

General Term & Conditions of Musicalion.com

Terms of Music Download Library

§ 1.1 Purpose

(1) Musicalion.com is a private institution, whose purpose is to support people who make music. The Music Library is designed to supplement the holdings of public libraries. As such, its terms and conditions are modeled on those of public libraries. The Musicians Websites make it possible for musicians to design and run their own websites.

(2) Musicalion.com is a private institution, whose purpose is to support people who make music. The Music Library is designed to supplement the holdings of public libraries. As such, its terms and conditions are modeled on those of public libraries. The Musicians-Websites make it possible for musicians to design and run their own websites.

§ 1.2 Content and Use of Musicalion.com Services

(1) Rights of access and use may be established after electronic registration and receipt of the user fee. However, Musicalion.com reserves the right to reject applications without explanation.

(2) The right to use Musicalion.com is limited to one person per membership. This right is not transferable and may be accessed through one computer only. Should Musicalion.com in exceptional cases allow the use of several computers, this permission may not be construed as a permanent right. By registering as a member of Musicalion.com, the user agrees to allow Musicalion.com to install a cookie on her/his computer indicating that the user is authorized to access Musicalion.com.

(3) The services of Musicalion.com are provided for personal use only. For this reason, the frequency of sheet music downloads is limited to an amount reasonable for personal use. Musicalion.com permits the user to download only sheet music which s/he intends to learn in the near future. Members may not download works for some future purpose. The latter transgression will be assumed when the user exceeds the maximum allowable number of weekly downloads in three successive weeks. This upper limit has been set in accordance with the regulations of the Munich City Library, which permits 20 media to be borrowed for 28 days, or approximately five works per week.

(4) The cooperating publishers and private copyists hold the copyright, and Musicalion.com the right of use, for the entire collection of sheet music and recordings published in Musicalion.com. The user may not modify these publications, whether in electronic or in printed form, nor reproduce them to be passed on to third parties. Modifications made for the purpose of accommodation, e.g. to suit one's particular ensemble or vocal register, are however allowed.

(5) The right to use the collection of sheet music and recordings is limited in length to the period of membership. After terminating her/his membership, the user must destroy all Musicalion.com data files and printouts in her/his possession.

(6) Musicalion.com relies in its business philosophy on the honesty of its users, whose membership fees contribute to the maintenance, improvement and expansion of Musicalion.com services. In individual cases where Musicalion.com has a reasonable suspicion of breach of trust it may immediately terminate the user's right of use. Musicalion.com further reserves the right to claim compensation for damages.

§ 1.3 Sheet Music and Recordings Made Available to Musicalion.com

(1) Musicalion.com relies in its business philosophy on the honesty of its users, whose membership fees contribute to the maintenance, improvement and expansion of Musicalion.com services. In individual cases where Musicalion.com has a reasonable suspicion of breach of trust it may immediately terminate the user's right of use. Musicalion.com further reserves the right to claim compensation for damages.

(2) All recordings and sheet music sent to Musicalion.com for publication will be returned upon payment of return postage. Unless return shipment has been requested and paid for, Musicalion.com reserves the right to destroy these materials after processing. In no case is Musicalion.com liable for this material.

§ 1.4 Compensation for Submissions

(1) For every score submitted, the submitter receives, in conjunction with the submission of the score(s) a free extension of his or her membership.

(2) For every download of a submitted score, the submitter will receive credit that can be used in the Musicalion Shop. Only downloads from the preceding 365 days will be credited. Older downloads will not be credited. The amount of credit is recalculated each day based only on the preceding 365 days, so credit may increase or decrease on a daily basis.

(3) Credit from downloads applies only to goods from the Musicalion.com Shop and is not applicable to shipping, handling or payment processing fees. The credit is provided voluntarily by Musicalion.com. The value of the credit may vary. The submitter receives no legal right to the credit. The credit can only be used while the submitter has a valid Musicalion.com membership. When the submitter's membership expires, so does his or her credit. If the value of an order from the Musicalion.com shop is less than the value of the submitter's credit, the remaining credit will remain on the submitter's account. Credit cannot be converted to real-world currency.

