

## **- Limited Product Warranty and Orders terms -**

Magosys Systems LTD and/or Magos America Inc. ("**Magos**") provides its customers who purchased its hardware and/or software (the "**Hardware**" and the "**Software**", respectively, and collectively the "**Product**") and/or acquire services associated with its Product (the "**Service**" and the "**Customer**", respectively) with this Limited Warranty (as defined below) with regards to the Product and/or Service, subject to the Terms and Conditions detailed below.

Customer who purchased Software hereby acknowledges that the warranty terms with respect to the Software are detailed in Magos' End-User-License Agreement ("**EULA**") provided with the Software. The warranty terms with respect to the Hardware are detailed herein. Additional terms with respect to the warranty of the Hardware and Software are detailed in Magos' Service-Level-Agreement ("**SLA**"), as provided with the Purchaser Order ("**PO**"). In the event of a conflict between the provisions of this Limited Warranty and the SLA, the provisions of this Limited Warranty shall prevail.

BY USING OUR PRODUCT AND/OR SERVICE, YOU AGREE TO THE TERMS SPECIFIED HEREIN.

### **TERMS AND CONDITIONS**

#### **1. Limited Warranty**

- 1.1. Magos hereby represents and warrants that in accordance with the terms and conditions specified in the SLA, during the Warranty Period (as defined below) it will repair and/or replace, at its sole discretion and option, and for no additional charge, any Product or component thereof that manifests a defect in material or workmanship (the "**Defect**" and/or "**Defective Product**", and the "**Limited Warranty**", respectively).
- 1.2. This Limited Warranty shall become effective on the Product's purchase date and shall remain in effect for one (1) year thereafter (the "**Warranty Period**"). Customer hereby acknowledges and affirms that this Limited Warranty constitutes the sole and exclusive liability of Magos with respect to defective or non-conforming Products and is an exclusive warranty and in lieu of all other warranties, terms or conditions, express or implied, either in fact or by operation of law, statutory or otherwise, including warranties, terms or conditions of merchantability and fitness for a particular purpose. Following the Warranty Period, and for any defect, or damages resulting from circumstances which are excluded from this Limited Warranty, Magos shall not be liable under this Limited Warranty.
- 1.3. This Limited Warranty is subject to Customer's prompt written claim of a Defect within a reasonable time, and to Magos' opportunity to inspect and test the Defect in accordance with the SLA (the "**Written Claim**"). Customer is solely responsible for retaining the Defective Product's proof of purchase provided in the Product's Order Confirmation ("**OC**"), which Customer shall be required to present to Magos, as a pre-condition for exercising its rights under this Limited Warranty. For the avoidance of doubt, and in accordance with Section 1.2 above, this Limited Warranty will not extend beyond the Warranty Period and all Written Claims shall be made within the Warranty Period. Notwithstanding the aforementioned, the Warranty Period for a Defective Product that has been repaired and/or replaced under this Limited Warranty shall remain in effect for the remaining Warranty Period under this Limited Warranty, or for a total period of ninety (90) days, whichever is longer.
- 1.4. For the purpose of repairing and/or replacing a Defective Product, Customer shall return the Defective Product to Magos in the original package or another package that provides an equivalent standard of protection to the Product, as detailed in the SLA.
- 1.5. Customer shall pay shipping and handling costs of the Product return to Magos. Return of the repaired or replacement Product to Customer shall be at the expense of Magos unless Magos determines, at its sole discretion, but acting reasonably, that the Product is not defective within the

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terms of this Limited Warranty, in which event Customer shall pay Magos all reasonable and demonstrable costs of handling, transportation, and labor at Magos' then prevailing rates.

- 1.6. Customer acknowledges that the delivery date set forth in an OC is based upon Magos' reasonable judgment and subject to production limitations and factory schedules, and hence is not guaranteed. Delivery will be made Ex-Works (Incoterms 2020) at Magos' manufacturing facility. The time of delivery is the time the Product to be delivered is picked up by the carrier selected by Customer. In no event shall Magos be liable for indirect, incidental or consequential damages (including losses or added costs) due to any failure to deliver or delay in delivery however caused.

