

TERMS AND CONDITIONS

This order is accepted on the following terms and conditions and those on the reverse side which shall apply to this order, as well as to all orders hereafter, accepted from the Customer and (as applicable) to all other transactions between SANYO-Verbatim CD Company, L.L.C. ("SVCD") and the Customer.

As used herein, the term "compact disc" or CD shall mean any optical data disc, having digital information recorded thereon, and including without limitation, discs, commonly designated as CD-Audio, CD-ROM, CD-I, CD-V and CD-G.

" Subject Matter" shall mean all material or information provided to SVCD by Customer in whatever form whether intended to be embodied or contained in CDs or not.

(1) Credit terms are as stated on the reverse side of this Order Form.

(2) CDs shall not be returned for any reason unless authorized by SVCD in writing. All CDs for which a return is authorized shall be returned to the plant designated by us at the Customer's expense. Any authorized return shall include a detailed, written description of the alleged error or defect which is sufficient to permit SVCD to verify the presence, nature and extent of the defect. Except for factory defects confirmed by SVCD, we shall not be obligated to credit the Customer's account for CDs returned to us for any reason, whether a return authorization is received by us or whether we accept returned CDs without such authorization being received by us. Where such a factory defect is confirmed by SVCD, the credit to be given shall not exceed the Customer's actual sales price paid and freight charges incurred by Customer in shipping the subject CDs from SVCD to the first delivery point. It is specifically understood and agreed that we shall not be responsible for any loss, damage or expense which the Customer may incur by reason of, or which may be connected with, our acceptance of returned CDs without such authorization being received by us. Our count or audit in respect to returned CDs shall be final and binding.

(3) Customer shall not make any deduction from remittances to SVCD unless an approved Credit Memo has been issued by SVCD. All claims for credit due to shortages or breakage must be made within 5 days of receipt of invoice. Where Customer makes no such claim, the shipment shall be conclusively presumed to be acceptable.

(4) Customer expressly warrants that it is authorized to provide the Subject Matter to SVCD for mastering, processing, duplication and packaging and further warrants that it possesses all rights in the Subject Matter, including but not limited to all copyrights, patents, trademarks, trade secrets and other intellectual property necessary or beneficial to SVCD's production of CDs containing the subject matter and all related mastering, processing, duplication and packaging.

(5) Customer will bear responsibility for all sales, use and gross receipt taxes, however designated, levied or based in any way upon such CDs. Customer will execute any document SVCD may deem necessary or desirable to evidence the fact that Customer is liable for these taxes. In the event that any taxing authority levies an assessment against SVCD for such taxes, Customer will promptly remit such sums to SVCD. Customer shall further indemnify, defend and hold SVCD harmless against all claims, liability, loss or damage, including attorney's fees, arising out of or connected, directly or indirectly with the filling of Customers' orders or the exercise of the rights granted to SVCD pursuant to this order. The warranty and indemnity applies to all orders currently being processed or produced for the Customer as well as all future orders and shall survive the termination of this Agreement.

(6) Title to, and risk of loss for, any and all CDs that are manufactured by SVCD pursuant to this or any other order shall vest in the Customer immediately upon the completion of the manufacturing of such CDs regardless of the contemplated time of delivery to the Customer. SVCD shall have a lien on all CDs in its possession, and on all master tapes and Subject Matter furnished to SVCD by Customer, to secure the payment of any sums due SVCD on this or any other order. If Customer fails to make any such payment when due, and such default continues for a period of fifteen days, SVCD shall have the right granted to a seller by I.C. 26-1-2-706 of the Indiana Uniform Commercial Code to resell any such CDs, tapes and Subject Matter. For the purpose of such resale, Customer hereby assigns to SVCD at no charge and without compensation to Customer, and authorizes SVCD to assign to any purchaser all rights of Customer of any nature to record, process, manufacture and sell the CDs, including, but not limited to, all rights in or to all musical compositions; literary, dramatic or other works; artists' performances; software; data; information and video images embodied or contained in such CDs, and to package any CD for resale in the packaging used by Customer in the sale of the CD or in such other packaging as SVCD, in its sole discretion, judges to be suitable. The right to package the CDs granted to SVCD by Customer pursuant to this paragraph shall include the right to manufacture or have manufactured all such packaging materials. Customer warrants that SVCD and its assigns shall not be liable for any payments to any third party arising out of any action of SVCD pursuant to this paragraph and agrees to indemnify SVCD against any such charges.

