

# PI Probaligence Framework Agreement for Software Licensing

Version 04.07.2024

## 1. Software Assignment/Scope of License/Term

1.1 The present framework agreement (hereinafter referred to as the "Agreement") applies to all individual contracts between PI PROBALIGENCE GmbH, Am Technologiezentrum 5, 86159 Augsburg, Germany, (hereinafter referred to as "PI PROBALIGENCE") and the customer for which reference is made to this framework agreement. These individual contracts are concluded in each case by the customer placing a written order in response to a written offer from PI PROBALIGENCE or from a sales partner authorized by PI PROBALIGENCE and a **License form** signed by both sides. General terms and conditions of the customer do not become part of the contract. The same applies to general terms and conditions of PI PROBALIGENCE, insofar as they are not part of the present contract and the contractual terms and conditions referred to therein. PI PROBALIGENCE is entitled to provide the contractual services with the help of its sales and cooperation partners.

1.2 PI PROBALIGENCE provides the customer with the software described in the **License form** at the current development level currently released by the manufacturer and grants the customer a non-exclusive, non-transferable right of use in accordance with the provisions of this contract for the duration of the respective

individual contract (software rental) depending on the specifications in the **License form**. The granting of the full contractual rights of use is subject to the suspensive condition of full payment of the fee for the software transfer. Until full payment is made, the rights of use are temporarily limited to a period of 30 days from delivery of the software.

1.3 The software is delivered on a data storage medium or can be downloaded from a server, at PI PROBALIGENCE's discretion. The user documentation is written in German and/or English; it is also delivered on a data storage medium or can be accessed online.

1.4 The software can only run if it is activated with a special authorization code. If the **License form** specifies that the software is to be used on a specific computer, the software can only be activated on that computer. The authorization code is provided by PI PROBALIGENCE. As long as the customer only has a temporary right of use before paying the fee for the software, PI PROBALIGENCE only has to provide the customer with a temporary authorization code that allows the software to be used for up to 30 days after delivery of the software. Only after the fee for the software has been paid in full does the customer have the right to an authorization code limited to the duration of the respective individual contract. If the customer wants to use the software on a

different computer than that agreed in the **License form**, he or she will need a new authorization code.

1.5 The customer must ensure that his computer is suitably configured. The software is deemed to have been delivered as soon as the customer has received everything he needs to access the software. The customer installs the software at his own expense.

1.6 The software is made available to the customer for a period of 12 months from delivery of the software, unless otherwise specified in the **License form**. After termination of the contract, all copies of the software on the computers must be deleted and backup copies destroyed.

1.7 The customer receives the software in binary format; he has no right to the source code. Use is legally and technically limited to the number of simultaneous accesses specified in the **License form**.

1.8 The customer is obliged to protect the manufacturer's copyright and industrial property rights to the software. Any reproduction of the software outside of the contractually permitted use is prohibited. The customer is only permitted to modify the software if it serves to correct errors and PI Probaligence is in default with the correction of errors after a written request. Decompiling the software is only permitted to obtain information under the conditions and restrictions of § 69e of the German UrhG Copyright Act and only if PI Probaligence has not provided the required information within a reasonable period of time after a written request.

1.9 If the **License form** refers to additional license conditions, this may result in further specifications regarding the content and scope of the customer's usage rights. In this case, these

license conditions also determine the legal relationship between the customer and PI Probaligence.

1.10 If the **License form** states that it is a "university version", the software may only be used for teaching and research and not for commercial purposes; the customer must submit an annual written report on the use of the software upon request from PI PROBALIGENCE.

## **2. Duties and obligations of the customer**

2.1 The customer may not rent, lend or transfer the software to a third party.

2.2 It is permissible to transfer the software to third parties who are not granted independent rights of use and who must comply with the wishes of the customer with regard to the type and manner of use. Third parties in the above sense include the customer's employees and so-called contract users who provide services for the customer for a limited period of time. The restrictions on use according to Section 1 of the contract remain unaffected.

2.3 When using the software and when transferring the software to third parties as defined in 2.2, the customer is obliged to observe all applicable (re-) export control and embargo regulations. In particular, the customer must always observe the (re-) export control and embargo regulations of the Federal Republic of Germany, the European Union and the United States of America. Before using the software and before transferring the software to third parties as defined in 2.2, the customer will check and take appropriate measures to ensure that no violation of applicable export control regulations results. The customer must obtain any necessary permits or licenses from the responsible authorities. The customer is obliged to provide PI

PROBALIGENCE, upon request, with complete information about the use of the software and, if applicable, about third parties as defined in 2.2 and their use of the software. PI PROBALIGENCE is not obliged to fulfill the contract if this leads to violations of applicable export control regulations. Violations by the Customer of applicable export control regulations entitle PI PROBALIGENCE to extraordinary terminate this contract and all existing individual contracts with the Customer with immediate effect.

2.4 The customer is obliged to back up his data regularly and in accordance with the risk.

### **3. Warranty, third-party property rights**

3.1 The software has the properties described in the user documentation (see section 1.3). The properties of the software described in the user documentation are not guaranteed (no guarantees).

3.2 If the software has defects, PI PROBALIGENCE must, at its discretion, either remedy the defect in question or deliver defect-free software within a reasonable period of time from the customer's notification of the defect. If this remedy fails, the customer is entitled to the statutory claims, unless otherwise specified below. If the customer suffers damage due to defects in the software, the liability limitations in sections 4.1 to 4.6 of the contract apply.

3.3 Claims for material defects do not exist if the software is used on an operating system other than that specified in the **License form**.