## 2. Exclusions

- 2.1. This Limited Warranty is conditioned upon (i) the is Product being stored, used and maintained in strict compliance with Magos's documentation and instructions (the "**Applicable Product Documentation**"); and (ii) Customer has paid all outstanding amounts payable to Magos. In the event of default in payment for the Products and/or Services by the Customer, and without derogating from any other right or remedy of Magos, it reserves the right to (a) suspend and/or terminate any right granted to Customer and/or any performance under this Limited Warranty and/or EULA and/or SLA and/or any or all PO and OC; (b) repossess Magos' Products; (c) take any and all actions required to obtain such unpaid principal amount from Customer; and (d) accrue interest to the extent legally enforceable, on such unpaid principal amount.
- 2.2. Subject to additional exclusions detailed in the SLA, this Limited Warranty does not cover any Product or component thereof which (a) has been subjected to unusual physical (including but not limited to extreme temperatures) or electrical stress; (b) the Product was altered in any way or form whatsoever from its original form, shape, structure or intended uses; (c) has been combined with unauthorized equipment and/or Software; (d) has been licensed for a Trial Version (as defined below); (e) serial number and/or other form of identification marks were removed, modified or rendered from; or (f) has been damaged due to accident, acts of God, misuse, neglect, alteration, repair, abnormal physical or electrical stress, abnormal environmental conditions, use or integration with another product or substance, improper installation, unauthorized installation, use not in accordance with the Magos' instruction, storage or testing or unauthorized modification.

For the purpose of this Limited Warranty, a "**Trial Version**" means a version of the Product to be used only to review and evaluate the product for a limited period of time, with limited features, respectively.

- 2.3. Customer hereby acknowledges that it is possible for recalls of the Products to be necessary. The Customer agrees that in case of a recall, and subject to Magos' sole discretion and option, Magos and/or its' authorized distributors may repair and/or replace all Products and/or non-used Products components.

## 3. Disclaimers

OTHER THAN AS EXPLICITLY STATED HEREIN, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PRODUCT, THE SERVICE AND THE DOCUMENTATIONS ARE PROVIDED ON AN "AS IS" BASIS. MAGOS DOES NOT WARRANT THAT THE PRODUCT AND/OR SERVICE WILL MEET THE CUSTOMER'S REQUIREMENTS OR THAT THE PRODUCT'S OPERATION WILL BE SECURE, UNINTERRUPTED, ERROR-FREE, FREE OF VIRUSES, BUGS, WORMS, OTHER HARMFUL COMPONENTS OR OTHER LIMITATIONS. TO THE EXTENT ALLOWED BY LAW, MAGOS EXPRESSLY DISCLAIMS ALL EXPRESS WARRANTIES, ALL IMPLIED WARRANTIES, AND ALL CONDITIONS, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITION OF MERCHANTABILITY, NON-INTERFERENCE, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE,

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SATISFACTORY QUALITY AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. IN ADDITION, DUE TO THE CONTINUAL DEVELOPMENT OF NEW TECHNIQUES FOR INTRUDING UPON AND ATTACKING NETWORKS, MAGOS DOES NOT WARRANT THAT THE PRODUCT WILL BE FREE OF VULNERABILITY TO INTRUSION OR ATTACK. TO THE EXTENT THAT ANY OF THE SAME CANNOT BE EXCLUDED, SUCH IMPLIED CONDITION, REPRESENTATION AND/OR WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD AND REMEDIES REFERRED TO IN SUBSECTION 1 ABOVE..

