



## GENERAL COMMERCIAL, DELIVERY, AND PAYMENT TERMS

Contractor: FERMATA, a. s., Zárubova 1678, Čelákovice 250 88, Czech Republic

Client: Legal entity or individual entering into a contract for work with the Contractor

### I. GENERAL PROVISIONS

1. The General Commercial, Delivery, and Payment Terms constitute an integral part of all commercial contracts and apply to all business transactions with the Client. The Client acknowledges the General Commercial, Delivery, and Payment Terms as constituting a part of the executed contract and all future transactions. Every differing arrangement or undertaking must be confirmed in writing by the Contractor.

### II. TERMS OF SALE

1. A contract is entered into by written confirmation of an order.

2. A written order is required by the Contractor from all clients. Together with the first order, the Client must provide a copy of its Commercial Register abstract or a trade certificate, certificate of being a VAT payer, bank details, and a power of attorney issued by the Client's statutory body to an employee authorized to act on behalf of the Client stating the extent of the employee's authorization.

3. When confirming an order, the contract that is entered into shall specify the length of the delivery period, rather delivery date. The starting date of the delivery period or delivery date is conditioned by delivery of complete and faultless production documentation by the Client according to agreed term. The day of delivery of complete correct production documents is intended as a beginning of delivery period. In the event that already handed over production documentation contains defects, the delivery period shall be suspended. The delivery period shall recommence only when corrected or new faultless documentation is delivered and thereafter a new date of delivery is determined by Contractor. If the Contractor fails to meet the delivery date, the Client shall be entitled to withdraw from the contract after first notifying the Contractor of a new deadline and after the Contractor fails to meet such a new deadline. A withdrawal from the contract must have a written form. If the Contractor is unable to meet a set delivery date due to an act of God, the Client may exercise no rights and levy no sanctions. An act of God means war, mobilization, civil disobedience, strike, closure, shortage of material caused by a supplier due to the aforesaid reasons, damage to machinery and equipment due to a natural disaster, import and export restrictions, and prohibition of delivery due to copyright considerations, regardless of whether it affects the Contractor, the Contractor's supplier, or the Client. If an act of God has a substantial extent, the Contractor may fully or partially withdraw from the contract or postpone the delivery date commensurately based on an agreement with the Client. In such a case, the Client shall make no claim against the Contractor.

4. If the Contractor ascertains in a reliable manner that the content of a film or sound recording, footage, or the data of a software file might handed over for the purpose of creating the work violates the law or is contrary to moral principles, the Contractor reserves the right to refuse to perform the work even after an order is accepted. Further, in such a case the Client shall make no claim against the Contractor. The Contractor shall be entitled to suspend performance of work and be released from the duty to pay compensation for damages incurred in cases when the Client fails to fulfill its duty to make a payment to the Contractor. The Client is obliged in those cases to defray the expenses incurred in context of work performance up to the moment of detention or stopping of the delivery.

### III. PLACE OF PERFORMANCE AND TIME OF TRANSFER OF RISK OF DAMAGE TO THE WORK

1. Unless otherwise specified in a contract, the place of delivery of the work is EXW FERMATA, a. s., Zárubova 1678, Čelákovice 250 88, Czech Republic ( Incoterms 2000 ).

2. The risk of damage to the work is transferred to the Client at the time when the Contractor enables the Client to use the work.

3. If a contract obliges the Contractor to hand over the work to the Client in a specific location, the risk of damage to the work shall be transferred to the Client upon being handed over in that location. If under a contract the Contractor is to forward the work without having to hand over the same to a forwarder in a specific location, the risk of damage to the work shall pass to the Client after the work is handed over to the first forwarder transporting the work to the place of delivery. The fact that the Contractor handles documents pertaining to transported work shall have no effect on the transfer of the risk of damages to the work. Damage to the work that occurs after the risk of damages is transferred to the Client shall have no effect on the Client's duty to pay the billed price by the due date.

4. The Client must accept the work within seven days of the confirmed date of completion.

If the Client is late in accepting the work or paying the agreed price, and payment of the price and delivery is to take place simultaneously, the Contractor shall be entitled to demand from the Client compensation for commensurate costs incurred in connection therewith.

