



# LICENCE AGREEMENT FOR FRONIUS WELDCUBE PREMIUM

Valid as of November 2018

## 1 SCOPE AND INFORMATION DISCLOSURE

- 1.1 Use of FRONIUS WeldCube Premium is solely governed by these Terms of Use.
- 1.2 By accepting the offer or using the software, the User accepts the version of these Terms of Use that is valid at the time of use.
- 1.3 The Terms of Use can be viewed at [www.fronius.com](http://www.fronius.com) at any time and are available to download in PDF format. A clear reference/link to the present Terms of Use can be found on the homepage of our internet platform.
- 1.4 We are Fronius International GmbH, Froniusstraße 1, 4643 Pettenbach, Austria, Company No. 149888z at Steyr Commercial Register Court, telephone +43 7242 241-0, fax +43 7242 241-3940, [contact@fronius.com](mailto:contact@fronius.com), [www.fronius.com](http://www.fronius.com). Our registered offices: Pettenbach, our sales tax ID: ATU52614407, our chamber affiliation: Upper Austrian Chamber of Commerce, the purpose of our company: Production and sale of products in the Perfect Welding, Solar Energy and Perfect Charging Business Units. Regulations applicable to us include, in particular: The Trade, Commerce, and Industry Regulation Act 1994 [*Gewerbeordnung*], which can be viewed at [www.ris.bka.gv.at](http://www.ris.bka.gv.at). Our supervisory authority pursuant to the E-Commerce Act [*E-Commerce-Gesetz - ECG*]: Kirchdorf an der Krems District Authority.

## 2 USING FRONIUS WELDCUBE PREMIUM

- 2.1 FRONIUS WeldCube Premium is the name of FRONIUS's data management system. This is used on certain welding systems manufactured by FRONIUS and, in its Premium variant, refers to server-based software that is installed on a Windows system (Windows 8, Windows 10, Windows Server 2012 R2 or Windows Server 2016). These products are installed and operated in the IT environment and under the responsibility of the customer in question.
- 2.2 Depending on the version, FRONIUS WeldCube Premium is used for decentralised or centralised collection, documentation, analysis and evaluation of welding data and, in some cases, also for configuration of welding tasks. Depending on the version and the licence model, one or more welding systems can be addressed with FRONIUS WeldCube Premium.
- 2.3 The User can access and make use of the functionalities of FRONIUS WeldCube Premium via a browser.
- 2.4 Delivery of the software will take place as part of a site visit by a Fronius employee or an employee of a sales partner, who will support or carry out the installation and commissioning on site.

## 3 AVAILABILITY OF FRONIUS WELDCUBE PREMIUM

FRONIUS WeldCube Premium is available for the following series:

- / TransTig – TT 2200 or higher (UST 2C must be available)
- / DeltaSpot
- / TS/TPS/CMT
- / TPS/i
- / MagicWave – MW 2200 or higher (UST 2C must be available)

## **4 REQUIREMENTS FOR USE OF FRONIUS WELDCUBE PREMIUM**

- 4.1 So as to make optimal use of FRONIUS WeldCube Premium, all relevant welding systems must be networked and have the relevant activations/function packages for the documentation of target and actual values or for monitoring limit values.
- 4.2 Fronius is not responsible for ensuring that the User's IT infrastructure is suitable for running FRONIUS WeldCube Premium.
- 4.3 FRONIUS WeldCube Premium can be used with the following operating systems:
  - / Windows 8 / 10 and the associated server versions Windows Server 2012 R2 / Windows Server 2016
- 4.4 For licence management purposes and to ensure trouble-free operation including online updates, a permanent or at least occasional online connection to the Fronius update servers and licence management system is essential.
- 4.5 Undertaking on the part of the customer:
  - / During the installation/commissioning process, the relevant IT administrators for the customer must be available to the Fronius technicians at all times.
  - / The customer must observe the necessary system prerequisites for WeldCube Premium communicated with the offer, and must implement the requirements described therein PRIOR TO installation/commissioning.
  - / All welding systems must be networked prior to commissioning of the solution.

