

# FORCESPRO

## Software License Agreement for Academic Use

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## 1. DEFINITIONS

- I. **"AGREEMENT"** means this license agreement including any and all annexes thereto.
- II. **"SOFTWARE"** (FORCESPRO) is a software system owned by EMBOTECH. It consists of two main parts:
  - a. **"DEVELOPMENT SOFTWARE"**, which runs on desktop computing platforms to configure EMBEDDABLE SOFTWARE.
  - b. **"EMBEDDABLE SOFTWARE"** refers to the part of SOFTWARE that, after initial configuration by DEVELOPMENT SOFTWARE, implements the functionality i.e. it implements EMBOTECH algorithms and performs the numerical calculations to control or to operate a physical system, possibly on an embedded computing platform.

Note: DEVELOPMENT SOFTWARE is not required for the operation of EMBEDDABLE SOFTWARE once it has been configured.

### III. NODES / LICENCE OPTIONS:

- a. **"ENGINEERING NODE"** is a single physical hardware system controlled by LICENSEE and accessed by a single user (engineer) to run DEVELOPMENT SOFTWARE and configure EMBEDDABLE SOFTWARE.
- b. **"SOFTWARE TESTING NODE"** is a single PC, workstation, server virtual machine or container controlled by LICENSEE that runs software tests with EMBEDDABLE SOFTWARE (possibly in a cloud-hosted application).
- c. **"HARDWARE TESTING NODE"** is a single physical hardware system controlled by LICENSEE that runs EMBEDDABLE SOFTWARE in an automated fashion and interacts with a physical system (e.g., a wind turbine), or a simulation thereof in real-time (i.e. hardware-in-the-loop testing, HiL).

Any reference to a **"NODE"** herein shall be either to an ENGINEERING NODE, SOFTWARE TESTING NODE, or a HARDWARE TESTING NODE.

- IV. **"CONFIGURATION"** refers to the specific inputs into DEVELOPMENT SOFTWARE needed to configure EMBEDDABLE CODE for the LICENSEE's particular application.
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- install and use the EMBEDDABLE SOFTWARE on the computing platform where DEVELOPMENT SOFTWARE controlled by the LICENSEE is installed
- install and use the EMBEDDABLE SOFTWARE on a maximum number of HARDWARE TESTING NODEs, controlled by the LICENSEE, in accordance with the LICENSE OPTIONS acquired;
- install and use the EMBEDDABLE SOFTWARE on a maximum number of SOFTWARE TESTING NODEs, controlled by the LICENSEE, in accordance with the LICENSE OPTIONS acquired;
- access and print all available documentation for the SOFTWARE; and
- make back-ups for the SOFTWARE;

The exact number of NODEs is stated on the quote and invoice. If this number is not stated, (e.g. on older invoices and quotes), the default numbers are:

- 1 ENGINEERING NODE and
- 0 SOFTWARE TESTING NODEs and
- 0 HARDWARE TESTING NODEs.

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- INTERNAL OPERATIONS and/or the use is not performed at an ACADEMIC ENTITY or on computing platforms not owned by an ACADEMIC ENTITY;
- share results obtained with SOFTWARE under this AGREEMENT with an entity that is not an ACADEMIC ENTITY other than through a publicly available publication.
  - use of EMBEDDABLE SOFTWARE in production (i.e. for commercial purposes);
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  - Use of SOFTWARE in private grounds without liable supervision (safety driver, remote operator or equivalent)
  - Use of SOFTWARE in defense related applications
  - distribute, sublicense or resell the EMBEDDABLE SOFTWARE;
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- Inform EMBOTECH about any conferences/events where papers/demos are presented that contain results obtained with the SOFTWARE or use the SOFTWARE.
- reference SOFTWARE appropriately in any publication, including presentations.
- 6 months after activation of the SOFTWARE provide feedback on functionality and usage based on the questionnaire provided by EMBOTECH.

