

MUSIC STORE

professional

www.musicstore.de

MUSIC STORE professional GmbH · Istanbulstr. 22-26 · D-51103 Cologne (Germany)
Registered company, municipal court Cologne, HRB 5933

General Terms & Conditions

Updated: January 2012

GENERAL CONDITIONS

The following conditions apply to all contracts, deliveries and other services. Any deviation (including diversification of the customer's terms or conditions) requires our written permission.

OFFERS

a) All offers made by us and appearing in press, circulars, brochures, catalogues, internet etc. are not binding and can be altered without notice. MUSIC STORE professional GmbH reserves the right to alter, exchange or exclude parts of the products offered, as well as remove the entire product offered in printmedia or internet without prior notice.

b) The pictures of the products in the online shop are no legally binding offer. By clicking the „checkout“ button, you are placing a binding order of the products in the shopping cart. The confirmation of the received order is sent out directly after placing it. The act of sale is completed by receiving a sales confirmation or by delivery of the merchandise ordered.

c) **Auctions:** The presentation and description of articles in the auction categories of our online shop is not legally binding. It merely presents a non-binding online catalog. By entering a bid and pressing the button “bid now” you agree to a binding purchase of the auctioned goods. Upon placing your bid you receive an e-mail from us to confirm your bid and your agreement. If your bid is the winning bid by the end of the auction, you have committed to a binding order of the offered, auctioned article. You will receive the sales agreement with a separate confirmation of your order or with the delivery of the goods.

d) We save the text of the contract and e-mail you the order data and the rights of rescission. You can look up your past onlineshop orders (from november 2006) in our customer log-in section.

e) We reserve the right to amend existing orders completely or partially due to currency exchange rate fluctuations or changing cost prices.

f) Special offers are valid subject to stock.

MAILORDER

a) Your contract is concluded with MUSIC STORE professional GmbH, Istanbulstr. 22-26, 51103 Cologne, Germany, represented by its managing director, Mr. Michael Sauer. You may also forward possible complaints to this address.

b) The commercial purpose of this agreement is based on the sales of merchandise offered by our company. The contract is completed by placing an order either by phone, fax, internet or by mailing a written order (using the order form found in the catalogue) and by our company's subsequent acceptance of the order by written order confirmation or delivery of goods.

TERMS OF DELIVERY

a) The terms of delivery for the UK are as follows: Orders over 200,- € value will be shipped free of charge. For orders below 200,- € value we will charge 10,- € standard delivery costs. In certain situations (unusually large or heavy items, such as acoustic foam, stagetables, pianos, etc.), we'll work with you to determine the most effective and economical shipping method. Please refer to our webpage for [shipping information regarding other countries](#).

b) There is a 10,- € COD charge (in addition to delivery costs). UPS will collect the amount in GBP according to the current exchange rate. Please note that the limit for payment by Cash-on-Delivery is 3.000 €. Cash-On-Delivery is not possible if your order needs to be shipped via forwarding agency. Please refer to our webpage for [information regarding other countries](#).

c) If on the basis of the total volume or weight the ordered goods are shipped by carrier, delivery will be free curb. Additional arrangements for further delivery services (e.g. transport inside house) have to be made by the customer with the respective forwarding company directly. MUSIC STORE professional regrets not being able to bear any resulting additional costs.

d) For very urgent deliveries we can arrange Express and Saturday delivery. The occurring cost is to be paid by the customer. Please refer to the export pages for delivery terms and charges in- and outside the EU.

e) Delivery occurs at the customer's risk. After handing over the goods to a forwarding company the risk of accidental loss and accidental deterioration passes to the customer. This also applies to partial deliveries. If the customer / buyer is a consumer as defined in § 13 BGB, the risk of accidental loss and accidental deterioration of the sold item (also if purchased by mail order) is passed to the customer only after the goods have been delivered. The same holds in respect to the delivery, should the customer receive the goods belatedly.

f) If part of the products ordered are not in stock or currently unavailable, we reserve the right to dispatch partial orders to a reasonable extent, with a separate invoice.

g) Should the products ordered not be available eventhough a hedging transaction has been made, we reserve the right to cancel the order. In this case, the customer will be informed immediately. The customer will be credited in case transactions have already been performed. A refund is also possible upon request. Any other claims against MUSIC STORE professional GmbH are excluded.

h) If deliveries into Non-EU countries are refused, a wrong delivery address has been indicated by the customer or the goods can't be delivered by any other reasons caused by the customer, the customer is liable to pay all arising costs i.e. delivery costs back and forth, custom charges etc.

i) The goods are to be checked immediately after receipt by the customer for transport damages. Detectible transport damages are to be reported without delay in written form. Damaged packaging must be claimed to the couriers and confirmed by them.

j) Any information concerning delivery dates are not legally binding, unless it was expressly agreed upon a specific delivery date in writing.

