

## **General Terms and Conditions of Business for Hastings AG Zürich and Hastings Audio S.A. Genève**

1 These General Terms and Conditions of Business shall apply exclusively. Hastings AG Zürich / Hastings Audio S.A. Genève shall not recognise any general terms and conditions of business or terms and conditions of delivery and payment which conflict with or deviate from these General Terms and Conditions, except where Hastings AG Zürich / Hastings Audio S.A. Genève has expressly agreed their validity in writing. These General Terms and Conditions of Business shall also apply in the event that Hastings AG Zürich / Hastings Audio S.A. Genève performs the service for the Customer in full knowledge of the terms and conditions of business of the Customer which conflict with or deviate from these General Terms and Conditions of Business. The services and quotations provided by Hastings AG Zürich / Hastings Audio S.A. Genève shall be subject exclusively to these General Terms and Conditions of Business.

2 Hours of business shall be Monday to Friday from 9 a.m. to 6.00 p.m. Production may however proceed by arrangement at weekends and on public holidays. The surcharge for work undertaken outside the normal hours of business shall be as follows:

6–8 p.m. = plus 20%

After 8 p.m. = plus 50%

weekends and public holidays = plus 50%

3 All prices shall be inclusive of personnel, exclusive of material in the case of studio invoices, inclusive of material in the case of advertisement production and exclusive of value added tax in all cases. Quotations issued by Hastings AG Zürich / Hastings Audio S.A. Genève shall be subject to change in all cases, unless otherwise stated in a written order confirmation. Hastings AG Zürich / Hastings Audio S.A. Genève shall retain all rights of ownership and copyrights with respect to illustrations, drawings, calculations and other documents. Such documentation may not be made accessible to third parties without prior agreement.

4 All telephone bookings shall be considered binding. Bookings which are not cancelled within 24 hours of the start of production shall be subject to a charge for at least 50% of the time booked.

5 We guarantee archiving of all data and mixing elements on master tapes, multitrack tapes and all data carriers for three months from the end of production.

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1 All services, deliveries, consignments and return consignments shall be at the expense and risk of the Customer.

2 The Customer shall be the party who has initiated execution of the order – in writing or verbally – even if at the latter's request the invoice is issued to a third party; the Customer shall consequently be jointly liable for the invoice amount together with the third party in this case. If the order is being created on behalf of and for the account of a third party, this must be made explicitly clear to the Contractor at the time of placing the order. The Contractor shall be under no obligation to verify the authority of the negotiating party.

3 The Contractor shall be obligated to provide a written order confirmation only if explicitly requested to do so by the Customer.

4 In the event that protected works, music or speech are used in orders at the explicit request of the Customer, i.e. in the production and/or creation of radio/TV/cinema advertisements or as layouts or final artwork in other production projects, the Customer is hereby notified by the Contractor that the Customer shall bear sole responsibility for clarifying, calling for and paying all third-party claims which exist in connection with the material used, unless otherwise agreed with the Customer in individual cases and except where Hastings AG Zürich / Hastings Audio S.A. Genève has been expressly instructed to clarify issues relating to copyright and/or ancillary copyright. In such a case, the Customer shall under normal circumstances be obligated to release the Contractor from any third-party claims which are, have been or could be asserted in connection with the processing of the material required by the Customer. The Customer is hereby notified by the Contractor that any reproduction, processing and/ or distribution or publication for any purpose other than purely private use, and any other form of commercial and/or public exploitation of works, music or speech which are protected by copyright and/or ancillary copyright, shall be subject to approval and as such shall be unlawful if the appropriate approvals are not obtained. The Contractor shall not be obligated to verify the extent to which the content of the work commissioned by the Customer is subject to approval or the extent to which it violates statutory provisions. Should such a violation exist, the Customer shall be obligated to take sole responsibility for indemnifying the Contractor with respect to third parties against the full extent of all loss or damage, including that suffered by the Contractor. SUISA rights (Cooperate Society of Music Authors and Publishers in Switzerland) are fundamentally non-transferable and therefore cannot be and will not be transferred in lieu of

payments from the Customer to the Contractor. Hastings AG Zürich / Hastings Audio S.A. Genève shall in all cases offer to clarify or handle issues relating to copyright or ancillary copyright on behalf of the Customer.