## **5 UPDATES FOR FRONIUS WELDCUBE PREMIUM**

- 5.1 Updates for FRONIUS WeldCube Premium will be provided intermittently, such as in particular:
  - / Additional functionality
  - / New functions of the basic software
  - / Bug fixesSubject to 6.3, the User expressly consents to all forms of update without separate agreement.
- 5.2 To ensure trouble-free online updates, a permanent or at least occasional online connection to the Fronius update servers and licence management system is essential.

## **6 FEE MODEL**

- 6.1 The FRONIUS WeldCube Premium software will be made available to the User in its capacity as the licensee, and transferred for use (licensed), not sold. The User shall receive the non-transferrable, exclusive right to use FRONIUS WeldCube Premium in accordance with these Terms of Use. The licensor shall retain all other rights to FRONIUS WeldCube Premium.

## 6.2 WeldCube premium licence

The FRONIUS WeldCube Premium basic licence provides an instance of the basic software scope for collection, visualisation and analysis of welding-related data, to be installed for use on a (physical or virtual) device including 5 associated Client Access licences.

## 6.3 Annual flat fee (maintenance subscription) for software maintenance

All costs of updates to the basic software licence are covered by the annual flat fee for software maintenance. In addition, the maintenance subscription entitles the subscriber to use of WeldCube Premium's Web API.

In the event of non-payment of the annual flat fee, none of the updates listed will be provided and the API may not be used.

## 6.4 Further Client Access licences

Where there are more than 5 welding systems, further Client Access licences in addition to the basic licence are required, and will be installed for each further welding system that is to be networked with FRONIUS WeldCube Premium. This means that the FRONIUS WeldCube Premium package can be scaled individually in line with the User's requirements. Each additional Client Access licence is charged on a one-off basis.

## 6.5 FRONIUS WeldCube Perfect Start

The FRONIUS WeldCube Perfect Start service package covers commissioning and training and is charged on a daily basis.

# 7 RESTRICTIONS

## 7.1 Subject to any additional rights of Fronius, the User is forbidden, in particular, to

- 7.1.1 use equipment, special features, properties, functions, and characteristics of FRONIUS WeldCube Premium in any way other than as prescribed in these Terms of Use;
- 7.1.2 publish, duplicate, clone, copy or otherwise reproduce, rent out, lease, lend or otherwise transfer or pass on FRONIUS WeldCube Premium, except for the permitted creation of a backup copy;
- 7.1.3 carry out, arrange or tolerate the bypassing of technical restrictions or limitations of FRONIUS WeldCube Premium;
- 7.1.4 attempt, arrange or tolerate the decompilation, disassembly or other unauthorised use of the source code of FRONIUS WeldCube Premium, beyond the legally permitted exceptions;
- 7.1.5 perform any reconstruction (reverse engineering) of FRONIUS WeldCube Premium;
- 7.1.6 use internet-based applications, features, properties, functions and characteristics of FRONIUS WeldCube Premium for the purpose of gaining unauthorised access to data, customer accounts or networks or use them in any other improper manner; or
- 7.1.7 use FRONIUS WeldCube Premium in any way other than as expressly indicated in these Terms of Use.

## 8 DATA PRIVACY

Our data privacy statement can be viewed at <http://www.fronius.com> at any time and is available to download in PDF format. The data privacy statement forms an integral part of these provisions.

Through the applicable configuration and use of FRONIUS WeldCube, the customer is able, under certain circumstances, to draw conclusions as to the actions of individual users of the FRONIUS WeldCube itself and the actions of individual users on the power sources. The customer is solely responsible for compliance with the relevant guidelines and laws pertaining to data protection.

The usage pattern in the FRONIUS WeldCube Premium is recorded and evaluated in anonymised form, in some cases with the aid of software from third-party providers. The customer's consent to this is granted through acceptance of the Terms of Use on installation and through operation of the power sources and software.

