

# **I. MAGIX Software GmbH General Terms and Conditions**

As of March 2019

## **§ 1 Scope of application**

1. All deliveries, services and offers of MAGIX COMPUTER PRODUCTS INTERNATIONAL CO. (hereinafter referred to as "MAGIX") are made exclusively on the basis of these General Terms and Conditions and the applicable End-User License Agreement (EULA) of MAGIX Software GmbH, provided software and/or audio/video content (A/V Content) are delivered. These conditions will be considered as accepted at the latest when a delivery or a partial delivery or service is received.
2. Differing conditions of the other contracting party are not acknowledged unless confirmed in writing by MAGIX.

## **§ 2 Offer and conclusion of contract**

1. The offers made by MAGIX are without obligation, subject to confirmation and subject to the receipt of supplies by MAGIX from its own suppliers and manufacturers. Placing an order with MAGIX is a binding offer to complete a sales transaction. An automatic email will be sent immediately after receiving and accepting an order. This email confirmation renders the purchase agreement legally binding.
2. In case of downloading software or A/V Content, a purchase agreement, based on these conditions and in compliance with the corresponding MAGIX license agreements for the requested Software and/or A/V Content, becomes binding when the electronic transfer to the requesting party begins.
3. The employees of MAGIX are not authorized to enter into verbal subsidiary agreements or give verbal assurances which go beyond the content of the written contract.

## **§ 3 30-day money-back guarantee**

We are confident in the quality of our software. Use our software for 30 days after delivery. This guarantee only applies to mail-order products. If you are not fully satisfied with our products you may return the software complete and fully in tact within 30 days of delivery for a full refund of the purchase price. Please contact MAGIX Support before canceling an order. We are happy to help and can probably solve your problem. This guarantee does not affect your statutory rights.

## **§ 4 License verification**

Individual software product licenses have to be validated periodically. This ensures that the original Software is being used and that it is being used according to the license terms and conditions. This requires an Internet connection.

## **§ 5 Prices and terms of payments; Online vouchers**

1. The prices named are the final prices and include the legally imposed sales tax. The costs of shipping and handling are included in the final order price. The prices listed at the time of the order are valid.
2. Online vouchers can be sent by email to MAGIX customers as part of special rebate or sales events. These can be redeemed only in the MAGIX Online Shop at [www.magix.com](http://www.magix.com) by the customer identified by the customer number. Redemption from MAGIX Online Services, for example MAGIX Online Album, MAGIX Website Maker, etc. is not possible. Vouchers which are received as a result of product purchase cannot be redeemed in the course of the same process. The vouchers gain validity only after the conclusion of the purchasing process.
3. To redeem online vouchers in the course of an order process, the activation code of the voucher has to be entered into the corresponding field and confirmed by clicking on the "Redeem" button. A retroactive reduction of already billed orders is not possible. Multiple vouchers may be received and redeemed. Within one order, only one coupon may be redeemed. Using multiple vouchers for one order is not possible. Online vouchers can only be redeemed from the corresponding country, where MAGIX has issued the online voucher.

4. After receiving an online voucher in the course product purchase, the voucher is mailed to the address indicated during the order process on the day of the order placement. In the absence of other instructions, the voucher is valid 12 months after its issuance. MAGIX takes the voucher amounts into consideration as long as this is stated on the online voucher. Redemption after the expiry date stated on the online coupon is not possible. Redemption for products and services other than those listed on the online voucher is also forbidden. Online vouchers can be used for all products offered by MAGIX. Unless it is explicitly stated that the use of vouchers is allowed, all offers from other manufacturers (hardware or software) as well as offers lowered in price and encoders are excepted.
5. Vouchers cannot be paid out in cash. Resale is also prohibited. If the voucher value is higher than the total amount of your order, the remaining credit is forfeited with the completion of your order.

## **§ 6 Retention of title**

MAGIX shall retain the title to the contractual objects until payment in full.

## **§ 7 Warranty**

1. Unless there is no other arrangement, regulations stipulated by law shall be effective in the case of a defect.
2. The customer is obliged to notify MAGIX of defects within two months of finding them. The defects should be described in as much detail as is possible. This provision does not set a cut-off period for customer warranty.
3. Contesting apparent defects is only permitted within 14 days of receiving the goods.

## **§ 8 Disclaimer**

1. MAGIX is only liable to slight negligible damages incurred by it or its assistant(s) if a duty is violated, even if it is extra-contractual, the adherence to which is of special importance in order to be in compliance with contractual use (Cardinal duty), as well in cases of damage to the life, body and health.
2. For non-observance of a cardinal obligation, the liability is limited to the damage which must be typically expected within the scope of this agreement if there is no intention or gross negligence or if liability must be incurred because of fatal injury, physical injury or health hazards.
3. Statutory liability in case of personal damages and damages pursuant to the Product Liability Act remains unaffected.
4. MAGIX shall not be liable for damage which can be controlled by the other contracting party or which the other contracting party could have prevented by taking measures which can be reasonably expected. MAGIX is liable for data loss only to the extent of costs incurred during restoration if backups are available.
5. A change in the burden of proof to the disadvantage of the customer is not related to the foregoing provision.