(4) The current credit (membership extensions and compensation for downloads) can be viewed at any time at <http://www.musicalion.com/en/scores/notes/info/contribute>.

§ 1.5 Liability

(1) Musicalion.com manages its Internet platform in good conscience and to the best of its ability. It is not responsible for problems resulting from access to the internet or web browser or from the computer configuration or other software employed in connection with Musicalion.com.

(2) User claims for damage compensation against Musicalion.com exist only in the case of gross negligence or criminal intent on the part of Musicalion.com and are otherwise excluded. Musicalion.com is not liable for damages unconnected with the web platform nor for customer loss of profit or damage to assets.

(3) Musicalion.com is not responsible for statements made on its bulletin board or on the websites of its members. If a contribution contains statements inconsistent with standard English or statements which may be deemed immoral or illegal, Musicalion.com reserves the right to edit or erase them. The bulletin board may not be used for other commercial purposes.

(4) Musicalion.com is not responsible for the content of websites to which it is linked.

(5) Users that submit scores that violate the copyright of third parties are responsible for the full value of any and all resulting damages.

§ 1.6 Memberships

(1) With his/her registration the user has signed up for a subscription which will renew automatically at the end of the subscription period.

(2) If the member books an additional service during a current membership, both memberships will automatically renew at the cheapest combined membership dues rate.

§ 1.7 Fees

(1) The membership fee is due upon sending in the registration form.

(2) Dues will not be refunded for any reason.

(3) If a member, after being granted access to Musicalion.com, rescinds her/his permission to automatically have membership dues transferred from her/his bank account, s/he is responsible for the resulting charge of 5 Euros.

(4) Musicalion.com reserves the right to forward claims to a debt collection agency. The defaulting member is then liable for any resulting extra charges.

(5) Membership may include credit for use in the Musicalion Shop. This credit is provided voluntarily by Musicalion.com. Members have no legal rights to this credit. The credit can only be used with a valid membership. When the membership expires, so does the credit. If the value of an order is less than the value of the available credit, the remaining credit will remain on the member's account. Credit cannot be converted into real-world currency.

§ 1.8 Revocation

The revocation of a registration is possible within 14 days of the date of registration, provided that no use of the services provided by Musicalion.com has been made. For the sake of clarity, use has been made as soon as the registrant logs in to Musicalion.com and downloads at least one piece of sheet music. Whether the registrant actually makes use of the downloaded sheet music is irrelevant.

§ 1.9 Withdrawal

(1) A member can cancel his or her membership at any time by sending written notice via email, post or fax. The cancelation is effective as soon as the member receives an email from Musicalion.com confirming the cancelation. Cancelation ends the automatic renewal of the membership.

(2) Additionally, an automatic membership extension may be canceled (§7) with the result that the associated membership fee will be refunded if the member cancels within 14 days of the automatic renewal of his or her membership.

§ 1.10 Welcome Gifts

From time to time Musicalion.com gives new members welcome gifts. Musicalion.com assumes the complete shipping costs only within Germany. For deliveries to other countries, the new member must contribute 3 euros towards the cost of shipping. Musicalion.com reserves the right to optimize shipping costs, which may lead to delays of up to four weeks.

Conditions for Musicians Websites via Musicalion.com

§ 2.1 Permissible Content

The customer may not violate laws, morality or the rights of third parties (protection of the name right, copyright, and of data privacy). In particular, the customer pledges not to present content which is pornographic, demagogic, glorifies violence, incites crime or provides instruction thereto; and not to offer any services or allow any services to be offered which consist of pornographic or erotic content (e.g. naked photos, peepshows etc.). The same holds true for the dispatching of emails.

Should Musicalion.com note that a customer's internet pages or email communications in form, content or pursued purpose violate legal commandments or prohibitions, the rights of third parties or morality, Musicalion.com is entitled to remove the illegal information or block access to it.

If a customer's internet pages, domain names, email addresses or email communications violate the above prohibitions, morality or the rights of third parties, and if the customer is responsible, the customer is liable to Musicalion.com to compensate all damages. The customer releases Musicalion.com in the internal relationship from claims from third parties resulting from the above violations.

