

TERMS AND CONDITIONS OF SALE

1. **Application.** THESE TERMS AND CONDITIONS OF SALE (this “Agreement”) govern the sale by THE MUSIC CLASS, INC., a Georgia corporation, with its principal offices located at 1875 Old Alabama Rd. Suite 815, Roswell, GA 30076 (hereinafter referred to as “Seller”, “our” or “we”) of training manuals, CD’s, DVD’s, song books and other materials as more fully described below, to you, the buyer (hereinafter referred to as “Buyer” or “you”) unless you have signed a separate Product Sales Agreement with Seller.
IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS SET OUT IN THIS AGREEMENT, YOU MUST NOT SUBMIT A PURCHASE ORDER AND YOU MUST NOT PURCHASE SELLER’S GOODS.
2. **Description.** Seller has produced or will produce training manuals, CD’s, DVD’s, books, song books, classroom instruments and promotional materials (the “Goods”) to be used in connection with early music learning classes. In order to purchase and utilize the goods, it is a requirement that Buyer must purchase one Start Up Kit, which includes one teaching manual and one set of 10 DVDs. Further, as a strict condition associated with any sale and purchase of the Goods, it is required that Buyer also purchase and provide one set of materials for each family in Buyer’s class for each session class which is taught by you.
3. **Order.** Buyer may order the Goods pursuant to this Agreement from time to time in quantities to be determined by Buyer subject to acceptance of such order by Seller. Such order(s) shall be transmitted by Buyer to Seller by email. With respect to subsequent orders, this Agreement is subject to change in Seller’s sole discretion. All of Buyer's orders directed to Seller are subject to Seller’s discretionary acceptance of such orders, which acceptance by Seller shall be evidenced only by an “Order Confirmation” issued by Seller and delivered to Buyer by email. Absent an emailed Order Confirmation delivered by Seller to Buyer, Seller shall not be obligated to deliver any quantity of the Goods to the Buyer.
4. **Price and Terms.** The price of the Goods and Terms for MYC teachers is set forth on the MYCPUPS website (mycpups.com). The price of the Goods and Terms for all other TMC teachers is set forth on the Music Class Center Director Information website (tmcinfo.com). The price is subject to change by Seller, in its discretion, upon prior notice to Buyer but any such price change shall not affect the price of any Goods as to which an Order Confirmation has been issued by Seller.
5. **Ongoing Support.** All Buyers using Goods have access without further charge to our teacher’s web page where we exchange information on how to do songs in class and discuss all teacher related issues. Phone support is also available for Buyers without further charge regarding teaching questions. Each Buyer will receive a free listing on The Music Class web site. (www.themusicclass.com).
6. **Conduct of Business.** All business is conducted via the internet and email. Buyer must periodically check Seller’s website and check its own emails in order to determine the status of the Goods and an accepted order.
7. **Credit for Returned Items.** Buyer will receive full credit for all Goods returned to Seller provided that (1) Goods returned are received by Seller within 10 weeks of the date said goods were ordered; (2) an inventory of Goods shipped is included with said Goods; (3) Sealed goods are not opened and non-sealed goods are in “new” condition; and (4) Goods are reasonably packed so as to avoid breakage.