If the work is not accepted in a timely manner at the Client's fault, the Contractor shall be entitled to charge a storage fee in the amount of 0,2% of work value for every day of delay.

Any return of the work shall be redundant at the Client's expense and risk. In the event of a justified return, the Contractor shall pay for the most economical cost of forwarding. If forwarding is impossible due to reasons on the part of the Client, the Client shall pay all costs incurred.

## 5. Delivered quantity

The quantity to be delivered is determined by a written confirmation of an order by the Contractor. The Contractor reserves the right to fill an order within the tolerances specified on the price list or in the applicable contract.

## IV. PAYMENTS

1. The price of a forwarded work shall be billed according to the Contractor's effective price list or the applicable contract. If taxable performance takes place in the Czech Republic, all prices, including the value added tax, shall be billed. Unless otherwise agreed, prices shall mean the prices of FERMATA, a. s., Zárubova 1678, Čelákovice 250 88, Czech Republic ( Incoterms 2000 ).

In the course of bank transfer the cost of all bank charges are covered on payer's expenses on payer's bank side.

The Contractor bills the price of its work by means of invoices. Payments are considered effectuated at the time the applicable sum is credited to the Contractor's account. The Contractor is entitled to first use payments to pay for additional costs, delay charges, and other accessories of receivables, and then the principal; in this regard, a payment shall first be used to pay for the oldest sum due.

2. The Client's failure to make a payment by the due date or to comply with agreed payment terms shall entitle the Contractor to demand payment of invoices not yet due or to cancel, effective immediately, all provided loans, agreed deferrals of payment, or term-payment agreements (payment timetables).

3. The Client acknowledges that when late in making a payment, a delay charge of 0.05% per every day of delay shall be levied. As to foreign-currency transactions, the delay charge shall amount to 1% per month, unless agreed otherwise. The delay charge shall be effective immediately and payable without further notice.

4. Even after an order is accepted, the Contractor shall be entitled to refuse performance of work or delivery if circumstances which take effect or become apparent after entering into a contract suggest that the Client may not be fully or partially able to fulfill its financial obligations in a timely manner, in particular to pay the agreed price.

5. Delivered, forwarded (returned) work or goods shall remain the property of the Contractor until the price with accessories is paid in full. Only then shall the ownership title be transferred to the Client.

6. The Contractor is entitled to sell in any way the finished and unclaimed work after a period of 30 days from the time of delivery. The earned value might be disposed to footage of debts incurred in the course of work fabrication, in case of need for settlement of other debts in face of Contractor.

## V. SOURCE MATERIALS AND TOOLS

1. As source materials for performance of work, the Client shall provide the Contractor with duplicates of original copies, marked films, film positives, etc., as specified in a written unambiguous order. If such source materials are not directly utilizable for the production processes employed by the Contractor, the Contractor shall be entitled, after the Client's approval, to improve or supplement the source materials at the Client's expense in accordance with the list of prices of services in effect on the relevant day. If it is impossible, erroneous source materials shall be returned to the Client for correction at the Client's expense. If due to incorrect or delayed information provided by the Client additional production costs are incurred, the same shall be borne by the Client. The Client shall ensure that the Contractor receives only duplicates of original copies, marked films, film negatives, etc. In the event of loss, destruction, or damage, the Contractor's liability shall not exceed the value of the materials; the maximum sum of compensation for such damages shall be EUR 100 in every individual case.

2. The Contractor shall make an identical copy (copies) of recordings supplied by the Client to be used as source materials for completing the work.

3. If copies of recordings employ unusual effects (such as atypical pauses, sounds which may be mistaken for other sounds, intentional distortion, cutoff endings, hidden tracks, etc.), the Client shall make a note to that effect in the accompanying documentation and describe such unusual effects fully and precisely. By failing to conform to this requirement, the Client assumes the risk that a potential claim will be rejected.

4. All materials supplied by the Client for the purpose of filling an order shall be stored by the Contractor in the name of the Client for a period of 16 months from the last order of the applicable title. After this period of time, the materials shall be returned according to instructions and at the expense of the Client.

