

## **General Terms and Conditions as of 10/2021**

**ELDORADO Ton-, Bild & Datenträger GmbH, Röhrigstraße 31, D - 63533 Mainhausen (hereinafter referred to as ELDORADO)**

### **§ 1 Preliminary Remark**

- (1) The subject of the contract is the production of sound, image, and data carriers and related services.
- (2) Deliveries, services, and offers are made exclusively on the basis of these General Terms and Conditions (GTC). This also applies to future business relationships. Deviations from these GTC are only effective if they are confirmed in writing.
- (3) All offers are non-binding and subject to change. Orders and declarations of acceptance require written confirmation. The same applies to additions, changes, and collateral agreements as well as the agreement of binding delivery dates.

### **§ 2 Delivery Time**

- (1) Delivery dates and delivery periods are non-binding.
- (2) An agreed delivery period only begins once all components necessary for production are available and all details of the order have been agreed upon.
- (3) In the event of delay, a declaration of withdrawal by the customer is only possible after a grace period of at least four weeks has been set. The declaration of withdrawal has no effect on partial and preliminary deliveries already made.
- (4) All other claims of the customer due to delivery delays are excluded.
- (5) Delivery and service delays due to force majeure and events that make delivery difficult or impossible, in particular difficulties in procuring materials, strikes, defects in means of transport, official orders, etc., are not the responsibility of ELDORADO, even in the case of bindingly agreed deadlines and dates. This also applies to delivery and service delays at upstream and downstream suppliers. In the aforementioned cases, the delivery or service time is extended by the duration of the hindrance plus a grace period. This also applies if services are missing that are expected from third parties. In cases of delivery and service delays of more than two months, the customer is entitled to withdraw from the unfulfilled part of the contract after setting a six-week grace period. Claims for damages by the customer are excluded.

### **§ 3 Scope and Execution of the Order**

- (1) The written order confirmation is decisive for the scope of delivery. A production-related deviation in the delivery quantity per ordered title (this also applies to printed materials) is accepted by the customer. Overdeliveries of 10% or underdeliveries of 20% are possible. Overdeliveries will be charged.
- (2) When placing the order, the customer must provide detailed information on the tape recordings: title, composer, lyricist, arranger, editor, publisher, participating artists, and playing time.
- (3) The customer provides ELDORADO with the production material required for executing the order, such as data carriers, master tapes, digital graphics for printed materials, etc., in accordance with ELDORADO's specifications. ELDORADO only receives duplicates of master tapes and data carriers.
- (4) The customer is liable for technically flawless data carriers and tapes. ELDORADO is not obliged to check the execution documents or to listen to the produced sound, image, and data carriers. If the customer provides production material that does not comply with ELDORADO's specifications, ELDORADO is entitled to supplement, improve, or return the production material at the customer's expense.

### **§ 4 Shipping**

- (1) Unless otherwise agreed, ELDORADO determines the transport route and means of transport. There is no liability for the cheapest shipping. The shipping costs will be charged to the customer.
- (2) If the customer requests delivery to third parties, any additional costs for packaging and transport may be invoiced separately.

### **§ 5 Transfer of Risk**

- (1) For all shipments, the risk passes to the customer at the start of loading, at the latest upon handover to the carrier.
- (2) If the delivery is delayed or stored at the request of the customer, the risk passes to the customer, unless the return is based on a justified complaint due to incorrect delivery or technical defects (manufacturing or material defects). Non-receipt of a shipment must be reported no later than 6 days after receipt of the invoice.

### **§ 6 Prices**

- (1) The prices stated in the order confirmation or the current price list plus the respective statutory value-added tax are decisive. Additional deliveries and services will be invoiced separately, in particular the additional effort caused by non-compliance with the specifications.
- (2) The customer is only entitled to set-off rights if his counterclaims are legally established, undisputed, or recognized by us. He is also entitled to exercise a right of retention insofar as his counterclaim is based on the

same contractual relationship.

(3) Our prices for delivery "ex works" apply.

### **§ 7 Place of Performance and Jurisdiction**

(1) Seligenstadt is the place of performance for all rights and obligations arising from the business relationship.

(2) The court responsible for Seligenstadt has exclusive jurisdiction if the customer is a merchant who does not belong to the tradesmen referred to in § 4 HGB or if the customer does not have a general place of jurisdiction in the Federal Republic of Germany or if the customer's place of residence or habitual abode is not known at the time the action is brought. (3) The law of the Federal Republic of Germany applies.

### **§ 8 Payments**

(1) All payments are always first applied to costs (reminder fees, legal costs, etc.), then to interest, and finally to the principal claim, namely to the oldest debt. Contrary instructions from the customer are ineffective.