(7) Customer shall retain sole ownership and control of any and all master tapes and Subject Matter provided to SVCD for the mastering, processing, duplicating or packaging of CDs and shall hold SVCD harmless from and against any claim for loss or damage to such master tapes or Subject Matter from whatever cause, including but not limited to the negligence of SVCD, its employees and agents. SVCD shall own and retain all rights in any copy of the Subject Matter used in the manufacture of CDs including, but not limited to all masters and stamper. Because SVCD cannot be responsible for any loss or damage to any master tapes or Subject Matter, Customer should retain duplicate backup copies of all master tapes and Subject Matter provided to SVCD. SVCD shall produce CDs only from the Subject Matter provided to it as of the date of the Acceptance Note. Should Customer wish to modify the Subject Matter or substitute or add new Subject Matter, Customer shall promptly pay for all CDs which have already been produced and all costs arising from or relating to the modification, addition or substitution.

(8) SVCD will retain any master tape for a period of 60 days from the date of receipt or until all outstanding amounts owed to SVCD by Customer for all orders have been paid in full, whichever occurs later. At the expiration of the time period specified, where all amounts have been paid in full, SVCD may either return the master tape to Customer upon Customer's request and at its sole cost and risk or destroy the master tape.

(9) Unless SVCD, through a duly authorized officer, agrees in writing to a higher valuation, SVCD and Customer agree that the value of any and all master tapes and Subject Matter, as well as all copies and duplicates thereof, shall be limited to the actual value of the physical components of the master tape and Subject Matter and shall exclude any value arising from or relating to the contents or information contained therein, with a maximum agreed value of U.S. \$100.00.

(10) SVCD shall have no responsibility or obligation to Customer regarding any master tapes or Subject Matter manufactured or processed by SVCD with regard to this order or any other orders placed by Customer with SVCD, and SVCD shall have the right, at any time and at its sole discretion, to destroy or deface any or all such master tapes, Subject Matter, or CDs produced therefrom.

(11) SVCD reserves the right to stop any production run of CDs at any point, if it has reason to believe or suspect that any of the Subject Matter provided by Customer for duplication contains matter which is obscene, lewd, indecent or immoral or that the duplication of the Subject Matter is not authorized by the owner of the rights therein. Upon any such occurrence, SVCD may destroy any CDs produced as well as all related Subject Matters. Customer shall be responsible for all costs incurred by SVCD in the mastering, processing, production and packaging of any CDs containing the offending Subject Matter. SVCD further reserves the right to take any and all action it deems to be appropriate which may include turning the matter over to the proper authorities and assisting in any resulting investigation.

(12) SVCD shall not be liable for any delays in delivery or non-delivery of any CDs or other items where such delay or non-delivery is the result of events beyond the reasonable control of SVCD. Where any delay in delivery occurs, SVCD may, without liability, terminate all or any part of this agreement or suspend and thereafter resume delivery of all or part of the undelivered CDs and Customer shall accept such delivery; providing that if such delay in delivery exceeds sixty (60) days, Customer may, by registered or certified mail, demand delivery of the delayed CDs and Customer's obligations shall terminate as to such items if SVCD does not ship within ten (10) days after its receipt of such a demand.

(13) Customer shall not use or permit the use of SVCD's name or trademarks or any names, trademarks or trade names similar thereto in any manner or for any purpose without obtaining the prior written approval of SVCD.

(14) All shipments are F.O.B. SVCD's plant. Customer shall be responsible for all shipping and freight costs.

(15) Overruns or under-runs which do not exceed 10% of the quantity ordered shall be delivered in full compliance with the terms of the order. Amounts due for any order will be adjusted for any order where the number of CDs produced varies from the number ordered by greater than 10%.

(16) SVCD MAKES NO WARRANTIES REGARDING THE CDs AND EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES INCLUDING THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND NON-INFRINGEMENT, AND FURTHER SHALL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES OR FOR ANY LOST PROFITS OF CUSTOMER.

(17) This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, without regard to the conflict of law rules thereof. No waiver or modification of its terms shall be effective unless in writing and signed by an authorized officer of SVCD.