

END USER LICENSE AGREEMENT

This End User License Agreement ("Agreement" or "EULA") is entered into by and between Leica Microsystems CMS GmbH [Ernst-Leitz-Strasse 17-37, 35578 Wetzlar], Germany (or one of its affiliates) ("Leica Microsystems") and you, the end user, either individually or as an authorized representative of the company or organization acquiring the license ("you" or "End User"), each referred to herein as a "Party" and collectively as the "Parties". This EULA governs your use of software owned by Leica Microsystems or its affiliate, as set forth in the relevant quotation or ordering documentation provided by or on behalf of Leica Microsystems or its affiliate, and any new releases, updates or versions thereof made available by or on behalf of Leica Microsystems or its affiliate ("Software Product").

By downloading, installing, copying, or otherwise using the Software Product you agree to be bound by the terms of this EULA. If you do not accept the terms of this EULA, you must not use the Software Product. You then shall promptly return or, if received electronically, certify destruction of the Software Product and all accompanying material within two (2) days after receipt of the Software Product, and - if applicable - receive a full refund of any license fees paid in respect of the returned or destroyed Software Product (however not any purchase price or license fee paid in respect of other Leica Microsystems products provided to you).

1. Scope of this Agreement

1.1. Subject matter of this EULA is a non-exclusive license to use the Software Product for the intended use as defined in Section 1.2 below and under the terms and conditions set forth in this EULA. This non-exclusive license automatically terminates upon End User's failure to use the Software Product for the intended use as defined below or upon End User's breach of the terms and conditions set forth in this EULA.

1.2. The Software Product has been designed to be used to acquire, store, review, process, analyze and document images and/or videos of specimens and other measured results in various routine work and research applications. The Software Product can either be used "online" with a microscope system or "offline" without a microscope system (collectively, "Intended Use"). The Software Product is not considered, and the Intended Use expressly excludes use of the Software Product as, a medical, in vitro diagnostic or measurement device. Without limiting the foregoing sentence, you shall not use the Software Product for any purpose other than the Intended Use. Leica Microsystems reserves all rights, including without limitation rights of ownership, usage and exploitation, that are not expressly granted to you.

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1.3. Use of the Software Product by a laboratory or similar research facility is on the condition that its personnel adhere to procedures that cover issues such as, but not limited to, operator training, assay development and validation, and external audits of laboratory assay performance. Methods used for reporting results should be verified before use. Furthermore, standard operating procedures should be established for analytical methods.

1.4. You may receive the Software Product in machine readable form at the discretion of Leica Microsystems, including via electronic download, any data storage media or remote data transfer. Leica Microsystems has no obligation or liability with respect to any installation, configuration services or other services with regard to the Software Product, any software other than the Software Product or any hardware, device or equipment under this EULA.

1.5. General terms and conditions of the End User do not apply.

2. Rights and Obligations

2.1. The Software Product is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. All right, title, and interest in and to the Software Product (including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the Software Product), any accompanying documentation (the "Documentation"), and any copies of the Software Product are owned by Leica Microsystems or its licensors. Subject to the limited rights expressly granted hereunder, Leica Microsystems and its licensors shall retain any and all right, title, and interest in and to the Software Product and all accompanying materials and all modifications thereto, by whomever made, including all related intellectual property rights. End User shall take all necessary action to ensure that the title to and interest in any derivative works or modifications to the Software Product or its associated intellectual property remain with or are transferred to Leica Microsystems. To the extent title and interest cannot be transferred to Leica Microsystems, End User shall, and hereby does, grant to Leica Microsystems a non-exclusive, royalty-free, irrevocable, world-wide license to make, use, copy, and sell (including of a commercial nature) any derivative works or modifications of the Software Product and related intellectual property.

2.2. Leica Microsystems hereby grants to you the non-exclusive and non-sublicensable license to use the Software Product for the Intended Use solely, as defined by the terms of this EULA and subject to your compliance with the terms of this EULA.

2.3. You may store and install a copy of the computer software portion of this Software Product either on the computer delivered with the Software Product or, if the Software Product was not delivered with a computer, on one (1) other computer ("Computer").

