

General Terms and Conditions of Tegeler Audio Manufaktur GmbH

This English version is for information purposes only; the German version alone is binding.

1. General

Any and all agreements, offers and contracts concluded between Tegeler Audio Manufaktur GmbH (hereinafter: Seller or we/us) and the Customer/Purchaser (hereinafter: the Customer or You) shall be governed exclusively by these General Terms and Conditions (hereinafter: T&Cs). By placing an order or taking receipt of the delivery/service, you are deemed to have accepted our T&Cs. We shall not be bound by Customer/Purchaser terms that deviate from these T&Cs and which we have not expressly acknowledged, in writing. This shall apply even in the event that the applicability of such T&Cs is not expressly excluded, and services are provided, without reservation, to Customers whose T&Cs differ from our own.

2. Contract Formation

2.1 You can place an order for the products shown on our website <www.tegeler.com> by e-mail, telephone, fax or letter. The product images shown on our website do not constitute an offer for sale in the legal sense, but are instead an invitation to the website user to submit an offer for the purchase of the appliance shown. The order submitted to us then constitutes an offer to enter into a contract.

2.2 A contractual relationship is formed when we accept Your offer to enter into a contract. As a rule, this takes place as follows: once You have correctly provided all requisite information - personal details, delivery address, payment method and order preferences - we will send the goods ordered to the delivery address stated.

There is no need for us to issue any express acceptance of Your order, since the dispatch of the goods in response to a corresponding order is deemed to constitute acceptance of the offer. In all other cases, we have four weeks within which to accept offers for the conclusion of a contract.

2.3 The text of the contract will be stored and can be made available on request. On receipt of Your order, we will send an order confirmation to the e-mail address provided.

2.4 Your contracting partner is:

Tegeler Audio Manufaktur GmbH, represented by its managing director, Michael Krusch, Weststr. 1, 13405 Berlin, Germany.

3. Delivery and Passage of Risk

3.1 Your order will be delivered using what we, at our reasonable discretion, deem to be the most cost-effective means of transportation.

3.2 Delivery/shipping charges are to be borne by the Customer/Purchaser.

3.3 Any agreed delivery date is deemed to have been met if, on expiry of that date, the item concerned has left the warehouse or has been declared ready for dispatch. In the event of any unforeseeable impediment to production or delivery beyond the supplier's reasonable control, the delivery time shall be extended by a reasonable amount. You will be notified of this immediately. In the event of any delay to delivery or, as the case may be, on expiry of a reasonable period of time, the Purchaser is authorised - to the exclusion of all forms of compensation - to cancel the contract. This exclusion of compensation does not apply if the delay is attributable to wilful intent or grossly negligent acts on the part of the supplier. If delivery is delayed on account of circumstances within the Purchaser's control, the risk of the accidental loss of the goods is transferred to the Purchaser as from the date the goods are notified as ready for dispatch.

4. Prices and Payment Terms

4.1 Our prices are ex-works prices and include VAT at the statutory rate. Orders for which fixed prices are not expressly agreed shall be charged at the list prices applicable on the date of delivery.

4.2 Unless otherwise agreed, all invoices for deliveries are payable immediately. Repairs are also payable immediately, without deductions. If payment by instalment has been agreed and the Purchaser/Customer is in default of payment of an instalment by more than ten days, or ceases to make payments, or if insolvency proceedings have been requested or initiated in respect of its assets, the outstanding amount shall be due immediately and in full, irrespective of the due date of any bill of exchange.

4.3 The Customer/Purchaser is entitled to set-off against our claims only if the counterclaim is uncontested or an enforceable title has been issued in respect of the counterclaim. The Customer/Purchaser is authorised to exercise a retention right only insofar as their counterclaim is based upon the same contractual relationship.

4.4 Default interest shall be charged at 5 (five) percentage points per annum above the prevailing base rate of the European Central Bank. Default interest will be set higher or lower if the Seller provides evidence of a higher rate of interest being incurred, or if the Purchaser provides evidence of the rate being lower. If a lawyer is instructed to collect claims - in general, this will be the case if the Customer/Purchaser fails to make payment even after a second warning - their fees shall be charged to the defaulting party.

