

## § 1

### Subject Matter of the License

- (1) The subject matter of the license is the transfer of the standard software of TRUMPF Werkzeugmaschinen GmbH + Co. KG, Ditzingen or the company of the TRUMPF group stated in the License Agreement (“**TRUMPF**” or “**Licensor**”), which is described in the license certificate, the license agreement, the product description or the other documents that result in the conclusion of the license agreement (hereinafter referred to as the “**License Agreement**”) in the agreed version in the object code including the documentation (jointly referred to as “**Software**”). The software license agreement shall enter into force when the License Agreement is signed by the Licensee and the Licensor. TRUMPF points out that other components from publicly available software in the form of open-source software modules (“OSS”) may be necessary to operate the Software. The Licensee can download these OSS modules online free of charge. In order to facilitate the use of the Software, TRUMPF shall give the necessary OSS modules to the Licensee in the form of an endowment. OSS modules are subject exclusively to the license conditions of the respective copyright holder.
- (2) These General Software License Terms also apply to subsequent service releases (updates) and major releases (upgrades) that are provided to the Licensee, unless deviating agreements are made upon handover of the subsequent version or update.
- (3) The Licensor shall deliver a documentation including installation instructions and provide a help function within the Software to call up and print out explanations about the functions while the Software is in operation.
- (4) The Software shall be handed over to the Licensee on a state-of-the-art data carrier. Instead of handing over a data carrier, TRUMPF is entitled to send the Licensee a download link where the Licensee can download the Software from the TRUMPF server after entering into the Software License Agreement and the payment has been made.

## § 2

### Granting of Rights of Use; Terms of Use

- (1) The Licensor shall grant the Licensee a non-exclusive right to use the Software, which is

- a) unlimited in time if it is provided in exchange for a one-off payment (Software purchase, § 3 (1)),
- b) limited in time to the duration of the Software License Agreement if it is provided in exchange for ongoing remuneration (Software rental, § 3 (2))

for the simultaneous use with the number of users agreed in the License Agreement (“**Floating Licenses**”) on the computer systems in its direct possession and that serve the purpose of use. Every input and output device (“**Client**”) that can access the provided Software either directly or indirectly is considered a user. A central license server manages the Floating Licenses and uses technical measures to monitor compliance with the maximum number of users.

- (2) The Licensee may only use the Software for its own purposes and for companies with which it is affiliated according to Sec. 15 of the German Stock Corporation Act (AktG).
- (3) The Licensee is authorized to create an appropriate number of back-up copies of the duplication pieces of the Software provided.
- (4) The Licensee is not authorized to copy, translate, rework, read out or decompile the Software provided. The provisions in Sec. 69 d (3) and Sec. 69 e of the German Copyright Act (UrhG) shall remain unaffected.
- (5) Copyright notices, serial numbers or other features used to identify the Software must not be removed or changed. The same applies to suppressing the display of such features on the screen.
- (6) The Licensee shall not acquire property rights to the Software. All rights to the Software and all relevant rights to patents, copyrights, company secrets or other commercial property rights to the Software shall remain with the Licensor.
- (7) The rights shall be granted subject to the condition precedent of full payment of the due remuneration according to § 6.
- (8) The Software may contain technologies of third parties, including open-source software that are delivered with the Software or are required for use. These other technologies are subject to and provided in accordance with terms that are in addition to or different from the terms set forth in this agreement. Such terms may be obtained upon request to the TRUMPF Service Department. Licensee agrees to comply with such terms. Licensee shall receive a license for third-party technology either in accordance with the terms of these General Software License Terms or according to separate license terms that are defined in the relevant documentation, “Readme” files, note files or other such documents or files (“**OSS License Terms**”). If the rights of the Licensee to use the Software or parts thereof are subject to the OSS License Terms, these rights of the Licensee are in no way limited by these General Software License Terms. If applicable OSS License

Terms require the provision of the source code, the Licensor shall make this available upon written request, and, as the case may be, in exchange for payment of the costs for dispatch and processing.

