Licenční ujednání

# Scientific Forming Technologies Corporation
# DEFORM™ SYSTEM License Agreement

Do not copy, install, or use the Materials provided under this license agreement ("Agreement"), until you have carefully read the following terms and conditions.

The parties, in consideration of the mutual covenants, agree as follows: Scientific Forming Technologies Corporation, an Ohio corporation with its principal office located at 2545 Farmers Drive, Suite 200, Columbus, Ohio 43235 (hereafter "SFTC") grants, and the licensee identified in Schedule A hereof (hereafter "Licensee") accepts, a personal, nonexclusive, nontransferable license to use the Licensed Software , on the following terms and conditions.

1.  **DEFINITIONS.**
    **The following underlined words shall have the meanings set forth below wherever they appear in this Agreement or the Schedule with the first letter capitalized:**
    System: a simulation system includes preprocessing, simulation and postprocessing. A system can perform defined tasks without other systems or modules.
    Module: add-on capabilities used to enhance performance or functionality of a System.
    Node-Locked License: operation is limited to a single computer, as controlled by a security device, password and/or license management software. The security device and password location define the current Designated CPU.
    Floating License: operation of the license can be shared across the company network within the licensed country as specified on Schedule A.
    MPI or Parallel Computing: a simulation is performed using multiple CPU's with shared memory or discrete computers with high speed interconnect (cluster) to reduce calculation time.
    Documentation: written or electronic information provided by SFTC pursuant to this Agreement relating to use of the Licensed Software.
    Database: the Material Property Database specified for the System.
    Licensed Software: the DEFORM™ System, the Database, the Documentation, any specified Modules and any updates, upgrades, new Modules, or related programs furnished by SFTC to Licensee under this Agreement.
    Designated CPU: one or more designated Central Processing Unit(s) or Node(s) of a computer system.
    Perpetual License: Licensee is granted the permanent right to use the DEFORM System. Maintenance is included for the initial term of the agreement.
    Annual Lease: Licensee is granted a renewable license to use the current version of the DEFORM System for the term of the agreement.

Maintenance is included during the term of the agreement.

2.  **DELIVERY AND USE.**

a.  The latest version of the Licensed Software is to be delivered through shipment, ready access, or otherwise, in the form of executable code for the DEFORM™ System operable on the Designated CPU, together with one electronic or hard copy of the Documentation. The estimated delivery or shipment date shall be specified by SFTC, but SFTC does not warrant or represent that delivery or shipment will be made on such date.

    EDUCATIONAL USE LICENSE: If licensee is using the Licensed Software under an educational use license, then SFTC will give licensee access to the executable code and updates, subject to the conditions of the license. The educational use licensee has the sole responsibility for downloading and updating software as needed.

b.  SFTC shall provide Licensee with Documentation and materials to facilitate the installation and testing of the Licensed Software by Licensee on the Designated CPU, provided that the installation is of standard configuration and operation under the standard operating system supported by SFTC.

c.  Licensee is authorized to use the Licensed Software only in accordance with the license definitions and restrictions in Schedule A attached hereto and hereby incorporated herein. Licensee may make backup copies of operational modules and copy the Licensed Software on computers within the scope of the Schedule A limitations. Licensee can only operate licenses within the capacity limitations of the license.

    The word "use" means any form of utilization of the Licensed Software or any portion thereof including but not limited to copying the program in violation of this agreement, or utilization of any of the Licensed Software in printed form. Licensee understands that separate licenses are required for any use of the Licensed Software other than the use licensed herein. Licensee is not authorized to modify, adopt, translate, or create derivative works based upon the Licensed Software.

d.  If a perpetual Licensee fails to maintain the yearly maintenance agreement with SFTC, then a new maintenance agreement will be issued upon the Licensee's request. However the perpetual Licensee will be required to pay SFTC for the period of time in

which the maintenance agreement had lapsed at the current rate of the maintenance agreement.

A perpetual Licensee must make all payments due during the term of the agreement or the license granted herein shall automatically terminate, with no further credit, refund or obligation from SFTC. Licensee acknowledges that the machine-executable version of the Licensed Software shall become inoperable and the provision of Section 5(c) shall apply.