5. Retention of Title

5.1 We retain ownership of the goods until such time as the purchase price has been paid in full. This also applies if our claims are included in an open invoice and the balance has been acknowledged. The breach of material contractual duties, in particular default of payment, shall entitle us to take back the goods after issuing a warning to this effect; the Purchaser is required to surrender the goods. The taking back and/or seizure of goods can be construed to constitute cancellation of the contract only if we expressly confirm, in writing, that this is the case.

5.2 Until the purchase price has been paid in full, the Purchaser is required to treat the purchased item with due care. They are required in particular to insure it at reinstatement value against the risk of fire, water damage, theft and vandalism at their own cost. If maintenance and inspection work becomes necessary, this must be carried out in due time and at their own cost.

5.3 The Purchaser must notify us immediately in the event of the seizure of goods or other actions by third parties, to enable us to take legal action pursuant to Section 771 German Code of Civil Procedure (ZPO). If the third party is not able to reimburse to us the court fees and extrajudicial costs of legal action pursuant to Section 771 ZPO, the Purchaser shall be liable for any loss incurred by us.

5.4 In the event of the seizure of goods or other actions by third parties, the Purchaser must notify us immediately, in writing and including both a report on assets seized and an affidavit, stating which item has been seized. If the Purchaser resells the goods in the course of their ordinary business, they shall be required to assign all claims, including all ancillary claims and security rights, to us. The Purchaser is still entitled to collect the claim following such assignment. Irrespective of this, we are authorised to collect the claim ourselves, but undertake not to do so, provided the Purchaser duly fulfils all payment obligations.

5.5 The Purchaser is required to provide notice of the assigned claims and the identity of the liable party in each case and to provide all information and documentation required for the collection of that claim.

6. Liability for Defects

6.1 General

If the Customer is an entrepreneur as defined in the German Commercial Code (*Handelsgesetzbuch*, HGB), warranty claims can be asserted only if the Purchaser duly fulfilled their duties to inspect goods and raise any issues pursuant to Sections 377, 378 HGB. The Purchaser must, in particular, inspect the goods/appliances on receipt for any defects and to verify compliance with agreed condition and assured characteristics. Any visible defects must be notified, in writing, within one week. Warranty is restricted to the statutory periods.

6.2 Hardware

With respect to new appliances, the Seller warrants for a period of 24 months from delivery that the appliances are functional and do not feature any material or manufacturing defects. The warranty period for business-to-business transactions is twelve months. For the first six months, the burden of proof of functionality lies with the Seller; thereafter with the Purchaser. These periods apply unless otherwise agreed, in writing. At the Seller's discretion, the warranty is limited to the repair or replacement of defective parts. Replaced parts become the property of the Seller. In the case of used appliances, the warranty period is limited to one month.

The warranty does not apply to goods in respect of which the Purchaser has altered the technical configuration or which have been altered by the Purchaser in any other way, nor to appliances that are defective as a result of incorrect use or improper care (e.g. interior cleaning). Furthermore, consumables and wearing parts such as e.g. drum units, ventilators, mouse devices, etc. are not covered by any guarantee or warranty.

If attempts by the Seller to render subsequent performance are unsuccessful despite the replacement and/or repair of defective parts, and if the Seller is unable to resolve material malfunctions within a reasonable period, the Purchaser is entitled upon fruitless expiry of a reasonable additional deadline, to cancel the agreement to the exclusion of all other rights. If we are unable or unprepared to resolve defects/provide a replacement, or if such measures are delayed, for reasons beyond our control, by more than a reasonable period of time, or if the rectification of defects/replacement is otherwise unsuccessful, the Purchaser is alternatively entitled to demand a reduction in the purchase price. In this instance, the Purchaser shall be credited the amount calculated using the target value calculation method. [gross purchase price*(average term of use – weighted effective term of use by the Purchaser) / average term of use]

Loan, test, display and rental appliances remain the property of the Seller. The lessee undertakes to treat the rental appliances with due care and to protect the same against misuse or other incorrect and improper use for the duration of the lease. Any and all defects or losses must be notified to us immediately. The lessee shall bear the costs of reinstatement or repair, as well as any ancillary costs incurred. On request, further details can be stipulated in a separate agreement.

