



The original version of this contract is the German version. In the event of a discrepancy between the original and a subsequent version, the original version shall take precedence in case of doubt.

## I Usage rights

- 1 Upon purchasing a licence, ELIAS GmbH grants the customer a paid, non-exclusive right to use the *mdm TOOL* software, hereinafter referred to as the "Software", without any time limitation. The delivery of the source code is not included in the scope of delivery.
- 2 The licence entitles the customer to the individual use of the Software within the confines of normal use. This includes the installation of the Software, loading the Software into the random access memory and running it. The licence does not extend to other types of use. In particular, the customer may not make any changes to or produce any translations or create other reproductions of the Software, including partially or temporarily, of whatever type and by whatever means. Section 39 (2) of the German Copyright Act (Urhebergesetz – UrhG) remains unaffected.
- 3 The acquired licences are single-user licences. One licence is issued for one computer specified by the customer. Notices regarding copyrights or other intellectual property rights to or in the Software may not be altered, removed or otherwise concealed.
- 4 The customer may neither lease nor lend out the Software. The Software licence may only be transferred to a third party with the prior approval of ELIAS GmbH and only if the third party declares in writing that it agrees to these terms and conditions and the customer does not retain any copies of the Software (including any previous versions). Decompiling the Software is not accepted. ELIAS GmbH reserves the right to carry out adjustment work. Any adjustment work that is necessary to ensure the interoperability of the Software with other programs remains unaffected by this provision. Otherwise, sections 69d and 69e UrhG remain unaffected.

## II Warranty

- 1 ELIAS GmbH warrants that the Software is consistent with the specifications stated by ELIAS GmbH in the related program documentation and the customer can use the Software without violating any third-party rights.
- 2 The customer is obligated to inspect the contract Software for obvious defects immediately upon receiving it, and if they identify any, they must promptly report them to ELIAS GmbH. Otherwise, any warranty for the aforementioned defects is explicitly excluded. This also applies accordingly if such a defect comes to light at a later date. Section 377 of the German Commercial Code (Handelsgesetzbuch – HGB) applies.
- 3 Any claims relating to material defects, with the exception of claims for compensation arising from injury to life, limb or health, or based on harm caused by gross negligence or intentionally, shall lapse 12 months from the date the Software was supplied by ELIAS GmbH.
- 4 If there is a material defect, ELIAS GmbH shall at its own discretion have the right to either take remedial action to remove the defects or provide a replacement. ELIAS GmbH must always be provided with the opportunity to render supplementary performance within a reasonable period of time. Recourse claims remain unaffected. If the supplementary performance fails, the customer may, without prejudice to any claims for compensation, rescind the contract or reduce the remuneration.
- 5 Claims for defects shall not exist with regard to only minor deviations from the specifications or only a minor impairment of functionality.



### III Liability

- 1 ELIAS GmbH shall be liable for any harm resulting from the absence of warranties of quality, as well as for harm it has caused intentionally or due to gross negligence.
- 2 ELIAS GmbH shall not be liable in the event of negligence, particularly not for indirect harm or consequential losses (in particular, lost profits and production downtime). The customer must verify that the data generated by the Software is correct before proceeding with further processing.
- 3 ELIAS GmbH shall not be liable for the recovery of data unless it caused the destruction intentionally or due to gross negligence. The customer must ensure that relevant data is regularly backed up and can be reconstructed at reasonable expense.
- 4 In any event, the amount of the liability shall be limited to the licence price paid to ELIAS GmbH.

### IV Software maintenance

- 1 The customer has the right to update copies of the software – for which he holds the right of use – with software versions provided by ELIAS GmbH.

### V Miscellaneous

- 1 There are no additional oral arrangements. Any amendments or additions to the licence agreement, including any amendment to this requirement of written form, must be made in writing.
- 2 German law shall apply. The place of jurisdiction for all disputes stemming from or related to this Agreement shall be Herne.
- 3 Please note:

**Unless stipulated otherwise above, the General Terms and Conditions of Business of ELIAS GmbH, which can be accessed at [www.elias-gmbh.de](http://www.elias-gmbh.de), apply on a supplementary basis.**

Should individual provisions of this Agreement be ineffective or unenforceable or become ineffective or unenforceable after the conclusion hereof, the effectiveness of the remaining provisions shall not be affected. In such a situation, in order to replace the ineffective or unenforceable provision, the parties shall agree on an effective and enforceable provision which corresponds as closely as possible to the commercial purpose of the ineffective or unenforceable provision. This shall apply accordingly if the Agreement contains a gap/omission.