

General Terms of Business of Schallplattenfabrik PALLAS GmbH and ORCHESTROLA GmbH & Co. KG, both of the address: Auf dem Esch 8, 49356 Diepholz and of P+O COMPACT DISC GmbH & Co. KG, Auf dem Esch 51, 49356 Diepholz

CLAUSE 1: GENERAL | SCOPE

1. Our Terms of Business shall apply exclusively; we do not recognise any terms of the customer which are contrary to or deviate from our Terms of Business unless we have explicitly agreed to their validity in writing. Our Terms of Business shall apply even if we carry out the customer's order without reservation in the knowledge of terms of the customer which are contrary to or deviate from our Terms of Business.
2. All agreements which are made between us and the customer for the purpose of the execution of this contract must be set out in writing in this contract.
3. Our Terms of Business shall only apply in dealings with business entrepreneurs.
4. Our Terms of Business shall also apply to all future transactions with the customer.

CLAUSE 2: OFFER | OFFER DOCUMENTS | PRODUCTION MATERIAL

1. If the customer's order qualifies as an offer under Section 145 of the German Civil Code (BGB), we shall be entitled to accept it within 2 weeks. We shall be bound by our offers for 30 days.
2. We reserve ownership and copyright of illustrations, drawings, calculations and other documents; they must not be made accessible to any third parties. This shall especially but not only apply to all written records which are declared to be "confidential"; the customer must obtain our explicit written permission before passing them on to any third parties.
3. Production material and tools not provided by the customer, especially but not limited to glass masters, father and mother plates, stampers, film and tape material and any other print masters shall remain our property even if the customer bears the costs of production.

CLAUSE 3: PRICES | TERMS OF PAYMENT

1. Insofar as no other arrangement is stipulated in the order confirmation, our prices shall be deemed to be "ex works" and exclusive of packaging; this shall be invoiced separately.
2. The statutory VAT is not included in our prices; it is shown separately in the invoice at the statutory rate on the day of the invoice.
3. Any deduction of discounts shall require a separate written agreement.
4. Unless any other arrangement is specified in the order confirmation, the purchase price shall be due for payment net (without deduction) within 8 days from the invoice date. If the customer is in default of payment, we shall be entitled to demand the statutory default interest. If we learn of any circumstance after the conclusion of the contract which gives rise to any doubt about the customer's solvency, we reserve the right not to deliver the goods unless payment has been made in advance.
5. The customer shall only be entitled to rights of set-off if its counterclaims have been awarded by an unappealable ruling, are uncontested or have been accepted by us. Furthermore, the customer shall only be entitled to a right of retention insofar as the counterclaim is based on the same contractual relationship.

CLAUSE 4: DELIVERY PERIOD | SHIPPING

1. The start of the delivery period stated by us shall presuppose that all technical questions have been clarified. It is also a prerequisite that the customer has properly provided us with the necessary documents for production insofar as they are to be provided by the customer.
2. If we are in default of delivery for reasons for which we are liable, the customer shall be entitled to demand lump sum compensation of 3 % of the delivery value per week of the delay, up to a maximum of 10 % of the delivery value. If the delay results from wilful intent or gross negligence or constitutes a material violation of obligations, the statutory liability shall apply, although in cases which only involve a negligent violation of obligations it shall be limited to the foreseeable damage or loss in each case.

3. If the customer sets us a reasonable extension period after we have fallen into default of delivery and we fail to deliver before the expiry of this extension period, the customer shall be entitled to revoke the contract; the customer shall only be entitled to claims for compensation in lieu of performance up to the amount of the foreseeable damage or loss if the delay results from wilful intent or gross negligence or constitutes a material violation of obligations; otherwise, the liability for compensation shall be limited to 50 % of the damage or loss which has occurred.

4. The limitation of liability according to sub-sections 2 and 3 shall not apply if a fixed-date commercial transaction has been agreed; the same shall apply if the customer is entitled, as a result of the delay for which we are liable, to assert that an immediate enforcement of the claim for compensation of the loss claim is possible in lieu of performance.

5. Adherence to our delivery obligations is conditional on the timely and proper fulfilment of the obligations of the customer.

6. If the customer is in default of acceptance or if it violates other obligations of cooperation, we shall be entitled to demand compensation for the damage or loss that we have incurred, including but not limited to any extra expense. In this case, the risk of accidental destruction or deterioration of the purchased goods shall also pass to the customer at the time at which it falls into default of acceptance.

7. Partial performance shall be permissible.

8. In view of the fact that different production processes need to be coordinated, material surpluses and rejected materials may arise. This means that order volumes cannot always be exactly adhered to. We shall therefore be entitled to adjust the order volume upwards or downwards by a reasonable amount.

