



# COPYRIGHT DECLARATION

Authorised Contact Name: \_\_\_\_\_ Date: \_\_\_\_\_

Company: \_\_\_\_\_

Registered Address: \_\_\_\_\_

Company Reg No.: \_\_\_\_\_ Company VAT No.: \_\_\_\_\_

A) Audio Format CD DVD Blu Ray Vinyl

B) The Broker confirms that they have assured themselves that they or where instructed by a third party client, that client ("the Client") (please, mark your choice – **only one** - with a tick):

- Has a standard contract with a member organization of BIEM:  Y  N 

State the organization

  
(International Mechanical Rights / MCPS)
- Has a work by work contract for the ordered product registered at the organization  Y  N 

State the organization

  
Note: The Broker agrees to provide OMOUK on their request with a copy of this contract.

C) The Broker has assured themselves that the Broker/the Client is the sole owner of the copyright in the material supplied for reproduction, or alternatively that the Broker/the Client has been granted the right to reproduce and distribute the material as listed in all purchase orders and communications relating to the purchase orders as long as the Broker instructs OMOUK ("the Material") by all the relevant copyright owners.

D) The Material **does not contain** any protected product and the Broker/the Client is not represented by any member organization of BIEM.

E) **CD / DVD - Video Content** \_\_\_\_\_  
If "Audio" is separately licensed, fill in sections A to D inclusive above and provide the necessary Audio/Video Synchronisation licensing).

F) **CD / DVD - Rom Content** \_\_\_\_\_  
Some shareware and freeware products require distribution licensing. Consult the software vendor for what is necessary.

The Broker grants the following warranties and indemnities to OMOUK:

1. That the information the Broker has supplied in sections A to F above is correct.
2. That the Broker/the Client has not granted an exclusive license or assignment of the Material to any other party and that the material does not infringe the copyright or any other rights of any other party.
3. That the Material does not contain anything of an obscene or illegal nature.
4. That the Broker will keep OMOUK fully indemnified against all loses and all actions, claim proceedings, costs and damages and all legal costs or other expenses arising out of any breach of any of the above warranties.
5. That the Broker agrees to provide OMOUK on their request with all relevant information, papers and documents (e.g. licence agreements) that OMOUK shall reasonably require to determine the ownership of the intellectual property at issue.
6. That the Broker agrees that despite any non-disclosure agreements that may be in effect to the contrary, OMOUK may consult all applicable governing bodies (i.e. IFPI, BSA, IRMA/CDSA, RIAA, BIAM, OSA, etc.) concerning intellectual property rights ownership. In any such consultation OMOUK shall disclose only that information necessary to determine the ownership of the intellectual property at issue.
7. That the Broker agrees that OMOUK may retain components or products for a limited period to determine the ownership of intellectual property at issue.
8. That the Broker accepts OMOUK's Terms and Conditions of Sale (see overleaf).

Date: \_\_\_\_\_

Broker's stamp (if applicable):

Authorised Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Position Held: \_\_\_\_\_

# ONE MEDIA OPTICAL UK LTD

## TERMS AND CONDITIONS OF SALE

### 1. GENERAL

In these conditions:

- "The Buyer" means the person, firm or company who accepts a quotation from OMOUK for sale of the goods or whose order for the goods is accepted by OMOUK.
- "OMOUC" means One Media Optical UK Limited whose business address is 14 Martinfield Business Centre, Martinfield, Welwyn Garden City, Hertfordshire AL7 1HG telephone: 01707 339731, fax: 01707 323127, email: sales@omouk.com website: www.omouk.com
- "The Goods" means the goods and/or materials, which OMOUK is to supply and which are the subject of the Contract between OMOUK and the Buyer.
- The Contract between OMOUK and the Buyer shall be subject to these conditions which shall govern the said Contract to the exclusion of any other terms and conditions subject to which any quotation is accepted or purported to be accepted or any order is made or purported to be made by the Buyer.
- The Contract between OMOUK and the Buyer does not affect the Buyers statutory rights
- No variations of these Conditions shall be binding unless agreed in writing by a Director of OMOUK.
- Any typographical, clerical or other error or omission in any sales literature, quotation, list price, acceptance of offer, invoice or other document or information issued by OMOUK shall be subject to correction without any liability on the part of OMOUK.
- The headings in these conditions are for convenience only and shall not effect their interpretation.
- If any provision of these conditions is held by a competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.