5 Liability may be assumed for retained audio and video material only up to the material value of the base material and only for a maximum period of three months after invoicing.

6 The Contractor shall be liable for processing damage caused to third-party video and audio material as follows: in the case of audio tape, video and data carrier recordings, up to the material value of the base material. Any orders for specimen/transmission copies must be placed in writing. The Contractor shall not accept liability in the case of orders placed verbally!

7 In the event that the Customer supplies, for processing or display or similar, audio and video recordings which are irrecoverable or difficult to replace, the risk and, where applicable, the responsibility for concluding an insurance policy providing cover over and above the material value, and for instigating the production of back-up copies, shall rest with the Customer.

8 The Contractor and the Contractor's employees shall be under no obligation to enquire into the existence of any special processing risks. Such risks shall be borne by the Customer in all cases. If the processing risk is increased due to inadequate preparation on the part of the Customer (e.g. inappropriate execution of glued joints, use of unsuitable materials, etc.), the Contractor shall reserve the right to refuse to carry out the processing. The Customer shall be liable to the full extent for mechanical breakdowns or production delays suffered by the Contractor as a result of such high- risk processing activities.

9 It shall be left to the discretion of the Customer to carry out or otherwise arrange an inspection prior to delivery, at no cost, of the audio tapes or copies processed by the Contractor, on the premises and on the equipment of the Contractor or on the Customer's own self-supplied equipment, to check sound quality, running characteristics, etc. Any complaints which arise after delivery on third-party equipment shall only be accepted if it can be proven that the Contractor has failed to comply with requirements, standards, etc. which are customary within the industry.

10 It shall be incumbent upon the Customer to ensure that there is no room for misinterpretation of an order by labelling or otherwise identifying the material to be processed or by providing written instructions. Any time and effort that is spent on clarifying

existing doubts (telephone calls, checks, etc.), or required as a result of inadequate information, shall be charged to the Customer.

11 Except where expressly included as part of a production or processing order, intermediary activities such as the acceptance and release of deliveries from and to processing laboratories, shipping by post and rail, the forwarding of orders and the placing of bookings with other businesses, and the procurement of speakers, performers, etc. shall always be carried out on behalf of and for the account of the Customer even where there has been no express mention of these by the Contractor. The Contractor shall accept no liability or responsibility whatsoever for intermediary activities of this kind.

12 The Contractor shall confirm dates for processing operations and production processes to the best of its knowledge and belief but without guarantee. In the event of delays caused by external service providers, the Contractor shall assume no liability whatsoever. In the case of delays caused by the Contractor during the course of a processing operation or production process, the latter shall only assume liability up to the value of the internal labour required as a result of the delay. Such liability shall exclude external services and consequential damages.

13 Unless otherwise stated in specific price agreements, the prices stipulated by the Contractor and applicable on the day of delivery shall be deemed to be the agreed prices. Prices shall be made available on request at any time.

14 The terms of payment shall be those stated on the invoice. In the event that no specific comment is contained in the invoice, the agreement shall be deemed to be immediate payment 'strictly net cash'. In principle, cash discounts shall not be granted unless otherwise stated in a specific written agreement drawn up with the Customer in relation to the individual case. The Customer shall be in default of payment if payment is not received within thirty days of the date the invoice is issued (the date of issue shall be the invoice date stated at the top of the invoice). The Contractor shall then be entitled as of the thirty-first day after the invoice date to demand annual default interest from the Customer amounting to 5% according to Swiss Code of Obligations. If the Contractor is able to prove higher damages due to default, the latter shall also be entitled to assert these higher damages to the Customer. The Customer shall however, for its part, be entitled to prove to the Contractor that the latter suffered no or significantly lower damages as a result of the default of payment. The Customer shall only be entitled to set off claims if the counterclaims of the Customer are established as final and absolute, undisputed or accepted by the Contractor.