§ 2.2 Security

If a customer's internet pages, domain names, email addresses or email communications violate the above prohibitions, morality or the rights of third parties, and if the customer is responsible, the customer is liable to Musicalion.com to compensate all damages. The customer releases Musicalion.com in the internal relationship from claims from third parties resulting from the above violations.

§ 2.3 Fines and Compensation for Damages

If a customer's internet pages, domain names, email addresses or email communications violate the above prohibitions, morality or the rights of third parties, and if the customer is responsible, the customer is liable to Musicalion.com to compensate all damages. The customer releases Musicalion.com in the internal relationship from claims from third parties resulting from the above violations.

§ 2.4 Limitation of Liability

Musicalion.com sends emails, SMS and other messages into the Internet. Musicalion.com assumes no liability for the forwarding of emails, SMS or other messages to the receiver, nor for the correct rendition of the customer's internet pages in the internet presence, unless Musicalion.com can be charged with intent or gross negligence.

Conditions of the Musicalion Shop

§ 3.1 Purpose

The Musicalion.com Shop serves only to extend the online music library for downloading sheet music.

§ 3.2 Sales Contract

Placing an order with the Musicalion.com shop, and/or a confirmation of an order from the Musicalion.com shop only constitutes an offer for a sales contract. Musicalion.com is permitted to reject this offer. A sales contract exists only when Musicalion.com ships the order and notifies the customer of such via email. If certain articles are not included in the shipping confirmation, no sales contract exists for those articles.

§ 3.3 Returns, 14 Day Cancellation Period, Exceptions to Right of Cancellation

If a customer elects to cancel an order after receiving the goods, and the goods are received are the goods that were ordered, and the value of the goods to be returned is less than 40 euros, the customer is responsible for the return shipping costs. The same applies if the value of the goods to be returned exceeds 40 euros but they have not yet been paid for, in whole or in part. If the value of the goods to be returned exceeds 40 euros and they have been fully paid for, Musicalion.com assumes responsibility for the return shipping charges.

Instructions for Returns

Right of Cancellation

The sales contract can be canceled within 14 days in written form but without explanation (per post, email, etc.) or by returning the goods before expiration of said period.

The period begins upon receipt of these instructions in written form and not before the goods have been received (if multiple shipments of the same article are involved, the period begins upon the first such delivery) and not prior to fulfillment of Musicalion.com's information obligations under Article 246 § 2 in conjunction with § 1 Paragraph 1 and 2 EGBGB as well as Musicalion.com's obligations under § 312 e Paragraph 1.1 BGB in connection with Article 246 § 3 EGBGB. Sending timely notice of cancellation or returning the goods in a timely manner is enough to make use of the right of cancellation during the period.

Send returns (preferably with a reason for the return) to:

Musicalion.com
Sportplatzweg 5
85614 Kirchseeon

Please give us advance notice of your return via www.musicalion.com/en/scores/correspondence/contact-us/edit

Return Process:

In the case of a properly canceled order or return, the services rendered and received on both sides are to be considered. If the received goods have been lowered in value due to damage or use (for instance, the bent or damaged pages in a book of sheet music), the customer must compensate Musicalion.com for that lost value. This requirement does not apply if the damage or usage occurred as part of expected testing / examination of the goods by the customer, analogous to the examination of goods expected in a retail store. The customer can avoid devaluing the goods by not treating them as personal property until the decision to keep the goods has been made.

Exceptions

The right to cancel or return an order does not apply when

- goods have been specially made according to specifications from the customer or otherwise have been clearly adapted to the personal needs of the customer or, due to their construction, are not suited to return shipment or can spoil or exceed their expiration dates during the return shipment,
- the packaging of software, video or audio items has been opened or
- when the goods in question are newspapers or magazines

§ 3.4 Delivery

Unless otherwise agreed, Musicalion.com or its logistics partner will deliver the goods to the address provided by the customer. On the website, customers will find notice regarding the availability of every product sold by Musicalion.com. Customers are advised that all availability, shipment and delivery information are estimates. They do

not constitute binding agreements or guarantees, except when explicitly stated in the shipping options of specific articles. If an article is not available for shipment, the customer will be notified by email. In the event that, through no fault of Musicalion.com, an order cannot be delivered because the logistics partner did not or cannot fulfill its contractual obligations, Musicalion.com may cancel the order and the customer will be informed that the order cannot be fulfilled. The rights of the customer are not affected.

