

License Terms and Conditions for gratuitous Software of Bosch Rexroth AG

Version: 02.01.2018

These Terms and Conditions of License terms apply to the provision of standard software to the customer (hereinafter referred to as: "**Licensee**") by Bosch Rexroth AG, Zum Eisengiesser 1, 97816 Lohr a. Main, Germany, www.boschrexroth.de (hereinafter referred to as: "**Licensor**") for use free of charge. Separate license terms apply to different types of provision of software for use. General terms and conditions of the Licensee do not apply, they are explicitly rejected.

1. Definitions

- 1.1. *Affiliated Enterprise*: Every legal entity which is controlled by the Licensee, which controls the Licensee or which is jointly-controlled together with a Licensee. Control is deemed to exist where more than fifty percent (50 %) of the capital shares or voting rights is held or where the corporate management and policy are controlled either directly or indirectly on the basis of capital shares, by virtue of agreements or in any other way.
- 1.2. *Backup Copy*: A copy of software which is produced in case the original software is damaged or inadvertently deleted.
- 1.3. *Bugfix*: Error correction.
- 1.4. *Commencement of the License*: Upon installation of the software.
- 1.5. *Confidential Information*: Software inclusive of the source code (except for Open Source Software components) and other materials marked by the Licensor as being "confidential" or which are otherwise to be considered as confidential.
- 1.6. *Documentation*: All the information required to be able to work with the software as intended.
- 1.7. *FOSS*: Open Source Software and third party software under a royalty-free license.
- 1.8. *Individual Software*: Software that is developed or adapted for a specific Licensee (for distinction: see Standard Software).
- 1.9. *License Data*: In the order documents, possibly a type key named as an order item of its own or a material number and license type in conjunction with the catalogue details valid at the time of the order and with the license sheet or device pass [*Gerätepass*] provided.
- 1.10. *Patch*: A correction supplied to close security gaps or remedy errors including add-ons of functions.
- 1.11. *Standard Software*: Software that has been developed or is adaptable (parametrizable) for a non-specific group of licensees, i.e. any software not covered by sub-sec. 1.8. (for distinction: see Individual Software).
- 1.12. *Update*: A new version of the software containing improvements to the program or new and/or changed functionalities.
- 1.13. *Upgrade*: Renewal of the software version with considerably expanded function.
- 1.14. *Year of Contract*: The first twelve (12) months starting from the beginning of the license in accordance with the contract and every successive twelve-month period.

2. Software

- 2.1. The subject matter of these Terms and Conditions of License is the granting of rights of use to the Licensor's Standard Software (hereinafter referred to as: "**Software**") free of charge. The Software description follows from the License Data and the Documentation which will be made available to the Licensee on request prior to entering into the contract.
- 2.2. The Software comprises, insofar as this is possible, the executable program code and the corresponding Documentation in electronic form and the installation instructions if the Software does not install itself. Subject to the provisions of sub-sec. 2.3., the source code does not form part of the subject matter of the contract.
- 2.3. The Software can possibly contain FOSS. The Licensee will be provided with an up-to-date list of the FOSS contained and of the FOSS license terms respectively applicable on request prior to entering into the contract or when the Software is delivered at the latest.
- 2.4. Insofar as software products of third party providers which are not covered by FOSS are also provided together with the Software, such products may solely be used in connection with the Software. Special terms and conditions of use can possibly apply in this respect which the Licensee will be advised of in an appropriate form.
- 2.5. The Licensor has the right to take technical measures to protect the Software against any unauthorized use, e.g. by means of program locks. The Licensee may not remove such protective mechanisms from the Software or work around them. It can be necessary to apply for a license key to activate the Software after installation and if the Software and/or hardware environment is changed.

3. Delivery

Unless otherwise agreed and in accordance with the provisions below, the Software shall be delivered in the version which is current at the time of delivery. If the Software is provided on a data medium, this might not contain the version which is current at the time of delivery. In this case the current version shall be supplied in retrospect. The delivery and passing of risk of the Software shall be effected at the Licensor's election and, unless otherwise agreed, either by virtue of handing it over to the carrier for dispatch free of charge to the Licensee or by virtue of making the Software available as a download and transmitting the information necessary for the download. The Licensor shall supply a replacement free of charge if the Software or the data medium is damaged or destroyed after the date of the passing of risk.

