



KDG MEDIATECH GENERAL TERMS AND CONDITIONS

1. Validity

These general terms and conditions of business shall be applicable to all deliveries of goods and all provisions of services of kdg mediatech GmbH, in the following also referred to as "kdg", to customers, representatives or other parties to the contract, in the following referred to as "customer". They shall also apply to all future transactions between the contracting parties without a repeated reference to these general terms and conditions being required. They shall be applicable in their entirety, except those points which have been otherwise agreed upon and confirmed in writing by kdg in a particular case on the basis of the confirmation of an order. Unless expressly accepted in individual points, the general terms and conditions of the customer shall hereby be expressly opposed and shall not be accepted.

2. Warranted Characteristics

In the case of delivered goods and services provided, kdg shall warrant only precisely those characteristics which were expressly guaranteed in the order confirmation. kdg shall not warrant any characteristics, qualities or features which go above and beyond this or the suitability of the product for a particular purpose, even if this could be assumed on the basis of the design.

3. Licences, Rights, Patents, Refusal of Orders

The customer guarantees that he is in possession of all the required (musical, text or graphic) copyrights and licences and/or all other necessary rights to use licences or trademarks or has acquired prior approval of third parties respectively, for the materials delivered for production including the content on it or for the desired (commissioned) performance and must offer suitable proof of this if so requested. kdg is not responsible for checking whether eventual rights of third parties could be infringed by products or performance and will anyway reserve itself the right to conduct such examinations from time to time. The customer also agrees to kdg passing on order-related information, insofar as is required in order to protect copyright and related proprietary rights, to the relevant copyright organisations or other organisations the object of which is the protection of these rights, so that these rights can be clarified as necessary. If kdg submits a specific enquiry concerning a production order, or kdg requests specific evidence of the rights required for this production order (licensing agreement), and the customer is unable or unwilling to provide this evidence, kdg will be entitled to refuse the delivery and withdraw from the order. The same will apply if there are good grounds for suspecting that the contents of the production order could infringe legal regulations or be contrary to public morality and decency. If, on the basis of this provision, the order is retained and delivered late by kdg, or not delivered and refused entirely, the customer will bear any adverse consequences. In particular, the customer will bear the consequences of failure to adhere with delivery dates as a result of such a situation, and will bear all associated costs. kdg will also not be responsible for financial loss incurred by the customer as a result of non-compliance with delivery deadlines. Despite the refusal of the order and non-delivery, production costs already incurred by kdg must also be borne by the customer. The customer shall bear full liability for all claims resulting from possible infringements and other claims of third parties and indemnify and hold kdg not liable to the full extent, including kdg's expenses for clarification and avoidance.

4. Offers, Confirmation of Orders, Delivery Dates

Offers shall be subject to confirmation and have no binding force. The basis of the transaction shall be the confirmation of the order issued by kdg. Guaranteed delivery dates shall be target dates ex-works and depend on the due delivery of required documents and start materials, proof of the licence in accordance with 3), as well as the receipt of agreed advance payments or securities on the part of the customer or third parties. Delivery periods and dates are always subject to confirmation. The agreed delivery period begins only when kdg has received all documentation required for the production order, as specified, and has provided evidence of the rights required for production. In the case of negligent overstepping of an agreed delivery period, performance shall be deemed delayed after granting an additional period of time of reasonable length. Moreover, claims for damages resulting from a delay in delivery shall be excluded as far as permitted by statute, or restricted to the invoice value of the undelivered or belatedly delivered goods.

5. Deliveries

Unless otherwise agreed, deliveries shall always be effected "ex-works" Elbigenalp against advance payment. The costs



for packaging and transport shall be borne by the customer. The risk shall pass to the customer on dispatch. Transport insurance shall only be effected at the express request and expense of the customer. Partial consignments shall be permitted.

6. Delivery to Third Parties

If, when placing an order, a customer wishes delivery to be made to a third party, and the latter to be invoiced for the order, the customer will nonetheless continue to be liable as the contracting partner. Any resulting additional costs as regards packaging and transport must be borne by the customer; the customer will consequently be invoiced for these separately.

7. Component Materials, Variations in Quantity, Loss

Component materials of the customer shall be stored at the risk of the customer. The customer himself shall be responsible for making recommendable back-up copies. All liabilities and damages resulting from the loss of component materials shall be excluded as far as is permitted by statute. kdg shall be liable for not more than the maximum value of the material or the order respectively.

8. Liability for Defective Masters

The client must thoroughly examine the data carriers intended for reproduction prior to delivering them to kdg, and ensure that the said masters are virus-free and without any other qualitative defect when they reach kdg. The client shall be liable for all damage and consequential damage suffered by the kdg system as a result of virusaffected or defective data carriers.

9. Phonograms, Printed Matters

In the case of deliveries of phonograms, an excess or shortfall in delivery of 10% of the total order volume per title is permitted and must be accepted. In the case of printed matters, a (maximum) processing loss of 10% must be allowed for and accepted.

