

**General Terms and Conditions of Use
for the Purchase of DMG MORI Messenger
(End User Licence Agreement)**

**Article 1
Object of Purchase and Licensing**

1. The object of this agreement shall be the permanent transfer (*Überlassung*) of the "DMG Mori Messenger" computer program in binary code including any associated user documentation ("Licensed Software") and the granting of the rights of use specified in Articles 2-5. The hardware and software environment within which the Licensed Software is to be used, shall be stipulated in the user documentation.
2. DMG MORI's prices valid at the time of conclusion of the agreement shall apply plus value added tax at the statutory rate.
3. DMG MORI shall transfer (*überlassen*) to the user one copy of the Licensed Software on DVD with license code and a hard copy of the associated user documentation. The Licensed Software shall be activated for use by entering the license code. The license code shall be generated from the number of the machine for which the Licensed Software is intended for usage. If the user wishes to use the Licensed Software on other machines, the user shall be required to obtain a separate license code from DMG MORI for each additional machine at the prices applicable at that time plus value added tax at the statutory rate.
4. The characteristics and functionality of the Licensed Software shall be solely as stated in the user documentation. Any information contained therein shall be regarded as specifications of performance and not guarantees (*Garantien*). A guarantee (*Garantie*) shall only be granted where expressly designated as such.
5. Installation and configuration services shall not fall within the scope of this agreement.

**Article 2
Reproduction Rights and Access Protection**

1. The user shall be entitled to copy the software supplied insofar as such copies are required to use the Licensed Software in accordance with its intended purpose, including error correction. In particular, installation of the Licensed Software from the original data medium onto the memory of the hardware in use and loading of the program into the internal memory shall be deemed necessary reproduction.
2. In addition, the user may also make a copy for backup purposes. Only one single backup copy may be made and retained however. The user shall visibly mark the backup copy created with the wording "Backup Copy" and a copyright notice in favour of DMG MORI.
3. The user shall be obliged to take appropriate measures to prevent unauthorised access to the Licensed Software and license code, as well as the user documentation, by third parties. The original data medium supplied, the license code and the backup copies must be stored in a secure location protected against third party access.

Article 3
Multiple Use and Use on Networks

The user shall be entitled to use the Licensed Software on any of its own hardware. If the user changes hardware however, the Licensed Software must be removed from the hardware previously used.

Article 4
Decompiling and Program Modifications

1. A reverse translation of the program code provided into other code forms (decompiling) and other ways of re-engineering the various production stages of the Licensed Software (reverse engineering), including program modification, shall be permitted insofar as necessary to ensure interoperability of the Licensed Software with other programs. This shall only apply however where DMG MORI fails to make the information required for this purpose available to the user within a reasonable period following the latter's request.
2. Copyright notices, serial numbers and other features used to identify the program may not be removed or modified under any circumstances. The same shall apply to suppressing the display of such features on the screen.

Article 5
Resale and Sub-Licensing

1. The user shall be entitled to permanently transfer (*überlassen*) the Licensed Software to a third party provided that the third party declares its agreement with the continued validity of the present contractual terms and conditions and agrees that they shall henceforth also apply to it. In the event of a transfer, the user shall be required to provide the new user with all copies of the Licensed Software and the license code including any existing backup copies, where applicable, or shall be required to destroy any copies not transferred and remove them from its computers unless legally required to retain them for longer. The former user's right to use the Licensed Software shall lapse as a result of the transfer.
2. The user shall be entitled to temporarily transfer the Licensed Software to third parties provided that such third parties declare their agreement to the continued validity of the present contractual terms and conditions and agree that they shall henceforth also apply to them; and that the transferring user hands over all copies of the Licensed Software and the license code, including any existing backup copies, where applicable, or destroys any copies not transferred or removes them from its computers unless legally required to retain them for longer. The transferring user shall have no right to use the Licensed Software itself for the duration of the Licensed Software transfer to the third party. Any sub-licensing or leasing of the software for commercial purposes shall be prohibited.
3. The user shall not be entitled to transfer the Licensed Software to third parties where there are reasonable grounds for suspecting that the third party will breach the contractual terms and conditions, in particular in respect of making unauthorised copies.

