

Terms and Conditions

Music Exchange trading as mygiftstrade.co.uk Standard Terms and Conditions:

1. Definitions

In these Standard Terms and Conditions, unless the context requires otherwise:

Agreement: The terms and conditions of sale set out in these Standard Terms and Conditions, the Application and any special terms and conditions agreed in writing by Music Exchange trading as mygiftstrade.co.uk

Applicant: The person, firm or company named on page one of the Application as the applicant.

Application: The trade application form attached to these Standard Terms and Conditions.

Buyer: The Applicant who purchases the Goods from Music Exchange trading as mygiftstrade.co.uk.

Delivery Date: The date specified by Music Exchange trading as mygiftstrade.co.uk when the goods are to be delivered.

Delivery Point: The place where delivery of the Goods is to take place under clause [4] to be the Buyer's address unless otherwise stated.

Goods: Any goods agreed to be supplied to the Buyer by Music Exchange trading as mygiftstrade.co.uk (including any part or parts of them).

Guaranteed Obligation: All present and future payment obligations and liabilities of the Applicant to Music Exchange trading as mygiftstrade.co.uk under this Agreement.

Guarantor: The guarantors named in the Application, if any.
Music Exchange trading as mygiftstrade.co.uk: Music Exchange (Manchester) Limited.

Price: The price for the Goods excluding carriage, packing, insurance and VAT subject to any discount as detailed in Schedule 1.

Standard Terms and Conditions: These terms and conditions below.

1.2 A reference to any law or legislation is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and, in the plural, include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 The headings do not affect the interpretation of these Standard Terms and Conditions.

2. Application of these terms.

2.1 Subject to any variation under clause 2.3 these Standard Terms and Conditions shall apply to all contracts for the sale of Goods by mygiftstrade.co.uk to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order, confirmation of order, specification or other document.

2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Agreement simply as a result of such document being referred to in the Agreement.

2.3 The Agreement applies to all mygiftstrade.co.uk's sales and any variation to the Agreement and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by mygiftstrade.co.uk. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of mygiftstrade.co.uk which is not set out in the Agreement. Nothing in this clause shall exclude or limit mygiftstrade.co.uk's liability for fraudulent misrepresentation.

2.4 Each order or acceptance of a quotation for Goods by the Buyer from mygiftstrade.co.uk shall be deemed to be an offer by the Buyer to buy Goods subject to these Standard Terms and Conditions.

2.5 No order placed by the Buyer shall be deemed to be accepted by mygiftstrade.co.uk until a written acknowledgement of order is issued by mygiftstrade.co.uk or (if earlier) mygiftstrade.co.uk delivers the Goods to the Buyer.

2.6 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.

2.7 Any quotation is given on the basis that no contract shall come into existence until mygiftstrade.co.uk despatches an acknowledgement of order to the Buyer. Any

quotation is valid for a period of [30] days only from its date, provided that mygiftstrade.co.uk has not previously withdrawn it.

2.8 Acceptance of this agreement and/or acceptance of delivery of the goods shall be deemed conclusive evidence of the applicant's acceptance of these conditions and the Standard Terms and Conditions below.

3. Description of Goods.

3.1 The quantity and description of the Goods shall be as set out in mygiftstrade.co.uk's quotation or acknowledgement of order.

- 3.2 Back orders will be recorded unless otherwise requested, when backorders arrive in stock these will be sent out by mygiftstrade.co.uk to the Buyer with the Buyer's next order. However if no orders are placed within 21 days all dues will be despatched.
- 3.3 When an order is placed for a non-stock item (marked as such on the order acknowledgement), the order cannot be cancelled by the Buyer provided that the Goods are delivered to the Buyer within 60 (sixty) days from the date the order was placed.

4. Delivery of the Goods.

- 4.1 All delivery parcels are despatched by mygiftstrade.co.uk by courier service or by first class post for the UK Mainland (except Scottish Highlands).
- 4.2 Requests for delivery other than by courier are sent at Buyer's risk only.
- 4.3 Carriage Free on orders over £300 net (UK mainland only excluding Scottish Highlands and Overseas Territories).
- 4.4 Delivery of the Goods shall be made to the Delivery Point on the Delivery Date. The Goods may be delivered in advance of the Delivery Date upon the giving of reasonable notice to the Buyer. The Buyer shall make all arrangements to take delivery of the Goods whenever they are tendered for delivery.
- 4.5 Any dates specified by mygiftstrade.co.uk for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 4.6 Subject to the other provisions of the Agreement, mygiftstrade.co.uk shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by mygiftstrade.co.uk's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Agreement unless such delay exceeds 180 days.
- 4.7 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or mygiftstrade.co.uk is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:
 - 4.7.1 risk in the Goods shall pass to the Buyer (including for loss or damage caused by mygiftstrade.co.uk's negligence);
 - 4.7.2 the Goods shall be deemed to have been delivered; and
 - 4.7.3 mygiftstrade.co.uk may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.8 The Buyer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for loading and/or unloading the Goods. 4.9 Each instalment shall be a separate contract

and no cancellation or termination of any one contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other contract or instalment.