10. Reservation of Ownership

Until payment in full is received of all hitherto unpaid principal and subsidiary accounts receivable, kdg shall retain full title to all delivered goods. Until revoked, the customer shall be entitled to dispose of the goods in the proper course of business. However, the customer shall assign as security to kdg any claims resulting from a possible resale. kdg accepts such assignment. The customer has to notify kdg of each such resale by immediately sending a copy of the respective invoice to kdg and by registering such security assignment with the customer's accounts. Upon kdg's request the customer is obligated to inform the third party debtor. kdg is entitled to take back and utilise the goods. This shall not be construed as a withdrawal from the contract. Furthermore, kdg shall credit the customer's account with the revenue generated from such utilisation after deduction of the utilisation costs and all outstanding claims on the part of kdg.

11. Notification of Defects

Deliveries must be inspected as to conformity immediately after receipt. kdg must be given written notification of non-receipt of a consignment at the latest within eight days after the receipt of the invoice. The seller must be informed in writing of visible defects and variations in quantity at the latest within eight days after receipt of the goods stating the exact details of the defect and quoting the number of the delivery note or invoice. Late notifications of defects cannot be accepted. Likewise, hidden defects must also be notified immediately after being ascertained, in the case of which a term of preclusion of six months after receipt of the goods shall be applicable. Notifications of defects can only apply to warranted characteristics or variations in quantity, no other notifications of defects shall be accepted. In the case of accepted defects, kdg offers at its own choice either a take back of the goods and replacement with goods of equal value, or a price reduction by way of credit. The customer is bound to return wrong or defect goods to kdg immediately, at the latest, however, eight days after notification of defect or within the periods prescribed by law. If the customer fails to honour his obligation within the set period, the warranty obligation shall automatically cease. Defects in part of the delivery (order) do not entitle the customer to return the whole consignment, but only the part affected by the defect. Notifications of defects do not release the customer from meeting his financial obligations to kdg. Claims for damages shall be - as for as permitted by law - excluded. Compensation for consequential damages and loss of profits, not



realised savings, loss of interest and claims of third parties to the customer shall be excluded in any case. kdg's liability is limited to the value of the order of the definitive delivery.

12. Payment and Offset

Outstanding invoices shall be due upon receipt, otherwise within the agreed period for payment. Payments shall always be appropriated firstly to expenses and interest, then to the oldest account receivable. The cases of transfer prohibitions contained in our customers' purchase orders / Conditions of Purchase / General Terms of Business do not apply to banks or credit institutes. kdg shall be entitled to offset all claims due to kdg, a company of the kdg group, affiliated companies, subsidiaries, in which kdg holds a majority interest, against the claims of the party to the contract. Any offset of the customer's claims against kdg with claims of kdg against the customer shall be excluded.

13. Consequences of Delays in Payment

In case of a delay in payment, kdg is entitled, with the proviso of the assertion of further damages, to invoice interest on payment in arrears of 12% p.a., expenses for each reminder and all recovery costs. In the case of a delay in payment, kdg shall be entitled to withhold all promised deliveries until the full payment of all outstanding primary and subsidiary accounts receivable. In the case of or following a delay in payment, deliveries shall only be effected against advance payment. Other special conditions agreed with the customer shall also become irrelevant in case of a delay in payment. Where payment is delayed kdg may also assert its reservation of ownership at any time, and recollect goods produced by kdg and realise them itself to such extent that all outstanding primary and subsidiary accounts receivable are met by this realisation.

14. EURO, Exchange Rates and Delay in Payment

If the settlement with the customer is effected in a currency other than EURO, kdg shall be at liberty in case of a delay in payment to calculate the account receivable at the value in EURO at the exchange rate of the due date. The settlement of the accounts receivable shall then be effected on the basis of the EURO value, and payments on these accounts receivable shall be converted at the respective rate of the day of the payment. The introduction of the EURO shall have no effect on the rights and obligations of the customer.

15. Miscellaneous

kdg points out that any production material which has been provided by the customer shall be stored and archived for a maximum period of six months after placement of the particular order. Upon expiry of this period the customer shall issue instructions as to whether the above material is to be returned at his own cost or whether it is to be destroyed for free. Alternatively, the two parties may enter into an individual agreement whereby the material continues to be stored after six months with costs. In the event that the customer does not issue any instructions, kdg reserves the right to destroy the production materials which have been provided.

16. Place of Performance, Venue and Law

Place of performance for all services delivered by the Parties is Elbigenalp. Exclusive place of jurisdiction is the relevant competent court for Elbigenalp. kdg, however, is also entitled to file a complaint or lawsuit with a legal place of jurisdiction for the customer. Austrian law applies with exclusion of application of private international law and the UN Convention on Contracts for the International Sale of Goods (CISG).

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Signature on behalf of Company

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Place, Date