

Terms of Service

VR Motion Learning GmbH & Co KG

Purchase of Gaming and Training Software and Digital Content

September 2020

VR Motion Learning GmbH & Co KG

Mariahilferstrasse 136, Top. 2.09

A-1150 Vienna, Austria

+43 1 909 2900

info@vr-motion-learning.com

**FN 518808 d (Austrian commercial register number)
Commercial Court of Vienna**

1. Contract and Validity

- 1.1. The following terms and conditions apply to all services provided and supplies, which are carried out by the gaming provider VR Motion Learning GmbH & Co KG. This agreement governs the purchase of software-content, digital content (VR Motion Learning-content), subscriptions of content and in-game-content, whether downloaded or hosted on servers or the cloud and regardless of platform.
- 1.2. Supplies, services and offers provided by the VR Motion Learning GmbH & Co KG solely base on these terms of service (this agreement), even in case the terms of service are not explicitly stipulated. Along with your order of VR Motion Learning-services and content these conditions are fully accepted.
- 1.3. The conditions of purchase of the contracting party are contractually precluded for the business relation between VR Motion Learning GmbH & Co KG and the contracting party.
- 1.4. Offers from VR Motion Learning GmbH & Co KG are non-binding. Your order is an offer to purchase VR Motion Learning-content at the price as amended and according to the terms of service.
- 1.5. The United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply to this agreement or for disputes resulting from or in connection with this agreement.

2. Purchase of VR Motion Learning-content

- 2.1. You may only purchase VR Motion Learning-content if you are a legal resident of a country or territory where access to and use of EA Content is permitted. VR Motion Learning GmbH & Co KG reserves the right to refuse, limit or block any offer to purchase, obtain or otherwise access VR Motion Learning-content for any reason.
- 2.2. You may need to create a personal user account to purchase VR Motion Learning-content. This Agreement, along with the VR Motion Learning User Agreement and VR Motion Learning Privacy Policy, which are incorporated by reference apply to purchased VR Motion Learning-content. Any additional terms you accept before accessing or downloading software or within the software product also apply to the VR Motion Learning-content.
- 2.3. In order to complete the purchase, you'll be asked to declare a payment method. By submitting an order to VR Motion Learning GmbH & Co KG and providing your payment method information, you acknowledge that:
 - you have confirmed the details of your purchase,
 - you have read and accept this Agreement, and any applicable additional terms,
 - your billing and payment method information are true and accurate, and
 - you are authorized to use the declared payment method.
- 2.4. If your offer (see 1.4.) is accepted by the VR Motion Learning GmbH & Co KG, VR Motion Learning GmbH & Co KG will send you a purchase confirmation email (account, see 4.2.). Our obligation to deliver your VR Motion Learning-content begins as soon as your order is finalized and shall be complete when you receive your VR Motion Learning-content. VR Motion Learning GmbH & Co KG will not supply any VR Motion Learning-content to you until your payment method provider has authorized the payment.

3. Subscriptions of VR Motion Learning-content

- 3.1. When purchasing a recurring subscription from VR Motion Learning-content, you authorize VR Motion Learning GmbH & Co KG to automatically charge the subscription purchase price, executed by Global Payments s.r.o.
 - at the beginning of your subscription purchase, upon expiration of any applicable trial offer), or at a date otherwise indicated by VR Motion Learning GmbH & Co KG, and
 - on each renewal date thereafter without any additional action by you.
- 3.2. If your payment method expires, your card provider may provide Global Payments s.r.o. with updated card details in order to help prevent any interruption to your subscription. If you would prefer to opt out from this service, you may do so directly with your bank.

- 3.3. Your subscription will continue to automatically renew until you cancel your subscription. You may cancel your subscription at any time. You will be able to continue to access and use your subscription service until the end of the subscription period.
- 3.4. VR Motion Learning GmbH & Co KG reserves the right to change the purchase price of a recurring subscription at any time. If VR Motion Learning GmbH & Co KG does so, VR Motion Learning GmbH & Co KG will provide you notice at least thirty (30) days in advance. By continuing to use the recurring subscription, you indicate that you accept the new purchase price which will then be charged on a recurring basis.
- 3.5. Certain subscriptions may be a free trial. When signing-up for a free trial subscription, unless otherwise indicated, VR Motion Learning GmbH & Co KG will begin to charge the applicable subscription purchase price when the free trial expires. You must cancel your subscription prior to the end of the free trial period to avoid charges to your payment method.

