

GENERAL TERMS AND CONDITIONS OF TRADE FOR THE PRODUCTION AND DISTRIBUTION OF AUDIO, AUDIO/VIDEO AND DATA STORAGE DEVICES, PRINTED MATTER, BOOKS AND PACKAGING OF ALL KINDS

by optimal media GmbH, Glienholzweg 7, 17207 Roebel / Mueritz, Germany

1. General

- 1.1 The General Terms and Conditions (hereinafter “the Conditions”) for the production and distribution of Audio, Audio/Video and Data Storage Devices, Printed matter, Books and Packaging of all Kinds (hereinafter “the Goods”) of optimal media GmbH (hereinafter “optimal”) shall apply exclusively and form an integral part of any agreement. Any conflicting or supplementary terms and conditions proposed by the customer shall not be binding upon optimal, even if optimal does not expressly object or performs the contract while being aware of such conditions.
- 1.2 These Conditions apply only to entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB).
- 1.3 The Conditions are sent to the customer together with offers and order confirmations and can also be viewed on the website of optimal.
- 1.4 The Incoterms 2020 shall apply for the interpretation of trade clauses.

2. Production Material, Production; Goods Marking

- 2.1 The customer shall provide optimal free of charge at optimal’s place of business with all execution documents required for the production of the Goods. All such documents, in particular master tapes, other data, print templates or other materials, must be supplied to optimal in the form of duplicates. The customer bears sole responsibility for ensuring that the documents can be reproduced if necessary.
- 2.2 Production materials not supplied by the customer, in particular glass masters, stampers, film and tape material, print templates, remain the property of optimal even if the customer bears the manufacturing costs.
- 2.3 Materials, components and parts supplied by the customer are stored by optimal only during production.
- 2.4 After completion of the order, optimal stores materials under clauses 2.1 to 2.3 free of charge for six months. After expiry of this period, optimal shall give the customer the opportunity to declare in writing within four weeks how to proceed. If no statement is made, optimal has the right to handle the material at its own discretion, in particular to destroy it. Liability for damage is excluded unless caused by intent or gross negligence.
- 2.5 The customer is legally obliged, in the case of reproduction of copyright-relevant content, to provide proof upon request that the production does not infringe any third-party rights and that all required reproduction rights, including mechanical reproduction rights, are in place. If such proof is lacking, optimal is entitled to reject an accepted order, even retroactively. Any costs already incurred shall be invoiced to the customer.

- 2.6 In the event of limited availability of paper and cardboard, the use of alternative materials within the same material class must be accepted by the customer. Any resulting optical or tactile deviations do not constitute defects within the meaning of section 7.2 of these Conditions.
- 2.7 If the customer expressly requests the use of specific materials and this results in visual or qualitative deviations, optimal shall not be liable. Such deviations do not constitute defects and do not entitle the customer to complaints, damages or warranty rights.
- 2.8 Unless otherwise agreed, optimal has the right to mark the Goods in the customary manner with company logo and country of origin.

3. Delivery

- 3.1 Delivery time begins upon receipt of the order and of complete, approved, specification-compliant documents and materials, as well as, if required, the signed release declaration from the customer. If optimal must process the materials, the delivery time is extended by the duration of processing.
- 3.2 Unless otherwise agreed, delivery is EXW Röbel/Müritz according to Incoterms 2020. The relevant date for delivery deadlines is the availability of the Goods for collection at optimal's premises. Partial deliveries are permissible.
- 3.3 Risk transfers to the customer once the Goods are made available ex works and the customer has been notified. Transport insurance is taken out only upon request and at the customer's expense.
- 3.4 If the customer is in default of acceptance, optimal may, after prior notice, charge storage fees of EUR 50.00 per pallet per month. Further costs may also be claimed.
- 3.5 Delivery time is extended in cases beyond optimal's control (force majeure, energy or transport disruptions, pandemics, governmental restrictions, operational disruptions, strikes, etc.) by the duration of the hindrance. If performance becomes impossible, optimal is released from the obligation to deliver. If the delay exceeds two months, optimal may withdraw from the contract. The customer will be informed immediately.
- 3.6 If optimal fails to perform or performs defectively, the customer may grant a grace period of at least four weeks. If delivery does not occur within this period, the customer may withdraw from the contract in writing, provided such withdrawal is based on continued non-performance after the expiry of the grace period.
- 3.7 If the customer has outstanding debts with optimal, optimal may withhold deliveries until payment is made.

4. Prices, Terms of Payment

- 4.1 Prices are exclusive of statutory VAT. The applicable VAT rate at the date of invoice is shown separately.
- 4.2 If unforeseeable cost increases (materials, energy, raw materials, taxes) occur between contract and delivery, optimal may reasonably adjust prices. The customer is informed in writing and may object in writing within two weeks from receipt of the notice. In the event of an objection, either party shall have the right to terminate the contract without liability.

- 4.3 Unless otherwise agreed, invoices are payable immediately without deduction. In case of default, the customer shall indemnify optimal for all costs incurred in the collection of the debt.
- 4.4 First-time deliveries may be made only against advance payment.
- 4.5 Over- or under-deliveries of up to 10% (max. 500 units) are permissible and invoiced based on actual quantities.
- 4.6 Binding prices and final amounts due are specified in the invoice, taking into account over-/under-deliveries and other adjustments.

