



Terms of Use for the Download Center of MESSKO GmbH

1. Preamble

- 1.1 MESSKO GmbH, Gewerbegebiet an den Drei Hasen, Messko-Platz 1, 61440 Oberursel, („**MESSKO**“) offers its Customers (as defined in Sec. 2.2) a special update service for purchased MESSKO products by providing a Download Center on the website messko-download.reinhausen.com (“**Website**”).
- 1.2 If and to the extent that Customer acquired the right to download software updates for MESSKO products (“**Updates**”) within in the contractual scope of the purchase of MESSKO products or by means of separate contractual agreement (“**Main Agreement**”), the Customer may download Updates immediately and directly from the Download Center for such products. The usage rights for the Updates are governed by the Main Agreement.
- 1.3 The Download Center permits the Customer to receive email notifications in the event that new Updates are available.

2. Subject Matter

- 2.1 These terms of use shall be applicable to the use of MESSKO’s Download Center and the services offered therein, such as downloads of Updates by Customers and the subscription for email notifications (“**Services**”). In order to use the Download Center, the Customer will be required to expressly declare acceptance of the terms of use as part of the registration process or with first login.
- 2.2 The Services are only offered to entrepreneurs who have already concluded a Main Agreement with MESSKO (“**Customers**”). Entrepreneur within the meaning of these terms of use is every individual, legal entity or legal partnership, who, when ordering MESSKO products or using the Download Center, acts in exercise of his or its trade, business or profession.

3. Registration and Login Data

- 3.1 Access to Download Center and to Services will only provided upon Customer’s registration and its acceptance of the terms of use. The registration is free of charge. To register, Customer will be required to completely and accurately fill in the form provided on the Website. Customer has to choose an individual password which may be used together with its email address to login to the Download Center (“**Login Data**”). Customer will also be requested to provide the serial number of MESSKO products purchased by Customer allowing for the allocation of the product-related Updates upon registration. In addition, the provision of a valid and up-to-date email address will be required.
- 3.2 MESSKO will verify the information provided by the Customer in the registration form and process based on the information contained in the Main Agreement and/or in the purchase agreement for MESSKO products. MESSKO will also verify if the Customer’s email address is still valid and up-to-date by sending an email to this address. Customer is requested to confirm save receipt of this email by sending a confirmation email to MESSKO.
- 3.3 MESSKO will submit a registration confirmation to the email address provided by Customer and

activate the Customer for accessing the Download Center upon successful verification of Customer's email address and additional information provided in the registration form. The selection of authorized users which will be provided with access to the Download Center is made by MESSKO at its sole discretion. There is no right or claim of Customer to get access to the Download Center whatsoever. MESSKO shall also be entitled to define the scope and term of use for the Download Center and to make amendments and modifications in this respect (if required).

- 3.4 Customer's data will be stored in the Download Center. Customer will be able to access and modify its data stored by MESSKO, including the Login Data itself, at any time by using its Login Data.
- 3.5 Login Data shall be kept confidential by Customer and may not be made available to unauthorized third parties. Login Data may be passed on by Customer to its employees on a need-to-know basis only provided that employees are obliged to maintain confidentiality of the Login Data.
- 3.6 Customer shall be liable for all and any damages whatsoever related to or arising out of negligently enabling unauthorized third parties or employees to use the Download Center, e.g. if Customer does not logout immediately after having accessed the Download Center or if Customer does not keep Login Data in safe custody. In the event of a misuse or suspected misuse of Login Data, Customer shall promptly change Login Data and inform MESSKO immediately in writing about the misuse or suspected misuse and about the change of Login Data.