For annual Licensees, the license and maintenance terms are co-terminus.

e. Training, maintenance and other services to be provided Licensee in connection with the Licensed Software during the term of a yearly maintenance agreement are detailed in Schedule B attached hereto and hereby incorporated herein. Such support will be provided only so long as this Agreement remains in effect and all fees required hereunder, including the then current yearly maintenance fee, are paid to SFTC.

## 3. PAYMENT.

As consideration for providing and licensing the Licensed Software and providing maintenance support to Licensee for the initial term as set forth in this Agreement, Licensee shall pay SFTC the sums specified in Schedule A hereof at the time of execution of this Agreement, and for subsequent terms shall pay the amounts invoiced by SFTC. Licensee shall pay all applicable sales and use taxes associated with the license granted hereunder.

## 4. ASSIGNMENT.

Licensee's rights to the Licensed Software may not be assigned, sublicensed, or otherwise transferred by Licensee without the prior written approval of SFTC, which approval may be granted or withheld in SFTC's sole and absolute discretion.

## 5. DEFAULT; TERMINATION.

a. SFTC may terminate this Agreement and the license granted hereunder immediately upon notice to Licensee in the event that (i) Licensee fails to perform any of its obligations with respect to protection of the Licensed Software as provided herein, (ii) Licensee attempts to assign its license hereunder or copies, transfers or sublicenses the Licensed Software or any part thereof without SFTC's prior written approval, or (iii) Licensee fails to observe or perform any other obligation under this Agreement and fails to cure such default for thirty (30) days after notice from SFTC.

b. Licensee may terminate this Agreement and the license granted hereunder at any time upon thirty (30) days notice to SFTC. Licensee shall pay to SFTC any and all fees and other amounts due and payable hereunder prior to the effective date of any such termination.

c. Within five (5) days after this Agreement is canceled or terminated by SFTC for cause or voluntarily terminated by Licensee, Licensee will return the security device to SFTC and destroy the original and all reproductions, including without limitation partial reproductions, of the Licensed Software, and so certify in writing to SFTC, except that, upon prior written authorization from SFTC, Licensee may retain one reproduction for archival purposes.

d. Except as otherwise provided in Section 8 hereof, SFTC shall not be required under any circumstances to refund to Licensee or waive payment of any portion of the fees paid or required to be paid by Licensee hereunder, upon termination of this Agreement or otherwise.

## 6. SOFTWARE PROTECTIONS.

a. Licensee acknowledges that the Licensed Software contains confidential information, trade secrets, and other information proprietary to SFTC and agrees that all copies of the Licensed Software shall remain the property of SFTC.
b. Licensee agrees to use the Licensed Software only as provided in this Agreement and agrees to keep the Licensed Software confidential and not to make the Licensed Software available to any party other than Licensee's employees without prior written permission from SFTC.
c. If provided in machine readable form, Licensee shall not reverse compile or reverse assemble the Licensed Software in whole or in part.
d. Licensee shall take appropriate action, by instruction, agreement, or otherwise, with any persons permitted access to the Licensed Software, to satisfy Licensee's obligations under this Agreement.
e. Licensee shall at its own cost and expense protect and defend SFTC's ownership of the Licensed Software and all copyrights, trademarks, trade secrets and other proprietary rights associated therewith against all claims, liens and legal processes of creditors of Licensee and all misappropriations by Licensee's employees or otherwise from Licensee, and shall keep the same free and clear of all such claims, liens, processes and misappropriations.
f. The obligations of these Software protections contained in Section 5 of this agreement shall survive termination of this Agreement and shall apply to the Licensed Software regardless of its incorporation by Licensee into any other programs not provided by SFTC.

In order to protect against unauthorized copies of DEFORM™ Systems and Modules being made and distributed, one or more security devices and methods will be employed, including hardware keys, passwords and other means. Upon issuance of a permanent password, if

at any time during the term of this Agreement, the security device(s) are lost or stolen (whether through the fault of the Licensee or not) or if the Licensee fails to return the Licensed Software and the security device(s) when this Agreement has been terminated in accordance with its terms, the Licensee shall be deemed to have licensed the Licensed Software under the applicable perpetual license agreement and shall be liable for the license fee due thereunder notwithstanding the fact the Licensee had paid the initial license fee due hereunder.

From time to time, SFTC may require the Licensee to surrender its security device(s) to SFTC for maintenance or to receive updated security device(s), and the Licensee agrees to promptly comply with SFTC's request for surrender of such devise(s) for such purpose.

