



1. General

Our quotations are non-binding. Our confirmation in writing is essential to the legal effectiveness of all orders and agreements, inclusive of subsidiary agreements. Deviating conditions and declarations of the orderer are invalid, also when we do not expressly contradict or oppose them. The ineffectiveness of individual parts of these conditions or of other subject matter of the agreement shall not prejudice the validity of the remaining conditions. These Conditions of Delivery and Payment are applicable to all future business transactions, also without further express reference to them.

2. Term and Conditions of Delivery

The term of delivery commences upon confirmation of the order. Delivery in installments is permissible. If we are in default with delivery, the orderer can grant a period of extension of at least six weeks, and after fruitless expiry of such period of extension can cancel the order. Insofar as is legally permissible all other claims of the orderer on account of delay of delivery are excluded.

If the term of delivery cannot be met in consequence of force majeure, the orderer shall not be able to deduce any rights therefrom. Force majeure also includes events of war and mobilization, civil commotions, seizure, strike, lockout, lack of material, breakage of machinery, other unforeseeable operational breakdowns, delays in transport and import limitations as also delivery prohibition based on the law of copyright - irrespective of whether the occurrence occurs at our company or at our suppliers - and furthermore also includes the non-delivery of shipments which we are expecting from third-parties. In such cases the term of delivery shall be extended for a reasonable length of time. If these events go on over any considerable length of time, we are entitled to cancel the order and this without the orderer having any right of claim against us. The foregoing is also applicable when such events occur during a period of default of delivery. In executing orders excess or short quantities cannot be avoided; excess or short delivery of up to 20 % will therefore be accepted and invoiced accordingly.

3. Shipping

Delivery takes place ex-works. If the orderer does not give special instructions, we specify the transport route and transport means. We cannot be held liable for choosing the cheapest way of shipment.

If the orderer desires a special shipping method, we will invoice the additional costs involved. Special shipping method conditions are to be specified for each individual shipment.

4. Risk

The risk for all shipments passes over to the orderer at the time when loading of the goods is commenced, and at the latest when the shipment is handed over to the carrier.

If delivery is delayed at the request of the orderer or the shipment is put into storage or warehouse at his request, the risk shall pass over at the time when we are ready to execute shipment. Return shipments are at the expense and risk of the orderer, provided, however, that return shipment is not based upon a justified complaint involving shipment of wrong goods, technical defect (fabrication defect or defective material) or unordered consignment of goods. Notification of not having received a shipment must be given at the latest within 8 days following receipt of the invoice.

5. Prices and Payment

Our prices and rates of discount generally valid on the day of delivery are authoritative. Payment in foreign currency is possible only at the EURO exchange rate valid at our bank on the day when payment is received. We reserve the right to subsequently invoice all banking charges. All invoices are to be paid as follows: within 8 days and without any deduction whatsoever.

Failure to pay within an agreed term of payment will cause maturity and default of payment without special reminder, also in respect of all other invoices not due to be paid at that point in time. Deduction of agreed discount is conditional to the orderer not being in default with other payments. In such event we are furthermore entitled to revoke immediately any credit, respite of payment arrangements and other terms of payment which we have granted up to that point in time. The rate of default interest is 3% above the Federal Bank Discount Rate in effect at any given time and shall at the least be 7% p.a. We reserve the right to claim further damages.

We will accept bills of exchange only by way of special agreement as also bills of exchange and cheques only for the purpose of payment, and on the condition that all charges are paid. We cannot be made liable for punctual presentation of bills of exchange or for making protest. If an orderer is in default with payment or his financial situation has deteriorated considerably, we are entitled to make advance payment a condition of delivery or to ship cash on delivery.

6. Reservation of Title

We retain the title to all goods delivered until all our accounts receivable arising from our business relations with the orderer are fully paid (including also future and conditional claims, as also such claims arising from balancing of current accounts or which might arise from the acceptance of cheques or bills of exchange). The orderer may neither pledge goods belonging to us nor assign such goods as surety. The orderer herewith assigns to us all the claims to which he is entitled from his customers arising from re-sale of the goods, inclusive of all his ancillary rights. The orderer is entitled to collect these debt claims, also following assignment to us, except in cases where we have disclosed our assignment. Our authority to collect these debt claims ourselves remains unprejudiced.