### 2. QUOTATIONS AND PRICE

- Unless previously withdrawn by OMOUK, quotations and tenders are open for acceptance for the period stated therein or if no period shall be stated therein within one month from the date thereof.
- All prices specified in quotations and tenders are subject to variation by OMOUK without prior notice after the date specified in the document to the Buyer.
- Quotations and tenders are subject to confirmation by OMOUK upon receipt of orders from the Buyer.
- All prices quoted or accepted are exclusive of VAT and in the contract price shall be such quoted or accepted price plus VAT at the appropriate rate.
- All prices unless otherwise stated are exclusive of all freight charges which shall be added to the Buyer's account. All freight charges are charged to the Buyer at cost.
- Subsequent to the date of any quotation or tender any changes in specification made by the Buyer that increase the cost of fulfilling the contract by OMOUK for any reason whatsoever prior to the date of delivery shall be charged to the Buyers account.
- Notwithstanding that the price paid by the Buyer to OMOUK includes the cost of CD's / DVD's, labels and/or sleeves to be used in the production and packaging of the goods to be supplied by OMOUK.

### 3. TERMS OF PAYMENT

- Cheque (cleared funds) or Bank transfer (Terms: 100% with purchase order and 25% on despatch of goods from OMOUK)
- 30 day credit account by pre-arrangement (Setup of a 30 day credit account takes approximately three weeks.)
- Credit Accounts: Payment to be received by OMOUK 30 days from the date on which the invoice was raised.
- In the case of contracts involving more than one delivery, default in payment by the due date shall entitle OMOUK at its option to treat the contract and any other contract between the Buyer and Seller as repudiated by the Buyer and to claim damages accordingly.
- Interest at the rate 2% per annum over the base rate for the time being of HSBC Plc shall be charged on overdue payments and payment of interest shall not prejudice OMOUK's rights under any contract.

### 4. DELIVERY

- Time shall not be of the essence for the purpose of delivery of Goods by OMOUK unless stated as part of a contractual agreement between both parties. Delivery terms are quoted without guarantee or penalty and the time for delivery shall run from the date the order is received or the tender or quotation accepted or the date on which sufficient information is received from the Buyer to enable OMOUK to proceed with the execution thereof whichever is the later.
- Subject to the provisions of paragraph (a) above
  - Where contracts provide for a single delivery without specifying date goods shall be delivered and accepted as soon as available for delivery.
  - Where contracts provide for deferred delivery without specifying a date or dates for such deferred deliveries, delivery shall be made and accepted within six months of the specified first delivery date.
  - In the event of failure by the Buyer to accept any delivery, that delivery shall be deemed to have occurred and any storage or other costs incurred by OMOUK as a result of the Buyer's failure shall be added to the Buyer's account with interest as aforesaid.
  - Where any subsequent deviation is made from these terms at the request of the Buyer any additional costs incurred by OMOUK as a result thereof shall be added to the Buyer's account.
  - Every effort shall be made by OMOUK to affect delivery in accordance with these terms and conditions but OMOUK will not be liable for any loss or damage arising due to delay on delivery however caused.
  - Each delivery shall constitute a separate contract, which shall be subject to these terms, and conditions and any failure or defect in any one delivery shall not entitle the Buyer to repudiate the contract as to the remaining deliveries.
  - QUANTITY DEVIATION (CD & DVD Replication only)** OMOUK reserves the right to supply up to +/- 10% on any one title. Maximum deviation 1000 units. All units over supplied will be charged at the agreed Buyer's purchase price.

### 5. CLAIMS

The Buyer shall inspect the goods forthwith upon delivery or deemed delivery as specified in clause 4(b) and shall within three days of such delivery notify OMOUK in writing of any matter or thing by reason whereof the Buyer alleges that the goods are not in accordance with the contract. The return of any goods will not be accepted unless OMOUK or its authorised representative shall first have had the opportunity of considering the Buyer's reasons for returning the goods and to accept the return thereof.

