License Terms and Conditions for Software Rental

Version: 12.10.2017

These License Terms and Conditions apply to the provision to the customer (hereinafter referred to as: "**Licensee**") of standard software of Bosch Rexroth AG, Zum Eisengiesser 1, 97816 Lohr am Main, www.boschrexroth.de (hereinafter referred to as: "**Licensor**") for use for a limited time period subject to a 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*: The date agreed for commencement of the rental contract.

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. *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.

1.9. *License Type*: Determines the scope and type of the software use and the number of users, see sub-sec. 4.2.

1.10. *Patch*: A correction supplied to close security gaps or remedy errors including add-ons of functions.

1.11. *Target Hardware*: A device on which the software will be installed.

1.12. *Test Version*: A trial version of software with restricted functionality and / or restricted runtime.

1.13. *Underlicensing*: Use of the software in a manner exceeding the agreed scope and type of use agreed.

1.14. *Update*: A new version of the software containing improvements to the program or new and/or changed functionalities.

1.15. *Upgrade*: Renewal of the software version with considerably expanded function.

1.16. *Workaround*: A procedure circumventing a known malfunction of the software.

1.17. *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 the rights of use to the Licensor's Standard Software for a limited period of time subject to a charge (hereinafter referred to as: "**Software**"). 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 the executable program code and the corresponding Documentation in electronic form. 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, delivery periods, default

3.1. 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 if the Software or the data medium is damaged or destroyed during the term of the contract. The Licensor can require a refund of its copying and dispatch costs insofar as the damage/destruction was culpably caused by the Licensee. Sentences 1-3 of this sub-sec. 3.1. shall apply accordingly to supplies in the context of supplementary performance pursuant to sub-sec. 9.5.

3.2. The precondition for the commencement of and compliance with the delivery periods agreed is for the collaborative duties to have been performed, in particular the timely receipt of all documents, permits, examinations, approvals

to be provided by the Licensee, and compliance with the payment terms agreed, in particular with payment of any advance payments agreed.

3.3. If delivery periods are not met due to force majeure or to other events for which the Licensor is not responsible, e.g. war, terrorist attacks, import and export restrictions, governmental orders, the agreed delivery periods shall be extended appropriately by the period of duration of the impediment. This also applies to industrial action affecting the Licensor.

4. Rights of use

4.1. With effect from the Commencement of the License the Licensee shall be granted the non-exclusive right to use the Software for a limited period of time 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 Licensor distinguishes between the following License Types, the details of which derive from the License Data:

a.) In the case of a single user / workstation license, the Licensee has the right to use the Software on one single Target Hardware device.

b.) In the context of a network / server/ copy or floating license, the Licensee may install the Software on a network server or on any number of Target Hardware devices which are integrated into the local network. In this case the Software may only be used simultaneously on a specific number of Target Hardware devices or workstations.

c.) In the event of a volume / multiple / multiple-user license, the Licensee has the right to use a specific number of individual licenses.

d.) Under a corporate license, the Software may be used within the Licensee's enterprise at the establishments agreed.

4.3. The Licensee may use the Software only for the purpose named 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 or (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) the use of the Software for training individuals who are not employees of the Licensee.

4.4. 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.

4.5. Without the prior consent of the Licensor in writing, the Licensee is not entitled to distribute the Software or to other-wise transfer it or make it available to third parties (including rental, lease, loan or sub-licensing). The Licensee may transfer the Software from one device (Target Hardware) or workstation to another device (Target Hardware) or to another workstation, if it is ensured at all times that the Software can only be used in accordance with the scope agreed under the respective license model.

4.6. 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.

4.7. The Licensee may not commission third parties who are competitors of the Licensor to conduct measures which are in accordance with sub-sec. 4.6. 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.

4.8. If the Licensor provides the Licensee with Upgrades, Updates, Patches or Bug Fixes in connection with supplementary performance or maintenance, these shall also be subject to these License Terms except to the extent that they form the subject matter of a separate agreement. After installation of the new Software version, the Licensee's rights to the previous version shall end after a one (1) month transition phase.

