



WeldCube Navigator

License terms

Valid from November 2022

1 General

- 1.1 Fronius International GmbH (hereinafter referred to as "Fronius") provides the WeldCube Navigator software (hereinafter also referred to as "Software"), to which the following license terms apply exclusively. The Customer's general terms and conditions shall not apply.
- 1.2 For each manual welding station, the Software referred to in 1.1. allows the creation and processing of work instructions for manual welding tasks to be carried out with the Fronius welding system. The welder is guided through the welding task by means of a suitable visualization system selected by the Customer. Various parameters (for example, the job to be used for each welding task, the number of necessary/permitted welds per work step, etc.) can be assigned or referenced in the instructions. These are specified to the welder and monitored for compliance. The Customer installs the Software on a suitable PC at the manual welding workstation and activates it for each Fronius welding system by entering a paid license key.
- 1.3 It is noted that the parties are entrepreneurs within the meaning of Section 1 of the Austrian Commercial Code (UGB) and that there is no founding transaction (*Gründungsgeschäft*) within the meaning of Section 1 (3) of the Austrian Consumer Protection Act (KSchG).

2 Subject matter and scope of services

- 2.1 The subject matter of this contract is the transfer of the Software described in more detail in the Offer and in Section 1.1. including the associated user documentation and the granting of rights of use described in Section 4.
- 2.2 The characteristics of the Software are conclusively determined by the Offer in conjunction with the software documentation available at the time the contract is concluded. The Customer shall provide the system environment in accordance with the requirements defined in the Offer or the technical description (see Section 3). The software documentation shall be made available to the Customer electronically via the website and shall be transmitted with each Offer.
- 2.3 Fronius makes the Software available for download. With the purchase, the Customer receives a license key for the welding system to enable use of the Software together with the welding system, and can configure the Software itself on the respective welding workstation. Fronius will only provide configuration of the Software for a separate fee if this has been expressly agreed with the Customer.
- 2.4 For the sake of clarity, it is understood that this agreement does not transfer ownership of the Software to the Customer. The Customer does not acquire any rights to the Software, with the exception of the rights referred to in Section 4. In particular, the Customer is not entitled to receive, use, or examine the machine code or source code or any development documentation relating to the Software.

3 Technical requirements

- 3.1 To use the Software with a Fronius welding system, it must be equipped with a corresponding software option (OPT/i WeldCube Navigator). This is provided after purchase in the form of a license file (xml format) sent via e-mail and must be imported into the welding system by the Customer. Use of the Software also requires that the power source and the PC are connected in the Customer's network and equipped with suitable activation/function packages for the range of functions required by the Customer. Depending on requirements, additional Fronius software solutions (such as WeldCube Premium, Central User Management) may be necessary and must be integrated by the Customer accordingly. The Customer hereby declares that it has been fully informed about the respective functional scope of the Software and all functional features and that the Software meets its requirements.
- 3.2 The exact technical requirements for the hardware and software environment are stated in the documentation (Section 2.2.). The Customer is responsible for ensuring the suitability of its hardware and software environment for use of the Software. It must observe the necessary system requirements, which are communicated with the Offer, and create the conditions described therein prior to installation/commissioning.

4 Granting of rights of use

- 4.1 Fronius grants the Customer, against payment in full, the non-exclusive, non-sublicensable right, transferable only in accordance with Section 4.7., to use the Software in conjunction with a Fronius welding system, including the associated user documentation, subject to any limitations contained in these terms and conditions.
- 4.2 The Software can only be used in conjunction with Fronius welding systems of selected welding system series, which are listed in the currently valid documentation. The right to use the Software is tied to individual Fronius welding systems. Permitted use of the Software takes place through activation of the Software by means of a license key (OPT/i WeldCube Navigator) on the welding system and use for the intended purpose in accordance with the documentation.
- 4.3 The number of licenses and the type and scope of use are otherwise determined by the conditions stated in the order confirmation. However, customers have the right to lease out or sell the Fronius welding system together with the Software. In this case, Fronius is not obliged to provide support services. Furthermore, responsibility for data lies exclusively with the Customer.
- 4.4 The Software may only be used in the form provided by Fronius, and not in any modified, translated, edited, or redesigned form.
- 4.5 The Customer shall refrain from any use or exploitation of the Software and of the rights to use the Software or only parts thereof beyond the purposes stated in this clause of the contract.
- 4.6 If the Customer receives a trial license, the period of use of the Software is limited to the period specified in the Offer.

- 4.7 If the Fronius welding system is sold, the Customer shall be entitled to permanently transfer the Software in conjunction with the welding system containing the license key with the OPT/I WeldCube Navigator to a third party. In this case, the Customer entirely relinquishes use of the Software. The Customer shall expressly agree with the third party to observe the scope of the granted rights according to Sections 4 and 5.