### 6. DAMAGES or SHORTFALL POLICY & PROCEDURE

Upon receipt of the goods, any damages or shortfall noticed must be reported immediately by telephone and in writing to OMOUK as set out above

### 7. LIMITATION OF SELLER'S LIABILITY

Any express or implied statement, condition or warranty, statutory or otherwise, not stated herein is hereby excluded and deemed to be inconsistent herewith, and no responsibility is accepted by OMOUK for any damage or loss arising directly or indirectly out of goods, supplied or for any damage or loss arising by reason of any failure of goods to comply with the specification or with statutory requirements whether attributable to Seller's negligence or otherwise save to the extent that exclusion of liability is prohibited by law. Subject to paragraph 5 and 6 OMOUK's liability for any loss and/or damage whether direct or indirect consequential or howsoever caused shall be limited, at OMOUK's discretion, to:

Replacement of the goods supplied or  
Return of the purchase price and/or the price paid for services  
The re-supply of the services.

### 8. BUYERS PROPERTY

Any property of the Buyer supplied to OMOUK (e.g. Data Masters) for the purposes of the Contract will be held by OMOUK, and only returned to the Buyer on written request. Every care will be taken to secure the best results where materials are supplied by the Buyer but no responsibility will be accepted for imperfect work caused by any defects or the unsuitability of materials so supplied.

### 9. FORCE MAJEURE

OMOUC shall not be liable to the Buyer or deemed to be in breach of contract by reason of any delay in performing or failing to perform any of OMOUK's obligations in relation to the goods if the delay or failure was due to any cause beyond OMOUK's control. Without prejudice to the generality of the foregoing any act of God, war, strikes, flood, fire, pest and inability of OMOUK to procure materials or articles required for the performance of the contract which may prevent the fulfilment thereof shall be regarded as causes beyond OMOUK's reasonable control. In the event of any failure or delay to perform any contract as a result of the said causes such contracts, at OMOUK discretion, may be varied or cancelled by OMOUK or delivery may be wholly or partly suspended and time for delivery may be extended by OMOUK without OMOUK being liable to the Buyer or being deemed to be in breach of contract.

### 10. PROPERTY IN GOODS

- Risk of damage to or loss of the Goods shall pass to the Buyer.
- In the case of Goods to be delivered at OMOUK's premises at the time when OMOUK notifies the Buyer that the goods are available for collection; or
- In the case of Goods to be delivered otherwise than at OMOUK's premises, at the time of delivery.
- Notwithstanding delivery and the passing of risk in the Goods, or any other provisions of these Conditions, the property in the Goods or any part of them shall not pass to the Buyer until OMOUK has received in cash or cleared funds payment the full price of the Goods and all other goods agreed to be sold by OMOUK to the Buyer for which payment is then due.
- Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as OMOUK's fiduciary agent and bailee. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to OMOUK for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds.
- Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), OMOUK shall be entitled at any time to require the Buyer to deliver up the Goods to OMOUK and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of OMOUK, but if the Buyer does so all moneys owing by the Buyer to OMOUK shall (without prejudice to any other right or remedy of OMOUK) forthwith become due and payable.

### 11. LIMITS OF CONTRACT

Quotations or tenders include only such goods and work as are specified therein. Each order shall be deemed to be a separate contract to which these terms and conditions shall apply (and no liability can be accepted by OMOUK for the working in combination of goods, which have been ordered in separate parts and/or at different times).

### 12. DESIGN

- The buyer will indemnify OMOUK against all damages, penalties, costs and expenses to which OMOUK may become liable as a result of work done in accordance with the Buyers specification which involves the infringement of any letters, patents or registered design. In the event a third party makes a claim against OMOUK that any work done in accordance with the Buyer's specification infringes the third party's intellectual property rights, Buyer will be liable to Seller for any reasonable loss, liability, damages or costs suffered by Seller but only if Seller:
  - notifies Buyer's Company Secretary promptly in writing not later than 30 days after Seller receives notice of the claim, or sooner if required by applicable law; and
  - gives Buyer sole control of the defence and any settlement negotiations; and
  - gives Buyer all the necessary information, authority and assistance Buyer needs to defend or settle the claim.
- OMOUC gives no warranty or representation that the Goods do not infringe any letters patents trademarks, registered designs or other industrial rights.
- Artwork Design - All jobs must conform to Disc Makers' graphics specification and template layout. Any correction work that is authorised by the Buyer will be charged at £45 + vat per hour
- If a PDF proof is required by the Buyer, then the production of the job will be held until written authorisation is received by OMOUK. This confirmation can only be accepted as by e-mail or letter (verbal confirmation is not accepted)

