



Smith & Morita Software Fax (81)471-93-2201

2/12/95

### LIMITED USE SOFTWARE LICENSE AGREEMENT

This Limited Use Software License Agreement (the "Agreement") is a legal agreement between you, the end-user, and Smith & Morita. ("S&M").

Installing this program, running it or by placing or copying the game program onto your computer hard drive, you are agreeing to be bound by the terms of this Agreement.

### Smith & Morita SOFTWARE LICENSE

1. Grant of License.

S&M grants to you the right to use the DOCLOGGER program (the "Software"). "use" means loading the Software into RAM, as well as installation on a hard disk or other storage device. You may not: modify, translate, disassemble, decompile, reverse engineer, or create derivative works based upon the Software. You agree not utilize, in any other manner, the Software in violation of any applicable law.

2. Copyright.

The Software is owned by S&M and is protected by United States copyright laws and international treaty provisions. You must treat the Software like any other copyrighted material, except that you may make copies of the whole original software diskete only, to give to other persons. You may not charge or receive any consideration from any other person for the receipt or use of the Software without receiving S&M's prior written consent. You agree to use your best efforts to see that any user of the Software licensed hereunder complies with this Agreement.

3. Limited Warranty.

S&M warrants that if properly installed and operated on a computer for which it is designed, the Software will perform substantially in

accordance with its designed purpose for a period of ninety (90) days from the date the Software is first obtained by an end-user. S&M's entire liability and your exclusive remedy shall be, at S&M's option, either

- (a) return of the retail price paid, if any, or
- (b) repair or replacement of the Software that does not meet S&M's Limited Warranty.

To make a warranty claim, return the Software to S&M, accompanied by proof of purchase, your name, your address, and a statement describing the defect. This Limited Warranty is void if failure of the Software has resulted in whole or in part from accident, abuse, misapplication or violation of this Agreement. Any replacement Software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer. This warranty allocates risks of product failure between Licensee and S&M. S&M's product pricing reflects this allocation of risk and the limitations of liability contained in this warranty.

4. NO OTHER WARRANTIES.

S&M DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE AND THE ACCOMPANYING WRITTEN MATERIALS, IF ANY. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHERS WHICH VARY FROM JURISDICTION TO JURISDICTION. S&M DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED, ERROR FREE OR MEET LICENSEE'S SPECIFIC REQUIREMENTS. THE WARRANTY SET FORTH ABOVE IS IN LIEU OF ALL OTHER EXPRESS WARRANTIES WHETHER ORAL OR WRITTEN. THE AGENTS, EMPLOYEES, DISTRIBUTORS, AND DEALERS OF S&M ARE NOT AUTHORIZED TO MAKE MODIFICATIONS TO THIS WARRANTY, OR ADDITIONAL WARRANTIES ON BEHALF OF S&M. ADDITIONAL STATEMENTS SUCH AS DEALER ADVERTISING OR PRESENTATIONS, WHETHER ORAL OR WRITTEN, DO NOT CONSTITUTE WARRANTIES BY S&M AND SHOULD NOT BE RELIED UPON.

5. Exclusive Remedies. You agree that your exclusive remedy against S&M, its affiliates, contractors, suppliers, and agents for loss or damage caused by any defect or failure in the Software regardless of the form of action, whether in contract, tort, including negligence, strict liability or otherwise, shall be the return of the retail purchase price paid, if any, or replacement of the Software. This Agreement shall be construed in accordance with and governed by the laws of Japan. Copyright and other proprietary matters will be governed by United States laws and international treaties. IN ANY CASE, S&M SHALL NOT BE LIABLE FOR LOSS OF DATA, LOSS OF PROFITS, LOST SAVINGS, SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR OTHER SIMILAR DAMAGES ARISING FROM BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, OR OTHER LEGAL THEORY EVEN IF S&M OR ITS AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

6. General Provisions.

Neither this Agreement nor any part or portion hereof shall be assigned or sublicensed, except as described herein. Should any provision of this Agreement be held to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions shall not be affected thereby. If any provision is determined to be unenforceable, you agree to a modification of such provision to provide for enforcement of the provision's intent, to the extent permitted by applicable law. Failure of a party to enforce any provision of this Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision. If you fail to comply with any terms of this Agreement, YOUR LICENSE IS AUTOMATICALLY TERMINATED.

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, YOU UNDERSTAND THIS AGREEMENT, AND UNDERSTAND THAT BY INSTALLING THE SOFTWARE, BY LOADING OR RUNNING THE SOFTWARE, OR BY PLACING OR COPYING THE SOFTWARE ONTO YOUR COMPUTER HARD DRIVE, YOU AGREE TO BE BOUND BY THIS AGREEMENT'S TERMS AND CONDITIONS. YOU FURTHER

AGREE THAT, EXCEPT FOR WRITTEN SEPARATE AGREEMENTS BETWEEN S&M AND YOU, THIS AGREEMENT IS A COMPLETE AND EXCLUSIVE STATEMENT OF THE RIGHTS AND LIABILITIES OF THE PARTIES. THIS AGREEMENT SUPERSEDES ALL PRIOR ORAL AGREEMENTS, PROPOSALS OR UNDERSTANDINGS, AND ANY OTHER COMMUNICATIONS BETWEEN S&M AND YOU RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.