Moreover, the Customer shall have no right of retention on account of disputed counterclaims.

15 Verbal subsidiary agreements concerning the method of payment must be confirmed in writing by the Contractor to be legally valid.

16 If external services are required during the course of execution of an order, i.e. services which cannot be performed using own equipment and in-house studio personnel, the Contractor shall not be held responsible for the quality, punctuality and cost of these services. The Contractor shall however, at the request of the Customer, assume responsibility to the best of its knowledge and belief for arranging and, where applicable, paying in advance for such external services against payment of the customary surcharge and the costs to be advanced by the Contractor (fees for speakers and performers, postal charges, cash on delivery amounts, telephone calls, taxes, courier services, etc.). In the event of unreasonably high cash advances, the Contractor shall reserve the right to make delivery of production results dependent upon the reimbursement by the Customer of amounts advanced.

17 Until such time as all claims arising from the business relationship with the Customer are paid in full, the sold goods and all associated rights shall remain the property of the Contractor. The Customer shall be entitled to dispose of the purchased goods in the ordinary course of business. For audio and text creations which are produced by the Contractor or taken from archives in the context of the order, all stage rights or reproduction rights shall also remain with the Contractor until such time as all claims arising from this order or other orders from the Customer are paid in full. The copyrights to which the Contractor is entitled may not be transferred to third parties by the Customer. The Contractor shall have the right to disclose this transfer of copyright to the third party at any time in the event of default of payment by the Customer. The Customer must inform the Contractor on request at any time of the names of those with whom the Customer has concluded contracts authorising the use of works covered by copyrights belonging to the Contractor, or to whom the Customer has delivered items subject to reservation of title by the Contractor. The reservation of title shall also extend to the full value of any products created as a result of processing, mixing or combining the goods, in which respect the Contractor shall be deemed to be the manufacturer. In the event that goods are processed, mixed or combined with goods belonging to a third party and the latter's right of ownership remains valid, the Contractor shall acquire joint ownership in proportion to the invoice

values of these processed goods. The Customer hereby assigns to the Contractor as security all claims against third parties which arise from the resale, either in their entirety or in the amount of any co-ownership share belonging to the Contractor. The Contractor shall be authorised to collect these claims for its own account. The Customer must notify the Contractor by registered letter without delay of any access by third parties to the goods and claims belonging to the Contractor. Any assertion of the reservation of title shall not constitute withdrawal from the contract. The goods and the claims which take their place may not be pledged to third parties or transferred or assigned by way of security before the claims of the Contractor have been paid in full. To the extent that the value of the securities exceeds the claims of the Contractor by more than 20%, the latter shall at the Customer's request release securities of the Contractor's choosing.

18 The clarification of all technical issues shall be a prerequisite to the execution of the service to be performed by the Contractor. In the event that the Contractor defaults on performance for reasons for which the Contractor is responsible, liability for damages shall be excluded in the case of ordinary negligence.

If after the Contractor has already defaulted on performance the Customer grants the Contractor a reasonable grace period under penalty of refusal to accept performance, the Customer shall be entitled to withdraw from the contract after unsuccessful expiry of this grace period. The Customer shall be entitled to assert claims for damages due to non-performance in the amount of the foreseeable damages only if the delay was the result of wilful misconduct or gross negligence. In all other cases, liability for damages shall be limited, at the Contractor's option, to 50% (fifty per cent) of the loss incurred or to no more than the amount of the order volume concerned.

In the event that the Contractor defaults on performance for reasons for which the Contractor is not responsible, and/or if such reasons cause the latter's performance to be inadequate, liability for damages on the part of the Contractor shall in principle be excluded.

19 Warranty claims asserted by the Customer shall presuppose that the Customer has duly fulfilled its obligations to inspect and make a complaint in respect of a defect immediately on receipt of the goods. Insofar as there is a defect in the Contractor's performance, for which defect the Contractor is responsible, the Contractor shall be entitled, at its own option, to remedy the defect or to pay compensation, to the extent that it remains possible to remedy the defect or pay compensation by an agreed and fixed date of completion and insofar as according to objective evaluation criteria, such action remains of interest to the Customer.