In the case of the upgrade or modification of existing hardware, the Purchaser is responsible for securing existing data. If the Purchaser does not expressly instruct us, in writing, to protect the data, we shall not assume any liability whatsoever for lost data, nor for consequential losses arising therefrom.

6.3 Services

Services provided by us on the Customer's behalf are covered by the warranty only if defects or errors for which we are responsible occur in the course of the performance of the services. This shall not apply, in particular, if the Customer provided incorrect information when placing the order, if third parties used appliances improperly or proper provision of the service was not possible on other grounds for which the Customer is responsible. This is to be noted on the repair report.

6.4 Additional Services

At the Customer's request, we can also offer a service agreement, to be concluded separately. This contract contains all agreements concluded between the parties with respect to the purchase of the appliances and accessories and replaces any assurances, notices and other declarations previously made between the parties. Any and all amendments and additions must be made in writing.

7. Warranty Period / Exclusions

7.1 Warranty claims and any claims to compensation shall become time barred two years from receipt of the goods by the Purchaser or provision of the service. During this period, all defects/errors shall be rectified at the Seller's place of business in Berlin free of charge - excluding expenses. With respect to expenses, the rates specified in the price list apply.

7.2 Warranty coverage is excluded if the defect is attributable to programming changes carried out by the Purchaser and in the event of errors for which the Customer is responsible. If it transpires following the acceptance of a putative warranty claim that there was not, in fact, any defect, we are entitled to charge the Purchaser a reasonable lump-sum fee to cover expenses/processing for the unnecessary error analysis. In this case, it is up to the Purchaser to furnish evidence that the expenses incurred were lower than those charged.

8. Liability

8.1 We shall be liable only for culpable acts on our part and for wilful misconduct and negligence, irrespective of the legal grounds. We are liable for slight negligence only in the event of the breach of material duties under the contract, limited to the reimbursement of expenses and compensation of direct, foreseeable damages and only up to the maximum amount of coverage under our liability insurance. 'Material contractual duties' refers on our part first and foremost to the obligation to provide a defect-free purchase item. We are not liable in this context for any indirect damages, consequential damages and loss of profit. On request, we will be happy to provide a copy of our liability insurance policy to the Purchaser for inspection.

8.2 We shall not be liable for any damages not caused directly to the item or service delivered. The preceding limitations of liability do not apply if, based on the absence of a guaranteed characteristic, the Customer asserts claims for compensation based on non-performance. In contrast, we are not liable for indirect or consequential damages - such as loss of profits, failure to make savings, downtime, recourse claims by third parties relating to the loss of recorded data, based on the absence of guaranteed characteristics.

8.3 The statutory provisions shall apply in the event of death or personal injury.

8.4 The preceding exclusions and limitations of liability also apply with respect to our directors, staff, employees, representatives and agents. They do not apply insofar as damage is caused with wilful intent or through grossly negligent acts, in the case of personal injury or if the law or moral standards have been contravened with wilful intent or through gross negligence. Furthermore, the exclusions and limitations shall not apply if our Customer asserts claims under Sections 1 and 4 of the German Product Liability Act (*Produkthaftungsgesetz*).

9. Cancellation Policy for Distance Selling Contracts

Right of Revocation

You have the right to revoke this contract within a fourteen-day cooling-off period.

The cooling-off period is fourteen days from the day upon which You, or a third party appointed by You, who is not the forwarding agent, takes receipt of the goods. To exercise Your revocation right, please send (e.g. by letter, fax or e-mail) unequivocal notice of Your intention to cancel the agreement to

Tegeler Audio Manufaktur GmbH, Weststr. 1, 13405 Berlin, Germany

Telephone: +49 (0)30 49 79 26 74

Fax: +49 (0)30 49 79 26 75

Email: contact@tegeler.com

You are able but not obligated to use the standardised revocation form enclosed.