#### **4. Limitation of Liability**

- 4.1. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW (A) MAGOS, INCLUDING ITS VENDORS, OFFICERS, SHAREHOLDERS, SUB-CONTRACTORS, DIRECTORS, EMPLOYEES, AFFILIATES, SUBSIDIARIES, LICENSORS, AGENTS AND SUPPLIERS (COLLECTIVELY, "**MAGOS' REPRESENTATIVES**"), SHALL NOT BE LIABLE WHETHER UNDER CONTRACT, TORT OR OTHERWISE, TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING BUT NOT LIMITED TO, ANY LOSS OR DAMAGE TO BUSINESS EARNINGS, LOST PROFITS OR GOODWILL AND LOST OR DAMAGED DATA OR DOCUMENTATION), SUFFERED BY ANY PERSON, ARISING FROM AND/OR RELATED WITH AND/OR CONNECTED ANY USE OF OR INABILITY TO USE THE PRODUCT , AND/OR FOR LOST PROFITS, WORK STOPPAGE, SAVINGS, OR REVENUES OF ANY KIND, OR FOR LOST DATA, DAMAGE TO OTHER SOFTWARE, COMPUTER FAILURE OR MALFUNCTION OR DOWNTIME, EVEN IF MAGOS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (B) IN NO EVENT SHALL MAGOS' AND MAGOS' REPRESENTATIVES' TOTAL LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT FROM ALL CLAIMS OR CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY, EXCEED THE TOTAL PAYMENTS ACTUALLY MADE TO MAGOS FOR THE PRODUCT, IF ANY, DURING THE TWELVE (12) MONTH PERIOD PRIOR TO ANY SUCH CLAIM OR CAUSE OF ACTION AROSE. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.
- 4.2. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE TRIAL VERSION IS PROVIDED ON AN "AS IS" BASIS AND THE LIMITED WARRANTY WITH RESPECT TO THE PRODUCT SHALL NOT APPLY WITH RESPECT TO THE TRIAL VERSION. MAGOS DISCLAIMS ANY AND ALL WARRANTIES RELATING TO THE TRIAL VERSION, DOCUMENTATION AND OTHER FILES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL MAGOS' AND MAGOS' REPRESENTATIVES' LIABILITY FOR THE TRIAL VERSION EXCEED ONE US DOLLAR (US\$ 1.00).

#### **5. Jurisdiction and Governing law**

- 5.1. This Limited Warranty shall be governed by and construed in accordance with the laws of the State of Israel, without regard to the conflicts of law's provisions thereof, and specifically excludes the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods.
- 5.2. The competent courts of the City of Tel-Aviv – Yafo shall have the sole and exclusive jurisdiction over all disputes arising out of or in connection with this Agreement and Customer consents to such exclusive and personal jurisdiction and venue.

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**6. Miscellaneous**

- 6.1. This Limited Warranty, the SLA, the EULA, and Applicable Product Documentations provided to Customer by Magos are intended as the complete, final and exclusive statement of the terms and conditions between the Parties regarding the subject matter hereof and supersede any and all other prior or contemporaneous agreements or understandings, whether written or oral, between them relating to the subject matter hereof. In the event of a conflict between the provisions of this Limited Warranty and the SLA, the EULA, the PO, the CO, and Applicable Product Documentations provided to Customer by Magos, the provisions of this Limited Warranty shall prevail. This Limited Warranty may not be modified except in a written instrument executed by Magos.
- 6.2. Customer hereby acknowledges that it may not insert any additional term and/or condition and/or provision to the PO provided by Magos with respect to any and all of Magos Products. In the event that Customer attempts to implement any additional term and/or condition and/or provision to the PO provided by Magos, it shall consider invalid and/or void, unless such term and/or condition and/or provision was explicitly approved by Magos' CEO in advance and included specifically within the scope of the OC provided by Magos in writing.
- 6.3. Regardless of whether any remedy herein fails all or part of its essential purpose, in no event will Magos be liable for any indirect, incidental, special, punitive or consequential damages arising out of or relating in any way to this Limited Warranty, the Products or the use thereof (including, without limitation, damages for lost profits or business interruption), even if Magos has been informed, is aware, or should be or should have been aware, of the possibility of such damages.
- 6.4. Without derogating from the limitations on liability set forth in section 6.3 hereof, in no event, even if any exclusive remedy provided for in this Warranty Period fails its essential purpose, will Magos liability due to direct damages or otherwise exceed the purchase price received by Magos from Customer for the Products in question. Without derogating from the generality of the foregoing, in no event shall Magos be liable for Customer's costs of procuring substitute products.