4. General Provisions of Use

- 4.1 Upon successful registration Customer shall be entitled to download Updates for purchased MESSKO products from the Download Center. The product related allocation of Updates is done based on the serial number of MESSKO products indicated by Customer during the registration process. If and to the extent Customer opted for email notification during the registration process, Customer will also receive email notification about the availability of important Updates. Customer will be able to either activate the email notification service at a later stage or to cancel it if Customer does not want to receive any further notifications by using its Login Data. In the later case MESSKO will cease the provision of email notification services.
- 4.2 Download Center Services will be provided by MESSKO free of charge. MESSKO hereby expressly reserves the right to temporarily or permanently change or restrict access (e.g. for maintenance or security reasons) to the Download Center and/or the Services offered and/or or the Website at its sole discretion at any time and without providing reasons therefor and/or to offer new services against payment or free of charge or to ceases the provision of such services. MESSKO will inform Customer by email in the event that the Download Center should not be available. MESSKO does not assume any warranty or liability whatsoever for continuous and uninterrupted operation and serviceability of the Download Center and/or the Services.
- 4.3 Customer shall be obliged to use the Download Center appropriately and in particular in compliance with the applicable terms of use; the obligations under the terms of use shall extend to the Customer including its employees and other parties acting on its behalf and Customer shall be obliged to ensure that they have corresponding obligations in this respect. Customer shall be obliged to monitor and control strict compliance with the terms of use by its employees and other third parties acting on this behalf.
- 4.4 Customer in particular shall ensure that arising out or related to its usage no damages and/or disruptions are caused to the Download Center and/or the Services. Customer shall be liable to MESSKO for all damages whatsoever arising out or related to culpable improper use of Download Center and/or Services, in particular for any breach of Customer or its employees or other third parties acting on its behalf of the terms of use.

5. Intellectual Property

- 5.1 All and any texts, pictures, logos and graphics contained in or illustrated on the sites of the Download Center as well as any other contents of the Download Center (“**Download Center Content**”) are protected by copyrights or other proprietary rights of MESSKO.
- 5.2 MESSKO will only grant Customer rights if and to the extent required for the appropriate use of the Download Center and the contents provided herein.
- 5.3 Unless otherwise explicitly stipulated in the terms of use or approved by MESSKO in writing, Customer shall not be entitled to copy, duplicate, distribute, publish or make otherwise available to the public, edit or amend Download Center Content.

6. Warranty and Liability

- 6.1 MESSKO’s warranty and liability with regard to Updates provided in the Download Center shall be are governed by the Main Agreement.
- 6.2 Customer’s use of the Download Center and Services shall be at its sole responsibility. In particular, MESSKO, in particular, does not warrant or guarantee that the information provided in the Download Center is up-to-date, correct and complete. In addition, MESSKO does not assume any liability whatsoever for the content of the information provided in the Download Center except in the event of willful or gross negligent misinformation. Incorrect contents will be corrected as quickly as possible.

7. External Links and Third Party Websites

The Download Center may contain links to websites of third parties. Such external links are only provided for reasons of user-friendliness. Third parties’ websites are subject to the sole liability of the respective third party. MESSKO does neither have any influence on nor assume any liability for the design and content of such websites and/or for additional links contained in one of these sites. At the time of linking no statutory violations or legal infringements arising from or related to the linked site were known by MESSKO. If and to the extent that such violations and infringements become known to MESSKO at a later stage, the links will be removed without undue delay.

8. Suspension of Access to the Download Center

- 8.1 MESSKO shall be entitled to temporarily or permanently suspend access to the Download Center if there is specific indication for past or present violation of Customer against the terms of use and/or applicable law. MESSKO will consider the legitimate interests of Customer in its decision making process with regard to the suspension of access to the Download Center.
- 8.2 In the event that the access is suspended temporarily or permanently, MESSKO will also suspend Customer’s authorization to use the Download Center and will inform Customer thereof by email. This also applies once the suspension is lifted.
- 8.3 In the event of severe infringements or violations, the suspension will not be lifted. In this event, MESSKO shall also be entitled to completely abrogate Customer’s authorization to use the Download Center and to terminate the usage agreement.

9. Term and Termination

- 9.1 The agreement with regard to the use of the Download Center is concluded for an indefinite period.
- 9.2 In the event that MESSKO will cease the provision of Services, the agreement shall be terminated automatically without further notice.

