

TECHNICAL AUDIO GROUP TRADING TERMS AND CONDITIONS

The following trading terms and conditions, as amended from time to time ("Trading Terms"), shall apply to all goods sold and services provided by Technical Audio Group Pty Ltd ABN 91 051 557 905 to its Customer. These trading terms and conditions do not restrict or modify any conditions, warranty, guarantee, right or remedy implied by law which, by the terms of the law cannot be excluded, restricted or modified.

1. INTERPRETATION

In these conditions:-

- (a) "Company" means Technical Audio Group Pty Ltd ABN 91 051 557 905 of 43 Bridge Road Stanmore, NSW 2048, Australia.
- (b) "Customer" means the Customer of Goods and/or Services, jointly and severally, and their executors. If the "Customer" is a Company then this definition is to extend to its permitted assigns, and receivers and liquidators.
- (c) "Goods" means the goods and merchandise supplied by the Company from time to time.

2. APPLICATION AND VARIATION

These conditions shall prevail over all conditions of the Customer's order to the extent of any inconsistency, and may only be waived or varied in writing signed by the Company.

3. PRICES

- 3.1. The price for the Goods shall be the current Retail price charged by the Company at the date of purchase, unless otherwise agreed between the Company and Customer.
- 3.2. The Company may vary any prices prior to delivery without notice to the Customer.

4. SHORTAGE / DISCREPANCIES

The Customer waives any claim for shortage or discrepancies of any Goods delivered if a written and detailed claim has not been lodged with the Company within 14 days from the date of receipt of the Goods by the Customer.

5. ADMINISTRATION CHARGE

- 5.1. All orders are subject to an administration charge of \$15 ex-GST, unless otherwise agreed to in writing by the Company.

6. DELIVERY

- 6.1. The Company is not responsible for any loss or damage to the Goods in transit after dispatch from the Company's premises. All carriers are deemed to be agents of the Customer.
- 6.2. Any delivery times made known to the Customer are estimates only and the Company shall not be liable for late delivery or non-delivery including for any loss, damage or delay occasioned to the Customer or its customers arising from late or non-delivery of the Goods.
- 6.3. The Goods may be delivered in instalments and each delivery shall be regarded as a separate contract.
- 6.4. The Company may refuse to deliver Goods to the Customer where the Customer is overdue on any payment owing to the Company.
- 6.5. If the Customer is unable to deliver Goods due to any cause beyond its control it may suspend delivery or cancel the Customer's order without incurring any liability for loss or damage suffered by the Customer. The Customer may not cancel or refuse delivery of any suspended order without the prior written consent of the Company.
- 6.6. The Company may levy an additional freight charge where urgent delivery is requested by the Customer.

7. PAYMENTS

- 7.1. The Customer will pay the Company the purchase price of the Goods in accordance with the terms displayed on the invoice.
 - 7.1.1. Standard Terms are 30 Days from the end of the month in which the invoice is issued, or 30D EOM.
 - 7.1.2. Payment may be by way of Electronic Funds Transfer or by Cheque.
 - 7.1.3. The Customer must ensure payment is received in full in cleared funds by the Company on or before the Due Date, whether in the Company's bank account or at its premises. Despatch of payment from the Customer DOES NOT constitute receipt of payment by the Company.
- 7.2. Credit card payments may incur a surcharge at the Company's discretion. The current surcharge is 1.5% however the Company may adjust the surcharge from time to time.
- 7.3. If any cheque issued by the Customer in payment for the Goods is dishonoured, the Company may refuse to supply any further Goods, until satisfactory payment is received in full. Any dishonour fee(s) charged to the Company will be recoverable in full from the Customer.
- 7.4. Any costs incurred by the Company in collecting monies due and payable (including, without limitations, the fee of any mercantile agencies or solicitors appointed by the Company) will be recoverable in full from the Customer.
- 7.5. If the Customer has not paid for any goods on the due date for payment, without prejudice to any other right or remedy of the Company, interest may be charged on the overdue amounts at the discretion of the Company at the rate of 10% per annum.
- 7.6. The Customer agrees that it will not exercise or purport to exercise any right of set-off against, or defer, withhold or deduct by way of counterclaim or otherwise any sum from any amount due to the Company by reason of any claim it may allege against the Company or any sub-contractor or any person, or on account of any liability it may have suffered or apprehend.

