

# **General Terms and Conditions**

## **1. Contracting Parties**

The contractual relationship between the respective customer and

**MTN Muting The Noise GmbH,  
represented by CEO Gloria Ahlers,  
Bluecherstrasse 22, 10961 Berlin,**

**Tel: +49 30 49 80 44 75**

**Fax: +49 30 49 80 44 74**

**E-Mail: [shop@mutingthenoise.com](mailto:shop@mutingthenoise.com)**

**Commercial Registry: AG Charlottenburg**

**Commercial Register Number: 167136 B**

**Value Added Tax (VAT) Identification Number: DE 300132169**

hereafter referred to as “Seller”, is based on the following General Terms and Conditions:

## **2. Subject-Matter of the Contract**

This contract regulates the online-sale of new audio and merchandise goods, which can be accessed via the online store: [www.mutingthenoise.com](http://www.mutingthenoise.com). The details of the offer, such as costs and product details, are to be found in the product description. In the event of a sale, these Terms and Conditions shall apply.

## **3. Conclusion of the Contract**

This contract applies to electronic commerce of the aforementioned online store identified in Section 2 of this contract and also applies to other pertinent electronic communication methods such as telephone or email. The offers displayed on the web page invite the customer (invitatio ad offerendum) to offer a bid, which the Seller can accept. The order transaction that leads to the conclusion of contract comprises the following steps:

- Selection of the desired specifications (e.g. size, colour, quantity, etc.)
  - Placing the offer into the shopping cart
  - Clicking the -Checkout- option
  - Entering the billing address and shipping address
  - Selection of carrier
  - Selection of payment method
  - Review of order and information provided, with option to make revisions to the order
  - Confirmation of the order and acceptance of costs by clicking -Place Your Order-
  - Email confirming receipt of order
- Orders can be placed via telephone and email. The following steps lead to the conclusion of the contract:
    - Calling the Seller or forwarding the confirmation email to the Seller
    - Email confirming receipt of order and availability of item(s) for delivery. The ordering process will be fully executed upon receipt of the final the confirmation email, which can also be sent via post or fax.

### **3.1 Legal Capacity**

In compliance with legal requirements, only individuals of full age (at least 18 years) and who possess full legal capacity and ability (sui juris) can place orders. Only orders placed by individuals described before will be processed. Minors and individuals with limited legal capacity and ability will need the approval of their legal representative(s).

### **3.2 Resell**

The products offered are for end users only. Resellers' orders can be cancelled especially in case of price campaigns.

## **4. Contract Duration**

The contract ends automatically with delivery of the ordered goods. Special cancellations

depend on legal regulations.

## **5. The Right of Non-Delivery**

In case of non-availability of the goods and services promised, the Seller reserves the right of non-delivery. In such a case, no claims can be made against the Seller.

## **6. Costs, Forwarding Expenses, Return Shipping Costs**

Prices valid on the day of order are applicable. Prices are gross prices, indicated in Euro and containing the legal VAT. Further expenses will be incurred according to the mode of shipment, shipping address, and payment method. These costs will be displayed prior to the placement of the order. Should the customer be entitled to return the purchased item(s) and receive a refund, and the customer wishes to do so, the customer will be responsible for all shipping and return costs.

Subsequent deliveries are made free of charge.

If customs, import duties, or similar fees are levied due to shipment outside of the EU, the customer will be responsible for such costs. The Seller has no bearing on any of these costs and cannot foretell the amount of expenses.

## **7. Conditions of Payment**

Only the following methods of payment are available to the customer:

payment in advance, payment service provider (PayPal), cash payment upon pick up, credit card (Mastercard and Visa only). No other methods of payment are offered and will thus be refused.

Upon receipt of the invoice which indicates all bank details needed, the amount invoiced has to be transferred to the account specified on the invoice. The invoice will be sent via

email. It is mandatory to name the order number as this is needed in order to successfully process the order transaction. The order will be processed upon receipt of payment. Depending on the receipt of payment, the delivery period may be extended by 2-5 days. When choosing an escrow service/payment service provider (PayPal), Seller and customer can handle the payment directly between each other. In this case, the service provider (PayPal) will forward the customer's payment to the Seller. Further information can be found at: [www.paypal.com](http://www.paypal.com).

When settling a bill via credit card, the customer must be the card holder. Our secure payment site will ask the customer to enter the credit card details. After successful verification of the card, the invoiced amount will be debited. The order will be completed after the successful transaction of the amount of invoice.