### **§ 3** **Duration of the License**

- (1) When purchasing the Software, the license is granted permanently, i.e. with no time limitations. In this case, the right to ordinarily terminate the license is excluded for both parties.
- (2) When renting the Software, the license is granted for the minimum term stated in the License Agreement. The minimum term is twelve (12) months, unless otherwise stated in the License Agreement. The rental agreement shall be extended automatically by a further twelve (12) months, unless it is terminated by one of the parties at the end of the term giving three months' notice. This shall not affect the right of each party to extraordinarily terminate the agreement for good cause. Each termination notice requires the written form.
- (3) The regulations in these General Software License Terms for Software rental shall apply to the free provision of Software accordingly.
- (4) If the Licensee has not paid the annual software rental fee in full for the use of the Software for the following year on the agreed due date, the right of use becomes invalid and the Software is blocked. TRUMPF shall send the Licensee a new software key on request, which can be used to reactivate the Software, provided the fee due for the use of the Software (including any default interest and reminder fees) is paid in full after sending a reminder.
- (5) If the Licensee culpably violates the provisions of these General Software License Terms, TRUMPF is entitled to terminate the License Agreement without notice unless the violation and its consequences are only negligible. In this case, the Licensee shall not have the right to claim a refund of the fee paid to use the Software. TRUMPF reserves the right to assert claims for damages.
- (6) At the end of the License, the Licensee's right to use the Software shall expire. It shall return to TRUMPF all provided original data carriers, back-up copies and other copies of the Software on separate data carriers in addition to the provided program documentation and delete the copies of the Software and program documentation installed on its system. The complete return or deletion shall be confirmed in writing to TRUMPF and proven in a suitable way at TRUMPF's request.

## § 4

### Scope of Services, Installation, Maintenance

- (1) Unless otherwise stipulated in the License Agreement, the following services in particular will not be performed by Licensor as part of the Software License Agreement:
  - a) Installation of the Software at the Licensee;
  - b) Individual adjustment of variable parameters of the Software according to the requirements of the Licensee (customizing);
  - c) Individual program extensions for the Licensee;
  - d) Adjustments of interfaces of the Software according to the needs of the Licensee;
  - e) Instruction and training of program users at the Licensee;
  - f) Maintenance of the Software, in particular delivery of new versions of the program version stated in the License Agreement.
- (2) The parties shall enter into separate agreements for the provision of the services for the Licensee stated in paragraph (1).
- (3) For the installation of the Software, reference is made to the installation instructions described in the application documentation, in particular to the hardware and software environment that must exist at the Licensee.
- (4) TRUMPF shall send the Licensee a software key suitable for its system that must be entered to activate the Software. During the installation of the Software on the Licensee's system, the system generates a device-specific key, which is subsequently transmitted to TRUMPF.
- (5) If the Licensee changes the system components, this can lead to the software key becoming invalid and the Software being blocked. TRUMPF shall reactivate the software key for the Licensee on request, which can be used to reactivate the Software, provided the valid general system conditions are met. The subsequent activation is performed by the Licensee. The Licensee shall bear any costs incurred.

**§ 5**  
**Transfer**

- (1) If the license is granted permanently, the Licensee may pass on the Software in full to a third party only in a uniform manner and upon the complete and final surrender of its own use of the Software. The Software may not be used temporarily or partially by third parties in exchange for payment, regardless of whether the Software is provided in a tangible or intangible form. This also applies to passing on the Software free of charge.
- (2) The transfer of the Software requires the written permission of the Licensor. The Licensor shall issue its approval if (i) the Licensee assures the Licensor in writing that it has passed on all original copies of the Software to the third party and deleted all copies that it has made, and (ii) the third party confirms to the Licensor in writing that it agrees with the provisions of this Software License Agreement, particularly the use and handover terms agreed herein. The Licensee shall bear any costs and expenses incurred by TRUMPF for transferring the license.
- (3) If the Software is rented, the Licensee is not permitted to pass on the Software to third parties, particularly to sell or rent it without the separate permission of the Licensor.