4.9. All further rights to the Software not explicitly granted, in particular also including all the rights to the trade mark, 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

5.1. The remuneration agreed in a separate document, otherwise the remuneration set out in the Licensor's price list valid at the respective time, plus value added tax, is payable for the temporary provision and use of the Software in accordance with the scope of use defined in sec. 4 above. Unless otherwise agreed, the remuneration is due in advance for the Year of contract beginning at the Commencement of the License.

5.2. The Licensor has the right to increase the remuneration for the license for the first time after expiry of one Year of Contract by giving three (3) months' advance notice in writing to expire at the end of a Year of Contract, however by up to an amount not exceeding the amount of the Licensor's list prices generally valid at the time of the notification. The fees respectively adjusted may not be further increased until, at the earliest, upon expiry of a further Year of Contract since the last price adjustment. When the fees are adjusted, the Licensee has the right to give six (6) weeks' notice of termination to become effective on the effective date of the price adjustment, insofar as the increase exceeds ten percent (10%) of the last remuneration applicable for the license.

5.3. Unless otherwise agreed in writing, all of the Licensor's invoices are payable at the latest thirty (30) days after the receipt and due date thereof, without any deduction, by cashless transfer to a bank account notified by the Licensor.

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 the Installation of the Software. The Licensor may conduct the Installation at the Licensee's request 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 the usage.

6.4. The Licensee shall comply with the instructions provided by the Licensor for the operation of the Software.

6.5. The Licensee shall advise the Licensor without undue delay of possible errors in the Software. In this connection, the Licensee shall provide all the information necessary at the Licensor's request. The Licensee shall permit the Licensor to access the Software in order to search for and rectify the error; at the Licensor's election this may either be by direct access and/or remote access. This is regulated in more detail in sub-sec. 9.5.

6.6. 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.

6.7. The Licensor has the right to examine whether the Software is being used in compliance with the rights of use granted. To this effect the Licensor may require the Licensee to provide information, in particular on the period of time and extent of the use of the Software, and it may inspect the books and written records and the hardware and software of the Licensee insofar as they reveal any details regarding the period of time and extent of the Software use. To this effect the Licensor shall be permitted to enter the business premises of the Licensee during normal working hours after advance notice of at least two (2) weeks. The Licensee shall ensure to a reasonable degree that the audit can be conducted by the Licensor and shall collaborate in the audit. The Licensor shall use all the information obtained during the audit only for the purpose of verifying the legality of the license use. The Licensee may demand that the on-site audit be conducted by an agent of the Licensor who is subject to professional secrecy. The costs of the audit will be borne by the Licensor unless the audit should reveal that the Licensee is Underlicensed. In such a case the Licensee shall bear the costs of the audit. In the event of the Licensee being Underlicensed, the Licensee shall be additionally obliged to repay the unpaid remuneration on the basis of the list prices generally applicable to comparable services at the time of the audit plus a flat rate claim for damages of ten percent (10 %) of the value of the Underlicensing. In addition, the Licensee shall discontinue any Underlicensing without undue delay. The Licensee remains entitled to prove that the damage was lower.

6.8. 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 as the Licensee explicitly indicates otherwise in advance.

6.9. The Licensee shall bear the disadvantages and more far-reaching additional costs incurred by the Licensor as a result of a violation of the aforementioned collaboration and information duties.

7. Term and Termination

7.1. The permitted use of the Software shall apply for the term of contract agreed which derives from the License Data.

7.2. Except to the extent otherwise agreed, the contract shall be concluded for a fixed term of one Year of Contract. It shall be extended by a respective term of one additional Year of Contract unless terminated by giving three months' notice prior to expiry of the term.