5. Set-off and Retention Rights

- 5.1 The customer may only set off or withhold payments if the counterclaims are undisputed, recognized, or legally established.
- 5.2 If the customer's financial situation deteriorates significantly, optimal may demand prepayment or security. If this is not provided, optimal may withdraw from the contract and invoice incurred expenses.

6. Retention of Title

- 6.1 The delivered Goods remain the property of optimal until the customer has paid all claims arising from the business relationship, including future claims arising until settlement of the present claim.
- 6.2 Any processing or transformation of the delivered Goods by the customer is always carried out for optimal as manufacturer, but without obligation for optimal. If ownership ceases due to processing, optimal acquires co-ownership of the new item in proportion to the value of the delivered Goods to the other items processed at the time of processing. If the customer acquires sole ownership through combination or mixing, he shall transfer co-ownership to optimal in proportion to the value of the delivered Goods. The (co-)ownership obtained by optimal in this way passes to the customer under the same conditions as the delivered Goods.
- 6.3 The customer stores the (co-)ownership for optimal free of charge. The customer assigns to optimal all claims arising against third parties from the combination or mixing of the Goods. The customer is obliged to insure the reserved Goods sufficiently, especially against fire and theft. Claims against the insurance relating to the reserved Goods are hereby assigned to optimal to the value of the reserved Goods.
- 6.4 The customer may resell the Goods owned (in whole or part) by optimal in the ordinary course of business, after prior notice to optimal. The customer hereby assigns to optimal all claims from resale in the amount of the invoice value (including VAT). The customer shall remain authorized to collect the assigned claims on behalf of optimal, provided he meets his payment obligations. This authorization may be revoked by optimal in the event of default or insolvency. In that case, the customer must immediately provide optimal with debtor information, hand over documents, and notify the debtors of the assignment.
- 6.5 Other dispositions of the Goods, in particular pledging or transfer by way of security, are prohibited. Assigned claims may only be pledged or transferred with optimal's consent.

- 6.6 If the value of securities exceeds optimal's claims by more than 50%, optimal must release securities at the customer's request, at optimal's discretion.
- 6.7 In case of seizure or third-party intervention, the customer must immediately notify optimal in writing so that optimal can take legal action (§ 771 ZPO). If the third party cannot reimburse costs, the customer is liable.
- 6.8 If the customer defaults on payment or breaches essential obligations endangering the contract, optimal may demand return of the reserved Goods and subsequently realize them. The customer must bear removal costs, allow realization, and grant access to premises. This does not constitute withdrawal from the contract. If the proceeds fall short of the contractual price, the customer is liable for the difference.

7. Acceptance, Warranty

- 7.1 The customer must immediately inspect and accept delivered Goods and notify optimal in writing of any defects. Hidden defects must be reported immediately upon discovery. Acceptance may not be refused for minor defects.
- 7.2 If Goods are defective and attributable to optimal, optimal may at its discretion repair or replace within four weeks. The customer shall only be entitled to reduce the purchase price or withdraw from the contract if optimal fails to remedy the defect or refuses supplementary performance within the granted period. Returns must be sent to optimal media GmbH, Glienholzweg 7, D-17207 Roebel/Mueritz, Germany.
- 7.3 If defects or damages result from customer's instructions or materials (e.g. drawings, specifications, supplied parts), optimal shall not be liable for any associated damages, expenses, or costs resulting therefrom. If the customer insists on specific materials leading to deterioration or unsuitability, responsibility lies with the customer. These do not constitute defects.
- 7.4 Warranty claims expire two years after delivery.
- 7.5 Public statements by optimal, manufacturers, or agents (advertising, labeling) do not constitute warranties or guarantees.
- 7.6 Customer's statutory rights under §§ 478, 479 BGB remain unaffected.
- 7.7 Unless otherwise agreed, the customer indemnifies optimal against all third-party claims for copyright infringements and guarantees to have acquired all necessary rights. The customer must provide optimal with information for copyright societies and license settlements.

8. Liability

- 8.1 optimal is liable for damages only if:
 - a) liability would apply under mandatory law; or
 - b) optimal breaches a warranty or guarantee; or
 - c) damages result from gross negligence or intent; or
 - d) optimal culpably breaches an essential contractual obligation, i.e., a duty fundamental to the contract and on which the customer may rely.

- 8.2 In all other cases, liability is excluded, regardless of legal grounds. In particular, optimal shall not be liable for indirect or consequential damages, including but not limited to loss of profits, business interruption, or loss of data, unless otherwise provided by mandatory law.
- 8.3 Liability is in any case limited to damages foreseeable by optimal at the time of contract conclusion, except in cases under 8.1.
- 8.4 The above exclusions and limitations apply also to personal liability of employees, workers, staff, representatives, and vicarious agents of optimal.

9. Miscellaneous

- 9.1 For export deliveries pursuant to § 6 UStG, the customer must provide optimal at delivery with all information and documents required to prove export. If the customer fails, he must additionally pay optimal the amount of VAT applicable to domestic deliveries.
- 9.2 For domestic and intra-Community deliveries, the customer must provide optimal at delivery with his VAT ID number under which he accounts for intra-EU acquisition tax. Otherwise, optimal will charge VAT in addition to the agreed purchase price.
- 9.3 The legal relationship between optimal and the customer is governed by German law, excluding the UN Convention on Contracts for the International Sale of Goods (CISG, 11 April 1980).
- 9.4 Place of performance is Roebel/Mueritz, Germany. Place of jurisdiction for both parties is Hamburg. optimal may also sue at the general jurisdiction of the customer.

Effective as of October 01, 2025