



SUITCASE RECORDS – Terms and Conditions

The terms and conditions set out below (“**Terms**”), read in conjunction with the Order (together, the “**Order Terms**”), constitute a binding agreement between Suitcase Records Pty Ltd (ACN 654 120 000) (“**Suitcase Records**”, “**we**”, “**us**”, “**our**”) and the Customer (“**Customer**”, “**you**”, “**your**”) in respect of the Services of Suitcase Records.

1. DEFINITIONS

1.1 In these Terms unless otherwise indicated by the context:

- 1.1.1 “**Customer**” means the individual, firm, company, partnership, joint venture, an unincorporated body or association, trust, corporation or other body corporate, identified on the Quotation as the customer and includes the Customer’s agents and permitted assigns.
- 1.1.2 “**Delivery Materials**” means the fully mixed, edited and equalized two-track stereo recordings together with high-resolution print-ready artwork files with such materials being in accordance with any Specifications.
- 1.1.3 “**Force Majeure Event**” means events beyond our reasonable control including, without limitation, an act of war, riot, strike, lockout, national mourning, national act of terrorism, fire, flood, national transportation or grid failure or delay, an Act of God, communicable disease or civil commotion, governmental or court ordered laws, or other causes of a similar nature beyond the reasonable control of Suitcase Records.
- 1.1.4 “**Order**” means a Quotation as agreed between the parties and accepted by us.
- 1.1.5 “**Products**” means vinyl records, sleeves and those other products agreed to be provided by us pursuant to a Quotation.
- 1.1.6 “**Quotation**” means a written description of the purchase order placed by a Customer from time to time for the manufacture and supply of a specified quantity of Products and provision of Services in accordance with these Order Terms.
- 1.1.7 “**Services**” means the print and packaging, creation and replication, packing, fulfilment and distribution of Products.
- 1.1.8 “**Specifications**” means those delivery and format specifications as determined by us from time to time and otherwise in accordance with those requirements set out in any info pack sent to you by us.

2. PAYMENT

- 2.1 We require you to pay a seventy percent (70%) deposit of the total Order following confirmation of acceptance by us (“**Deposit**”). The balance (including a calculation of the final shipping costs associated with the Order in accordance with clause 3.2) is due upon completion of the Order and prior to delivery or collection of your Order (“**Balance**”).
- 2.2 We do not include shipping costs within any Quotation. Any shipping cost is estimated upon acceptance of an Order and then calculated upon completion of the Order and any and all shipping costs shall be payable together with the Balance. Alternatively, you are more than welcome to collect your Products from our factory on an agreed day and time following completion of the Order and receipt by us of the Balance.
- 2.3 We shall render an invoice for each amount due by you under clause 3.1. All invoices must be paid within fourteen (14) days of the date of the invoice.
- 2.4 We shall not commence manufacture of the Products until we have received payment in full of the Deposit. No Products will be shipped or available until collection until we have received payment in full of the Balance.
- 2.5 We accept cash or bank transfer. You shall be solely responsible and liable for, and we shall have no responsibility or liability for, any bad debts (such as credit card returns or fraud), bank fees, PayPal fees (except for fees charged on our PayPal account), credit card transaction fees, disputed payments, and refunds, except as provided in these Order Terms.
- 2.6 We may withhold any taxes, duties, charges or levies on payments by us to you pursuant to these Order Terms, as may be required by applicable law, rule or regulation. We shall remit any such withheld taxes, duties, charges or levies to the appropriate tax authority.
- 2.7 All monies payable shall be calculated exclusive of any GST in the first instance and in the event that any supply made by us is subject to the payment of GST, you shall additionally pay any applicable GST payments as required by *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

3. PRESSING & MANUFACTURING

- 3.1 We shall commence pressing and/or manufacturing of Products following receipt of payment of the Deposit in accordance with clause 3 and receipt of all applicable Delivery Materials as reasonably required in respect of the Order. Subject to clause 4.2, we shall have no obligation to commence manufacturing of your Products until such time as we have received the Deposit and all Delivery Materials.



- 3.2 We reserve the right, prior to the commencement of any Order, to require that you make any necessary modifications or corrections to the Delivery Materials solely for the purposes of ensuring such Delivery Materials comply with our Specifications.
- 3.3 For any Order of 250 or more Products, we will produce and provide (at our cost and expense) five (5) test pressings (140gm black vinyl, no jacket) for the Customer to approve before the manufacturing is carried out (unless requested otherwise by the Customer). For any Order of less than 250 Products, we can produce and provide test pressings upon reasonable request from you and subject to payment by you of a fee for the production of such test pressings together with any associated costs (including shipping). Once the Customer approves the test pressing, production of the order will commence, and no changes or cancellations in regard to the audio content of the order shall be permitted or accepted.
- 3.4 While it's highly unlikely, things sometimes go wrong in the manufacture of the Products (pressing of records, coloured vinyl, printing of jackets etc). Because we will only ever send a quality pressing, this means that sometimes we can't produce the exact number of Products you ordered and accordingly you agree that we are entitled to produce more or less Products than ordered, however, within the quantity tolerances set out herein (and per industry standard). The undersupply (or oversupply) would never be more than five percent (5%) (ten percent (10%) in respect of coloured vinyl) of the Order amount. If this occurs, we will only ever bill you for what we produce, and we will adjust the final invoice accordingly. Of course you remain obligated to pay the Balance due in respect of the actual quantity of Products to be delivered.