5 Restrictions on use

- 5.1 Fronius holds all rights to use and exploit the Software, all software components, all further developments, improvements, and adaptations, and all copies thereof, and moreover all works arising from the provision of other services.
- 5.2 The Customer may not modify, decrypt, or decompile the object code or produce or attempt to produce the source code by reverse engineering or in any other way, either itself or through third parties, except in cases where this is necessary according to Section 40d of the Austrian Copyright Act (UrhG) in order to establish interoperability or carry out troubleshooting. Before decompiling the Software, the Customer shall ask Fronius in writing to provide the necessary information and documents within a reasonable period of time. Only if this request remains unanswered despite the setting of a written deadline will the Customer be entitled to decompile the Software as mentioned above to the extent absolutely necessary.
- 5.3 Except as mentioned in Section 4.7, the Customer shall not be entitled to sell, lease out, or transfer the Software or the associated documentation to third parties or to make it available in any other way or to grant third parties rights of use, user permissions, sublicenses, or other rights of use. Furthermore, any reproduction, distribution, and provision of the Software that is not expressly permitted shall be prohibited.
- 5.4 The Customer is prohibited from developing and programming further developments and extensions of the Software. The Customer is further prohibited from imitating the Software for the development and manufacture of its own product, or from developing a similar computer program or other similar technical application on the basis of the Software, or from using the Software in any other way as a template or idea for the development of similar computer programs or technical solutions.
- 5.5 Where the Software also contains software from third-party providers (including open source), the Customer undertakes to comply with the license terms set out in the third-party licenses. In the event of contradictions, they shall take precedence over these terms and conditions of use. The third-party licenses can be retrieved from the software system information.

6 Fee

- 6.1 The Customer is obliged to pay the agreed fee. The amount of the fee is specified in the respective Offer.

7 Technical support

- 7.1 For the sake of clarity, it is understood that the training and instruction of the Customer and its employees, as well as supporting services, for example in the form of technical support for the installation and configuration of the Software and support of the Software, are to be agreed and remunerated separately.
- 7.2 Digital Solution Remote Support: Fronius may provide support services via remote access, provided that the Customer agrees to this and the Customer allows Fronius remote access via VPN or screen sharing with or without remote control. The Customer must create the necessary technical conditions for this and is responsible for security and data access. For longer and/or plannable remote operations, an appointment must be made with the responsible Fronius technician.

Fronius offers no guarantee that Digital Solution Remote Support replaces an on-site visit. Depending on the problem, this may still be necessary in addition to remote support. Any additional costs incurred (travel expenses, etc.) shall be borne by the Customer.

In addition, when using Digital Solution Remote Support:

- 7.2.1 The Customer is obliged to perform a current data backup in a suitable form before the start of remote operation and to take appropriate and state-of-the-art protective measures to prevent data from being affected by computer viruses or similar phenomena that cause data to become unusable.
- 7.2.2 The Customer is obliged to instruct its employees who are able to request and enable remote access when such access may be activated. Fronius is not responsible if remote access is enabled and performed by an unauthorized employee of the Customer or for a fault for which remote access is not desired by the Customer. Any costs incurred as a result are to be paid by the Customer.
- 7.2.3 When requesting/enabling remote access, the Customer is obliged to ensure that the person for whom remote access is enabled is actually an authorized Fronius employee.
- 7.2.4 In the course of the work to be carried out, by requesting and/or enabling remote access, the Customer expressly consents to Fronius gaining access to the data of the Customer needed to carry out the work and to the software application(s) concerned. Fronius shall only make use of the granted access rights to the extent that is absolutely necessary for the performance of remote access and shall treat the information obtained in this context as confidential.
- 7.2.5 The Customer agrees to actively participate in support activities so as to enable smooth and efficient remote access.
- 7.2.6 The limitations of liability set forth in Section 9.2 shall apply accordingly.
- 7.2.7 A Digital Solution Remote Support deployment is charged for on an hourly basis according to the work actually carried out, applying the price applicable at the time in question according to Fronius's price list. The hourly rate does not include any availability commitments and/or defined response times/speeds.

8 Guarantee

- 8.1 Fronius guarantees that the Software will function substantially in accordance with the information about the Software provided by Fronius in the Offer in conjunction with the

documentation available at the time the contract is concluded, provided that the system requirements on the side of the Customer are met and the Software is used in accordance with the contract. Fronius shall not be liable for ensuring any level of quality of the Software beyond the description in the Offer and the documentation.