4. VR Motion Learning User Account

- 4.1. To access and use the VR Motion Learning-content all users need a user account. For the creation of a user account you have to read and sign the VR Motion Learning User Agreement.
- 4.2. To create an VR Motion user account, you must have a valid email address, and provide truthful and accurate information. You must be eligible to use the VR Motion Learning-services for which you are registering and must be resident of a country where use of VR Motion Learning-services is permitted.
- 4.3. You are obligated to refrain from utilizing an IP-Proxying or other method to disguise your location of residence or other geographical limitations.
- 4.5. Your use of services and content needs to obey the rules as declared in the VR Motion Learning User Agreement. Any other use of services and content is a significant breach of contract.
- 4.6. If you are aged between the relevant minimum age, as is applicable in your country of residence, and 18 (or the age of majority where you live), you and your parent or guardian must review this Agreement together. Parents and guardians are responsible for the acts of children under 18 years of age when using VR Motion Learning-services.

5. Purchase Prices

- 5.1. When you purchase VR Motion Learning-content, the price payable is the price indicated at the time of purchase, and you agree to pay all fees specified plus all applicable sales and/or use taxes, GST or VAT that VR Motion Learning GmbH & Co KG assesses on your purchase.
- 5.2. Please note, your payment method provider may apply a currency conversion rate to the purchase price, and/or additional processing fees. VR Motion Learning GmbH & Co KG is not responsible for such charges and fees; please contact your payment method provider for further details.

6. Right of revocation, revocation notice

- 6.1. You can revoke the contract within 14 days of the purchase date.
- 6.2. This is not applicable if you explicitly agreed to access the digital content immediately and directly after the purchase and therefore contingently waived your right of revocation.
- 6.3. Revocation can be exercised through the revocation form, which you can find under the link provided on VR Motion Learning GmbH & Co KG web site (<https://www.vr-motion-learning.com/>). You are not obliged to use the revocation form. In order to revoke the contract timely, it is sufficient to notify VR Motion Learning GmbH & Co KG before expiry of the 14 days.
- 6.4. In case you do not want to make use of the revocation form, you can notify VR Motion Learning GmbH & Co KG by a clear declaration via mail or email of your decision to revoke the contract.
- 6.5. Consequences of revocation: VR Motion Learning GmbH & Co KG will fully refund you within 14 days after receiving your declaration to revoke the contract. The reimbursement will be executed through the company Global Payments s.r.o., we will not charge you any fees for the reimbursement.