3.4 No guarantee is given for the accuracy and/or usability of the results obtained with the software.

3.5 If a third party has claims against the customer for infringement of property rights by

the software provided by PI PROBALIGENCE and the contractual use of the software by the customer is impaired or prohibited as a result, PI PROBALIGENCE will, at its discretion and at its own expense, either provide the customer with modified or replaced software so that it does not infringe the third party's property rights without this resulting in a loss of functionality of the software, or indemnify the customer against license fees for the use of the software by the third party. The customer must immediately notify PI PROBALIGENCE in writing of any alleged infringement of third party property rights. In addition, the customer may not acknowledge the alleged infringement and may only conduct any dispute with the third party about the infringement of property rights with the agreement of PI PROBALIGENCE. Claims by the customer arising from an infringement of property rights are excluded if the infringement is based on the software being modified by the customer or used together with software from another manufacturer. The same applies if the violation is based on improper use, in particular if the use is not in accordance with the contractual user documentation. Further claims by the customer due to a violation of third-party property rights are excluded unless liability is provided for in this contract (sections 4.1 to 4.6 of the contract).

3.6 Extraordinary termination due to non-granting of use (§ 543 Section 2 No. 1 of the German BGB) due to a software defect is excluded as long as the attempt to remedy the defect by PI PROBALIGENCE is not considered to have failed.

3.7 In cases of injury to life, body or health, in the event of an intentional or grossly negligent breach of duty by PI PROBALIGENCE, in the event of fraudulent concealment of a defect or in the

event of claims under the German Product Liability Act, the statutory limitation periods apply.

#### **4. Limitation of Liability**

4.1 PI PROBALIGENCE is only liable for damages, regardless of the legal basis, if they are caused by intent or gross negligence or the intentional or negligent breach of essential contractual obligations. Essential in the above sense are those contractual obligations whose fulfillment makes the proper execution of the contract possible in the first place and on whose compliance the customer can regularly rely.

4.2 In the event of simple negligence, PI PROBALIGENCE's liability is limited to the damage typical for the contract and foreseeable.

4.3 PI PROBALIGENCE is only liable for consequential damages caused by defects in the event of intent or gross negligence; the customer's statutory claims for compensation for damages caused by the delay in remedying the defect remain unaffected.

4.4 The aforementioned limitations and exclusions of liability do not apply to damages resulting from injury to life, body or health for which PI PROBALIGENCE is responsible, nor to liability under the German Product Liability Act.

4.5 The Parties agree that computer-aided calculations must always be verified using appropriate methods, since the results obtained in this way may be incorrect either due to incorrect or inaccurate inputs or hidden software defects.

4.6 Proper use of the software requires special training of the user.

#### **5. Support and Maintenance**

The individual contract includes support and maintenance for the duration of the software license to the following extent:

5.1 Support includes information on how to eliminate operating errors by means of brief telephone advice during normal business hours (service hotline). Support is only provided for the current and previous versions.

5.2 Maintenance includes the delivery of update versions of the software (improved and further developed versions) issued by the respective manufacturer after their release. Update versions may require an update of the operating system and interface programs.

5.3 The support and maintenance obligation is void if the customer makes unauthorized changes to the software.

#### **6. Rental / Maintenance and Support Fees**

6.1 The fee for the provision of software, including the associated granting of usage rights, depends on the respective content of the offer for the provision of software commissioned by the customer. The agreed rental amount applies exclusively for the agreed contract period.

6.2 The fee for the provision of software as well as for support and maintenance services is due for payment immediately after delivery of the software.

6.3 If the term for software rental is extended, the fee is due for payment immediately after the start of the new term.

6.4 The customer is responsible for customs duties, taxes and all other charges incurred in connection with the provision of the software.

The same applies to postage, freight and packaging.

## **7. Contract extensions**

The extension of the software rental term requires a written agreement. This agreement requires a written order from the customer based on a previous offer from PI Probaligence or from a sales partner authorized by PI PROBALIGENCE and the signing of a new license form.

## **8. Other provisions**

8.1 The customer's rights from this framework agreement and the individual contracts cannot be assigned to third parties. The customer can only offset payment claims from PI PROBALIGENCE or a sales partner authorized by PI PROBALIGENCE against claims from the respective individual contract or with undisputed or legally established claims. The customer is only entitled to a right of retention for claims from the respective individual contract..

8.2 German law applies, excluding the UN Convention on Contracts for the International Sale of Goods. If the customer is a merchant, a legal entity under public law or a special fund under public law, or if he has no general place of jurisdiction in Germany, the court responsible for Düsseldorf is agreed as the exclusive place of jurisdiction for all legal disputes arising from and in connection with the contract, unless another place of jurisdiction is stipulated by law.

8.3 Any additions or changes to this agreement and the **License forms** must be made

in writing. This also applies to any waiver of the written form requirement.

8.4 Should any provision of this contract be or become invalid, the legal validity of the remaining provisions shall remain unaffected. In place of the invalid provision, a valid provision shall be deemed to have been agreed which comes closest to the economic intention of the parties.

## **9. Note on data protection, confidentiality**

9.1 PI PROBALIGENCE will treat all information provided by the customer with the same care as its own confidential documents.

9.2 Sales partners authorized by PI PROBALIGENCE are authorized to transmit the customer's data contained in the **License form** to PI Probaligence if this is necessary for the purpose of licensing the software or processing the customer's support requests.

9.3 To the extent necessary for error detection or problem solving, a sales partner authorized by PI Probaligence may also forward further information and data of the customer (e.g. input data or calculation models) that the customer has provided, as the authorized sales partner and PI Probaligence are obliged mutually in writing to maintain confidentiality.

9.4 If a sales partner authorized by PI Probaligence uses its own sales or cooperation partner to implement the contract and the customer has provided information and data to this partner, the provisions of this section also apply to the partner.