(2) In the event of default in payment, ELDORADO is entitled to charge default interest at the rate of interest for the use of bank loans, but at least 4% above the respective discount rate of the Volksbank and Sparkasse, unless the customer proves that no damage or significantly less damage has occurred. The assertion of further default damages remains unaffected by this regulation.

(3) In the case of the first order, ELDORADO receives an advance payment of 100%. The rest is due immediately upon delivery without deduction.

(4) The deduction of a cash discount requires a special written agreement.

(5) Any fees incurred (e.g., PayPal) are to be borne by the customer.

### **§ 9 Retention of Title**

(1) All delivered items remain the property of ELDORADO until all claims from the business relationship have been fully paid. The customer is only entitled to resell the reserved goods in the ordinary course of business and only as long as he is not in default. If the customer resells the goods, he must maintain the retention of title towards his buyers. The customer's claims from the resale of the reserved goods are hereby assigned to ELDORADO. The assignment of claims against ELDORADO by the customer is excluded. The customer is obliged to disclose the retention of title or the security assignment. If goods in ELDORADO's reserved ownership or claims assigned as security are seized or confiscated by third parties, ELDORADO must be notified immediately by sending the seizure or confiscation protocol. The customer bears all costs of ELDORADO's intervention.

(2) As soon as the contract is concluded, the obligation to set a deadline according to § 322 1.2 BGB ceases.

### **§ 10 Warranty, Liability**

(1) Deliveries must be checked for their correctness upon receipt. The customer must report obvious defects in writing within 5 days of receipt of the goods at the destination, enclosing the packing slip.

(2) Color deviations on sound, image, and data carriers or printed materials compared to the template do not entitle the customer to reject acceptance and do not constitute a defect that entitles reduction, rescission, or damages.

(3) ELDORADO is liable for the loss or damage of the execution documents requested by the customer up to the material value, but not more than a maximum amount of €500.00.

(4) The warranty of the customer in the case of defective deliveries is limited, at ELDORADO's discretion, to rectification or replacement delivery. If the replacement or rectification fails, the customer is entitled, at his option, to either demand a reduction in the price or rescind the contract.

(5) Claims for damages due to impossibility, non-performance, positive breach of contract, fault at the time of conclusion of the contract, or tort are excluded, unless the damage was caused intentionally or by gross negligence.

### **§ 11 Liability for Customer-Supplied Documents**

The documents and materials supplied by the customer or produced on his behalf, which we need to fulfill the contract, such as masters, printing films, printed materials, enclosures, etc., remain the property of the customer. If these are digital data, the customer is obliged to provide us with copies. We are not obliged to make backup copies. We accept these items for safekeeping free of charge. We are only liable for ordinary care. The items are not insured by us. This applies not only to finished goods delivered but also to items ordered by us on your behalf and charged to you. Examples include CD-printed materials, LP covers, LP labels, and similar items. Production documents, intermediate products, tools (glass masters, vinyl fathers, vinyl mothers), especially master cuts, computer files, stampers, tapes, and printing, embossing, and punching templates not provided by the customer remain the property of Eldorado. The customer does not acquire any rights to these. This also applies if the customer bears the production costs. ELDORADO keeps these items for two years. If the customer does not request their return within two years from delivery to us, this is considered consent to their destruction by us. We are then entitled to destroy these materials without being obliged to ask the customer to pick them up again. We recommend that the customer insure the items at his own risk. Liability for damage to the stored material is excluded.

### **§ 12 Retention and Set-off**

The customer can only declare a set-off with undisputed or legally established counterclaims and can only assert a right of retention for such claims.

### **§ 13 Industrial Property Rights**

(1) The customer guarantees that he has all manufacturing rights for the sound, image, and data carriers to be produced, including the associated printed materials. The customer assures and is responsible that such production does not infringe any copyrights or other protective rights. The customer shall indemnify ELDORADO from any costs and claims that are asserted in the broadest sense due to copyrights and other rights in connection with the production of the ordered sound, image, and data carriers. Furthermore, the customer undertakes to pay the respective fees directly to GEMA at ELDORADO's option or to ELDORADO for forwarding to GEMA. For this purpose, the recording notification to GEMA must be sent to ELDORADO with the order.

(2) It is pointed out that the export of the delivered goods may be opposed by copyrights or related rights of third parties in other countries. ELDORADO accepts no liability if the customer is claimed by the holders of such foreign rights.

### **§ 14 Final Provisions**

Oral agreements require written confirmation by ELDORADO to be effective. Should one of the aforementioned clauses be ineffective, a regulation that comes closest to the economic result of the effective clauses takes its place.

ELDORADO Ton-, Bild & Datenträger GmbH