8. **Delivery.** All deliveries of the Goods shall be made to the Buyer's address as provided in the order of Goods. The price for shipping for MYC teachers is set forth on the MYCPUPS website (mycpups.com). The price for shipping for all other TMC teachers is set forth on the Music Class Center Director Information website (tmcinfo.com).
9. **Warranties.** Seller represents and warrants that the Goods will conform to the description contained above and will perform in accordance with that description. Seller further represents and warrants that Goods will be free from defects in material and workmanship. Buyer's sole remedy with respect to any Goods that are not in conformity with this Agreement shall be a replacement thereof. Buyer accepts all risks and responsibility for use of the Goods and Seller makes no warranties or representations with respect to and assumes no responsibility for the acceptability of the Goods to Buyer's clientele.
SELLER DISCLAIMS ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR COLLATERAL, ON GOODS FURNISHED HEREUNDER, INCLUDING ALL IMPLIED REPRESENTATIONS, CONDITIONS AND WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE.
10. **Product Resale.** Buyer shall be entitled to resell the Goods to its individual clientele and students for the purposes for which the Goods were designed, but Buyer shall not, under any circumstances, be authorized to resell the Goods on a wholesale basis to other educators or to entities such as supermarkets, department stores or music stores.
11. **Limitation of Liability.** SELLER SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES TO BUYER, OR TO OTHERS, FOR ANY SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF ACTUAL OR PROSPECTIVE PROFITS, SALES, BUSINESS ADVANTAGE OR GOODWILL, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, SELLER'S LIABILITY FOR DAMAGES TO BUYER OR OTHERS SHALL IN NO WAY EXCEED THE AGGREGATE DOLLAR AMOUNT PAID BY BUYER FOR THE PURCHASE OF THE GOODS UNDER THIS AGREEMENT.
12. **No Reproduction.** Buyer shall not reproduce the Goods in any fashion or by any media nor shall Buyer reprint or distribute excerpts therefrom.
13. **Geographic Sales.** Seller will use its reasonable business efforts to attempt to avoid sales of the same Goods into geographic areas which are directly proximate with Buyer's address as listed in the Order Confirmation. Seller's obligation hereunder shall be to use its good faith discretionary efforts only and Seller shall have no liability whatsoever to Buyer in connection with its obligations under this paragraph.
14. **Identification.** Buyer shall be entitled to advise the public that it utilizes the Goods in connection with its music classes, but shall not use the logo, marks, trademarks and copyrighted materials of Seller in any other fashion. Without limiting the foregoing, Buyer shall not use the logo, marks or trademarks of Seller in any corporate name or similar identification.
15. **Relationship.** The parties are independent contractors and neither is the agent, joint venturer, franchisor, franchisee, distributor or partner of the other. Buyer acknowledges that this Agreement constitutes an agreement for the sale of the Goods and that nothing herein is, or shall be deemed to be (i) Buyer engaging in the business of selling or distributing goods or services under a marketing plan or system

prescribed in substantial part by seller, or (ii) Seller exerting or having authority to exert to a significant degree control over buyer's method of operation, business organization, promotional activities, management, marketing plan or business affairs. Buyer further acknowledges that Seller is under no obligation to train or assist Buyer in methods of management, marketing, or business affairs.

16. **No Guarantee Of Future Sales/No Continuing Relationship.** This Agreement relates to and contemplates sales only of the Goods described herein and only in such quantities as may, from time to time, be ordered by Buyer, in its discretion, through orders which are accepted by Seller, in its discretion. This Agreement does not create any future right or obligation on the part of the Buyer to buy or on the part of the Seller to sell either additional quantities of the Goods, updates of or improvements to the Goods or new products which are similar to the Goods. Seller reserves the right, in its sole discretion, to refuse to make future sales to Buyer of the Goods or of updates of improvements to the Goods or new products which are similar to the Goods. This Agreement does not create any continuing relationship between Buyer and Seller other than those specific rights and obligations which are set forth herein.
17. **Complete Agreement.** This Agreement, along with any Buyer order which is accepted by Seller, as reflected by a corresponding emailed Order Confirmation, constitutes the sole and entire agreement between the parties hereto with regard to the subject matter hereof. No course of prior dealings between the parties and no usage of the trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this Agreement. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement shall not be relevant or admissible to determine the meaning of the Agreement, even though the accepting or acquiescing party has knowledge of the nature of the performance and an opportunity to make objections. No other representations, understandings, or agreements have been made or relied upon in the making of this Agreement, other than those specifically set forth herein. This Agreement can be modified only by an instrument signed by the parties of their duly authorized agents.
18. **Statute of Limitations.** Any action for a breach of the Agreement must be commenced within one (1) year from the time the cause of action accrues.
19. **Applicable Law.** This Agreement shall be governed by the laws of the State of Georgia without reference to conflict of laws principles and, more specifically, shall be governed by the Uniform Commercial Code as effective in the State of Georgia on the date of this Agreement. The parties agree that the state courts of Georgia and the U.S. District Court for the Northern District of Georgia shall be the venue and exclusive proper forum in which to adjudicate any case or controversy arising, either directly or indirectly, out of or relating to this Agreement or the relationship between the parties hereto and both Buyer and Seller hereby irrevocably consent to the jurisdiction and venue of these courts and further agree that they will not contest or challenge the jurisdiction or venue of these courts.