License Terms and Conditions for gratuitous Software of Bosch Rexroth AG

4. Rights of use

- 4.1. The Licensor grants to the Licensee a right of use to the software either for a limited or an unlimited period of time, this distinction is evident from the License Data and the circumstances prevailing at the time of conclusion of the contract. Unless otherwise evident, the provision for use shall be for an unlimited period of time. With effect from the Commencement of the License the Licensee shall be granted the non-exclusive right to use the Software free of charge in accordance with the following provisions and in compliance with the stipulations of the Documentation. The permissible commercial use covers the installation, loading to the working memory, display and execution of the Software and the intended use of the Software by the Licensee for its own business purposes. The use is only permitted in the countries of destination agreed. In the absence of an explicit agreement, this is the country in which the Licensee has its registered office.
- 4.2. The Licensee may use the Software only for the purpose indicated in sub-sec. 4.1. In particular, the following is only permitted if the Licensor has given its prior consent in writing: (i.) the operation of a computer center for third parties (ii.) the temporary provision of the Software to third parties (e.g. as Application Service Providing, Software as a Service or Cloud Service) or (iii.) use of the Software for training individuals who are not employees of the Licensee.
- 4.3. Duplications of the Software are only permitted insofar as this is necessary for the contractual use. The Licensee may make Backup Copies of the Software in accordance with the state of the art to the extent necessary. Backup Copies shall be marked as such and marked with the copyright notice of the original Software insofar as this is possible. The use of the Backup Copy is only permitted if the copy of the Software originally provided by the Licensor has deteriorated or perished. The Licensee is also subject to these Terms and Conditions of License in respect of the use of the Backup Copy.
- 4.4. Without the prior consent of the Licensor in writing, the Licensee is not entitled to distribute the Software or to otherwise transfer it to third parties or to make it available to third parties (including rental, lease, loan or sub-licensing).
- 4.5. The Licensee is not entitled, subject to sub-sec. 2.3., to edit, change, reverse engineer, decompile or disassemble the program code of the Software or parts thereof or to otherwise establish the source code or to create derivative works based on the Software. The mandatory, obligatory provisions of secs. 69d, 69e German Copyright Act (UrhG) shall remain unaffected by this, however.
- 4.6. The Licensee may not commission third parties who are competitors of the Licensor to conduct measures which are in accordance with sub-sec. 4.5. unless the Licensee proves that the danger of disclosing important business and trade secrets of the Licensor (in particular functions and design of the Software) is ruled out.
- 4.7. If the Licensor voluntarily provides the Licensee with Upgrades or Updates or Patches or Bugfixes, these shall also be subject to these Terms and Conditions of License, except to the extent that they form the subject matter of a separate agreement.

- 4.8. All further rights to the Software not explicitly granted, in particular also including all the rights to the trademark, the business secrets or to other intellectual property in the Software, shall remain with the Licensor. Designations of the Software, in particular copyright notices, trademarks, serial numbers and the like may not be removed, changed or otherwise rendered illegible.

5. Remuneration for the license

The Software shall be provided to the Licensee free of charge.

6. Duties of the Licensee to collaborate and provide information

- 6.1. The Licensee is responsible for its hardware and software environments being compliant with the system requirements of the Software; in case of doubt the Licensee shall obtain advice from the Licensor or specialist third parties before entering into the contract.
- 6.2. The Licensee is responsible for installing the Software. At the Licensee's request, if applicable, the Licensor may conduct the installation in return for remuneration to be agreed separately.
- 6.3. When using the Software, the Licensee is obliged to comply with the duty of care necessary for usage.
- 6.4. The Licensee shall comply with the instructions provided by the Licensor for the operation of the Software.
- 6.5. The Licensee is obliged to take suitable measures to protect the Software against access by unauthorized third parties, in particular to store all the copies of the Software in a protected place.
- 6.6. The Licensee is obliged to take reasonable precautions in case the Software does not work properly either altogether or in part (e.g. by means of daily data backup, failure diagnosis, regular monitoring of the data processing results). The Licensor can assume that all the data of the Licensee which it can come into contact with are secured, unless the Licensee explicitly indicates otherwise in advance.
- 6.7. The Licensee shall bear the disadvantages that result from a violation of the aforementioned collaboration and information duties.

7. Term, Revocation and Termination

- 7.1. Unless otherwise provided in the License Data and ensuing from the circumstances prevailing at the time of conclusion of the contract, the right of use granted with respect to the Software is for an unlimited period of time.
- 7.2. Unless otherwise provided in the License Data in the case of provision for use for a limited period of time, the contract is being entered into for a fixed period of one Year of Contract. In that case, it shall be extended by a respective term of one additional Year of Contract unless terminated by giving three (3) months' notice prior to expiry of the term.
- 7.3. The grant of the rights of use can be revoked or terminated in written form by the Licensor for cause at any time and without complying with a period of notice. Cause shall be deemed to exist in particular if the Licensee violates rights of use of the Licensor by using

License Terms and Conditions for gratuitous Software of Bosch Rexroth AG

the Software over and above the scope permitted under these Terms and Conditions of License. The Licensor reserves the right to claim damages.

- 7.4. Statutory rights and claims shall not be restricted by the provisions contained in sec. 7.