A customer's right of lien is excluded unless the contractual relationship results from and is based on the same contract. The customer is not entitled to set-off unless the claims are undisputed or subject of a final court ruling.

## **8. Terms of Delivery**

Goods will be shipped upon receipt of payment. The Seller retains the right to choose the route of transport, mode of transport, and possible partial delivery, as long as such options are reasonable. If the customer has given a false, incomplete or unclear shipping address, the customer will be responsible for all costs generated. The Seller will send the goods either from its own warehouse, or the order will be shipped by the manufacturer. The delivery period shall not exceed 30 days for goods currently in stock. The customer will be given notice in case of delays to order fulfilment. If the Seller faces lasting obstacles to delivery, especially in case of "Force Majeure" or supply delivery problems despite its best efforts, the Seller retains the right to cancel the contract. The client will be informed about any such cancellation immediately, and any benefits received, specifically payments, will be refunded.

## **9. Warranty**

If the customer is an entrepreneur, the warranty period for new goods is limited to one year.

In case of subsequent fulfilment, the Seller retains the right to choose between repair or replacement if the customer is an entrepreneur. No warranty period applies for second-hand articles if the customer is an entrepreneur.

If only businessmen are involved in the contract, it shall additionally apply §§ 377 ff. HGB/German Commercial Code.

If the customer is a consumer, the warranty period for second-hand articles is limited to one year. For contracts with consumers, the relevant rules and regulations of the BGB/German Civil Code concerning statutory warranty rights apply.

In case of deviation, the rules and regulations of this General Terms and Conditions apply. This shall not apply to any claims of damages arising from injury to life, body or health or fundamental contractual obligations necessary to achieve the contract's objective. This shall also not apply in cases of damages caused through gross negligence or deliberate breach of duty by the Seller, their legal representatives or vicarious agents. In all other respects, the statutory regulations shall apply.

## **10. Transfer of Risk and Additional Contract Particulars**

If the customer is a consumer, the risk of accidental loss or accidental deterioration of the goods shall pass to the customer upon transfer of the goods or at the moment in which the customer is in default of acceptance.

In all remaining cases the risk of accidental loss and accidental deterioration of the goods passes with the transfer, in the case of sales shipment with the handing over of the goods to the forwarding agent, carrier or person or body specified to carry out shipment, to the entrepreneur.

The General Terms and Conditions are to be found on and can be accessed via the carrier's web page.

Unless the 'confirmation' option is clicked, the order transaction can be revised.

Should the delivery fail despite 3 delivery attempts caused by customer's fault, the Seller reserves the right to withdraw from the contract. Any benefits received, specifically payments, will be refunded immediately.

## **11. Right of Withdrawal**

### **Cancellation Policy:**

#### **Right of Withdrawal**

**The contract can be cancelled within 14 days without giving any reason.**

**The withdrawal period is 14 days and commences on the day that -**

- In case of a contract of purchase - the last goods were taken possession of by the customer or a third party designated by the customer and who is not the carrier.**
- In case of a contract of purchase that results from one order but includes several goods delivered separately - the last part of the goods were taken possession of by the customer or a third party designated by the customer and who is not the carrier.**
- In case of a contract for delivery in part shipment or pieces - the first part of the goods were taken possession of by the customer or a third party designated by the customer and who is not the carrier.**

**In the event of concurrence of several options, the last point in time is relevant in each case.**

**Should a customer wish to exercise the right to withdraw from a contract, he or she has to notify the Seller (MTN Muting The Noise GmbH, represented by CEO Gloria Ahlers, Blücherstrasse 22, 10961 Berlin, Germany, ph: +49 30 49 80 42 75 fax: +49 30 49 80 44 74, E-Mail: [shop@mutingthenoise.com](mailto:shop@mutingthenoise.com)) by means of a clear written statement. This statement can be sent to us either by post, fax or email. The**

customer can also use the attached sample withdrawal form, although this form is not required.

To observe the revocation period, it is sufficient that the customer sends the notification concerning the exercise of the right of withdrawal before the revocation period expires.