RIGHT OF RESCISSION

Customers have the right of withdrawal within two weeks. Return shipments are at our risk.

Revocation instructions

RIGHT OF RESCISSION

Customers being a „consumer“ in the sense defined by § 13 German Civil Code [Buergerliches Gesetzbuch/BGB] have the possibility to cancel the order in written form, by fax (+49 221 8884-2800), by email (reklamation@musicstore.de) or by returning the merchandise without giving reasons within 2 weeks after delivery.

The term starts with receipt of these instructions in writing, however not before delivery of the goods to the recipient (in case of recurring deliveries of the same type of goods not before receiving the first partial delivery) and not before the information duties according to article 246 section 2 German Civil Code (EGBGB) in combination with section 1 subsection 2 German Civil Code (EGBGB) as well as section 312g, subsection 1 German Civil Code (BGB) in combination with article 246 section 3 German Civil Code (EGBGB) have been fulfilled.

The revocation period shall be deemed observed if the goods are shipped or notice of revocation is given within this period. Order cancellations shall be submitted to the following address, including our referring invoice:

MUSIC STORE professional GmbH
Rücksendungen
Istanbulstr. 22-26
D-51103 Cologne
Germany
Fax : +49 221 8884-2800
E-Mail: reklamation@musicstore.de

Effects of revocation

In case of an effective cancellation, both parties shall return the received goods, payments and all other derived benefits (e.g. interest). In case the customer is unable to return any or all of the received goods and benefits or in case he returns them in a diminished state, the customer shall compensate us for the lost value. This shall not apply to objects when the reduction of their value is caused exclusively by testing them. For the deterioration and

derived benefits, you must pay compensation only if signs of wear or the deterioration are due to use of the goods beyond testing characteristics and functioning as could be done in a shop. The customer is free to avoid the obligation to compensate us for lost value due to using the object as intended by not using the object like his/her property and by refraining from all use that may result in a value loss.

To the extent possible, the customer shall return objects by parcel post. The customer shall bear the regular costs of returning the merchandise provided the goods have been delivered as ordered and the price of the return merchandise does not exceed EUR 40.00 or in case of merchandise valued at more than EUR 40.00, when at the time of the cancellation the customer has not performed as stipulated or has not made the contractually agreed partial or full payment. In all other cases the customer may return the merchandise free of charge. This applies to all shipments to European Union member states.

Objects not suitable for shipment by parcel post shall be picked up at the customer's premises. The obligation to return received payments shall be fulfilled within 30 days. For the customer the grace period starts with the date the cancellation is sent or the object is returned; for us, the grace period begins with the receipt of the cancellation or the returned goods.

End of revocation instructions

Additional information

Please note that with returned goods, especially those that for hygienic reasons are unacceptable for resale (such as any kind of ear plugs, earphones, in-ear monitoring, pop filters, wind screens, wind instruments, etc.) a reduction of the refunded purchase price can be made on our part.

The right of rescission does not apply for audio- or videorecordings or software if the data medium has been unsealed by the customer.

The revocation instruction is valid for consumers in the sense defined by § 13 German Civil Code within the EU. For customers from Non-EU countries the conditions of the Music Store 30 Days-Money-Back guarantee apply exclusively.

Return Charges when Exercising the Right of Rescission

The customer shall bear the costs of returning the merchandise provided the goods have been delivered as ordered and the price of the return merchandise does not exceed EUR 40.00 or in case of merchandise valued at more than EUR 40.00, when at the time of the cancellation the customer has not performed as stipulated or has not made the contractually agreed partial or full payment. In all other cases the customer may return the merchandise free of charge.

MUSIC STORE - 30 DAYS MONEY BACK GUARANTEE (Mail Order) / RIGHT OF RETURN (Shop Sales)

Additionally to the mandatory 14-day right or rescission, Music Store offers you the „Music Store 30 days money back guarantee“ for the following 16 days under the following terms and conditions:

a) For all products purchased from MUSIC STORE professional GmbH by mail order we grant a 30 days money back guarantee. This applies to consumers in the sense defined by § 13 German Civil Code.