7.3. The contract may be terminated by either party for cause without compliance with a period of notice. Cause shall be deemed to exist in particular if (i.) the Licensee violates rights of use of the Licensor by using the Software over and above the scope permitted under these License Terms and Conditions and fails to discontinue the violation within a reasonable period of time following a warning by the Licensor; (ii.) the Licensee is in arrears with two consecutive payments of remuneration for the license pursuant to sub-sec. 5.1. or with a not inconsiderable part of this remuneration for two successive time periods or is in arrears in a period of time covering more than two time periods with a payment corresponding to the remuneration for two time periods; (iii.) there is a significant deterioration in the financial circumstances of the Licensee or if this is impending and as a result the performance of a payment obligation to the Licensor is in jeopardy or (iv.) the criteria for insolvency or over-indebtedness have been met by the Licensee. In the first case (sub-sec. 7.3. i.), the Licensee has no entitlement to a refund of the license remuneration already paid. The Licensor reserves the right to claim additional 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 or supply of a replacement), the Licensee shall delete or destroy all the data media, copies of the Software including the Backup Copies pursuant to sub-sec. 4.4. and the Documentation provided for use and confirm this to the Licensor in writing upon request. The same shall apply in the event of a replacement being supplied (sub-sec. 4.8.) for the previous Software versions.

9. Warranty

9.1. 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. The Licensor is not obliged to provide support services that go beyond liability for defects. Furthermore, in the context of the maintenance obligation, the Licensor is not obliged to adapt the Software to changes in operating conditions

or to technical and functional developments such as changes to the IT environment.

9.2. The Licensor does not provide a warranty for errors in the Software

a.) Caused by faulty application on the part of the Licensee that could have been avoided if the Documentation had been carefully consulted; this also applies in the event of inexistent or insufficient backup measures pursuant to sub-sec. 6.8. which would have avoided data loss;

b.) Due to virus contamination or to other external influences for which the Licensor is not responsible such as fire, accidents, power failure etc.;

c.) Caused by the Software being used in an operating environment which is different from that approved by the Licensor or due to faults in the hardware, the operating system or to the software of other manufacturers;

d.) Caused by the Software having been modified by the Licensee or third parties without autorization.

9.3. In respect of Software products which the Licensee or a third party has expanded via an interface designated for this purpose by the Licensor, the Licensor shall be liable only for defects occurring up to the interface.

9.4. The Licensee is obliged to notify the Licensor of defects in the Software without undue delay after discovery thereof. In the event of defects as to quality, this shall be done by describing the time when the defects occurred and the more detailed circumstances. If the Licensor undertakes an error analysis at the Licensee's request and if it transpires that there is no defect which the Licensor is obliged to remedy, the Licensor has the right to charge the Licensee for the expenses incurred based on the respectively applicable hourly rates of the Licensor.

9.5. Defects in the Software shall be rectified by the Licensor within a reasonable period of time (supplementary performance). This shall be done at the election of the Licensor by rectifying the defect by means of an Update/ Patch/Bug Fix/Upgrade or by supplying defect-free Software or indicating a Workaround, the latter insofar as this is reasonable for the Licensee taking account of the impacts of the defect and the circumstances of the Workaround solution indicated. In addition, sec. 10 shall apply to claims for damages for fault-based liability.

10. Liability

10.1. The Licensor shall be liable for damages in accordance with the provisions of statute in the event of injury to life and limb, damage based on the Product Liability Act, for damage caused by fraudulent conduct or intent by the Licensor and for damage caused by gross negligence of the statutory representatives or managerial employees [*leitende Angestellte*] of the Licensor.

10.2. Without prejudice to the liability under sub-sec. 10.1, the Licensor shall be liable for damages in an amount limited to the amount of foreseeable damage typical of the contract at the time when the contract was entered into for damage caused by a violation of material contractual obligations through simple negligence and for damage caused by persons engaged in the performance of an obligation of the Licensor [*Erfüllungsgehilfen*]. Material obligations are obligations which, when performed, make the proper execution of the contract at all possible and which the Licensee may regularly rely on compliance with. The amount of damage typical of the type of contract and foreseeable, resulting from violations of duty by the Licensor corresponds to the amount of remuneration paid by the Licensee in the Year of Contract of the event causing the damage, but not exceeding EUR 100,000. If the maximum amount of liability is not reached in one Year of Contract, the maximum amount of liability shall not increase in the following Year of Contract.