#### **Consequences of Revocation:**

Should the customer exercise the right to withdraw from a contract, the Seller is obliged to repay all payments the customer made immediately, at the latest within 14 days after having received the customer's notification. This includes shipping costs except for those incurred by the customer having selected a method of delivery different to the favourable and standard method offered. Unless otherwise expressly agreed, the Seller will use the same method of payment the customer used for the reimbursement. Under no circumstances shall customers be charged with fees due to these reimbursements. The Seller may withhold the reimbursement until it either retrieves the goods or the customer's proof of having sent back the goods, whichever occurs first.

The customer has to send back the goods or personally hand-deliver them within 14 days after having notified the Seller of the withdrawal from the contract. In any event, the goods must be returned to us. The deadline for returning goods is only met, if the goods are returned before the return period expires.

The customer must pay for the immediate costs of the return shipment.

The customer shall only be liable for any diminished value of the goods resulting from the handling other than what is necessary to ascertain the nature and functioning of the goods.

Pursuant to the applicable law, excluded from revocation shall be in particular:

- 1. The supply of goods made to the customer's specifications, tailored to personal needs or goods clearly personalized, or**
- 2. The supply of sealed audio or video recordings or computer software which were unsealed by the customer, or**
- 3. Goods unsuitable for return shipment due to their nature.**

## **End of Cancellation Policy.**

### **12. Exemption from Liability**

Claims for compensation to the customer are ruled out unless otherwise provided for in the following. This also applies to the Seller's representative, should the customer raise claims for compensation against the Seller. Exceptions to this are claims made by the customer on grounds of injury to life, body and health, or a breach of essential contractual duties, which are indispensable for the attainment of the contract purpose. Further exceptions are claims for compensation on the grounds of gross negligence or intentional breach of duty by the Seller, his representative or his vicarious.

### **13. Assignment and Pledge Ban**

No claims or rights of the customer can be transferred or pledged to a third party without the Seller's consent, unless the customer can provide proof for the legitimacy of the wish to assignment or pledging.

### **14. Language, Court of Jurisdiction and Applicable Law**

The contract is written in German and English. The communication of the continued contractual relationship will be either in English. The laws of the Federal Republic of Germany shall apply exclusively. However, for consumers, this only applies if it does not conflict with the legal provisions of the consumer's place of residence or habitual abode. The place for jurisdiction for any dispute with the customer, not being a consumer or a



legal entity under public law, is Berlin, Germany.

## **15. Data and Privacy Protection/Data Privacy**

In connection with the initiation, conclusion and processing of a sale contract or its reversed transaction on the basis of these General Terms and Regulations, the Seller records, stores and processes data. This happens in accordance with the applicable legal requirements. Personal data required for business transaction (usage data) shall be provided by the customer and will be used for the proper performance of the contract of sale. This data contains the characteristics needed in order to identify the customer as user, and information about the beginning and the end as well as the scope of the usage etc. This usage data may be used for the purposes of advertising, market research, or the adjustment of our offers. The customer is entitled to object to this use of his or her usage data at any time by notifying MTN Muting The Noise GmbH, represented by Gloria Ahlers, Bluecherstrasse 22, 10961 Berlin, +493049804475, shop@mutingthenoise.com, by email or post. If a third party is employed in order to handle the processing procedure, the contractual relationship complies with the rules of the Federal Data Protection Act (BDSG). The company assigned for handling the shipment of the goods named in the contract will be given only the information needed in order to execute the delivery. Payment data will be made available to the authorized payment institution. If the Seller has to observe retention periods related to commercial and fiscal regulation, storage of the data can last up to 10 years. While visiting the Seller's online shop, only anonymised data which do not allow for or intent to allow for revealing personal data, such as IP-address, date, time, browser type, operating system, or previously visited web pages, will be collected. At the request of the customer, and under the provisions of the law, personal data will be erased, rectified or blocked. Provision of all personal data free of charge is possible. For queries and requests concerning erasure, rectification or blocking of personal data, as well as their collection, processing and use, the customer can contact:

MTN Muting The Noise GmbH, represented by Gloria Ahlers, Bluecherstrasse 22, 10961 Berlin, +493049804443, shop@mutingthenoise.com

## **16. Severability Clause**

Any amendments and supplements to these General Terms and Conditions shall require a written form. The same applies for the waiver of the written form itself. If a provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect the validity or enforceability in that jurisdiction of any other provision of this Agreement; or the validity or enforceability in other jurisdictions of that or any other provision of this Agreement. The invalid or unenforceable provision shall be replaced by the legally valid regulation that comes closest to the legal and economic purpose of the original provision.