

END USER LICENSE AGREEMENT

This End User License Agreement (this "EULA") is made between the end user customer ("You", "Your" or "End User") and FUJIFILM Corporation ("Fujifilm"). By installing, downloading, storing or otherwise using the Software (as defined below), You acknowledge and agree to be bound by the terms and conditions of this EULA. If You do not wish to be bound by the terms and conditions of this EULA, then You should not install, download, store or otherwise use the Software and should instead promptly return the Software to Fujifilm or to the authorized reseller from which You procured a license to the Software for a refund of the fees paid.

Article 1 Software

"Software" means the "FUJIFILM Software-defined Tape" software including, but not limited to, a set of programs and documents licensed by Fujifilm for the purpose of providing functionality for reading and writing data from and into storage, together with any subsequent releases, updates, upgrades, versions and corrections and any accompanying documentation. Software may be preinstalled on and distributed with a server. The Software incorporates open source software code developed by third parties (the "Open Source Code"). A list of the Open Source Code is available at <http://www.fujifilm.eu/eu/support/recording-media>. The Open Source Code is subject to its own respective licenses (the "Open Source Licenses") and in the event of any conflict between the terms of this EULA and one or more of the Open Source Licenses, the Open Source Licenses shall prevail with respect to the Open Source Code to which it applies. You hereby agree to comply with the terms and conditions of the Open Source Licenses.

Article 2 Application

This EULA governs Your use of the Software for the authorized Purpose described below. Any maintenance or support services provided by Fujifilm in connection with the Software shall be pursuant to the terms of a separate written agreement between the parties. In the event of any conflict between the terms of this EULA and the terms of any separate agreement, the terms of the latter shall prevail.

Article 3 Intellectual Property Rights

The Software is licensed and not sold. All intellectual property rights related to the Software are reserved by Fujifilm or its third party licensors. The Software is protected by copyright law, trade secret law, and other intellectual property laws and treaties.

Article 4 License

Provided that You are authorized to use the Software under a license subscription under a sales order between You and Fujifilm or its authorized reseller, Fujifilm grants You a non-exclusive, non-transferable and non-sublicensable limited right to use the Software only for the purpose for which the Software is intended to be used, including reading and writing data from and into storage and associated data management (“Purpose”), subject to the terms of this EULA.

Except as expressly set forth in this Article 4 or in any of the Open Source Licenses, no other right, title or interest in or to the Software is authorized or granted hereunder.

Article 5 Term, Suspension, Revocation or Termination

1. The term during which You are licensed to use the Software shall commence and shall continue for the duration as defined in the relevant sales order.
2. In the event of any violation or breach of the terms of this EULA by You, Fujifilm may, in its sole discretion, and without liability or penalty of any kind, revoke, suspend or terminate Your right to use the Software upon notice.
3. In the event of any suspension, revocation or termination of this EULA, for whatever reason, You shall immediately cease all use of the Software and erase the Software in its entirety from the relevant hardware or server on which the Software is stored in an unrecoverable manner and in accordance with the instructions of Fujifilm.

Article 6 Compliance

1. You shall not and shall not cause or permit any third party to:
 - a. use the Software for any purpose other than the Purpose or install or use only a part of the Software, except as expressly authorized in writing by Fujifilm.
 - b. alter, adapt, translate, reverse engineer (such as by reducing to a human-readable form by analyzing the contents), decompile or disassemble the Software or otherwise attempt to discover the source code of the Software, or create derivative works from the Software, or merge or incorporate the Software into other software.
 - c. reproduce or copy the Software in whole or in part.
 - d. sell, distribute, transfer, make transmittable, publicly transmit, lease, lend, assign, sublicense, or otherwise export or re-export the Software in whole or in part whether for a fee or free of charge.
2. You acknowledge that the Software may be subject to export control laws, rules or regulations. In the event that You export the Software out of the country in which You

have procured the Software, You shall comply with all applicable export control laws, rules and regulations in the relevant jurisdiction. You shall be responsible for resolving any claim or issue arising from any violation of this provision.

Article 7 Warranty

1. Fujifilm warrants to End User that the Software will perform substantially in accordance with the documentation supplied with the Software for the ninety (90) day period following installation of the Software (“Warranty Period”).
2. End User acknowledges and agrees that Fujifilm: (i) does not and cannot warrant that the Software is free from errors not materially affecting the performance or functionality of the Software, (ii) is not and shall not be liable for any failure or malfunction resulting from the negligence, operator error, or any other misuse or abuse of the Software by End User, (iii) is not and shall not be liable for claims resulting from any failure of End User to comply with the EULA of this EULA, including, but not limited to, use of the Software outside the scope of the license granted hereunder, or from any modification, alteration or adaptation of the Software by any person other than Fujifilm, and (iv) is not and shall not be liable for any failure by the End User to implement recommendations advised by Fujifilm in respect of, or solutions for faults in, the Software or if any potential claim of infringement could have been avoided by the use of new releases, upgrades, updates or version corrections to the Software provided by Fujifilm to End User.
3. If Fujifilm is notified within the Warranty Period that the Software does not perform substantially in accordance with the documentation supplied with the Software, then the entire and exclusive liability of Fujifilm and remedy of End User shall be limited to, at Fujifilm’s option: (i) modification, correction, updates, upgrades, or replacement of the Software; or (ii) refund of the license fee paid by End User for the non-conforming Software during the Warranty Period.
4. **EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE 7, THE SOFTWARE IS PROVIDED “AS IS” AND “WITH ALL FAULTS” AND FUJIFILM AND ITS AFFILIATES DISCLAIM ALL OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE REMEDIES SET FORTH IN THIS ARTICLE 7 REPRESENT THE ENTIRE LIABILITY OF FUJIFILM AND ITS AFFILIATES, AND YOUR SOLE**