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2.4. You may allow additional Computers to use the Software Product over an internal network owned by you or under your exclusive control, provided that such Computers are solely used by your employees, agents, or contractors and solely for your purposes. Except as expressly set forth in the foregoing sentence, a license for the Software Product may not be shared or used concurrently on different Computers.

2.5. You may make a single back up copy of the computer software portion of the Software Product. You may use the backup copy solely for archival purposes.

2.6. You may not modify, create derivative works, reverse engineer, decompile or disassemble the Software Product or otherwise derive the source code or other proprietary information or trade secrets from the Software Product, or attempt to do so, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. You may not uninstall the Software Product from any Leica product on which it was originally installed.

If your residence or registered office is located in Germany, the following shall additionally apply to you:

Your right to revise the Software Product shall be limited to the maintenance or reinstatement of the agreed functionality of the Software Product pursuant to Section 69 d para. (1) in conjunction with Section 69 c no. 2 UrhG (German Copyright Act - Urheberrechtsgesetz). In addition, your right to decompile the Software Product shall be granted under the terms of Section 69 e para. (1) nos. 1 to 3 UrhG and within the limits of Section 69 e para. (2) nos. 1 to 3 UrhG. However, you may only make use of these rights pursuant to Section 69 e UrhG, if and to the extent (i) you are entitled to exercise such rights, and (ii) Leica Microsystems did not provide the required information or service to you within a reasonable period of time.

2.7. The Software Product is licensed as a single product. Its component parts may not be separated for use on more than one Computer.

2.8. The package for the Software Product may contain multiple versions of this license, such as multiple translations and/or multiple media versions (e.g. in the Documentation and in the Software Product). In this case, you are only licensed to use one (1) copy of the Software Product.

2.9. You may receive the Software Product in more than one medium. Regardless of the type or size of medium you receive, you may use only one medium that is appropriate for the Computer. You may not use or install the other medium on another computer. You may not loan, rent, lease, or otherwise transfer the other medium to another user, except as part of the permanent transfer of the Software Product, as provided under Section 2.12 below.

2.10. You may not copy any printed Documentation accompanying the Software Product.

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2.11. Without prejudice to Section 2.12, you may not sublicense, disclose, distribute, rent, lease, or lend the Software Product for any purpose, including commercial purposes, or use the Software Product to provide services to third parties (such as business process outsourcing, service bureau applications or third party training).

2.12. You may permanently transfer all of your rights under this EULA, provided (i) you retain no copies; (ii) you transfer all of the Software Product (including all component parts, the media and printed Documentation, any upgrades, this license and, if applicable, the certificate(s) of authenticity); and (iii) the recipient agrees to the terms of this EULA. If the Software Product is an upgrade, any transfer must include all prior versions of the Software Product still in your possession. No partial transfer or assignment of any Software Product shall be permitted.

2.13. You undertake to allow Leica Microsystems, or an agent of Leica Microsystems, to audit whether your use of the Software Product is consistent with the rights granted to you herein upon reasonable notice of Leica Microsystems and provided there is a legitimate interest therein, and to give full cooperation to Leica Microsystems or its agent carrying out such audit.

2.14. You may not remove or alter any copyright notice or any other intellectual property notice from the Software Product or the accompanying Documentation.

2.15. To ensure the functioning of the Software Product and the Computer and the protection and security of personal data and any other data you are solely responsible for not installing any harmful software (e.g. viruses, ransom software, malware) on the Computer, regularly updating the Operating System Software and the Leica Software on the Computer with safety updates and patches and appropriate measures to ensure that no unauthorized person is accessing the Computer.

3. Warranty Rights

3.1. You accept all risks which may arise from installing, downloading and use of the Software Product, including but not limited to errors in transmission or corruption of existing data or software. Leica Microsystems makes no warranties, express or implied, and specifically disclaims any warranty of non-infringement of third parties' rights, warranties of merchantability and of fitness for a particular purpose.

3.2. Some jurisdictions do not allow the exclusion of warranties or limitations of how long a warranty may last, so the above exclusion may not apply to you, or not entirely. You may also have other rights which vary from jurisdiction to jurisdiction. In this case, Section 3.1 does only apply to the extent that is allowed under applicable law.