## 7. NOTICE AND INFORMATION TO BE PROVIDED TO SFTC.

Licensee shall give SFTC written notice at least thirty (30) days prior to any contemplated request for approval of the assignment of this Agreement or transfer of the Licensed Software and, from time to time upon request by SFTC, shall provide to SFTC such information as SFTC may reasonably request to verify Licensee's compliance with the terms of this Agreement, including without limitation Section 6 hereof.

## 8. INDEMNIFICATION

If notified promptly in writing of any such action by a third party brought against Licensee based on a claim that the Licensed Software infringes an intellectual property right, SFTC will defend such infringement action at its expense and will pay the costs and damages awarded against Licensee in any such action, provided that SFTC shall have had sole control of the defense of any such action and of negotiations for the settlement or compromise thereof. SFTC will not defend or pay the costs and damages if the infringement claim is based on the use of a modification of the standard Licensed Software version delivered by SFTC or a combination of the Licensed Software with other programs not provided by SFTC, if such infringement would have been avoided by the use of the standard Licensed Software version supplied by SFTC.

## 9. WARRANTY, LIMITATION OF LIABILITY AND INDEMNITY.

SFTC warrants that, for a period of thirty (30) days after delivery of the Licensed Software to Licensee, the program under normal use will perform substantially in accordance with its then-current published specifications set forth in the associated documentation. Licensee's exclusive remedy for a breach of the above warranty is to send written notification to SFTC setting forth the nature of the malfunction within thirty (30) days after the delivery, and SFTC will use its best efforts to correct the program so that it performs substantially in accordance with the documentation. If SFTC is unable to make such

corrections within a reasonable period of time, Licensee's exclusive remedy shall be to terminate the license, return the security device, return or destroy the Licensed Software and so certify to SFTC. SFTC will thereafter refund the license fee paid by Licensee. This warranty is only effective if the Licensed Software has not been modified by Licensee and it is used only on the Designated CPU.

THE EXPRESS WARRANTY STATED ABOVE IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING THOSE CONCERNING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY DISCLAIMED AND EXCLUDED BY SFTC. WITHOUT LIMITING THE FOREGOING, SFTC HEREBY SPECIFICALLY DISCLAIMS ANY WARRANTY OR REPRESENTATION CONCERNING THE ACCURACY OR COMPLETENESS OF INFORMATION CONTAINED IN THE DATABASE.

SFTC SHALL IN NO EVENT BE LIABLE TO LICENSEE OR ANY OTHER PERSON CLAIMING DAMAGES AS A RESULT OF THE USE OF THE LICENSED SOFTWARE, FOR LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERUPTION OR INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY KIND. WITHOUT LIMITING THE FOREGOING, SFTC SHALL HAVE NO LIABILITY WITH RESPECT TO ANY LOSS OR DAMAGE RELATED TO ANY (i) FAILURE OF THE LICENSED SOFTWARE TO PERFORM AS SPECIFIED HEREIN EXCEPT AS AND TO THE EXTENT OTHERWISE EXPRESSLY PROVIDED HEREIN OR (ii) ANY USE OF THE LICENSED SOFTWARE OR THE RESULTS OR DECISIONS MADE OR OBTAINED BY USERS OF THE LICENSED SOFTWARE. IN NO EVENT SHALL THE LIABILITY OF SFTC TO LICENSEE, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE AMOUNT OF THE FEES PAID BY LICENSEE HEREUNDER.

LICENSEE AGREES TO INDEMNIFY SFTC FOR LIABILITY TO THIRD PARTIES RESULTING FROM USE OF THE LICENSED SOFTWARE BY OR THROUGH LICENSEE.

## 10. TERM, TERMINATION.

This agreement, the license granted, and the maintenance support provided for herein shall be for an initial term as specified in Schedule A, and shall be automatically renewed for successive one-year terms upon payment by Licensee of the then current renewal fees prior to the expiration of the then current license term, subject, however, to earlier termination pursuant to the terms of this Agreement.

If an Annual Lease Licensee fails to pay any renewal fees, this Agreement and the license granted herein shall

automatically terminate, and Licensee acknowledges that the machine-executable version of the Licensed Software shall become inoperable and the provisions of Section 5(c) shall apply.
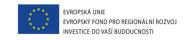
If a Perpetual Licensee fails pay maintenance fees after the initial term, the Perpetual License remains in effect, although SFTC will not be responsible for any ongoing Maintenance. Licensee is not entitled to use any updates or releases after the maintenance is terminated.