Article 6 Claims for Defects

1. DMG MORI hereby warrants (*gewährleistet*) that the software shall be of the agreed quality and that the user may use the Licensed Software without breaching third party rights. The warranty for material defects (*Sachmängelgewährleistung*) shall not apply to defects based on the Licensed Software being used within a hardware and software environment that does not meet the requirements set out in the user documentation.
2. The user shall be required to check the Licensed Software for apparent defects immediately following receipt and to notify DMG MORI of the existence of any such defects immediately. Failure to do so shall result in such defects being excluded from warranty. The same shall apply where any such defects become apparent at a later time. Section 377 of the German Commercial Code (*Handelsgesetzbuch*) shall apply.
3. In the event of a material defect, DMG MORI shall first be entitled to supplementary performance (*Nacherfüllung*), in other words to rectify the defect ("rectification") (*Nachbesserung*) or offer a replacement at its own discretion (*Ersatzlieferung*). For replacement, the user shall accept a new version of the Licensed Software, where applicable, except where this would result in unreasonable adverse effects. In the case of defects in title, DMG MORI shall, at its own discretion, either provide the user with a lawful means of using the Licensed Software or shall modify the latter such that it no longer infringes any third party rights.
4. DMG MORI shall be entitled to undertake warranty-related services at the user's premises. DMG MORI shall also be deemed to have satisfied its rectification obligation by providing updates to download on its homepage equipped with an automatic installation routine and offering the user telephone support or remote support to resolve any installation problems which may occur.
5. The user's right to a reduction in the purchase price or to withdraw from the agreement in the event of two failed rectification or replacement attempts shall remain unaffected. No right to withdraw shall arise in the case of minor defects. Where the user claims compensation for damages or reimbursement for any costs, DMG MORI shall be liable in accordance with Article 7.
6. With the exception of claims for damages, warranty claims on the grounds of material defects shall lapse within one year. Where DMG MORI is liable for damages pursuant to Article 7, the statutory limitation period shall apply. The limitation period shall commence upon delivery of the Licensed Software and licence code.
7. Where there is a software maintenance agreement between the parties, the rectification period for defects shall be in accordance with the periods stipulated within such maintenance agreement.

Article 7 Liability

1. DMG MORI shall be liable without limitation
 - in the event of wilful intent or gross negligence (*bei Vorsatz oder grober Fahrlässigkeit*),
 - for injury to life, limb or health (*für die Verletzung von Leben, Leib oder Gesundheit*),
 - in accordance with the stipulations of the Product Liability Act (*nach den Vorschriften des Produkthaftungsgesetzes*) and
 - within the scope of any guarantee (*Garantie*) accepted by DMG MORI.

2. In the event of any slight negligent breach (*leichte Fahrlässigkeit*) of an obligation that is fundamental to fulfilment of the contractual purpose (material obligation), DMG MORI's liability shall be limited to the amount of damages foreseeable and typical based on the nature of the business in question.
3. Any further liability on the part of DMG MORI shall be excluded.
4. The present limitation of liability shall also apply to the personal liability of DMG MORI employees, representatives and official bodies.
5. DMG MORI shall only be liable for the loss of data up to the amount that would have been incurred up to the point of restoration in the event of the data being properly and regularly backed up.

Article 8 Other Provisions

1. The user shall only be entitled to offset undisputed or legally established claims.
2. Amendments and additions to this agreement must be made in writing. This also applies to any modification or waiver of this clause. Electronic documents in text form shall not fulfil this written form requirement.
3. The user's general terms and conditions of business shall not apply.
4. The Licensed Software may be subject to re-export/export restrictions, e.g. imposed by the United States of America or the European Union. The user shall be required to comply with these regulations in the event of any resale or other export.
5. German law shall apply to this agreement to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods dated 11.04.1980 (CISG).
6. The place of fulfilment shall be Pfronten, Germany. The sole place of jurisdiction shall be Munich provided that each party is a merchant or legal entity under public law or does not have any general place of jurisdiction within Germany.
7. In the event of the invalidity of individual provisions of this agreement, this shall not affect the validity of the remaining clauses. The contracting parties shall endeavour to find an effective clause in place of the invalid one which most closely reflects the economic meaning and purpose of the invalid provision.
8. All appendices referred to in this agreement shall be binding and integral components of this agreement.
9. English words and expressions followed by a German term in brackets shall bear the legal meaning as described to the German term in brackets under German Civil Law. The German translation has been included for the avoidance of doubt in this End User License Agreement as it is governed by German Law, but drafted in English language.