## **§ 9 Copyrights / Rights of use**

1. If software, software descriptions, music, or films in audio or computer format or other copyrighted items are a part of the scope of delivery and the item is supposed to be handed over to a contracting party for use, the contracting party shall be granted a single, non-exclusive right of use in accordance with the applicable MAGIX End-User License Agreements (MAGIX EULA, e-EULA, lease-EULA) for the respective item. The EULA can be found on the MAGIX website ([www.magix.com](http://www.magix.com)) and is included with the product or data storage medium.
2. The customer is obliged to observe the EULA, in particular the use-related restrictions in the EULA, while using the products. If this agreement is violated, the customer shall be liable for the complete amount of damage occurring as a result of this violation. For instance, the EULA lays down the following: the right to reproduce, multiple usage, program modifications, copyrights and industrial property rights.
3. MAGIX vouches that, in the territory covered by the contract, the contractual products of MAGIX are free from industrial property rights of third parties which could exclude or restrict the use by the other contracting party. This shall not apply if the other contracting party uses a product which has not been released by MAGIX or uses the

product after it has been modified by a party other than MAGIX, or if it uses the product under conditions which differ from the contractually agreed conditions of use.

4. If software products of manufacturers other than MAGIX are surrendered, the license provisions of the manufacturer with regard to the scope of use of the software allowed by copyright, in particular with regard to the restrictions on the use of the software, must be observed in addition to these General Terms and Conditions.

## **§ 10 Set-off**

The other contracting party shall be entitled to offset counterclaims or exercise a right of retention only if the counterclaims are non-appealable or undisputed.

## **§ 11 Enclosures**

MAGIX shall be entitled to enclose advertising mail and other printed material such as comparison tests and newspaper reports, irrespective of whether they belong to MAGIX or to third parties, with the products.

## **§ 12 Storage of the contractual text**

The contract text is not stored by us and cannot be retrieved after the order process is complete. You can print the order data immediately after order placement.

## **§ 13 Final Clauses**

1. The General Terms and Conditions and all legal relationships between MAGIX and the other contracting party shall be governed by the law of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods. As long as the contractual partner is a merchant, a corporate body under public law or under fund assets governed by public law, or holds his or her residence outside the Federal Republic of Germany, Berlin will be the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contract relationship. MAGIX also has the right to bring proceedings against the Customer at its general court of jurisdiction.

2. If MAGIX software is sold or transferred in any other way, the regulations of the corresponding MAGIX End User License Conditions (EULA), which are an integral part of these General Terms and Conditions, shall apply additionally. If there are any doubts and / or conflicting regulations, the clauses in these General Terms and Conditions shall have priority over the regulations in the EULA.

3. Versions of these General Terms and Conditions in languages other than German must only be regarded as translations. If there are interpretation problems and language-related discrepancies between the foreign language version and the German version, the German version of these General Terms and Conditions shall be authoritative.

## **II. Special provisions for software subscriptions**

### **§ 1 Definition; validity**

1. These special provisions apply solely to software subscriptions. They add to the preceding Part I of the Terms and Conditions and have priority if contradictions arise.

2. The content of the software subscription is determined by the specific offer that the customer chose. During the contractual period of the software subscription the customer will receive the latest releases and updates for the selected product. An Internet connection is required for the software subscription.

### **§ 2 Contractual period, cancellation**

1. The contractual period of the software subscription is divided into minimum period and renewal periods. Both depend on the respective offer selected by the customer.

2. After expiry of the minimum period or renewal period, the contractual period is automatically extended to the specified renewal period of the selected offer unless the agreement is terminated by either party at least 1 month prior to the expiry of the contractual period.

3. The right of termination without notice remains unaffected. MAGIX is especially entitled to termination without notice if the customer delays paying arrears amounting to at least two monthly contributions.

4. Any termination must be made in writing (by letter) and must be sent to the following address:

MAGIX Software GmbH  
Quedlinburger Straße 1  
10589 Berlin  
Germany

5. In case of cancellation without notice, MAGIX is entitled to a compensation fee amounting to 75% of the sum of all monthly contributions that would have been paid had the contractual obligations been fulfilled by the customer until to the next possible date of termination. The right of the customer to provide evidence of minor damages remains unaffected.

### **§ 3 Remunerations, maturity**

1. The amount of remuneration is determined by the respective offer selected.

2. The claim for remuneration is due at the beginning of the contractual period. The payment is calculated for the respective contractual period (minimum period or renewal period) and is payable in advance.

3. The customer agrees, if necessary, to accept invoices electronically. Payment is made by credit card.

Alternatively, payment by direct debit is also possible provided that the customer resides in the Federal Republic of Germany.

4. MAGIX is entitled to change prices by written notice within a period of 2 months at the end of the minimum period or renewal period. The change in price applies to the beginning of the notified renewal period if the customer does not object to the modified price within six weeks. Should the customer object within this time period, the contractual relationship will continue under the existing conditions; however, in this case, MAGIX is entitled to cancel the contract with a period of a month's notice at the end of the month.

### **§ 4 Changes to the Terms and Conditions**

1. MAGIX reserves the right to make changes to the Terms and Conditions at any time. In this event, MAGIX will notify the customer of the changes by email.

2. The customer declares to agree with the implementation of the amended Terms and Conditions if the customer does not object to the changes in writing within a period of two weeks, beginning on the date following the notification of the changes. Should the customer object within this time period, the contractual relationship will continue under the existing conditions; however, in this case, MAGIX is entitled to cancel the contract with a period of a month's notice at the end of the month.