## 11. MISCELLANEOUS.

a.  Complete Agreement.  This Agreement (including the Schedules hereto) constitutes the entire agreement between SFTC and Licensee and supersedes any prior or contemporaneous agreements, proposals, understandings and communications (whether written or oral) respecting the subject matter of this Agreement.  No SFTC employees or agents have authority to grant any written or oral warranties concerning the Licensed Software or any services provided hereunder and no such warranties not contained herein have been made.

b.  Governing Law.  This Agreement shall be interpreted under the laws of the state of Ohio, USA, without reference to any principles of conflicts of law. Licensee agrees that any action brought by Licensee regarding this Agreement or the Licensed Software shall be, and any action brought by SFTC may be, forumed and venued in a court of competent subject matter jurisdiction in Franklin County, Ohio, and Licensee hereby consents to the jurisdiction of such courts.

c.  Notices.  All notices, requests and demands given to or made upon the parties hereto shall be in writing and be delivered or mailed to such party at its address specified herein.  Any party may, by notice hereunder to the other party, designate a changed address.  Any notice, if mailed properly addressed, postage prepaid, registered or certified mail, shall be deemed dispatched on the registered date or that stamped on the certified mail receipt and shall be deemed received within the fifth business day thereafter, or when it is actually received, whichever is sooner.

d.  Severability.  The parties agree that if any part, term, or provision of this Agreement shall be found illegal or in conflict with any valid controlling law, the court may substitute therefor a provision modified to the smallest degree necessary to make the same legal and the validity of the remaining provisions shall not be affected thereby.

e.  Amendments.  This Agreement may not be and shall not be deemed or construed to have been modified, amended, rescinded, canceled or waived in whole or in part, except by written instruments signed by the parties hereto.

f.  Commercial Computer Software.  If for U.S. Government use, this computer software is submitted with RESTRICTED RIGHTS as provided by FAR 52.227-14.  It may not be used, reproduced, or disclosed by the Government except as provided by such regulations.  If the Licensed Software is used, directly or indirectly, in connection with foreign or domestic government contracting or subcontracting, then the Licensee shall ensure that: (i) the Licensed Software shall not constitute deliverables under any government contracts or subcontracts and (ii) no government entity shall acquire, under the terms of any government contracts or subcontracts, or any applicable government contracting laws, rules or regulations, any right of any nature in the Licensed Software, including without limitation rights under any copyrights, patents, trade secrets or proprietary rights attendant thereto.

g.  Export Restrictions.  The Licensed Software may not be shipped, transferred or exported into any country or used in any manner prohibited by the United States Export Administration Act or any other export laws, restrictions or regulations.  If the Licensed Software is identified as an export controlled item, Licensee represents and warrants that Licensee is not a citizen, or otherwise located within, an embargoed nation and that Licensee is not otherwise prohibited under the applicable export laws from receiving the Licensed Software.
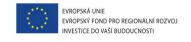
# SCHEDULE A

## SCIENTIFIC FORMING TECHNOLOGIES CORPORATION
## DEFORM™ SYSTEM LICENSE AGREEMENT

1. Licensee (mail address):

   **University of West Bohemia**

   **Regional technology institute - RTI**

2. Licensed Location:   **Univerzitní 8, 306 14 Plzeň, CZECH REPUBLIC**

3. License Type:
   **X** Perpetual License         __ Annual Lease         __ Other _____

4. License Use:
   **X** Commercial Use         **X** Educational Institution         __ Other _____

5. Licensed Systems:
   __ DEFORM™-2D         __ DEFORM™-3D         __ DEFORM™-F2
   __ DEFORM™-F3         __ DEFORM™-HT2         __ DEFORM™-HT3
   __ DEFORM™-RR         __ Geometry Tool         3 (three) DEFORM Premier

6. Licensed Modules:
   __ Microstructure (2D)         __ Microstructure (3D)         __ Ring Rolling
   __ Simulation Queue         3 (three)  MPI – 4 CPU's
   __ Other(s) _____