3.3. If your residence or registered office is located in Germany, the following warranty rights shall apply to you:

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3.3.1. The Software Product shall be substantially in accordance with the specifications listed in the accompanying Documentation. Rights in case of defects shall be excluded in the case of minor or immaterial deviations from the agreed or assumed characteristics or in the case of slight impairment of use. Product descriptions shall not be deemed guaranteed unless separately agreed in writing. In respect of updates, upgrades, and the delivery of new versions, your rights in case of defects shall be limited to the new features of the update, upgrade, or new version compared to the previous version release.

If you demand replacement performance because of a defect, Leica Microsystems has the right to choose between the improvement, replacement delivery, or replacement of services. If the defect is not cured within a first time limit, and you have given Leica Microsystems a reasonable second time limit without success, or if a reasonable number of attempts to remedy, replacement deliveries or replacement services are unsuccessful, then you may, subject to the statutory prerequisites, at your option withdraw from this EULA or reduce the license fees and claim damages or reimbursement of costs. The remedying of the defect may also take place through the delivery or installation of a new program version or a work-around. If the defect does not or not substantially impair the functionality, then Leica Microsystems is entitled, to the exclusion of further rights in case of defects, to remedy the defect by delivering a new version or an update as part of its version, update and upgrade planning.

Defects must be notified in writing with a comprehensible description of the error symptoms and, as far as possible, evidenced by written recordings, hard copies or other documents demonstrating the defects. The notification of the defect should enable the reproduction of the error.

3.3.2. Your rights in case of defects are limited to 24 months (if you are a consumer), or to 12 months (if you are not a consumer), beginning on the date of delivery or provision of the Software Product including the accompanying Documentation. If the Software Product is a driver software product for a hardware product of Leica Microsystems, then your rights in case of defects are limited to the warranty period of the hardware product you are using the Software Product with.

3.3.3. Any claims for damages are subject to the limitations set forth under Section 4 below.

3.3.4. Leica Microsystems may refuse to remedy defects or deliver replacements, until you have paid to Leica Microsystems all costs for the Software Product and any associated equipment or hardware, less an amount, which corresponds to the economic value of the defect.

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3.3.5. The Software Product delivered or provided by Leica Microsystems shall be free from third party rights, which prevent the use in accordance with the EULA.

You shall inform Leica Microsystems in writing without delay of the claiming of such rights by a third party and shall give Leica Microsystems all powers of attorney and authorisations, which are necessary in order to defend the Software Product against the third party's rights claimed.

To the extent that there are defects in title, Leica Microsystems is entitled at its option to either (i) take legitimate measures to remove the third party's rights, which impair the contractual use of the Software Product, or (ii) remedy the enforcement of such claims, or (iii) change or replace the Software Product in such a manner, that it no longer infringes the rights of the third party, provided and to the extent that this does not substantially impair the warranted functionality of the Software Product. If the options described in clauses (i) to (iii) are not reasonably available to Leica Microsystems, you have the right to terminate the license.

4. Limitation of Liability

4.1. Under no circumstances and under no legal theory, tort, contract, or otherwise, shall Leica Microsystems or its suppliers or resellers be liable to you or any other person for an amount in excess of \$100 or in any amount for any indirect, special, incidental, or consequential, exemplary or punitive damages of any character including, without limitation, damages for loss of profits, data, goodwill, work stoppage, computer failure or malfunction, or any and all other commercial damages or losses, arising out of or in connection with the use or performance or non-performance of the Software Product or Documentation, even if Leica Microsystems shall have been advised of the possibility of such damages or loss.

To the maximum extent permitted by applicable law, neither Leica Microsystems nor its licensors shall be liable for any damages resulting from or in connection with the use of Software Product in any application where the failure or inaccuracy of the Software Product might result in death or personal injury. You agree to indemnify and hold harmless Leica Microsystems and all other Leica Microsystems Group Companies from any claims, loss, cost, damage, expense, or liability, including attorneys' fees, arising out of or in connection with such use or use of the Software Products outside of the Intended Use.