- 8.2 Fronius's guarantee is conclusively governed by this clause. Fronius provides no guarantees beyond those in this clause, and any statutory guarantee commitments beyond those in this clause are expressly excluded, including but not limited to guarantees of freedom from faults, fitness for a particular purpose, continuous operation, specific results and performance, or fitness or suitability of the Software for a particular purpose. The usability of the Software in customer-specific applications is therefore the responsibility of the Customer alone.
- 8.3 Defects must be reported in writing immediately, but no later than 14 days after delivery. Guarantee claims must be asserted within 12 months of delivery of the Software.
- 8.4 If the Software does not function as stated in Section 8.1., Fronius is first entitled to proceed to subsequent performance, that is to say, to eliminate the defect ("rectification") or to deliver a replacement, as it sees fit. Fronius is entitled to remedy an error temporarily by means of a correction file (patch) or bug fix and to provide a permanent error solution only with the next release, update, or upgrade of the Software.
- 8.5 If, despite Fronius's attempts to remedy the defect in accordance with Section 8.4., the Software is still not usable 4 weeks after the last attempt to remedy the defect, the Customer shall be entitled to set Fronius a reasonable grace period (in no case shorter than three weeks) in which to finally remedy the defect. If Fronius also fails to remedy the notified defects within this grace period, the Customer shall be entitled to cancel the contract for the defective part of the Software. Cancellation of the contract is however excluded in the case of insignificant defects.
- 8.6 Prerequisites for the elimination of a defect are:
 - 8.6.1 The Customer notifies the defect in writing immediately, but no later than 14 days after delivery
 - 8.6.2 The Customer adequately describes the defect in an error report and it is ascertainable by Fronius
 - 8.6.3 The Customer provides Fronius with all documents required for troubleshooting
 - 8.6.4 The Customer or a third-party attributable to it has not tampered with the Software
 - 8.6.5 The Software is operated under the intended operating conditions and system requirements in accordance with the documentation

- 8.7 The presumption of defectiveness pursuant to Section 924 of the Austrian Civil Code (ABGB) is deemed to be excluded.
- 8.8 Under no circumstances is Fronius obliged to remedy a defect if Fronius could not reproduce the defect using the specified system configuration.

9 Liability and limitations of liability:

- 9.1 To the extent permitted by law, any liability of Fronius for damages incurred during use of the services within the scope of a free trial access, for whatever legal reason, is excluded. The same applies to any other free use of the Software by a customer.
- 9.2 In the event of liability, Fronius shall be liable to the Customer, and hence for damages demonstrably caused by Fronius in connection with this contract, only in the case of intent or gross negligence. Liability for minor negligence, lost profit, missed savings, compensation for consequential damages, lost or altered data, indirect damages, and damages arising from claims of third parties is excluded, unless contrary to mandatory law. Without limiting the foregoing provisions, for each case of liability Fronius shall only be liable up to the amount of the fee payable by the Customer. Liability expires 6 months after the Customer becomes aware of the damage and the damaging party.
- 9.3 The Customer shall, in particular, remain responsible for i) all data and the content of databases related to the Software, ii) the selection and implementation of measures and control mechanisms with regard to system access, data access, data security, data encryption, data use and transfer and, in general, the implementation of technical and organizational measures, including in particular those required under Art 32 GDPR, iii) the backup, updating, verification, and recovery of applications, data, and databases.

10 Remedial actions in the event that third-party rights are infringed

- 10.1 If use of the Software or parts thereof is prohibited by a court decision, or if, in Fronius's opinion, a threat exists of legal action for infringement of industrial property rights, Fronius may, at its own discretion, proceed as follows:
 - 10.1.1 Fronius may modify the Software in such a way that industrial property rights are no longer infringed, provided that the Software then still corresponds to the originally agreed performance.
 - 10.1.2 Fronius may procure for the Customer the right to continue to use the Software, if necessary by acquiring the necessary rights of use from third parties.
 - 10.1.3 Fronius may, at its discretion, cancel the license in question by uninstalling the Software and at the same time refunding the license fee actually paid by the Customer for the canceled license, or granting a credit in that respect.
- 10.2 The Customer has no right of cancellation where one of the alternatives referred to in 10.1. is realized.
- 10.3 The Customer may not derive any claims of any kind against Fronius from the replacement or modification of the Software in accordance with Section 10.1.1.

11 Beta software

- 11.1 Beta software which is still in the testing and development phase and has not yet been conclusively tested and may therefore still contain many and/or serious errors, shall only be made available to the Customer by Fronius at the Customer's express request and only by separate agreement. The Customer shall contact Fronius prior to the first use or refrain from using the software if anything is unclear regarding use of beta software or the risks associated with it. By downloading or making any use of beta software, the Customer confirms that it is fully aware of the risk (typical of this type of contract) and accepts it.
- 11.2 Beta software is provided to the Customer "as-is" for use exclusively with Fronius products. Unless otherwise expressly agreed in writing, the Customer may not derive any rights and obligations from this to the detriment of Fronius. In particular, this shall not create any obligation to carry out further development (updates, etc.), error analysis and correction of the beta software or delivery of further (beta) software.
- 11.3 For beta software, the limitations of liability set forth in Section 9.2 apply *mutatis mutandis*.
- 11.4 If the Customer is not the party that actually uses the beta software, the Customer is obliged to verifiably pass on this information or this document to the user of the beta software and make it available to them.