**§ 6**  
**Remuneration, Payment Conditions**

- (1) The Licensee shall owe the license fee stated in the License Agreement for the granting of the rights to use the Software. Unless otherwise agreed, the remuneration shall be
  - a) a one-time license fee if the Software is bought;
  - b) a license fee to be paid each year in advance at the latest by the fifth working day of each year if the Software is rented.
- (2) TRUMPF is entitled to adjust the annual license fee giving three months' notice to the beginning of a contractual year, for the first time, however, at the end of the minimum term stated in the License Agreement in order to compensate for cost increases or as part of generally increasing the license prices for the TRUMPF Software. If the fee is increased by more than 3 % compared to the last paid annual license fee, the Licensee shall be entitled to terminate the license in writing at the start of the new contractual year, giving one month's notice. If the Licensee does not terminate the license, the price adjustment shall become effective at the beginning of the new contractual year. TRUMPF shall inform the Licensee of this consequence upon giving notice of the adjustment.

- (3) The license fee does not include taxes. All taxes, e.g. VAT, source taxes, shall be borne by the Licensee.
- (4) The remuneration shall be due and payable within 14 days after receipt of the invoice.
- (5) The Licensor shall retain all rights to the Software until all due payments resulting from the Software License Agreement have been received.
- (6) The Licensee is not permitted to offset the remuneration with counterclaims unless the counterclaim is undisputed or has been established by law.

## **§ 7**

### **Claims for Defects**

- (1) The Licensor warrants that the Software corresponds to the product description in the License Agreement. Technical data, specifications and performance data in public statements, particularly in adverts, are not quality specifications.
- (2) If the Software shows defects, the Licensee can request that the Licensor rectify the defect within a suitable period of time. If the defect does not affect or only insignificantly affects the functionality of the Software, the Licensor is entitled to rectify the defect, to the exclusion of other warranty rights, by providing a new program version or a further development of the Software as part of its general version planning.
- (3) As part of rectifying the defect, measures may be performed remotely by telephone, e-mail or via remote access at the Licensor's request. The Licensee shall grant TRUMPF access to its system and the Software installed on it to provide the contractual services to rectify the error in the necessary scope. This includes the option of accessing the Software by remote maintenance (such as by VPN). The Licensee is obliged to establish the necessary technical requirements for remote access at TRUMPF's request.
- (4) The Licensor can refuse to perform the improvement until the Licensee has paid the Licensor the agreed remuneration less an amount that equates to the economic value of the defect. The Licensor is also entitled to refuse the warranty if the Licensee has not given notice of the defects giving an understandable description of the error symptoms in writing and, if possible, by submitting drawings, screenshots or other documents that illustrate the defects to be prepared in writing immediately after the defect is identified and/or does not give TRUMPF remote access according to paragraph (3).
- (5) The Licensee shall submit to TRUMPF the name of a qualified employee as the main contact partner, who will adequately support TRUMPF when rectifying de-

fects and make or immediately obtain all decisions relating to the provision of services by TRUMPF or acts of participation by the Licensee.

- (6) The Licensor shall ensure that the Software is free of third-party rights that would prevent the contractual use by the Licensee.
- (7) If there are defects of title, the Licensor is entitled to choose either itself or TRUMPF
  - a) to perform suitable measures that remove the third-party rights or their assertion preventing the contractual use of the Software or
  - b) to change or replace the Software in a way that it no longer violates the rights of third parties if and provided this does not impair the agreed functionality of the Software.
- (8) The limitation period for warranty claims for defects shall begin upon delivery of the first copy of the Software including application documents. This shall not apply to warranty claims for defects that first affect subsequent copies delivered.
- (9) If an alleged defect cannot be classified as a warranty obligation of the Licensor following review (imaginary defect), the Licensee can be charged with the services provided by the Licensor to verify and rectify the error at the valid remuneration rates plus the expenses incurred unless the Licensee would not have been able to identify the imaginary defect even by exerting due diligence.
- (10) The limitation period for warranty claims is one year.
- (11) If the Software is rented, liability for initial defects regardless of fault according to Sec. 536a (1) of the German Civil Code (BGB) is excluded.
- (12) TRUMPF points out that there may be compatibility problems with the Software if OSS modules are used that do not exactly correspond to the OSS modules specified by TRUMPF in the product description e.g. because an OSS module has a different release version. Furthermore, changes or adjustments the Licensee makes to the OSS modules can impair the functionality and compatibility problems can occur. There are no warranty claims for the compatibility and functionality of the Software with OSS modules that do not correspond with the specifications or have been changed by the Licensee.