5. Using source materials supplied by the Client, the Contractor shall make masters, copies, and other semi-finished products necessary for production. The price paid by the Client for making these production materials includes only services rendered by the Contractor in connection therewith. Production materials and semi-finished products shall remain the Contractor's property, and shall be stored for a period of 16 months from the last order of the applicable title. At the Client's request, they will be discarded immediately after the end of production.

6. The copies of materials sent electronically by Client (through FTP server and so on) shall be storage by Contractor up to six months beginning the date of delivery. In the case of materials delivery on the digital data medium Contractor is not responsible for readability limitation of the data during the course of storage cost by limited durability of the digital data medium.

7. By delivery of materials for manufacture gives customer consent to the Contractor for processing and use of these materials for proceeding with the appropriate order. Delivery of documents means for example: data delivery on CD-R, upload data to contractor's FTP, sending access for data download from data storage, sending e-mail, etc. In case of subsequent changes and delivery of new, different materials (data) the customer shall pay all costs spent by the Contractor for original data processing and eventual realization of order from original data.

## VI. GUARANTEE FOR DEFECTS AND COMPENSATION FOR DAMAGES

1. The Contractor shall be liable for damages to the Client only up to the sum of the billed price of the work. In no way shall the Contractor be liable to the Client or a third party for damages, losses, and profits caused by the use of defective work.

2. Work shall be performed in the customary manner and quality.

3. The Client is obliged to carefully inspect the consignment before taking over the work from the carrier to preclude damage of the consignment. In case of any doubt the consignment shall to check carefully in the presence of the carrier and make a record of identified defects into the transport documents, and alternatively make a photos-documentation. The Client is obliged immediately inform the Contractor about the detected damages.

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4. The Client is obliged to inspect the work after the acceptance without undue delay, and any obvious defects or discrepancies in the amount to claim in written form not later than 7 days of its receipt.
5. If a claim is justified, the Contractor shall repair the defect free of charge or agree with the Client on a price reduction or replacement.
6. The Contractor shall not be liable for defects of the work if not demonstrated by the Client in respect of quantity or quality.
7. A claim cannot be accepted if the source materials used for production of the work in question were returned or discarded at the Client's request and the examination of quality of materials under consideration is constitutive for the claim assessment.

#### **VII. COPYRIGHTS FOR MECHANICAL REPRODUCTION**

The Client affirms to hold all the rights necessary for completion of the work and releases the Contractor from all liability in respect of any damages incurred in connection therewith. Any costs incurred by the Contractor due to the Client's failure to comply with this duty shall be borne by the Client in full.

#### **VIII. COURT JURISDICTION, EFFECTIVENESS**

These General Commercial, Delivery and Payment Terms, and also the rights and responsibilities of Contractor and Client related to their contractual relations in compliance with those General Commercial, Delivery and Payment Terms shall be governed by the law of the Czech Republic, in particular legislation No. 513/1991Sb., Commercial Code, unabridged

In reference to law § 89a legislation No. 99/1963 Sb., Civil Procedure Code, unabridged, Client is acknowledged that internal lawsuits ensued those General Commercial, Delivery and Payment Terms and/or in condition with them, will be arbitrated objectively and by local Court Jurisdiction of Contractor.

Entire international lawsuits caused upon those General Commercial, Delivery and Payment Terms and/or in condition with them, will be with definitive acceptance settle by Court of Arbitration upon Economic Chamber and Agrarian Chamber of the Czech Republic in agreement with rule of Court for International Dispute (further on "Arbitral Rules"), namely by three arbitrators delegated by course of Arbitral Rules. Arbitral proceeding will be held in Prague.

Any arbitral judgment made according to General Commercial, Delivery and Payment Terms is definite and parties commit to forthwith implement sentence. Every arbitral judgment according to General Commercial, Delivery and Payment Terms may be submitted to court jurisdiction in order to its prosecution.

If any of above mentioned conditions of agreement will not be applied for any reason validity of other conditions remain reserved.