Revocation is deemed to have been timely provided we receive notice of Your intention to exercise Your revoke right before the cooling-off period expires.

Consequences of Revocation

If You revoke this agreement, we will reimburse all payments received from You, including delivery costs (excluding additional costs of delivery by means other than the least-expensive standard delivery offered by us), without delay and no later than within fourteen days from the date on which revocation is received. Unless expressly agreed otherwise, reimbursements will be made using the same method of payment as the original transaction; You will not, under any circumstances, be charged for such reimbursement. We are entitled to refuse to reimburse payments until the goods have been returned to us, or until You supply evidence that the goods have been dispatched for return, depending on which is earlier.

You must return the goods to Tegeler Audio Manufaktur GmbH, Weststr. 1, 13405 Berlin, Germany, by post or in person, without delay and no later than within fourteen days from the date on which You notify us of Your revocation. The goods shall be deemed to have been returned within the deadline provided they are dispatched before the end of the fourteen-day cooling-off period. You must pay the direct costs of returning the goods. You are responsible for any reduction in value only if this is attributable to unnecessary handling of the goods during Your inspection of their condition, characteristics and function.

End of Right of Revocation

Reductions in value can be avoided by handling the goods with due and proper care. Please return goods using the original packaging.

As a rule, there is no right of return for: CDs, DVDs, CD-ROMs, software, software licences, books and videos if the Customer has broken the packaging seal, or in the case of goods purchased through an online auction. The cancellation right is also excluded for goods manufactured according to Customer specifications or amended at the Customer's request, e.g. BTO systems.

10. Special conditions applicable to the trial order of demo appliances – goods on approval

10.1 Once You have registered on our website free of charge, you can order a demo appliance to test at home. Select the option "free demo appliance for 14-day trial" and the appliance will be sent to the specified delivery address.

10.2 When You select this option, the appliance provided for trial purposes remains our property and possession; only direct physical control is temporarily transferred.

10.3 You can test and review the appliance ordered for trial purposes for a period of 14 days from receipt. The 14-day trial begins upon receipt of the appliance. The date upon which the appliance is provided to a transport company/forwarding agent for return is decisive when determining compliance with the 14-day return period. You will be required to pay the costs of the return.

10.4 If the appliance is not returned within the 14-day trial period, this shall be deemed to constitute approval of the demo appliance provided for test purposes; we will then issue an invoice and conclude a binding purchase contract for the appliance ordered on approval and not returned.

10.5 In this instance, you can return the appliance provided for trial purposes after the 14-day trial period only in the context of Your 14-day cancellation right under clause 9 of these T&Cs. The 14-day cancellation period shall not begin until the 14-day trial period ends.

10.6 When inspecting the goods ordered on approval, you must handle the appliance with due care and take all necessary and reasonable steps to protect it against loss and damage. You will be required to provide compensation for any deterioration in the goods only if such deterioration is attributable to Your handling of the goods, where such handling goes beyond an inspection of the characteristics and functioning of the item concerned. 'Inspection of the characteristics and functioning', means testing and trying out the goods in each case, as consumers are customarily able to do in-store.

11. Final Provisions

11.1 The place of performance shall be our place of business.

11.2 These terms and conditions shall be governed and construed in accordance with the laws of the Federal Republic of Germany. The provisions of the United Nations Convention on the International Sale of Goods shall not apply.

11.3 If the Customer is a registered trader, the place of jurisdiction for any and all disputes arising under, or in connection with, contracts between our Customers and us shall be our place of business. We reserve the right to file suit at any other legal place of jurisdiction.

11.4 Should any part of the preceding terms and conditions prove to be invalid, in full or in part, this shall not affect the validity of the remainder of the provisions. The invalid provision shall be replaced with a valid provision that comes as close as possible to attaining the original commercial purpose.

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