Greater or lesser delivery quantities shall be deemed reasonable within the following tolerances:

Up to 500 units	Tolerance +/- 20 %
500 - 2,999 units	Tolerance +/- 10 %
3000 - 4,999 units	Tolerance +/- 5 %
5000 - 9,999 units	Tolerance +/- 300 units
10,000 - 19,999 units	Tolerance +/- 400 units
From 20,000 units	Tolerance +/- 500 units

The invoice shall be calculated for the actual quantity delivered.

9. We shall determine the means of transport at our own equitable discretion. We shall not be liable for choosing the least expensive shipment method.

CLAUSE 5: TRANSFER OF RISK

1. Unless any other arrangement is stipulated in the order confirmation, delivery "ex works" shall be deemed to have been agreed.
2. If the customer wishes, we shall arrange transport insurance to cover the delivery; the resulting costs shall be borne by the customer.

CLAUSE 6: WARRANTY FOR DEFECTS

1. Any rights of the customer for defects shall presuppose that the customer has properly complied with its inspection and notification obligations under Section 377 of the Commercial Code (HGB).
2. Insofar as there is a defect in the delivered item for which we are liable, we shall be entitled at our discretion to provide subsequent fulfilment by remediating the defect or supplying replacement goods. In the event of remediation of the defect, we shall be obliged to bear the costs which are necessary to remedy the defect, especially but not limited to transport, travel, labour and material costs, insofar as these costs are not increased by the fact that the purchased object had been moved to a place other than the place of performance.
3. If the subsequent fulfilment fails the customer shall be entitled, at its own discretion, to revoke the contract or demand an appropriate reduction in the price.
4. In the absence of any contrary provision hereinafter (subsections 5 and 6), any further claims by the customer - on whatever legal grounds - are excluded. We shall therefore not be liable for any damage which does not arise in the delivered item itself; in particular but without limitation, we shall not be liable for loss of profit or any other consequential loss incurred by the customer.

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5. If the damage or loss is caused as a result of wilful intent or gross negligence, we shall be liable according to the statutory provisions. This shall also apply if the customer demands compensation instead of the performance because of the lack of a characteristic guaranteed by us.

6. If we are in culpable breach of a material contractual obligation, our liability shall be limited to the typical damage or loss in contracts of this type; otherwise, any liability is excluded as stipulated in sub-section 4. A "material" contractual obligation as referred to in these General Terms of Business shall be deemed to apply if we are in culpable breach of obligations which the customer had relied on and had been entitled to rely on because they were cardinal elements of the contract.

7. The warranty period shall be 12 months, calculated from the date of the transfer of risk.

CLAUSE 7: OVERALL LIABILITY, LIABILITY FOR DOCUMENTS SUPPLIED BY CUSTOMERS

1. Any further-reaching liability for compensation than that stipulated in Clause 6 sub-sections 4-6 is excluded, irrespective of the legal nature of the claim which is made.

2. The provision in sub-section 1 shall not apply to claims under Sections 1 and 4 of the German Product Liability Act (Produkthaftungsgesetz). Nor shall it apply if we are liable for physical injury or harm to health for other legal reasons.

3. If the limitation of liability under Clause 6 sub-section 6 is not applicable to claims for product liability resulting from property damage on the basis of Section 823 of the German Civil Code (BGB), our liability shall be limited to the amount covered by the insurance. Insofar as this cover is not paid by the insurance or not paid in full, we shall ourselves be liable up to the amount of the liability cover.

4. The provision in sub-section 1 shall not be applicable in the event of initial inability or if we are liable for impossibility.

5. Insofar as our liability is excluded or limited, this shall also apply to the personal liability of our staff members, employees, representatives and vicarious agents.

6. The documents and materials which we need to fulfil the contract and which are supplied by the customer or produced on behalf of the customer, e.g. masters, print films, printed matter, covers, supplements etc. shall remain the property of the customer. Insofar as they consist of digital data, the customer shall be obliged to provide us with copies. We shall not be obliged to make back-up copies of such data. We shall archive these items free of charge. In doing so, we shall only be liable for the normal level of care which we take with our own property. The items shall not be insured by us. The customer shall be obliged to demand without delay that we return these items after the completion of the order. If the customer does not demand the return of the items within a period of two years after they have been handed over to us, this shall be deemed to constitute consent to the destruction of these materials by us. We shall then be entitled to destroy these materials without any obligation to demand again that the customer collect these items. We recommend that the customer should insure the items at its own risk.