If the order cannot be delivered because the customer was not available to take possession of the goods, despite adequate notice of the delivery, the customer is responsible for the cost of the unsuccessful delivery.

§ 3.5 Payment and Delays

The customer can pay via invoice (conditions under § 3.6 apply), credit card, PayPal, bank transfer or direct debit. For first-time customers, payment via invoice is not permitted. If payment via invoice is chosen, Musicalion.com is permitted to evaluate the personal information provided by the customer. Accordingly, Musicalion.com may exchange data with third-parties including the Bürgel Wirtschaftsinformationen GmbH & Co. KG, Postfach 5001 66, 22701 Hamburg, Germany (a credit evaluation agency).

Musicalion.com is permitted to refuse to offer certain payment methods, or to change them after an order has been received, in order to minimize the risk to which Musicalion.com is exposed.

If the customer delays payment, Musicalion.com is permitted to charge interest at the rate of 5% p.a. over the European Central Bank's basic interest rate. If delayed payments result in higher damages to Musicalion.com, Musicalion.com is permitted to charge for them.

If a customer attempt to use fraudulent means of payment (false credit card or bank data), Musicalion is entitles to notify the authorities and take legal action.

§ 3.6 Exceptions for Payment via Invoice

Payment via invoice is only permitted for customers ages 18 and up. For online services (downloadable software or data) or for the purchase of gift certificates, payment via invoice is not permitted. The invoice amount is due upon receipt of the invoice.

§ 3.7 Compensation, Withholding

A right to compensation only when the customer has fully upheld his or her contractual obligations. The customer may only withhold payment if his or her counter-claim meets the same contractual conditions.

§ 3.8 Price

All prices include VAT. For customers outside the EU, VAT is not included in the price.

§ 3.9 Reservation of Proprietary Rights

Articles remain the property of Musicalion.com until they are fully paid for.

§ 3.10 Responsibility for Defects

If the purchased goods are defective, the appropriate legal regulations apply. Assignment of the rights of the customer to a third-party is not permitted.

If the defective goods are replaced via a new shipment, the customer is obligated to send the defective goods back to Musicalion.com within 30 days at the expense of Musicalion.com. The return of the defective goods is regulated by the appropriate laws. Musicalion.com is obligated to provide compensation for damages according to the appropriate laws and regulations.

The statutory period of limitation is two years from the date of delivery.

Musicalion.com is liable without limit in the event that the damages are due to gross negligence or intentional.

Additionally, Musicalion.com is liable for negligent breach of contract, but only for damages that could have been foreseen and that relate to the fulfillment of the contract. Musicalion.com is not liable for negligent breach of obligations not specified in this document.

The above limitations of liability do not apply to injuries to life, body or health, to defects for which a guarantee exists, or for existing but undisclosed defects. Liability according to the Law on Product Liability is not affected.

Insofar as the liability of Musicalion.com is excepted or limited, this exception or limitation also applies to the personal liability of its employees and representatives.

General Terms

§ 4 Data Protection

All member data will be treated confidentially. Storage and processing of this data may take place only within the customer-approved context and under strict consideration of legal regulations such as the federal (German) laws governing data protection and the information and communication services. Member data may not be passed on to third parties who are not members of Musicalion.com staff outside of the context of carrying out this contract. Musicalion.com reserves the right to exchange information with the appropriate service providers in order to check on a member's credit or good faith. Musicalion.com is further authorized to transmit member information to SCHUFA (German credit reporting agency).

§ 5 Final Conditions

(1) Laws of the Federal Republic of Germany apply, to the exclusion of United Nations sales laws. The place of fulfillment and jurisdiction is Ebersberg, Germany.

(2) The declaration of an individual provision of this contract as null and void does not affect the validity of the rest of the contract nor of these terms and conditions. In disputed cases, the German text is authoritative.

Last Updated: 20/01/2011