10.3. Further liability of the Licensor is excluded, subject to provisions in these License Terms and Conditions explicitly providing otherwise. In particular, the Licensor has no liability for initial defects, except insofar as the precondition of sub-sec. 10.1 or 10.2. has been met. The Licensor is not liable for damage incurred by the Licensee due to a failure to secure data in accordance with sub-sec. 6.8.

10.4. It is partially possible for the Software to be used to influence or control an electronic system. Such actions can cause injury to life or limb or property damage. The Software shall therefore solely be operated by qualified specialist personnel. The Licensor does not assume any liability for damage caused by incorrect operation or by use other than the designated use.

10.5. Joint fault by the Licensee must be taken into consideration.

10.6. The foregoing restrictions of liability shall also apply to the personal liability of the employees, representatives and/or organs of the Licensor. They shall also apply to the liability of the Licensor with regard to compensation for wasted expenditure and to indemnification obligations.

11. Third party rights

11.1. During the term of contract, the Licensor warrants in accordance with the provisions below that the Software does not infringe any third party rights:

a.) If third parties should bring a claim for an infringement of their rights against the Licensee, the Licensor shall indemnify the Licensee from and against all claims for damages resulting therefrom established by a final and non-appealable court judgment and for which the Licensor is responsible, including court costs and the costs of legal defense which are eligible for refund pursuant to the provisions of the German Code of Civil Procedure [*Zivilprozessordnung*]. The Licensor shall support the Licensee during the judicial and extrajudicial settlement of such disputes with third parties.

b.) If (i) a final judgment is returned against the Licensee or (ii) an interim injunction is served on the Licensee enjoining the Licensee from using the Software or at least part of it, the Licensor shall, in order to cure the infringement of rights, at its discretion either obtain for the Licensee the right to continue to use the Software or replace or modify the Software whilst upholding the agreed functionalities or, if neither of the alternatives named is realizable by the Licensor subject to reasonable conditions, terminate the Licensee's rights to the Software in writing. Insofar as is reasonable for the Licensee, the termination shall only be effected to the extent that is necessary to prevent the infringement of the rights.

11.2. The claims of the Licensee under this sec. 11 are subject to the condition that (i) the Licensee advises the Licensor without undue delay of the third party claims brought, (ii) the Licensee provides the Licensor with a copy of all the correspondence in this respect with the claimant and the

courts and always without undue delay after receipt thereof, (iii) the Licensee provides the Licensor with the information required to defend against the claim and (iv) the Licensor reserves the exclusive right to control the conduct of the lawsuit by the Licensee and the right to take the final decision on entering into any judicial and extrajudicial settlements.

11.3. In the event that, in the opinion of the Licensor or a third party, the Software infringes third party rights, the Licensor has the right, at its own discretion taking the interests of the Licensee into adequate consideration, to replace or modify the Software whilst upholding the agreed functionalities in order to remedy the alleged or presumed infringement of rights.

12. Data use and data protection

12.1. 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.

12.2. 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.

13. Confidentiality

13.1. 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.

13.2. The obligation of secrecy under sub-sec. 13.1. 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.

14. Export control

14.1. 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.

14.2. In case of termination pursuant to sec. 14.1., the Licensee's right to claim compensation or to claim further rights because of the termination is excluded.

14.3. 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.

14.4. The Software may not be used for the manufacture or development of rockets, chemical/biological or nuclear weapons.

15. General Provisions

15.1. 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.

15.2. The present Terms and Conditions of License and all agreements in this respect between the Licensor and 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.

15.3. 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.

15.4. 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.

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