This covers sales contracts under delivery conditions in accordance with § 312b German Civil Code (Fernabsatzvertraege). For goods purchased in our shop we offer a credit on the MUSIC STORE client account.

b) MUSIC STORE professional regrets not being able to bear the costs for return shipments from foreign countries as part of the "Music Store 30 days money back guarantee".

c) Excluded from the Music Store 30 days money back guarantee / right of return are wear items like pick-ups, valves, illuminants, drum heads, sticks, strings, unsealed or non-original wrapped software, sheet music and books, already installed computers, all products from Apple, computers configured according to customer request, customized cables and cables sold by the metre, other customized products sold by the metre, merchandise not in stock, that has been ordered by wish of customer and all products that cannot be resold due to hygienic reasons like in-ear systems, ear plugs, headphones, harmonicas (harps, mouth organs), popfilters, windscreens, wind instruments etc. Furthermore products are excluded from the Music Store 30 day money back guarantee / right of return if included software has been registered.

d) We reserve the right to charge articles of a bundle at their regular sales-price, if components of the bundle are returned within the right of rescission or Music Store 30 days money back / right of return guarantee. The credit for the returned articles may be offset against the difference between bundle-price and regular sales-price of the goods remaining with the customer.

e) The merchandise must be returned to us in its original packaging as well as secure shipping package, with all accessories and without traces of usage. MUSIC STORE professional GmbH reserves the right to reduce the amount refunded in case of apparent traces of usage that result in a loss of value of the returned merchandise or (Music Store 30 days money back guarantee / right of return only) to refuse retraction and return the merchandise to the customer.

f) The 14-day right of rescission for merchandise purchased by mail order is unaffected by these terms & conditions.

CONDITIONS OF GUARANTEE, LIABILITY

a) If the customer accepts merchandise or the subject of the contract despite prior knowledge of damage, warranty claims as described below only exist if the customer reserves these rights expressly and in written form directly after having received the delivery.

Conditions of warranty only apply, if the damage has been present by the date of delivery.

b) For consumers in the sense defined by § 13 German Civil Code living inside the EU we organize and pay for the return of defective articles within the warranty period, only when they have been purchased through mail-order. Please contact us for collection by phone on: +49 221 8884-1800. We reserve the right to have goods repaired by partner companies of the manufacturer or the firm MUSIC STORE professional GmbH in case of warranty

c) The guarantee for our merchandise, is valid for 2 years for consumers and 1 year for contractors, from the day of delivery.

d) The guarantee for used merchandise, is valid for 1 year for consumers and 1 year for contractors, from the day of delivery.

e) If a defect occurs during the guarantee period, the customer will be entitled to a repair free of cost. Should the merchandise still be defective after repairs, the customer has the right to reduce the price of the purchased item or cancel the purchase. This right does not apply, should the defect be insubstantial.

f) Guarantee claims arising from transportation damages may only be enforced by the customer if the formalities in accordance with TERMS OF DELIVERY, section i) have been fulfilled. This in turn does not hold true if the customer is a consumer in the sense defined by § 13 German Civil Code.

g) Exempt from guarantee are all products subject to use-orientated nature, e.g. strings, illuminants, LED`s for spots, sticks, accumulators/batteries, potentiometers, faders, laser diodes, pitchbenders, keyboards, keys and switches, all tubes (built in as well), reeds for harps, melodicas and accordions, etc

h) We reserve the right to put a charge on unreasonable returns for occurring shipping cost or working hours.

i) Information about the duration of repair is always non-binding unless a deadline has been agreed upon in written form. During the duration of repair there is no right of loan merchandise.

j) Damages other than those caused by injury to life, body and health will only be covered by MUSIC STORE professional GmbH if they are a result of deliberate or negligent violation of fundamental contractual obligations, fraudulent misrepresentation, guarantee of quality, or injury of the customer committed by MUSIC STORE professional GmbH or their auxiliary persons (e.g. delivery service). Any further liabilities are excluded. The product liability act is unaffected by these conditions.

k) In case of negligent violation of fundamental contractual obligations, the liability of MUSIC STORE professional GmbH is limited to the foreseeable damage.

MUSIC STORE 3-YEAR WARRANTY

MUSIC STORE professional GmbH offers a 3 year warranty for all products purchased by consumers in the terms defined by § 13 German Civil Code. In case the customer is a contractor in the sense defined by §14 German Civil Code and the ordered goods belong to his business, the warranty time expires after one year after receipt of the merchandise. The following conditions apply:

Note: The implied warranty is in no way constricted by the Music Store 3-Year Warranty.