4.2. Some jurisdictions do not allow the exclusion or limitation of liability, so the above exclusion may not apply to you. You may also have other rights which vary from jurisdiction to jurisdiction. In this case, Section 4.1 does only apply to the extent that is allowed under applicable law. The provisions of this EULA allocate the risks between the parties and the parties would not have entered into this EULA without the terms set forth in this Section 4.

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4.3. If your residence or registered office is located in Germany, the following limitation of liability shall apply to you:

4.3.1. Leica Microsystems liability for damages caused by slight negligence, irrespective of its legal ground, shall be limited as follows:

4.3.1.1. Leica Microsystems shall be liable up to the amount of the foreseeable damages typical for this type of contract due to a breach of material contractual obligations;

4.3.1.2. Leica Microsystems shall not be liable due to a slightly negligent breach of any other duty of care applicable.

4.3.2. The aforesaid limitations of liability shall not apply to any mandatory statutory liability, in particular to liability under the German Product Liability Act (Produkthaftungsgesetz) and the liability for culpably caused injuries of life, body or health. In addition, such limitations of liability shall not apply if and to the extent Leica Microsystems has assumed a specific guarantee.

4.3.3. Sections 4.3.1 and 4.3.2 shall apply accordingly to the liability of Leica Microsystems for futile expenses.

4.3.4. You shall be obliged to take adequate measures to avert and reduce damages, e.g. you shall be obliged to regularly backup your data. You shall, in particular prior to any installation, take a complete data security backup of all system and application data.

4.3.5. Leica Microsystems shall be liable for loss of data only up to the amount of typical recovery costs which would have arisen had accurate and regular data backup measures been taken.

5. Data Protection and Security

With regard to the processing of any personal data in connection with the use of the Software Product, please refer to our privacy policy, which is provided at <https://www.leica-microsystems.com/company/privacy-policy> ("Privacy Policy").

Our safety and security policy to run our Software in combination with a Leica product is related to the technical specification IEC TS 62443-1-1 (Industrial communication networks – Network and system security – Part 1-1: Terminology, concepts and models). Regarding this specification we defined a local physical security zone as area under protection. This technical specification zone is a logical grouping of physical, informational and application assets sharing common security requirements. The security goal is to avoid local system attacks by hardware manipulation or mistreating of data by copying data from or into the system. To cover the requirements of physical access restrictions the following points need to be fulfilled and defined as physical access required to allow people to work within this zone.

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- 5.1. Human operators defined to be trusted people.
- 5.2. Human operators need to be trained and informed how to treat the data which will be generated on the system.
- 5.3. Access to the system against unauthorized access by locks on doors or other physical means protect need to be available.
- 5.4. Physical boundaries commensurate with the level of security desired and aligned with other asset security plans need to be available. For example, in a typical manufacturing plant authorized people are allowed into the plant by an authorizing agent (security guard or ID), and unauthorized people are restricted from entering by the same authorizing agent and by fences.
- 5.5. Information needs to flow into, out of and within the zone carried by a physical data carrier (USB Stick, portable hard disk or miscellaneous data carrier) need to be checked before used on the system.
- 5.6. Defined assets connected to the system within the zone need to be verified by Leica Microsystems.
- 5.7. Defined assets connected to the system within the zone need to use in the defined operation mode and the desired connectivity to the system. Bypasses from 3rd Party components to the network could lead to security lags.

The operator of the system verifies that the environment fulfils the safety requirements to run the system regarding our safety and security policy.

In particular, when you use the Software Product, Leica Microsystems also may collect certain usage and device information automatically, as described in the following Section 6.

6. Diagnostic and Support

Leica Microsystems uses your personal data to provide you the services under this EULA or which you request to communicate with you and to improve your experience using the Software Product. This may include Leica Microsystems accessing your Computer or system for the purposes of providing remote assistance.