7. Warranty, Changes

- 7.1. For users living in the European Economic Area (EEA), United Kingdom or Switzerland, VR Motion Learning GmbH & Co KG provides the services as described in the subscription text with reasonable care and skill, but only if the software is used according to the correct and compatible operating system and hardware as described in the agreement.
 - 7.1.1. Users do not have a claim to maintenance or a specific condition or extent of function (e.g. game process, game scores, high scores). Possible claims of defect concerning the technical playability remain unaffected. VR Motion Learning GmbH & Co KG reserves the right to offer new virtual currency and premium features and/or detach these from the offer, change these or offer these in a free trial version.
 - 7.1.2. In a warranty case improvement is prioritized over price reduction or redhibition. If a justified defect complaint is raised within a reasonable period of time, the defect is fixed in a reasonable period of time, whereby the contracting party facilitates all necessary measures for the examination and correction of faults.
 - 7.1.3. Moreover, the VR Motion Learning GmbH & Co KG assumes no warranty or guarantee for bugs, disturbances or damages that are due to improper use, altered components of the operating system, content, interfaces and parameters, the use of incompatible hardware and data carriers, insofar as these are stipulated, unusual operating conditions (particularly deviations from the installation and storage provisions).
 - 7.1.4. VR Motion Learning GmbH & Co KG and its employees, licensors and business partners will not be liable to you for any losses or damages arising from your actions or breach of this agreement, or which arises as a result of a third party's (or any other) acts or omissions beyond our control.
 - 7.1.5. Warranty claims expires two (2) years as of handover, whereby the first six (6) months as of handover a reversal of the burden of proof applies.
- 7.2. FOR USERS LIVING OUTSIDE THE EUROPEAN ECONOMIC AREA (EEA), UNITED KINGDOM OR SWITZERLAND, VR MOTION LEARNING GMBH & CO KG ARE LICENSED AND PROVIDED "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE". YOU EXPRESSLY AGREE THAT THE USE OF SITE, SERVICES, SOFTWARE, AND THE INTERNET IS AT YOUR SOLE RISK. TO THE FULL EXTENT PERMITTED UNDER APPLICABLE LAW, VR MOTION LEARNING GMBH & CO KG GIVES NO EXPRESS, IMPLIED OR STATUTORY WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, NONINFRINGEMENT OF THIRD-PARTY RIGHTS, AND WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR PRACTICE.
 - 7.2.1. VR MOTION LEARNING GMBH & CO KG DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE PRODUCT OR VR MOTION LEARNING-SERVICE; THAT THE VR MOTION LEARNING-SERVICE WILL MEET YOUR REQUIREMENTS; THAT OPERATION OF THE VR MOTION LEARNING-SERVICE WILL BE UNINTERRUPTED OR FREE FROM ERRORS, BUGS, CORRUPTION, LOSS, INTERFERENCE, HACKING OR VIRUSES, OR THAT VR MOTION LEARNING-SERVICES WILL INTEROPERATE OR BE COMPATIBLE WITH ANY OTHER SOFTWARE.
 - 7.2.2. TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, VR MOTION LEARNING GMBH & CO KG AND ITS EMPLOYEES, LICENSORS AND BUSINESS PARTNERS SHALL NOT BE LIABLE TO YOU FOR ANY LOSSES THAT WERE NOT CAUSED BY VR MOTION LEARNING GMBH & CO KG'S BREACH OF THIS AGREEMENT, OR INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES. THE TYPES OF EXCLUDED DAMAGES INCLUDE, FOR EXAMPLE, FINANCIAL LOSS (SUCH AS LOSS INCOME OR PROFITS), COST OF SUBSTITUTE GOODS OR SERVICES, BUSINESS INTERRUPTION OR STOPPAGE, LOSS OF DATA, LOSS OF GOODWILL, AND COMPUTER FAILURE OR MALFUNCTION. THIS LIMITATION APPLIES TO ANY CLAIM ARISING OUT OF OR RELATED TO THIS LICENSE OR EA SERVICE, WHETHER BASED IN CONTRACT, TORT, STATUTE, STRICT LIABILITY OR OTHERWISE. IT ALSO APPLIES EVEN IF EA KNEW OR SHOULD HAVE KNOWN ABOUT THE POSSIBILITY OF SUCH DAMAGE. YOU MAY RECOVER ONLY DIRECT DAMAGES IN ANY AMOUNT NO GREATER THAN WHAT YOU ACTUALLY PAID FOR THE APPLICABLE VR MOTION LEARNING-SERVICE. VR MOTION LEARNING GMBH & CO KG DOES NOT LIMIT ITS LIABILITY FOR FRAUD, GROSS NEGLIGENCE, WILFUL MISCONDUCT, OR FOR DEATH OR PERSONAL INJURY. SOME JURISDICTIONS DO NOT ALLOW THE ABOVE EXCLUSIONS AND LIMITATIONS, SO SOME OR ALL OF THEM MAY NOT APPLY TO YOU.

8. Liability

- 8.1. The VR Motion Learning GmbH & Co KG is liable for claims for damages due to an infringement of contractual or extra-contractual obligations only in cases
- of willful intent or gross negligence;
 - of grossly negligent or intentional harm to life, body, or health;
 - of willful intent or intentional infringement of important contractual obligations;
 - where we assumed an express guarantee of condition and quality;
 - based on a mandatory liability.
- 8.2. The liability for indirect damages - e.g. loss of profit, costs in connection with an operational interruption, loss of data, third-party claims - are explicitly excluded.
- 8.3. If contractual obligations cannot be met because of force majeure, like war, terrorism, natural disasters, fire, strikes, lockout, embargo, sovereign interventions, epidemics, pandemics, power failure, failure of means of transport, failure of telecommunication networks or data lines, changes in laws after contract conclusion affecting the Services or other non-availability of digital content, it cannot be considered as a breach of contract.
- 8.4. The liability for possible damages of hardware, e.g. resulting from hectic movement and wrong execution/performance of the software is excluded (see 7.3.). Moreover, VR Motion Learning GmbH & Co KG is not liable for possible damages of the users' surroundings. It is your obligation to provide a safe and suitable surrounding before playing.