### 13. COPYRIGHT

- The buyer will indemnify OMOUK against all damages, penalties, costs and expenses to which OMOUK may become liable as a result of work done in accordance with the Buyers specification which involves the infringement of any letters patents or registered design on the data disc. In the event a third party makes a claim against OMOUK that any work done in accordance with the Buyer's specification infringes the third party's intellectual property rights, Buyer will be liable to Seller for any reasonable loss, liability, damages or costs suffered by Seller but only if Seller:
  - notifies Buyer's Company Secretary promptly in writing not later than 30 days after Seller receives notice of the claim, or sooner if required by applicable law; and
  - gives Buyer sole control of the defence and any settlement negotiations; and
  - gives Buyer all the necessary information, authority and assistance Buyer needs to defend or settle the claimBefore any replication or duplication can commence the Buyer must complete OMOUK's 'Customer Copyright Certification & / or Licensing Rights & Indemnification' form. This form does not need to be completed if a MCPS document granting the rights to manufacture is supplied to OMOUK. The default text for the specification ring on a replicated CD or DVD will read 'One Media Optical UK Limited' This text will be printed on all CD & DVD product unless otherwise instructed by the Buyer.

### 14. WAIVER

No concession or indulgences granted to the Buyer shall prejudice future exercise of OMOUK's full right hereunder.

### 15. ALTERATIONS

Alterations to any orders accepted by OMOUK cannot be accepted without OMOUK's consent in writing and any additional costs involved will be chargeable to the Buyer.

### 16. CANCELLATIONS

No order accepted by OMOUK can be cancelled without OMOUK's consent in writing (or by e-mail correspondence) and under no circumstances can OMOUK allow cancellation of orders for goods made or specially adapted to the Customer's requirements.

### 17. ASSIGNMENTS

The contract of which the Conditions form part is personal to the Buyer who shall not assign the benefit thereof without OMOUK's written consent save within the Buyer's group of Companies.

### 18. DATA PROTECTION ACT 1998 (Applicable to Sole Traders and Partnerships only)

This clause is only applicable to 30 day Credit Accounts given to sole traders and partnerships (other than limited partnerships)

- We may transfer information about you to our financiers who:
  - May use, analyse and access information about you, including the nature of your transactions, and exchange such information with other members of their group of companies and others for credit or financial assessment, market research, statistical analysis, insurance claim, underwriting and training purposes and in making payments and servicing their agreement with us;
  - From time to time, may make searches of your record at credit reference agencies where your record with such agencies may include searches made and information given by other businesses; details of their searches will be kept by such agencies but will not be seen by other organisations that may make searches;
  - May give information about you and your indebtedness to the following
    - Our or their insurers for underwriting and claims purposes;
    - And guarantor or indemnifier of your or our obligations to enable them to assess such obligations;
    - Their bankers or any advisers acting on their behalf;
    - Any business to whom your indebtedness or our arrangements with our financiers may be transferred to facilitate such transfer;
    - May monitor and/or record any phone calls you may have with them, for training and/or security purpose;
    - In the event that they transfer all or any of their rights and obligations under their agreement with us to a third party may transfer information about you to enable the third party to enforce their rights or comply with the obligations.
- We will provide you with the details of our financiers on request, including a contact telephone number if you want to have details of the credit reference agencies and other third parties referred to above from whom they obtain and to whom they may give information about you. You also have the right to receive a copy of certain information they hold about you if you apply to them in writing. However a fee will be payable.

### 19. LEGAL CONSTRUCTION

Any contract entered into between OMOUK and the Buyer shall in all respects be construed and operate as an English Contract subject to the Laws of England and Wales.