

CELOS CLUB SERVICE TERMS & CONDITIONS

1. Purpose, Scope of Application and Applicability
 - 1.1 These terms of use (hereinafter referred to as “the Terms”) shall apply to any and all matters between DMG MORI USA, INC., its parents, subsidiaries and affiliates (collectively, “DMG MORI”) and corporate entities, individuals and organizations (hereinafter referred to as “Customers”) who have purchased the CELOS Club service (hereinafter referred to as “the Service”).
 - 1.2 By using the Service, or by continuing to use the Service after being notified of a change in the Terms, Customers are deemed to have agreed to the Terms. Customers shall use the Service in accordance with these Terms.
 - 1.3 Use of the Service is also subject to the DMG MORI USA General Terms and Conditions (“GTC”), available at <https://us.dmgmori.com/terms-and-conditions>. In the event of a conflict between any term in the GTC and these Terms, these Terms shall control. If, in addition to these Terms and the GTC, there exist other documents, including but not limited to software license agreements (hereinafter referred to as “Individual Terms and Conditions”) that relate to the Service and are distributed by DMG MORI or posted on its website under titles such as “Terms”, “Guidelines” or “Policy”, Customers must use the Service in accordance with these Individual Terms and Conditions in addition to these Terms.
 - 1.4 If there are any contradictions between the Individual Terms and Conditions and the Terms, the provisions of the Individual Terms and Conditions shall apply with precedence in respect to the points that are subject to these contradictions only.
2. Details of the Service
 - 2.1 This Service is available for machines equipped with ERGOline Touch and that are identified by DMG MORI as applicable upon subscription to the Service (hereinafter referred to as the Target Machines).
 - 2.2 The content of the Service is as follows.
 - (1) Annual updates of the CELOS software
 - (2) Privilege to connect to and access information through DMG MORI Messenger GE/LE
 - (3) Remote maintenance service provided by the DMG MORI Service Center
 - (4) Discount on MAPPS software options (20%)
 - Applicable software (as of January 2018):
 - Open pocketing with islands
 - Text engraving
 - DXF importation
 - High-speed canned cycles
 - Area definition
 - MORI-POST advanced
 - (5) Discount on part charges in event of ERGOline Touch failures of the Target Machines (50% discount)
 - However, the following restrictions apply.
 - Maximum of two instances per year.
 - The cost of service work is excluded from the discount.
 - (6) Additional software options:
 - CELOS PC-Version
 - DMG MORI Messenger
 - DMG MORI Visual Programming
 - Manufacturing Suite NC Simulation
 - Simplified 3D machine model
 - 2.3 DMG MORI shall have the option to outsource all or part of the work involved in the Service and the Customer is deemed to have consented to this in advance.
 - 2.4 Subscription fees for the service shall be based on the then current DMG MORI USA fee schedule.
 - 2.5 Subscription to the CELOS Club shall commence on the date of installation and shall expire at the end of the term of the Service, in accordance to the length of the Service purchased by the Customer (“Expiration Date”). If Customer wishes to renew its subscription to the Service, Customer must notify DMG MORI USA in writing no later than thirty (30) days before the Expiration Date. Unless Customer renews its subscription in accordance with this section, the Service shall cease on the Expiration Date. The Subscription fee for any renewal term shall be based on the DMG MORI USA fee schedule in effect at the date of renewal notice.

3. Changes to the Terms
 - 3.1 DMG MORI may change or revise these Terms from time to time, at its sole discretion without prior notice to Customers. DMG MORI may also change, add to or discontinue any or all content of the Service stipulated in article 2 of these Terms, at any time for any reason, at its sole discretion with prior notice to the Customers.
 - 3.2 DMG MORI shall notify Customers of any changes by e-mail, facsimile or by mail, or by posting such changes on websites designated by DMG MORI.
 - 3.3 Terms that have been changed or revised according to 3.1 above shall become effective (i) when the said change is posted on the websites designated by DMG MORI or (ii) when the said change is transmitted or dispatched by e-mail, facsimile or mailing.
4. Issuance of IDs and registration of User information
 - 4.1 DMG MORI will issue IDs and passwords (hereinafter referred to as "IDs, etc.") to users of the Service (hereinafter referred to as the "Users"). In order to issue IDs, etc., the Users have to be registered. Users must belong to the entity as the owner of the Target Machine(s). Users must register information including their name, address, department name, telephone number and e-mail address (hereinafter referred to as the "User Information") by following the prescribed procedure.
 - 4.2 Users who have been issued IDs, etc., shall manage the ID on their own responsibility.
 - 4.3 The Users may not lend their own IDs, etc. to third parties or allow third parties to use them, and shall take full responsibility for outcomes arising out of improper use of their IDs, etc. by other persons.
 - 4.4 Users shall notify DMG MORI promptly about any change to the registered information. DMG MORI will not be liable for any delay, non-delivery or non-fulfillment of communications, etc., from DMG MORI due to not receiving notification from the User about changes.
 - 4.5 DMG MORI shall handle the User Information set out in 4.1 above in accordance with the DMG MORI's "personal information privacy policy (<http://www.dmgmori.co.jp/en/privacy/>)".
 - 4.6 DMG MORI may provide the User Information to DMG MORI USA, INC., DMG MORI B.U.G. CO., LTD. and other subsidiaries and/or affiliates thereof. These subsidiaries and/or associates thereof shall handle User Information in accordance with the DMG MORI's "personal information privacy policy (<http://www.dmgmori.co.jp/en/privacy/>)".
5. Prohibition of Assignment of Any Rights and Duties