- 9.3 This agreement may be terminated by either party at any time with immediate effect. In order to terminate the agreement, Customer shall send a written notice to MESSKO's contact address as indicated in clause 13 of the terms of use to terminate the usage agreement. The usage agreement shall end upon deletion of the usage authorization.
- 9.4 MESSKO will confirm the termination of the usage agreement to the Customer by email.

10. Confidentiality

- 10.1 For the purposes of these terms of use, confidential information shall mean all and any information which is either marked as confidential or which is considered as confidential based on the circumstances or the nature of the information, in particular information protected by copyright law or other business secrets of MESSKO ("**Confidential Information**").
- 10.2 Customer and its employees shall maintain confidential and shall keep under safe custody all Confidential Information disclosed by MESSKO or which becomes known to Customer and its employees in the process of using the Download Center or Services. Customer shall only be entitled to make Confidential Information available to employees on a need to know basis who require such Confidential Information to complete their assigned tasks in connection with the use of the Download Center and Services.
- 10.3 Customer shall only be entitled to use such Confidential Information exclusively in connection with the Download Center and for the contractually agreed purposes. In the event of a statutory obligation to disclose the Confidential Information, Customer shall - to the extent permitted by law - inform MESSKO prior to the disclosure and obtain MESSKO's prior written approval.
- 10.4 Further obligations to maintain confidentiality may result from the underlying Main Agreement.

11. Data Privacy

- 11.1 MESSKO warrants to complying with the applicable laws and regulations concerning data privacy and protection when collecting, using and processing Customer data and personal data of its employees. The data privacy statement available on MESSKO's website shall form an integral part of these terms of use.
- 11.2 If and to the extent that Customer within the usage of the Download Center explicitly entitles MESSKO to use its personal data for certain purposes, Customer has the right to revoke its consent as from now with future effect at any time. In revoke its consent, Customer needs to inform MESSKO in writing by using the contact address indicated in clause 13.

12. Advertising

- 12.1 MESSKO shall be entitled to use contact data provided by Customer during the registration process, including but not limited to its email address, to inform Customer about MESSKO's goods or services which are similar to those purchased by Customer. Customer shall be entitled to object to such advertising at any time without giving reasons therefor by using the contact address indicated in clause 13 without incurring any costs beyond the applicable standard rate.
- 12.2 If and to the extent Customer explicitly agreed during the registration process or at another point in time to the use its data for marketing or promotional purposes (e.g. receipt of newsletters or information about products and services of affiliated companies of MESSKO), Customer shall be entitled to revoke its consent any time without providing any reasons therefor by using the contact address indicated in clause 13.
- 12.3 In the event that Customer objected to or revoked its consent to use its contact data for advertising or

promotional purposes, MESSKO will not or no longer use Customer's contact data for such purposes.

13. Contact Address

Customer may direct any requests for information, questions, complaints, ideas, objections against advertising etc. to the following contact address:

Address: Messko GmbH, Gewerbegebiet an den Drei Hasen, Messko-Platz 1,
61440 Oberursel, Deutschland.

Email: info@messko.de

14. Final Provisions

- 14.1 MESSKO reserves the right to amend, complement or replace the terms of use at any time.
- 14.2 Exclusive place of jurisdiction for all disputes arising out or related to the Download Center and Services between MESSKO and Customer shall be MESSKO's principal place of business. MESSKO, however, shall also be entitled to file legal proceedings at every other permissible court of jurisdiction.
- 14.3 These terms of use shall be governed by the laws of the Federal Republic of Germany.
- 14.4 If any provision of the terms of use is found by any court or other competent authority to be invalid, unlawful or unenforceable then such part shall be severed from the remainder of the terms of use which shall continue to be valid and enforceable to the fullest extent permitted by law. Such provision shall be replaced by a provision with similar economic effects. The same shall apply to any loopholes of these terms of use.

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