Sale of Goods does not apply.

12.3 Modification and Waiver

Changes to this Agreement require a written document signed by both parties. A waiver for one breach does not imply a waiver for future breaches and must be in writing to be valid.

12.4 Assignment

You may not assign or transfer any rights or obligations under this Agreement without our written consent. Any unauthorized assignment will be void. This Agreement binds and benefits both parties and their successors and assigns.

12.8 Relationship

ProScola and the Customer are independent entities. This Agreement does not create any form of partnership, joint venture, or employment relationship between them.

12.9 Entire Agreement

This Agreement, including any associated Order Forms, is the complete and exclusive statement of the agreement between the parties, superseding all previous communications and agreements on the subject matter. It prevails over any conflicting or additional terms in any related documents.