Customer may not assign, allow to inherit or pledge their position and/or the rights and duties thereof, to which they are entitled in compliance with these Terms, wholly or in part, to any third parties.
6. Resale and Rejection of the Machine
 - 6.1 If a Customer has resold or decommissioned a Target Machine, the Customer may not enjoy the Service in relation to the relevant Target Machine.
 - 6.2 Where a Customer has resold or decommissioned a Target Machine, DMG MORI will not refund the Service usage charge in relation to the relevant Target Machine.
 - 6.3 If a Customer has resold or decommissioned a Target Machine, the Customer may not transfer its/his/her authority to use the Service to other Target Machines that the Customer owns or uses.
 - 6.4 If a Customer has resold or decommissioned a Target Machine, the Customer shall immediately inform DMG MORI.
7. Attribution of Rights
 - 7.1 All rights (copyright, rights neighboring on copyright, trademark rights, design rights and other intellectual property rights, and all other rights) relating to the content comprising the Service (meaning text, video, images, audio, illustrations, designs, trademarks, logos and other information, hereinafter referred to as "the Contents") are attributed to DMG MORI or third parties who have granted a license to use the Contents to DMG MORI.
 - 7.2 Customers shall not act in any way that infringes the rights of DMG MORI or third parties in respect to the Contents.
8. Exemption from Responsibility
 - 8.1 DMG MORI may temporarily cease or suspend the Service without prior notice to the Customers in the following cases.
 - (1) To carry out urgent maintenance of systems, etc.
 - (2) When it has become impossible to provide the Service due to fire, a power outage, etc.
 - (3) When it has become impossible to provide the Service due to a natural disaster such as an earthquake, volcanic eruption, flood or tsunami.
 - (4) When it has become impossible to provide the Service due to war, civil disturbance, insurrection, riots, or labor disputes.

- (5) Other cases where DMG MORI judges suspension of the Service to be necessary for operational or technical reasons.
- 8.2 Where provision of the Service is delayed or suspended in whole or in part for any of the reasons cited in the preceding paragraph, DMG MORI shall bear no responsibility for any loss or damage incurred by the user due to this delay or suspension.
9. LIMITATION OF LIABILITY
- 9.1 IN NO EVENT, SHALL DMG MORI BE RESPONSIBLE FOR ANY DAMAGE INCURRED BY ANY CUSTOMER OR ANY THIRD PARTY WHILE UTILIZING THE SERVICE, EXCEPT WHEN SUCH DAMAGE HAS BEEN CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF DMG MORI.
- 9.2 IN NO EVENT SHALL DMG MORI BE LIABLE UNDER ANY THEORY OF RECOVERY, FOR ANY LOSS OF USE, DATA BUSINESS REVENUE, PROFIT, GOODWILL OR REPUTATION, BUSINESS INTERRUPTION, OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED OR PUNITIVE DAMAGES, EVEN IF IT WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, OR EVEN IF SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE.
- 9.3 IN NO EVENT SHALL DMG MORI'S AGGREGATE LIABILITY ARISING OUT OF RELATED TO THESE TERMS, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO DMG MORI FOR THE SERVICE IN THE TWELVE MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
- 9.4 THE PROVISIONS OF THIS PARAGRAPH 9 SETS FORTH DMG MORI'S SOLE LIABILITY AND ENTIRE OBLIGATION AND CUSTOMER'S EXCLUSIVE REMEDY FOR ANY ACTUAL, THREATENED OR ALLEGED CLAIM ARISING OUT OF OR RELATED TO THE TERMS OF USE OR THE SERVICE.

10. NO WARRANTY

THE SERVICE IS PROVIDED "AS IS". DMG MORI MAKES NO REPRESENTATIONS, WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE SERVICES, INCLUDING ANY WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. EXCEPT TO THE EXTENT PROHIBITED BY LAW, DMG MORI DISCLAIM ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

11. Maintenance of Confidentiality

The Customer shall maintain the confidentiality of DMG MORI's confidential information (this refers to any information that DMG MORI has identified as confidential at disclosure, regardless of the method of disclosure), and except in cases where disclosure is obligated by law, DMG MORI's confidential information shall not be disclosed or leaked to third parties without the written consent of DMG MORI.

These Terms shall become effective on January 1, 2018.