8. End of Contract

When the Licensee's right of use ends (e.g. by virtue of the end of the contract term, notice of termination, revocation or supply of a replacement), the Licensee shall delete or destroy all the data media, copies of the Software including the Backup and the Documentation provided for use and confirm this to the Licensor in writing upon request.

9. Warranty

- 9.1. Except in the event of intent or fraudulent intent [*Arglist*], the Licensor shall not provide any warranty for defects of title or defects as to quality in the Software.
- 9.2. Only the description of the Software provided by the Licensor prior to concluding the contract or agreed in a separate document, e.g. in the Documentation, is decisive for the quality of the Software. The details provided therein are solely to be understood as performance descriptions and not as guarantees. A guarantee is only given if it has been explicitly specified as such in writing by the Licensor before the contract is entered into. Further quality is not owed, and, in particular, it does not derive from public statements or advertising of the Licensor or its distribution partners.

10. Liability

- 10.1. The Licensor shall be liable for damages solely in accordance with the provisions of statute for injury to life and limb, for damage based on the Product Liability Act, for damage caused by fraudulent conduct or intent by the Licensor.
- 10.2. Further liability of the Licensor is excluded, subject to provisions explicitly otherwise agreed in these Terms and Conditions of License.
- 10.3. Contributory negligence of the Licensee must be taken into consideration.
- 10.4. The foregoing restrictions of liability shall also apply to the personal liability of the employees, representatives and/or organs of the Licensor.

11. Data use and data protection

- 11.1. The Licensor has the right to store, use, transfer and/or exploit all of the information contributed and generated by the Licensee in connection with the Software, with the exception of personal or company-related data, for any purposes over and above the purpose of the contract, for instance for statistical, analytical and internal purposes. This right is unlimited and irrevocable.
- 11.2. If personal data are processed, the Licensor shall comply with the statutory data protection regulations. In this case the details on the data collected and the respective processing thereof are set forth in the data protection statement.

12. Confidentiality

- 12.1. The Licensee undertakes to treat Confidential Information in confidence and not to disclose it to third parties unless this is necessary in order to exercise the rights the Licensee is entitled to in accordance with these Terms and Conditions of License. In order to protect the Confidential Information the Licensee shall apply the same measure of care (but not less than a reasonable measure of care) as it applies to its own Confidential Information.
- 12.2. The obligation of secrecy under sub-sec. 12.1. does not apply to Confidential Information (i.) which was already in the lawful possession of the Licensee prior to being disclosed by the Licensor; (ii.) which was or becomes public knowledge without any violation of duty by the Licensee; (iii.) which the Licensee lawfully received from third parties without any secrecy obligations; (iv.) which was disclosed to third parties by the Licensor without any secrecy obligations; (v.) which was developed by the Licensee itself; (vi.) which has to be disclosed by law; or (vii.) which is disclosed by the Licensee with the prior consent of the Licensor in writing.

13. Export control

- 13.1. If, prior to supply, it should transpire that performance of the contract by the Licensor faces obstacles due to national or international export control regulations, in particular to embargos or other sanctions, the Licensor has the right to revoke or terminate the contract. Delays due to export examinations or permit procedures shall interrupt the delivery period unless the Licensor is responsible for such delays.
- 13.2. If termination of the contract is necessary in order to comply with legal regulations of national or international law, the Licensor has the right to give notice of termination of the contract with immediate effect unless the Licensor is responsible for this.
- 13.3. The Licensee undertakes to furnish all the information and documents that are required for the export or movement of the products to be supplied in accordance with the contract and other work results required for the purpose of the supply and which derive from the Licensee's sphere of influence.
- 13.4. When passing on, transferring or otherwise providing to third parties for use in the domestic country and abroad the products to be supplied by the Licensor in accordance with the contract and other work results, the Licensee shall comply with the respectively applicable customs regulations and with the provisions of (re) export control law and obtain the permits necessary for this.
- 13.5. The Software may not be used for the manufacture or development of rockets, chemical/biological or nuclear weapons.

14. General provisions

- 14.1. The courts of Stuttgart, Germany, shall have exclusive jurisdiction and venue insofar as this is legally permissible. The Licensor reserves the right, however, to take legal action at a court with jurisdiction at the registered office or establishment of the Licensee.
- 14.2. The present Terms and Conditions of License and all agreements in this respect between the Licensor and

License Terms and Conditions for gratuitous Software of Bosch Rexroth AG

the Licensee shall be governed by German law excluding the conflict of laws provisions. The applicability of the UN Convention on Contracts for the International Sale of Goods is explicitly excluded.

- 14.3. If a provision should be or become ineffective, the effectiveness of the remaining provisions shall not be affected thereby. In this case the ineffective provision shall be replaced by a permissible provision approximating most closely the economic purpose of the original ineffective provision. This shall apply accordingly to any omissions.
- 14.4. Alterations and supplements to these Terms and Conditions of License must be made in written form. Emails do not comply with the written form requirement.

© Bosch Rexroth AG