## 9 BETA SOFTWARE DISCLAIMER FOR FRONIUS WELDCUBE PREMIUM

- 9.1 Beta software is an unfinished version of a computer program. Beta software is still at the testing and development stage and has not yet undergone final checks. Consequently, it may still contain many and/or serious errors.
- 9.2 We will supply beta software to you (as user, customer or otherwise) only at your express request.
- 9.3 If anything is unclear regarding use of the beta software, particularly concerning any associated risks typical for this type of contract, you must contact Fronius before using it for the first time, otherwise you may not use the computer program. By downloading or using beta software in any way, you confirm that you are fully aware of the (contract-typical) risks and that you accept them. At the same time, you expressly agree that this **beta software disclaimer** and our **General Terms of Delivery and Payment** – which can also be found at <http://www.fronius.com> – form an integral part of the contract between you and Fronius.
- 9.4 Beta software is provided to you as-is for use exclusively with Fronius products. Unless expressly agreed otherwise, you may not derive any rights or obligations to the detriment of Fronius therefrom. In particular, Fronius is under no obligation to undertake further development (updates etc.), error analysis or correction of the beta software, or to supply further (beta) software.
- 9.5 Fronius hereby expressly excludes any form of liability, warranty or guarantee for the beta software that is made available. We shall only accept unlimited liability for damage, of whatever kind, to the extent that you prove that we ourselves brought about this damage either knowingly and wilfully or through gross negligence. Our liability in such cases is limited to the total order value of the Fronius device with which the beta software was used. In the event of minor negligence, we shall be liable only for personal injury within the framework of the mandatory statutory requirements. Liability ceases 6 months after you became aware of the damage and the party who caused it.
- 9.6 The exclusion of liability also extends in particular to lost profits, indirect losses, business interruptions, loss of interest, missed savings, loss of information, data, programs and their recovery, disadvantages due to malicious software (viruses, etc.), any kind of consequential and pecuniary losses as well as other disadvantages or losses caused in connection with the use of the beta software by the User himself or third parties. You may not assert any claim against us even if the device used with the beta software can no longer be used at all or if Fronius informed you of a possible disadvantage or loss beforehand.
- 9.7 If you are not the party who actually uses the beta software, you must verifiably transmit and provide this information or this document to the user of the beta software.

## **10 GENERAL DISCLAIMER AND REFERENCE TO INTELLECTUAL PROPERTY**

- 10.1 The information provided in our software has been carefully checked and updated at regular intervals. However, we cannot accept any warranty or liability for the completeness or accuracy of all the information at all times.
- 10.2 We do not accept any liability for links to other websites that are referred to either directly or indirectly. All such information may be modified, added to or removed without prior notice.
- 10.3 All rights to intellectual property, such as copyrights, trademark rights, design rights, patent rights and utility model rights, as well as other know-how, such as in particular unprotected inventions, commercial developments, trade secrets and similar, shall be granted exclusively to us or our licensors, irrespective of the point at which they are disclosed to the User. The User receives the right to use the software exclusively for its own purposes, within the scope of the number of licences acquired. Under the present contract, the User merely receives permission to use the work. Distribution by the user is excluded under the Copyright Act [*Urheberrechtsgesetz*].
- 10.4 The User may only use the software on one device at any time; the User reserves the right to determine the device on which said software is used. "Utilisation of the software" is understood as any long-term or even merely temporary duplication (copying) of the software, whether in whole or only in part, by means of its being saved, loaded, executed or displayed by the hardware for the purposes of running the software and processing the data contained therein. The User is not entitled to duplicate the Operating Instructions. The accessible content (particularly texts and images, etc.) may not be copied, distributed, linked to or otherwise made publicly accessible – including in part or in revised form – without our consent.

## **11 APPLICABLE LAW AND DISPUTE RESOLUTION/JURISDICTION**

- 11.1 All legal relations between us and the User as a business operator or consumer are governed by Austrian law, excluding conflict-of-law rules and the United Nations Convention on Contracts for the International Sale of Goods.
- 11.2 The statutory general and consumer jurisdictions apply to the user as a consumer. The exclusive place of jurisdiction for business users is Wels, Austria.

## **12 SEVERABILITY CLAUSE**

- 12.1 If any provisions of this contract are ineffective or unenforceable or become ineffective or unenforceable following conclusion of the contract, the effectiveness of the other provisions will be unaffected.
- 12.2 The ineffective provision shall be replaced by a provision that corresponds to the commercial intent of the contract.