7. License Mode:
   __ Node-locked         **X** Floating     Licensed Countries: Czech Republic

8. Operating System:   **Windows 7 64-bit hdlk: #8064**

9. License Fee.:  **3 385 800,-- CZK** (net of any discounts and/or credits as itemized)

10. Initial License Term: **22. June 2015**

The undersigned have read and agreed to the terms of this DEFORM™ System License Agreement, including this Schedule A and Schedule B, and caused the same to be executed by their duly authorized representatives.

| **Licensee:** | **Industrial Technology Systems s.r.o.** |
|---|---|
| By: _____ | By: _____ |
| Printed Name: _____ | Printed Name:  Tihomir Erdeljac |
| Title: _____ | Title:         managing director |
| Date: _____ | Date:         29. May 2015 |

**SCIENTIFIC FORMING TECHNOLOGIES CORPORATION
PROGRAM LICENSE AGREEMENT**

**SERVICES AND MAINTENANCE**

**1.    Definitions:**

a.    "Error, malfunction or defect" shall mean any deviation between the operation of the System or a Module and the Documentation.

b.    "To correct" shall mean to bring the operation of the System or Module into conformity with the Documentation.  Changes to the Documentation by SFTC shall be made for the purpose of removing errors, providing for consistency of interpretation, and/or describing improvements made to the Licensed Software.

c.    "Update" shall mean new versions, improvements and/or modifications to the Licensed Software made generally available to Licensees by SFTC as part of its maintenance function.  This does not include new functions or features that are offered as price listed options and additions to, or new versions of, the Licensed Software that are made available at extra cost.

d.    "Multiple Copy" shall mean the second and subsequent copies of the Licensed Software that reside in the same geographical location and are licensed to the same organization as the first copy.  Multiple Copies shall be in effect only as long as the first copy license.

e.    "Educational Institution" shall mean a Licensee who is an educational institution, who shall use the Licensed Software for educational purposes only and who may not use the Licensed Software for other individuals, businesses and/or institutions.

**2.    Training:**

SFTC shall hold periodic (during the initial twelve months hereof, at least quarterly) user training sessions at its offices in Columbus, Ohio.  The Licensee will be charged the published training fee for attendance, calculated per person per day.  So long as this Agreement is in effect and Licensee pays the then current fee for attendance, Licensee's employees may attend such training sessions.  All expenses incurred by Licensee's trainees shall be the responsibility of Licensee.

**3.    Maintenance:**

So long as this Agreement remains in effect, SFTC shall work diligently to correct any errors, malfunctions or defects in the Licensed Software and if successful shall deliver or provide access to a corrected version of the Licensed Software and/or Documentation, to the Licensee in a reasonable amount of time at no additional charge.

**4.    Application Assistance:**

During each twelve-month period in which this Agreement remains in effect, SFTC shall provide up to twenty-four (24) hours of technical assistance/consultation in the proper use of the Licensed Software at no additional cost.  For educational users, SFTC shall provide up to eight (8) hours of technical support.  Additional hours of support/consultation will be provided at SFTC's discretion and may be subject to additional cost to the Licensee.  Such technical assistance/consultation shall be provided at SFTC's office, by email, or by telephone.  If travel to Licensee's office is required all travel and other expenses shall be the responsibility of Licensee.

**5.    Software Update:**

So long as this Agreement remains in effect, SFTC shall provide to the Licensee any updates of the Licensed Software as they may become available.

**6.    User's Group Meetings:**

SFTC, with no additional fee to Licensee, shall hold a meeting semi-annually to promote information exchange among licensees.  Licensee shall be invited to attend such meetings, at Licensee's sole cost and expense, so long as this Agreement remains in effect.

**7.    Restrictions for Licensees Receiving Educational Discount:**

If the license is an Educational Institution License:

a.    Licensee represents, warrants and agrees that it is an educational institution, that use of the Licensed Software will be for educational purposes only, and that the Licensed Software shall not be used by/for other individuals, businesses and/or institutions who are not licensees of the Licensed Software at the time of such use.

b.    SFTC shall provide only the services listed in Items 2, 4 and 5 above; Items 3,and 6 hereof shall not apply.

**8.    Restrictions for Licensees Receiving Multiple Copy Discount:**

If Licensee is receiving a Multiple Copy Discount under this Agreement, SFTC shall provide only the services listed in Items 2, 3, 5, and 6 above; Item 4 hereof shall apply only to the first copy for the Licensee.