12 License verification

- 12.1 The Customer shall make, keep, and provide to Fronius and the appointed examiners accurate written records, outputs of system tools, and other system data in order to provide verifiable evidence to Fronius that the installation and use of the Software is in accordance with the terms and conditions set out in this contract and in the written purchase order.
- 12.2 After reasonable advance notice, Fronius shall be entitled to verify compliance with the terms and conditions set out in this contract and in the written purchase order at all premises and locations of the Customer and for all environments where the Customer installs and uses the Software. Advance notice may be omitted in cases of imminent danger or suspected suppression or destruction of evidence. The inspection shall take place during normal business hours at the Customer's premises. Fronius will endeavor to disturb the Customer's business operations as little as possible in the process. Fronius is entitled to have the inspection carried out by an independent examiner, provided the examiner is committed to secrecy by a written non-disclosure agreement.

13 Software modification

- 13.1 Fronius reserves the right, at its discretion, to create updates, upgrades, or extensions to the Software and to make them available to the Customer free of charge or against payment. The classification of a software modification is at the sole discretion of Fronius. Fronius shall not be obliged to modify the Software.
- 13.2 By installing and using the modification and paying any license fee, the Customer declares that it acknowledges the validity of the provisions of this contract for the modification as well.

14 Confidentiality

- 14.1 The Customer recognizes that all data, documents, and information entrusted and disclosed or otherwise made available prior to the conclusion of the contract, at the conclusion of the contract, and, moreover, in the ordinary course of the contractual relationship in connection with all services under Section 2 of this contract, including the documentation and related materials ("Confidential Information"), shall be kept secret and treated as strictly confidential. This shall in any event also include such results and information obtained pursuant to Section 5.2., regardless of whether or not they contain protectable code. In particular, the Customer shall also ensure that Confidential Information cannot come to the attention of unauthorized third parties through chance, unauthorized access, or other unlawful acts, or otherwise without any action or inaction on its part.
- 14.2 The obligations set out in these provisions remain applicable even after termination of the contract for whatever legal reason.

15 Data protection

- 15.1 Our Data Privacy Statement can be viewed at any time at <https://www.fronius.com>.
- 15.2 The data protection measures to be observed when operating the Software are the responsibility of the Customer as user of the Software.

16 Applicable law

- 16.1 This contract shall be governed by Austrian law to the exclusion of the rules of private international law. The application of Austrian international private law and other conflict-of-law rules is expressly excluded.

17 Place of jurisdiction

- 17.1 If the Customer is domiciled in the European Union, Norway, Iceland, or Switzerland, the following shall apply: If the Customer is an entrepreneur, a legal person under public law, or a special fund under public law, or does not have a general place of jurisdiction in Austria, the place of jurisdiction for all disputes arising from and in connection with the contractual relationship shall be Wels or, if Fronius so chooses, the place where the Customer's registered office is located.
- 17.2 If the Customer is domiciled outside the European Union, Norway, Iceland, or Switzerland, the following shall apply: All disputes or claims arising from or in connection with the contractual relationship, including disputes as to its validity, breach, termination, or nullity, shall be finally settled under the Rules of Arbitration of the International Arbitral Center of the Austrian Federal Economic Chamber (Vienna Rules) by three arbitrators appointed in accordance with such Rules, to the exclusion of ordinary legal proceedings. The Expedited Procedure Provisions shall not apply. The place of arbitration shall be Vienna. The language to be used in the arbitral proceedings shall be German.

18 Final provisions

- 18.1 If any provision of the contract is or becomes wholly or partially invalid or unenforceable, this shall not affect the validity or enforceability of the remaining provisions. The invalid or unenforceable provision shall be replaced by a valid or enforceable provision that comes as close as possible to the economic intent of the invalid or unenforceable provision; the same shall apply to any loopholes in this contract.
- 18.2 Fronius reserves all rights not expressly defined in these license terms.
- 18.3 The Software may be subject to export and import restrictions. In particular, licensing requirements may apply or use of the Software or related technologies may be subject to restrictions abroad. The applicable export and import control regulations of Austria, the European Union, and the United States of America, as well as all other relevant regulations, must be complied with.
- 18.4 Fronius reserves the right to change these license terms at any time.