CLAUSE 8: SECURING THE RESERVATION OF OWNERSHIP

1. We reserve ownership of the purchased goods until all payments arising from the delivery contract have been received. In the event of any conduct of the customer in violation of the contract, especially but not limited to delayed payment, we shall be entitled to take back the purchased goods. If we take back the purchased goods, this shall not constitute a revocation of the contract unless we have explicitly declared the revocation in writing. Any seizure or attachment of the purchased goods by us shall always constitute a revocation of the contract. After we have taken back the purchased goods, we shall be entitled to sell them or make commercial use of them and to offset the proceeds of such sale or commercial use against the amounts payable by the customer – minus the reasonable costs of such sale or commercial use.

2. The customer shall be obliged to treat the purchased goods with care; in particular but without limitation, the customer shall be obliged to insure them against theft, fire and water damage with sufficient cover at reinstatement value.

3. In the event of any seizure or attachment or any other intervention by third parties, the customer shall notify us in writing without delay so that we can institute legal proceedings in accordance with Section

771 of the Civil Procedure Code (ZPO). If the third party is not able to reimburse us for the resulting court and out-of-court costs of any action pursuant to Section 771 of the Civil Procedure Code (ZPO), the customer shall be liable for any loss which we incur.

4. The customer shall be entitled to sell the purchased goods in the course of its normal business transactions; however, it assigns to us in advance all accounts receivable, up to the amount of the final invoice total agreed with us (including VAT), which it acquires from its customers or third parties as a result of the resale, irrespective of whether the purchased goods have been resold with or without further processing. The customer shall be entitled to collect these receivable amounts even after they have been assigned. This shall not affect our entitlement to collect the amounts ourselves. However, we undertake not to collect the amount as long as the customer meets its payment obligations from the revenue received, is not in arrears with payments, and especially but not only as long as no application has been made for the institution of bankruptcy or composition proceedings and no cessation of payments has taken place. However, if such proceedings have been initiated or such non-payment has arisen, we shall be entitled to demand that the customer discloses the assigned claims and debtors to us, provides all information necessary for collection, hands over the necessary documents and informs the debtor (third party) of the assignment.

5. We undertake to release the securities to which we are entitled, if the customer so demands, insofar as their realisable value exceeds the secured receivable amounts by more than 10 % or the nominal amount by more than 50 %; the selection of the securities to be released shall be at our discretion.

CLAUSE 9: WARRANTY OF THE CUSTOMER FOR ANY VIOLATION OF COPYRIGHT, TRADEMARK RIGHTS, INTELLECTUAL PROPERTY RIGHTS AND ANY OTHER COMMERCIAL PROPERTY RIGHTS

If the customer commissions us to carry out production work (records, CDs, DVDs or other sound or data media), the customer guarantees that it has the right of mechanical reproduction and also the right to use certain film, sound, data and other recordings in whole or in part (e.g. samples, remixes, film extracts or combinations of works), and it also guarantees that it will pay all applicable copyright or other fees to the relevant bodies. The customer also guarantees that any presentations (photographs, artwork, texts and similar) do not violate any third party property rights such as copyright, intellectual property rights, design rights, trademark rights or similar, and also do not infringe any other statutory requirements and/or prohibitions.

The customer shall be obliged to indemnify us on first demand against all third party claims of any nature, for example but not only claims by copyright or intellectual property protection organisations, invoices for lawyer or court costs, claims by authors, producers, performing artists, sound media producers, photographers, copywriters, graphic artists and all other holders of any rights to the products produced. We shall not be obliged to check whether or not the claims made in this respect are actually justified.

CLAUSE 10: GENERAL PROVISIONS

1. Any alterations and additions to this contract and/or these General Terms of Business and any supplementary agreements must be agreed in writing in order to become effective. This shall also apply to any change in this requirement of written form.

2. If any provision of this contract and/or these General Terms of Business should be invalid in whole or in part, this shall not affect the validity of the other provisions. In this case the parties undertake to replace the invalid or impracticable provision by a valid or practicable provision which comes as close as possible to the economic purpose of the invalid or impracticable provision.

3. If the customer is a business entrepreneur, a legal entity under public law or a special fund under public law, the sole place of jurisdiction for all disputes arising from this contract shall be the court which has jurisdiction for our registered place of business. This shall also apply even if the customer does not have any general place of jurisdiction in the Federal Republic of Germany or has moved its customary place of abode abroad after the conclusion of the contract. However, we shall also be entitled to take court action against the customer at any other statutory place of jurisdiction. The laws of the Federal Republic of Germany shall apply, to the exclusion of the UN Convention on the International Sale of Goods (CISG).