9. Copyright and Licenses

- 9.1. All intellectual property rights in and to the services, software, digital content, etc. as well as the Third Party Services, including any backup copy, any and all modifications, new releases, and versions as well as all other derivatives thereof shall belong exclusively to the VR Motion Learning GmbH & Co KG and its licensors. After having completed the payment, the contracting party is solely allowed to use the software for own purposes, only with compatible hardware devices and to the extent of the number of purchased licenses for simultaneous use. This agreement solely governs the permission to use a copyrighted work. Distributions of copyright protected content is forbidden by law. Any violation of copyright from VR Motion Learning GmbH & Co KG will result in the right to claim damages, in which case VR Motion Learning GmbH & Co KG is entitled to full satisfaction.
- 9.2. In order to use the VR Motion Learning gaming software you have to download and install digital content and contractual services onto your personal hardware. The VR Motion Learning GmbH & Co KG grants you a non-exclusive license and the right to use contractual content and services for personal, solely private use (unless a commercial use is explicitly permitted by your contractual terms or according to the respective terms of your subscription).
- 9.3. The contractual content and services are subject matter of the licensing, viz. they are not sold. The license we granted you, does not constitute the ownership of contractual content and services. In order to be able to use the digital content and contractual services, a steady internet connection, software and the necessary, compatible hardware is required, as well as the setting up and maintaining of your personal user account. The required technology, internet connection and fees for the access to and the use of VR Motion Learning-content will be made available by yourself at your own expense.
- 9.4. The VR Motion Learning GmbH & Co KG reserves the right to (automatically) update the contractual content and services, which might result in changes of the system requirements for the use of contractual content and services. You declare your consent to automatic updates and you are aware of and accept the fact that this agreement (including the respective subscription terms) do not grant you a right to future updates, new versions or other possible improvements of the contractual content and services.

10. Disputes, Arbitration

- 10.1. The European Online Dispute Resolution (ODR) platform is provided by the European Commission to make online shopping safer and fairer through access to quality dispute resolution tools. You can access the ODR platform under <https://ec.europa.eu/consumers/odr/main/index.cfm?event=main.trader.register&lng=EN>.

Please note that the VR Motion Learning GmbH & Co KG is not obligated to take part in a dispute resolution but may choose to do so.

10. Final Terms and Governing Law

- 10.1. Unless otherwise agreed, the Austrian law is explicitly applicable between two contracting entrepreneurs. You expressly agree that exclusive jurisdiction for any claim or action arising out of or relating to this agreement shall be the courts of Austria with the exclusive competence of the Commercial Court of Vienna (Handelsgericht Wien). For the sale to consumers, defined by the Consumer Protection Act BGBl. 140/1979 (Konsumentenschutzgesetz), the terms are only applicable to the extent that the Consumer Protection Act does not govern a differing mandatory regulation. Non-compliance of substantial contractual components entitles the contractual partner to prematurely termination of the contract.
- 10.2. Modifications and additions to this agreement require written form. That also applies for the removal of the written form. The VR Motion Learning GmbH & Co KG may modify this Agreement from time to time, so please review it frequently. For VR Motion Learning players who accepted a version of this agreement prior to modification, the revisions will become effective 30 days after posting at (<https://www.vr-motion-learning.com/>). By continuing to use VR Motion Learning-content, you indicate that you accept the changes. Once you accept a version of the agreement, we will not enforce future material changes without your express agreement to them. If you are asked to accept material changes to this agreement and you decline to do so, you may not be able to continue to use the VR Motion Learning-content provided.
- 10.3. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the court or other tribunal making such determination is authorized and instructed to modify this Agreement so as to effect the original intent of the parties as closely as possible so that the transactions and agreements contemplated herein are consummated as originally contemplated to the fullest extent possible.