## **§ 8 Liability**

- (1) The Licensor shall be liable without limitations for damages resulting from injury to life, limb or health or resulting from a violation of a warranty. The same applies

to intent and gross negligence. The Licensor shall only be liable for slight negligence if essential contractual duties are violated, which arise from the nature of the contract and are significant for achieving the contractual purpose (“wesentliche Vertragspflichten”). In case of the violation of such obligations, delays and impracticality, the liability of the Licensor is limited to damages, the occurrence of which must be typically expected as part of the Agreement. Liability according to the German Product Liability Act shall remain unaffected.

- (2) If the liability of the Licensor is excluded, this also applies to the personal liability of employees, workers, personnel, representatives and vicarious agents of the Licensor.

## **§ 9**

### **Excessive Use, Audit Right**

- (1) The Licensee shall keep complete and correct documentation that allow for a clear decision to be made about whether the Licensee is using the Software in line with the provisions of this Software License Agreement. TRUMPF shall have the right to check the Licensee’s compliance with the license terms itself or to have an independent auditor conduct an audit at the Licensee. TRUMPF shall appoint an independent auditor for this who is subject to a confidentiality obligation.
- (2) The audit shall be announced at least 30 days in advance and shall be performed during the normal business hours in a way that does not unreasonably affect the normal business activities of the Licensee. The Licensee must immediately provide the independent auditor with all information it can request to support the inspection in a suitable way, including access to the system on which the Software is run.
- (3) Alternatively, TRUMPF can ask the Licensee to complete and send to TRUMPF the self-audit questionnaire relating to the Software that the Licensee uses. However, TRUMPF reserves the right to initiate an audit process as specified above.
- (4) If the audit or self-audit reveals an unlicensed use, the Licensee must immediately order enough licenses based on the valid price lists of the Licensor in order to cover its use. TRUMPF shall bear the costs for inspection unless this reveals substantial sub-licensing. In this case, the Licensee shall reimburse TRUMPF for the costs incurred during the audit, particularly the costs of the appointed auditor.

## **§ 10**

### **Compliance with export regulations**

- (1) The obligation of the Licensor to perform its duties under this Agreement shall be subject to the condition that no obstacles due to national or international regulations of customs and foreign trade law as well as no embargoes and/or other sanctions prevent performance of the duties.
- (2) The Licensee hereby agrees to fully comply with all relevant national and international export and re-export control regulations. In particular, however notwithstanding the above, the Licensee must ensure that the Software and derivations thereof are not (i) downloaded, exported, re-exported or directly or indirectly transferred contrary to an applicable economic sanction or export regulation or (ii) used for a purpose not permitted under export regulations or (iii) delivered to natural or legal persons who are otherwise not permitted to purchase, license or use the Software.
- (3) The Licensor reserves the right to perform the necessary audits under export law. Upon request, the Licensee shall promptly provide the Licensor with all information necessary to meet its legal obligations. The Licensee shall indemnify the Licensor and hold it harmless with regard to all claims, procedures, lawsuits, penalties, losses, costs and damages due to or in connection with the non-compliance with obligations under export control law. The Licensee undertakes to reimburse all damages and expenses the Licensor incurred in this context. This shall not apply if the Licensee is not responsible for the violation of obligations under export control law.
- (4) Sec. 10 shall continue to apply after the expiry or termination of these General Software License Terms, regardless of the reason.

## **§ 11**

### **Final provisions**

- (1) If one of several of the provisions of these General Software License Terms are or become invalid or if these General Software License Terms contain loopholes, this shall not affect the validity of the remaining provisions. In this case, the contracting parties undertake to implement an effective agreement that comes as economically close as possible to the invalid or missing agreement had the contracting parties recognized this beforehand.
- (2) There are no ancillary agreements to these General Software License Terms. Changes and additions to these General Software License Terms require the written form. This form requirement can only be waived by a written agreement.

- (3) These General Software License Terms and all resulting obligations are subject to the law of the Federal Republic of Germany to the exclusion of any conflicts of laws and the UN Convention on Contracts for the International Sale of Goods.
- (4) The exclusive place of jurisdiction for all legal disputes resulting from or in connection with these General Software License Terms is the place of the registered office of the Licensor. The Licensor is also entitled to take legal action at the general place of jurisdiction of the Licensee.

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