AND EXCLUSIVE REMEDY, FOR ANY BREACH OF WARRANTY CLAIM. NEITHER FUJIFILM NOR ITS AFFILIATES OR AUTHORIZED RESELLERS HAVE ANY OBLIGATION TO PROVIDE ANY SOFTWARE MAINTENANCE OR SUPPORT SERVICES, OR ANY BUG FIXES, UPDATES OR UPGRADES TO THE SOFTWARE, UNLESS EXPRESSLY AGREED TO BY FUJIFILM.

- 5. NOTWITHSTANDING ANYTHING IN THIS EULA TO THE CONTRARY, OPEN SOURCE SOFTWARE CODE INCORPORATED INTO THE SOFTWARE IS PROVIDED “AS IS” BASIS AND “WITH ALL FAULTS” AND FUJIFILM AND ITS AFFILIATES DISCLAIM ALL WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, WITH REGARD TO OPEN SOURCE SOFTWARE CODE, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. IN NO EVENT WILL FUJIFILM, ITS AFFILIATES OR AUTHORIZED RESELLERS BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES OR ANY OTHER DAMAGES WHATSOEVER, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, OR OTHER TORTIOUS ACTION, ARISING OUT OF OR IN CONNECTION WITH OPEN SOURCE SOFTWARE CODE EVEN IF FUJIFILM OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH LOSSES OR DAMAGES ARE FORESEEABLE.**

Article 8 Limitation of Liability

IN NO EVENT WILL FUJIFILM, ITS AFFILIATES OR AUTHORIZED RESELLERS BE LIABLE FOR ANY CLAIM ARISING OUT OF OR RELATED TO THE TRANSACTION CONTEMPLATED BY THIS EULA OR ANY OTHER AGREEMENT OF WHICH IT IS A PART OR THE SOFTWARE FOR: (i) INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (ii) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOST, CORRUPTED OR ALTERED DATA, LOSS OF USE OF DATA, RECOVERY OF DATA, OR LOSS OR INTERRUPTION OF BUSINESS OR PROFITS); (iii) ANY AMOUNTS IN EXCESS OF THE LICENSE FEE PAID BY END USER FOR THE SOFTWARE; OR (iv) ANY MATTER BEYOND ITS OR THEIR REASONABLE CONTROL, UNDER ANY

BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH LOSSES OR DAMAGES ARE FORESEEABLE. THE TOTAL MAXIMUM LIABILITY OF FUJIFILM, ITS AFFILIATES, OR AUTHORIZED RESELLERS SHALL NOT EXCEED THE AGGREGATE LICENSE FEE PAID BY END USER FOR THE SOFTWARE UNDER THE APPLICABLE SALES ORDER. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO END USER.

Article 9 Collection of Diagnostic Information

1. Fujifilm may collect certain diagnostic data (" Diagnostic Information") that is generated automatically when You use the Software. Such Diagnostic Information is used by Fujifilm for the purposes of license management, failure handling and quality improvement (including collection of statistical data for new function development/function improvement). Diagnostic Information includes:
 - license audit file (data capacity, period of use, model of hardware (library/server), serial number);
 - software/hardware log files (*i.e.*, trace information for failure handling and quality improvement, status-of-use file); and
 - report file (*i.e.*, statistical data summarized by software from log files).
2. Except as otherwise stated in a separate agreement for maintenance and support services, no personally identifiable information or personal data will be collected from You through use of the Software without your prior consent.

Article 10 Miscellaneous

1. You may not transfer or assign this EULA or any of Your rights or obligations hereunder to any third party in whole or in part without the prior written consent of Fujifilm.
2. If You have accepted the terms of this EULA on behalf of a business, company or organization, You agree that Fujifilm or its representative, including its third party beneficiaries may, upon prior written notice to You, audit your use of the Software during normal working hours solely to verify your compliance with the terms of this EULA.

3. The provisions set forth in Articles 3, 5(3), 6 through 8, and 10(3) and 10(5) shall survive termination of this EULA.
4. Fujifilm may modify or amend the terms of this EULA at any time without prior notice to You. Fujifilm shall provide notice of any changes to the terms of this EULA. Any such changes shall be enforceable as of the effective date stated in the announcement.
5. This shall be governed by the laws of Japan. Any dispute arising from or related to the terms of this EULA shall be subject to the exclusive jurisdiction of the Tokyo District Court.

© 2020 FUJIFILM Corporation and its affiliates. All rights reserved.

End of Document