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During the term of this AGREEMENT, LICENSEE shall also be entitled to receive technical support unless the LICENSE to use the SOFTWARE was provided free of charge. Technical support means assistance by electronic mail with the installation and/or use of the SOFTWARE, including its interaction with supported hardware and operating systems – up to a maximum of 1 hour per license NODE and up to a maximum of 3 hours per LICENSE GROUP.

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LICENSEE understands and agrees that the license will expire automatically immediately after its corresponding six (6) month period from the date where the SOFTWARE has been delivered, unless renewed by both parties.

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Upon termination, LICENSEE shall promptly return all copies of the SOFTWARE in LICENSEE's possession or control, or promptly provide written certification of their destruction.

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LICENSEE herewith agrees that any confidential information concerning the SOFTWARE, which is received hereunder, shall be kept in strict confidence and shall not be disclosed to any third party nor be used other than in connection with this AGREEMENT during the term of this AGREEMENT, and for 3 (three) years beyond expiration or termination of this AGREEMENT.

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## **11. SURVIVAL OF ARTICLES**

Articles 8 (Confidentiality), 9 (Warranties) and 10 (Liability & Indemnity), shall survive the termination or expiration of this AGREEMENT for any reason in addition to those articles surviving by operation of law.

## **12. AMENDMENTS TO AGREEMENT**

The terms stipulated in this AGREEMENT may not be modified in any way without the mutual consent of the parties in writing.

## **13. INDEPENDENT CONTRACTOR**

For the purpose of this AGREEMENT and all services to be provided hereunder, both parties shall be, and shall be deemed to be, independent contractors. Nothing in this AGREEMENT shall be construed to create a partnership, joint venture, employment or agency relationship between EMBOTECH and LICENSEE. Neither party shall have authority to make any statements, representations or commitments of any kind, or to take any action, that will be binding on the other party.

## **14. NO TRANSFER OF RIGHTS AND DUTIES**

Rights and duties derived from this AGREEMENT shall not be transferred or assigned to third parties without the written acceptance of EMBOTECH. In particular, the SOFTWARE cannot be sold, licensed, rented out or otherwise made available to third parties by the LICENSEE other than in accordance with this AGREEMENT.

## **15. NO IMPLIED GRANT OF RIGHTS**

The parties shall not infer from this AGREEMENT any other rights, including licenses, than those that are explicitly stated herein.

## **16. SEVERABILITY**

If any provisions of this AGREEMENT will become invalid or unenforceable, such invalidity or enforceability shall not affect the other provisions of AGREEMENT. These shall remain in full force and effect, provided that the basic intent of the parties is preserved. The parties will in good faith negotiate substitute provisions to replace invalid or unenforceable provisions which reflect the original intentions of the parties as closely as possible and maintain the economic balance between the parties.

## **17. APPLICABLE LAW**

This AGREEMENT as well as any and all matters arising out of it shall exclusively be governed by and interpreted in accordance with the laws of Switzerland, excluding



its principles of conflict of laws.

## **18. JURISDICTION**

In case of any dispute, controversy or difference between the parties hereto in connection with or out of this AGREEMENT, the parties hereto shall first attempt to settle it amicably. Should settlement not be achieved, the Courts of Zurich-City, Switzerland, shall have exclusive jurisdiction.

### **EXHIBIT 1.0 USING SOFTWARE IN RESEARCH WITH/FOR THIRD PARTIES**

In the case that the SOFTWARE is used in research which is ordered by or involves non-academic / commercial / industrial partners parties the following rules apply:

The SOFTWARE is to be installed and used exclusively within the academic organization/lab of the LICENSEE. No code is to be shared with the third-party commercial/industrial parties.

The LICENSEE is required to

- Inform EMBOTECH about the nature of the project, its objectives and the commercial / industrial partners involved
- reference SOFTWARE appropriately in any publication, including presentations and other communication materials.
- inform EMBOTECH about any publication that contains results obtained with SOFTWARE, by sending a copy of the publication in PDF format to EMBOTECH to *publications@embotech.com* once the publication is publicly available. This includes pre-print services such as ArXiv;
- Inform EMBOTECH about any conferences/events where papers/demos are presented that contain results obtained with the SOFTWARE or use the SOFTWARE.