As soon as the orderer is in default, he shall, at our demand, notify his debtors of the assignment, and provide us with all the necessary information and documents. If the value of our sureties exceeds in total our claims - and not only temporarily - by more than 20%, we are insofar obligated to

reassignment upon demand of the orderer. We are entitled to the right of selection.

The orderer is obligated to inform us in writing immediately of any third-party attachment of goods subject to reservation of title or assigned claims, and to support us in every way at his own expense for the purpose of intervention.

When the orderer resells goods belonging to us, he shall assert and maintain our reservation of title interest against his customer until such time as they have fully paid the purchase price. The orderer remains owner of the delivered material for the production (tapes, data-carriers, films, printing material etc.)

Special Conditions

Press tooling fabricated by PALLAS remains our property. Press tooling and printed matter will be used solely for orders placed by the orderer and will be destroyed 2 years after last use without previous notification. We store tooling, covers and labels at your risk and peril.

7. Warranty

Our shipments are to be inspected for proper delivery upon receipt. Complaints on the grounds of apparent defects, relevant short deliveries or delivery of unordered goods can be submitted in writing only within eight days following receipt of the goods and must include the delivery note number.

Our guarantee covers only material damage which can be proved to have arisen from a fabrication defect or from defective material. In the event of own-fabrication of the sound carriers by us, it is understood that release for production or waiver of release for production will exclude invoking any defect other than technical production defect.

In the event of material defect we will, at our option, either provide replacement or issue a credit note. In the event of breach of any copyright we will issue a credit note only up to the amount of the invoice sum but only insofar as claims against us are founded. In the case of replacement shipments we will bear the expense and risk of shipping. Subject to liability relief of the copyright controller in our favour in respect of sound carriers produced or delivered by us, we are entitled to demand an put down to account all fees, licence royalties, costs, etc. to be paid to the copyright controller.

We give no warranty extending beyond the foregoing. Insofar as is legally permissible all claims to damages are, in particular, excluded and irrespective of the legal grounds on which they are based and whether for indirect or direct damages.

Failure to ship back goods subject to complaint at our request causes warranty to fail.

8. Return Shipments/Exchange of Goods

Goods may be returned only in warranty cases and at our express request or when we have erroneously dispatched to the orderer goods other than those which he has ordered or when we, by way of exception, have previously given our written consent to return shipment or exchange of the goods.

We will issue a credit note for goods returned on the basis of return shipment or exchange of goods agreement.

We will not issue a credit note for goods returned without justification.

9. Retention and Setting-off

The orderer can declare setting-off only on the basis of non-contested or counter-claims recognized by final judgement and can assert the right of retention only on account of such claims.

10. Trademarks / Copyrights

Any change to our goods and any special marking which could be construed to be a mark of origin (manufacturer's or trademark) of the orderer or of any third-party is not permissible, except when we have previously given our consent thereto in writing. If any breach of the foregoing condition leads to assertion of claims against us, we are to be indemnified against damages. It is pointed out herewith that copyrights or other third-party related industrial property rights in other countries may prevent export of our goods. We disclaim all liability in the event of claims based on such foreign rights being asserted against the orderer.

The customer declares that he is in possession of all necessary rights for the duplication, as e. g. the right for the mechanical duplication, the right for the application of certain film-, sound-, data- and other recordings and guarantees that all arising copyright- or other royalties will be payed over to the appropriate authorities.

Furthermore the orderer guarantees that the sound carriers, the contents of same, the lay-out and presentation, etc. do not constitute a breach of third-party industrial property rights, utility models or designs, trademarks, etc. as also of other legal orders and prohibitions.

The Customer shall in this connection indemnify us and save us harmless in all respects, in particular against any claim of whatever nature from copyright or performance protection organisations and also any legal and court costs which arise from any alleged or actual infringement of such rights. This indemnity shall also apply to any accrued production costs.

11. Place of Performance and Venue

The venue for all rights and obligations arising from the business relations is Diepholz.

The court having jurisdiction in and for Diepholz is exclusively competent when the orderer is a merchant not included in the persons engaged in trade or business designated in Section 4 of the German Commercial Code or when the orderer has no place of jurisdiction in the Federal Republic of Germany or when the orderer moves his address or habitual residence outside of the said territory after conclusion of contract or when his address or habitual residence is not known at the time when the action is brought.

For all business relations exclusively the law of the Federal Republic of Germany is valid.