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In addition, depending on your Software Product Leica Microsystems may use the following services of:

6.1. “RemoteAnalytics” to analyse your use of the Software Product. For this purpose, “RemoteAnalytics” records and stores the Internet Protocol (“IP”) address of your Computer or other electronic device when you use the Software Product. An IP address identifies the electronic device you employ to use the Software Product, which allows Leica Microsystems or its service providers to maintain communication with your Computer or system to provide services under this EULA. The Software Product implements a call-home system which collects and processes data, which may include personal data or certain statistical data connected to your use of the Software Product. This data may be used by Leica Microsystems or “RemoteAnalytics” and their suppliers and affiliated companies. Some of the data may be stored or processed in jurisdictions other than Germany whose data protection laws may differ; however, Leica Microsystems will take the security measures described in the Privacy Policy in an effort to keep your information secure.

6.2. “RemoteCare” The “RemoteCare” support constantly checks the functionality of your soft- and hardware so potential failures or problems can be rectified before data collection is interrupted or system performance is reduced. Therefore, technical machine data and also software log files will be transferred to a server.

7. Export

Software is subject to regulation by local laws, which may prohibit export or diversion of certain products, information about the products, and direct products thereto to certain countries and certain persons. You agree that you will use and/ or forward the Software Product in compliance with all applicable export control legislation, and that you will not export in any manner any Software Product or a direct product of the Software Product, without first obtaining all necessary approval from appropriate local government agencies.

8. Termination

Without prejudice to any other rights, Leica Microsystems may terminate this EULA and any rights or licenses granted hereunder if you fail to comply with the terms and conditions of this EULA and, if able to be cured, such breach is not cured within ten (10) working days after Leica Microsystems informed you about the breach. In this case, you must, at the choice of Leica Microsystems, either destroy all copies of the Software Product and all of its component parts and Documentation, and confirm such destruction in writing to Leica Microsystems, or return it to Leica Microsystems.

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9. Confidentiality

The Parties shall treat all confidential information received from the other party in connection with this EULA strictly confidential and shall only use such information for purposes of this EULA. Both Parties shall protect confidential information from unauthorized access and apply the same due care and diligence as they do with their own confidential information. A Party to this EULA may not, without prior written consent from the other Party, disclose confidential information to a third party, unless; (i) required by compelling applicable law or by judicial decree or order from any regulatory supervisory authority (and the receiving Party shall have without undue delay informed the other Party in writing of such an obligation) or, (ii) the confidential information is made accessible to advisors of the receiving Party in connection with the interpretation or execution of the EULA or any subsequent disputes and the advisors have bound themselves prior in writing to confidentiality or are subject to professional non-disclosure obligations.

10. Miscellaneous

10.1. This EULA shall be governed by and construed under the laws of Germany excluding its conflict of law rules. The Parties agree that the United Nation Convention on Contracts for the International Sale of Goods is specifically excluded.

10.2. If any provision of this EULA is held to be void, invalid, unenforceable, or illegal by a court of competent jurisdiction, such provision shall be severed from this EULA and the remaining provisions shall remain in full force and effect.

10.3. This EULA contains the entire understanding between the Parties relating to its subject matter and supersedes all prior or contemporaneous agreements, including, but not limited to, any purchase order terms and conditions, except valid license agreements related to the subject matter of this EULA which are physically signed by you and an authorized agent of Leica Microsystems.

10.4. This EULA may only be modified by a physically signed writing between you and an authorized agent of Leica Microsystems. Waiver of terms or excuse of breach must be in writing and shall not constitute subsequent consent, waiver or excuse.

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10.5. The Software Product may include certain third-party software or components that are subject to open source license provisions (OSS). The term Software Product as used herein excludes all OSS. If required by the applicable OSS license, Leica Microsystems will make the OSS available to Licensee upon request in accordance with the terms of those licenses. Installation and use by Licensee of the OSS is subject to the respective open source license under which it is provided, and not to any contrary or additional terms of this Agreement. Notwithstanding any provision of this Agreement to the contrary, (i) LEICA MICROSYSTEMS , AND ITS RESPECTIVE SUPPLIERS AND LICENSORS PROVIDE THE OSS “AS IS” AND EXPRESSLY DISCLAIM ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE, and (ii) in no event shall Leica Microsystems or its respective suppliers or licensors be liable for any damages of any nature arising from use or distribution of the OSS, including without limitation direct, indirect, special, incidental, punitive or consequential damages or damages arising from loss of use, data, or profits, even if advised of the possibility of such damages.

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