8. CANCELLATIONS

No order may be cancelled or Goods returned except with the Company's prior written consent and on terms satisfactory to the Company including, without limitation, that the Customer indemnify the Company against all loss suffered by the Company in cancelling an order or returning Goods (as the case may be).

9. WARRANTIES AND/OR GOODS RETURNED

- 9.1. Company authorisation must be obtained before returning any product.
- 9.2. Authorisation is required for both faulty and non-faulty product claims.
- 9.3. Authorisation is obtained by contacting the Technical Audio Group Service Department on 02-9519-0900.
- 9.4. Authorisation will be provided for any merchandise shipped as a result of an error made by the Company, provided that the request for such returns is made within 14 days of the invoice date.
- 9.5. The Company will not accept returns unless they are in a clean state, free of Customer price stickers and other Customer in-store labelling.
- 9.6. The Company is not obliged to accept unauthorised returns, which may be returned to the Customer at the Customer's expense.
- 9.7. Customers are responsible for returning product, the cost of which may be credited to the Customer's account if the product proves to be faulty.

10. RECOMMENDED RETAIL PRICE

The recommended retail prices published by the Company may change from time to time at the Company's discretion.

11. PERFORMANCE

- 11.1. The descriptions, illustrations and performances contained in catalogues, price lists and other advertising matter do not form part of the contract for the sale of the Goods.
- 11.2. Without limiting sub clause 11.1, any performance figures given by the Company are estimates only. Other than where liability is imposed by law, the Company shall be under no liability for damages for the Goods' failure to attain such figures unless specifically guaranteed in writing, and any such written guarantee shall be subject to the recognized tolerances applicable to such figures.

12. RETENTION OF TITLE

- 12.1. Legal ownership of Goods shall remain with the Company until the Company has received full payment for all Goods supplied by the Company to the Customer.
- 12.2. Prior to the transfer of title of the Goods from the Company to the Customer, the Customer shall be bailee of the Goods for the Company only and the Customer expressly acknowledges that it owes a fiduciary duty to the Vendor to keep the Goods separate from other items it holds and clearly identified as owned by the Company, and otherwise not to deal with the Goods contrary to the Trading Terms.
- 12.3. From the despatch of the Goods by the Company to the Customer, the Goods are at the Customer's risk.
- 12.4. The Company will have the right to retake possession of any Goods which have not been paid for in accordance with the Company's terms of payment.
- 12.5. The Customer irrevocably gives the Company and its agents the right to enter upon the Customer's premises (whether occupied by the Customer, or another or unoccupied) without giving notice and to search for and remove any of the Goods and to keep and re-sell them without in any way being liable to the Customer or to any person or company claiming through the Customer, and the Customer will indemnify and keep indemnified the Company in respect of any claim arising out of any act of the Company under this clause 12.5.
- 12.6. Subject to the Trading Terms, the Company consents to the Customer reselling the Goods in accordance with the Trading Terms in the ordinary course of the Customer's business. If the Goods are resold, the Customer holds all of the book debts owed and proceeds in respect of such sales on trust for the Company and must keep such proceeds of sale in a separate account and not mix such proceeds with any other funds. Such part of the book debts and proceeds are deemed to equal in dollar terms the amount owed by the Customer to the Company at the time of the receipt of such book debts and proceeds.

13. PERSONAL PROPERTY SECURITIES ACT 2009 ("PPSA")

For the purposes of the PPSA:

- 13.1. Until the Customer has paid for the Goods in full (whereby the Customer will obtain legal title to the relevant Goods), the Customer acknowledges that the Company holds a purchase money security interest in the following:
 - 13.1.1. any Goods supplied by the Company; and
 - 13.1.2. all proceeds in relation to the Goods referred to in clause 13.1.1 including without limitation money, accounts receivable and insurance proceeds;
- as security for the price payable by the Customer to the Company at any time for the Goods.
- 13.2. If requested by the Company, the Customer shall promptly and without undue delay execute any documents, provide all information required in order to complete a Financing Statement (as defined under the PPSA) and comply with any other reasonable requests by the Company to ensure that the Company's purchase money security interest(s) are perfected.
 - 13.3. The Customer shall immediately notify the Company in writing of any change in the Customer's name and shall also provide all information required in order to complete a financing change statement.
 - 13.4. The Customer waives its right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement in relation to the Supplier's security interests.
 - 13.5. The Customer shall be responsible for all costs, expenses and other charges incurred, expended or payable by the Company in relation to the filing of a financing statement or a financing change statement.
 - 13.6. The Customer waives its rights under sections 95 (notice of removal of accession), 118 (enforcing security interests in accordance with land law decisions), 121(4) (enforcement of liquid assets), 125 (obligation to dispose of or retain collateral), 128 (secured party may dispose of collateral), 129 (disposal by purchase), 130 (notice of disposal), 132(3)(d) (contents of statement of account after disposal), 132(4) (statement of account if no disposal), 135 (notice of retention), 142 (redemption of collateral) and 143 (reinstatement of security interest) of the PPSA and the parties agree that those provisions do not apply to these Conditions or any supply of the Goods pursuant to these Conditions.
 - 13.7. Each party agrees that it will not disclose information of the kind referred to section 275(1) of the PPSA and that this clause constitutes a confidentiality agreement for the purposes of section 275 of the PPSA and other provisions of the PPSA. The Customer agrees to waive any right it may have, or but for this clause may have had, under section 275(7)(c) of the PPSA to authorise the disclosure of information of the kind referred to section 275(1) of the PPSA.

14. WARRANTIES, GUARANTEES AND LIMITATION OF LIABILITY

- 14.1. All representations or terms not expressly included in the Trading Terms are hereby expressly excluded.
- 14.2. If the Company shall be under any liability whatsoever to the Customer then whether such liability be in contract, tort or otherwise, any other applicable legislation, or at law or in equity, such liability shall be limited to the price at which the Goods are supplied to the Customer or the actual loss or damage suffered by the Customer whichever shall be the lesser.
- 14.3. Under no circumstances will the Company be liable for indirect or consequential loss of any kind whatsoever (including loss of forecast or actual revenue or profits, loss of livelihood, goodwill or reputation, or unanticipated incurring of debt).
- 14.4. Except as otherwise provided by law, no action or claim may be brought against the Company and the Company shall be released from all or any liability unless notice of such claim is brought within 30 days of dispatch of the Goods to the Customer and unless proceedings are brought in a Court of competent jurisdiction within one year of accrual of any cause of action.
- 14.5. Nothing in these Trading Terms will be read or applied so as to purport to exclude, restrict or modify all or any of the provisions of the Australian Consumer Law or any other law which cannot be excluded, restricted or modified. Without prejudice to any of the foregoing, if the Company incurs a liability to the Customer or any other person under such legislation, the Company's liability is limited to, in its discretion:
 - 14.5.1. the re-supply of the Goods; or
 - 14.5.2. the payment of the costs of supplying equivalent goods.

15. GOVERNING LAW

So far as the law allows, the Trading Terms shall be governed by and construed in accordance with the law of New South Wales, Australia, and the parties agree to submit to the jurisdiction of the Courts of that jurisdiction to the exclusion of the Courts of any other jurisdiction which may otherwise be available.

16. SEVERABILITY

Any provision of the Trading Terms which is invalid in any jurisdiction is invalid in that jurisdiction to that extent only, without invalidating or affecting the remaining provisions of the Trading Terms or the validity of that provision in any other jurisdiction.

17. TERMINATION

The Company may terminate the Customer's credit account at any time, at will, by giving written notice of termination to the Customer. The Company will honour the agreed payment terms for orders already placed, however without limiting any other rights it may have, if the Customer breaches any of these Trading Terms at any time (including in relation to payment), the Company may do either or both of the following:

- 17.1. Cancel any undelivered orders of the Customer or any related entities by giving written notice to the Customer, in which event such cancellation will be without liability to the Company; or
- 17.2. Call forward the due date for payment of any orders which are owing but not yet due, by giving written notice to the Customer, in which event any such amounts will become immediately payable to the Company (irrespective of the original due date).



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