4.10 The quantity of any consignment of Goods as recorded by mygiftstrade.co.uk on despatch from mygiftstrade.co.uk's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

4.11 mygiftstrade.co.uk shall not be liable for any non-delivery of Goods (even if caused by mygiftstrade.co.uk's negligence) unless the Buyer gives written notice to mygiftstrade.co.uk of the non-delivery within 7 working days of the date when the Goods would in the ordinary course of events have been received.

4.12 Any liability of mygiftstrade.co.uk for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata rate against any invoice raised for such Goods.

5. Acceptance of the Goods.

5.1 The Buyer shall be deemed to have accepted the Goods 7 (seven) days after delivery to the Buyer.

5.2 After acceptance the Buyer shall not be entitled to reject Goods which are not in accordance with the Agreement.

5.3 Shortages and damaged goods must be notified to mygiftstrade.co.uk within 7 days of receipt of goods, quoting the invoice number. All returns must be authorised by mygiftstrade.co.uk before they are returned and are subject to mygiftstrade.co.uk's return of goods procedure detailed at Schedule 2.

6. Remedies of Buyer.

6.1 Where the Buyer rejects any Goods then the Buyer shall have no further rights whatever in respect of the supply to the Buyer of such Goods or the failure by mygiftstrade.co.uk to supply Goods which conform to the contract of sale.

6.2 Where the Buyer accepts or has been deemed to have accepted any Goods then mygiftstrade.co.uk shall have no liability whatever to the Buyer in respect of those Goods.

6.3 mygiftstrade.co.uk shall not be liable to the Buyer for late delivery or short delivery of the Goods.

7. Risk/title.

7.1 The Goods are at the risk of the Buyer from the time of delivery.

7.2 All goods are supplied on firm sale.

7.3 Ownership of and/or title to the Goods shall not pass to the Buyer and shall remain the property of mygiftstrade.co.uk until mygiftstrade.co.uk

has received in full (in cash or cleared funds) all payments and sums due to it in respect of:

7.3.1 the Goods; and

7.3.2 all other sums which are or which become due to mygiftstrade.co.uk from the Buyer on any account.

7.4 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

7.4.1 hold the Goods on a fiduciary basis as mygiftstrade.co.uk's bailee;

7.4.2 store the Goods (at no cost to mygiftstrade.co.uk) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as mygiftstrade.co.uk's property;

7.4.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

7.4.4 maintain the Goods in satisfactory condition and keep them insured on mygiftstrade.co.uk's behalf for their full price against all risks to the reasonable satisfaction of mygiftstrade.co.uk. On request the Buyer shall produce the policy of insurance to mygiftstrade.co.uk.

7.5 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:

7.5.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value; and

7.5.2 any such sale shall be a sale of mygiftstrade.co.uk's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale. 7.6 Until such time as property in the Goods passes from mygiftstrade.co.uk, the Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence or resold to mygiftstrade.co.uk. If the Buyer fails to do so, mygiftstrade.co.uk may enter upon any premises owned occupied or controlled by the Buyer where the Goods are situated and repossess the Goods. On the making of such request the rights of the Buyer under clause 7.5 shall cease. mygiftstrade.co.uk shall also be entitled to enter the Buyer's premises upon reasonable notice to check that the goods are being stored separately and that they are correctly labelled. 7.7 The Buyer's right to possession of the Goods shall terminate immediately if:

7.7.1 The Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given

by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or 7.7.2 The Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Agreement or any other contract between mygiftstrade.co.uk and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or 7.7.3 The Buyer encumbers or in any way charges any of the Goods.

7.8 mygiftstrade.co.uk shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from mygiftstrade.co.uk.

7.9 The Buyer grants mygiftstrade.co.uk, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

7.10 Where mygiftstrade.co.uk is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by mygiftstrade.co.uk to the Buyer in the order in which they were invoiced to the Buyer.

7.11 On termination of the Agreement, howsoever caused, mygiftstrade.co.uk's (but not the Buyer's) rights contained in this clause shall remain in effect.

8. Price.

8.1 Unless otherwise agreed by mygiftstrade.co.uk in writing, the price for the Goods shall be the price set out in mygiftstrade.co.uk's applicable price list published or in force on the date of delivery or deemed delivery and confirmed by mygiftstrade.co.uk in any acceptance of order. The price list may be changed without notice to the Buyer by mygiftstrade.co.uk but shall be available on request. Price for any Goods shall also be subject to any changes outside the control of mygiftstrade.co.uk.

8.2 The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.