However, if the Contractor violates an essential contractual obligation, the Contractor's liability to pay damages shall be limited to typical, foreseeable damages.

Insofar as the liability of Hastings AG Zürich / Hastings Audio S.A. Genève is excluded or limited on the basis of these Terms and Conditions, this shall also apply to the personal liability of the employees, freelancers, representatives and vicarious and/or performing agents of Hastings AG Zürich / Hastings Audio S.A. Genève. The Customer shall be liable for damages which are caused not by the Contractor but by third parties called in or engaged and/or commissioned by the Customer (such as performing or vicarious agents etc.).

20 All shipping and transportation of material of any kind shall be at the expense and risk of the Customer.

21 Goods shall be packaged at the discretion of the Contractor. Packaging shall be charged at cost price and shall be non-returnable.

22 Rights of use, exploitation rights, ancillary and/or assignable copyrights and copyright shares shall be transferred by the speakers, singers and/or performers engaged, commissioned and/or booked by the Contractor, in principle on an exclusive basis, for a period of 1 (one) year from the date of issue of the invoice or the first broadcast (transmission) and for nationwide utilisation (within Switzerland). Details which in principle cannot be made restrictive with respect to their invoicing and formulation shall be the responsibility of the artists themselves in each case, except where it is possible to agree otherwise in individual cases. In the case of exploitation abroad and/or in different time zones of productions which are subject exclusively to temporary domestic assignments and transfers of rights, the Customer must independently pay follow-up fees to the beneficiaries. However, in the event that the Contractor claims such follow-up fees on behalf of artists on the artists' instructions, the Customer also undertakes to pay at the Contractor's request. Liability for follow-up fees which arise from such exploitation shall be borne solely by the Customer. The Customer shall be obligated to notify the Contractor of cases of utilisation abroad and/or in different time zones. Moreover, the Customer shall be obligated to notify the Contractor of the first broadcast of a production completed entirely or partially on the Contractor's premises, in order that it may be determined, where applicable, whether follow-up fees are due in connection with production layouts which become final artwork by virtue of the broadcast, and in order that corresponding accounts may be finalised by the Contractor and/or notifications may be sent to the beneficiaries concerned.

The Customer shall be further obligated to fulfil its duty of care with respect to the authors and other holders of rights to goods and services which the Customer receives from the Contractor, such that the Customer shall ensure that all holders of rights associated with these goods and services are named to the customary extent in the event that the goods and services are passed to third parties and/or in the event of publication and/or public performance.

23 The place of jurisdiction and the place of performance shall be agreed as the place of business of Hastings AG Zürich / Hastings Audio S.A. Genève, i.e. Zürich resp. Geneva. Hastings AG Zürich / Hastings Audio S.A. Genève shall however also be entitled to bring an action against the Customer at the court having jurisdiction over the Customer's place of residence. If the Customer is not a registered trader as defined by law, and if the Customer relocates its place of residence or habitual abode outside the territory of Switzerland after conclusion of the contract, the place of jurisdiction shall be the place of business of Hastings AG Zürich / Hastings Audio S.A. Genève. The same shall also apply if the place of residence and the habitual abode of the Customer are not known at the time the action is brought.

24 All legal relationships between Hastings AG Zürich / Hastings Audio S.A. Genève and the Customer shall be subject exclusively to the law governing legal relationships between domestic parties in the location of the registered office of Hastings AG Zürich / Hastings Audio S.A. Genève.

25 Should individual provisions of these Terms and Conditions be invalid or should these Terms and Conditions contain loopholes, the validity of the remaining provisions and the validity of the remaining General Terms and Conditions of Business shall be unaffected. In place of the invalid provisions, other valid provisions shall be deemed agreed, which reflect the spirit and purpose of the invalid provisions and which both parties would have agreed had they been aware of the invalidity or the loopholes. In such a case, the Contractor and the Customer shall be obligated to one another to cooperate with a view to clarifying the Terms and Conditions accordingly.