Warranty claims may only be raised by the customer who purchased the goods and are not transferable.

a) MUSIC STORE professional GmbH offers warranty for all defects within the 3 years timespan, which can be traced to material or production defects.

b) Exempt from warranty are all products from Apple, all other computers and computer-equipment, parts subject to regular wear and tear, e.g. strings, illuminants, LEDs for spots, sticks, drum heads, cymbals, accumulators / batteries, cables, headphones, bags, cases, straps, potentiometers, faders, laser diodes, pitchbenders, keyboards, keys and switches, all tubes (built in as well), reeds for harps, melodicas and accordions, etc.

c) Furthermore excluded from warranty are:

- Product deficiencies arising from operating faults, non-observance of the operating manual, use in unintended ways, improper use, overcharge or lack of maintenance
- use of unintended spare parts which are not original parts from the manufacturer
- products, where own attempts at repairs have been undertaken
- all spare parts
- products with deviations from normal conditions being unsubstantial for the usability of the product.

d) For all warranty accepted products, the repairs will be carried out free of cost by MUSIC STORE professional GmbH, or the product will be replaced with a technically operating product, in which case, MUSIC STORE professional GmbH then owns the returned product or parts.

e) Warranty demands must be made within the warranty period. The return of a product must be agreed upon with the Customer Service Department of MUSIC STORE professional GmbH. The customer is financially responsible for returning the product to the MUSIC STORE professional GmbH. Our referring invoice needs to be enclosed, which is a necessary proof of warranty. Please do not send us freight collect packages, they will not be accepted.

f) The customer has to bear the costs for returning articles from countries other than Germany during the warranty period.

g) The customer has to bear the costs for returning goods outside of Germany after

repairment within the Music Store 3-years warranty.

h) Other demands as those concerning adjustment or repair of a defect product as stated in the warranty conditions, are made void through the warranty conditions of the company MUSIC STORE professional GmbH.

i) In case of a warranty repair the warranty period is not extended or restarted.

CONDITIONS OF PAYMENT

a) COD-orders are to be paid in cash only. For the first credit card order we require a copy of the card (front and backside) and your ID by email or fax. Bank transfers need to be made prior to shipment of the merchandise. The order will be sent as soon as the payment is showing on our account and the goods are available. All payments need to be made in Euros to our bank account, occurring bankcharges need to be paid by the customer.

b) We reserve the right to refuse acceptance of cheques or other non-cash methods of payment. Should acceptance of such occur, it will only be relevant to the payment of merchandise.

c) In the event of delayed payment we will charge the statutory interest rate. Upon issue of the first reminder of payment we will raise an additional fee of 2,50 Euro. Any subsequent reminders will incur a further charge of 5 Euro each.

d) In the case of return or dishonour of a debit balance, particular after appeal, the customer accredits or assigns his bank irrevocably, to disclose his current address to us or one of our authorised service providers. All emerging dues (return debit notes of the bank and address information) resulting from dishonoured debit balances, have to be refunded to MUSIC STORE professional GmbH by the customer.

e) Being entitled to claim for damages due to not fulfilling a sales contract, we demand a flat rate of 20% of the agreed price as compensation, without proof of evidence. We reserve the right to exercise the assertion of higher actual damages, if appropriate. The customer is entitled to prove that no or a lesser damage has been done.

f) The reimbursement will be made within 30 days after returning the merchandise or after notice of withdrawal in case there is no damage to the merchandise. In case of purchase of a new product, we will charge the reimbursement against the value of the new product ordered.

RIGHT OF OWNERSHIP

All merchandise remains our property until payment has been fulfilled.

PLACE OF JURISDICTION

Cologne is the exclusive place of jurisdiction for all contract related disputes, as far as the customer is a merchant or does not have a general place of jurisdiction inside the Federal Republic of Germany. MUSIC STORE professional GmbH reserves the right to be able to

sue the customer in a place of general jurisdiction.

CONFIDENTIALITY

a) All customer details and data collected will not be passed on to a third party. All collected customer data is stored solely for contractual and further informational use. You may object to the storage of data for consignment of informational content at any time at the aforementioned address.

b) For security reasons MUSIC STORE professional GmbH does not store credit card information in its computers. The data is sent online to our partner's system for the handling of payment (Saferpay/SIX Card Solutions), which is specialized in this kind of data management and utilizes the data solely for this purpose.

DISCLAIMER

MUSIC STORE professional GmbH takes no responsibility for the correctness, quality or completeness of the given information. Liability claims against the author regarding damage of material or ideational nature, the use or not use of the given information or the use of incomplete or incorrect information are strictly excluded, provided the author has not made any demonstrable or wantonly negligent mistakes.

PERIODIC STATUTE OF LIMITATION

Periodic statute of limitation amounts 3 years according to § 195 BGB (German Civil Code). That takes effect in particular on vouchers and credit notes.