4. TURNAROUND TIMES, DELIVERY & STORAGE

- 4.1 We will provide you with an estimate of the turnaround time and delivery date for your Order when we send confirmation of your Order. We shall use all reasonable endeavours to manufacture and deliver your Products to you in accordance with any estimated turnaround time and delivery date. We like to take the approach of advising you a timeframe, and then delivering it faster. However, sometimes things may conspire against us. If we anticipate any delays in respect of your Order, we'll let you know asap and seek to provide a revised estimate of the turnaround time and delivery date for your Order. Should there be any delay to any turnaround time and/or delivery date of your Order, we shall use all reasonable endeavors to complete your Order as soon as possible but shall not be liable in respect of any loss or damage suffered by you in respect of any such delays, whether as a result of a Force Majeure Event or otherwise.
- 4.2 Your Order could be delayed if you don't send us the Delivery Materials when you pay your Deposit. Or if you send us Delivery Materials that don't meet our Specifications. To make sure we have the best chance of getting you your Products as soon as possible, send us the Delivery Materials as soon as possible following acceptance of your Order. And please check them before you send them through to ensure they comply with our Specifications.
- 4.3 If you are working to a set deadline or release date let us know when requesting your Quotation, or as soon as is possible so we can determine whether we can complete your Order by such date. If we can't reasonably achieve it, we'll let you know and will confirm the date we can complete your Order. We really don't want to promise you Products then leave you hanging. If you seek to change the date for completion of your Order after we start production of your Products we'll do our best to accommodate any requested change, but we shall have no obligation to meet the requested new deadline.
- 4.4 In the event of delays to the completion of your Order as a result of a Force Majeure Event, we shall use best endeavors to reschedule the completion of your Order where possible, provided that we shall have the right to cancel your Order. Where we've started production of your Products, we shall not be required to refund any amounts paid in respect of the Order where we cancel as a result of any Force Majeure Event.

5. CANCELLATION

- 5.1 You may seek to cancel your Order at any stage provided that:
 - 5.1.1 If we have not commenced pressing and/or manufacturing of your Products, we will refund any Deposit paid to you less any reasonable costs incurred by us prior to the date of cancellation.
 - 5.1.2 If we have commenced pressing and/or manufacturing of your Products, we will have no obligation to refund any Deposit or any other amounts paid by you in respect of the Order provided that we may agree to refund any amounts by you less any and all costs incurred by us in respect of the Order up to the date of cancellation of the Order.

6. DEFECTS & RETURNS

- 6.1 You must as soon as possible after delivery:
 - 6.1.1 check the quantity of Products delivered against the Order; and
 - 6.1.2 check whether the Products were damaged or defective when delivered.
- 6.2 Unless you notify us of a shortage and/or any defective Products within five (5) business days after delivery, we are not responsible for covering any shortage of Products and the Products will be considered to have been delivered in good condition.
- 6.3 Providing notification is given in accordance with the above, we shall make good any quantity deficiencies as soon as reasonably practicable following receipt of notice of such deficiencies, subject always to clause 4.4.
- 6.4 Providing notification is given in accordance with the above, then any Products shall be deemed "**Defective Products**" where:



- 6.4.1 such defects shall be found to have arisen solely from any direct and identifiable act or omission or ours in relation to faulty design, workmanship or materials (i.e. scratched or damaged records and jackets, or a problem with the pressing caused by a damaged stamper);
- 6.4.2 the defective Products are returned to us for our own inspection;
- 6.4.3 the claimed defect was not in the Delivery Materials or any other materials or information provided by or otherwise approved by you; and
- 6.4.4 the percentage of Products under complaint claimed is greater than one percent (1%) of the total number of units delivered.
- 6.5 Our liability in respect of any Defective Products is limited to one of the following options, as determined by us in our sole discretion:
 - 6.5.1 replacement of the Defective Products; or
 - 6.5.2 refund a pro-rata amount of the Order based on the number of Defective Products.
- 6.6 Unfortunately, we can't accept returns for issues that are outside of our control. This is mostly caused by problems with the audio or artwork files you have supplied us. Examples of these issues include incorrect mixing, track sequencing or phasing, errors within the artwork, or incorrect catalogue number. So please double and triple check what you send us!

7. WARRANTIES & INDEMNITY

- 7.1 You warrant that:
 - 7.1.1 you have the full and exclusive right and authority to enter into these Order Terms;
 - 7.1.2 you are the sole owner and/or controller of all rights in and to the Delivery Materials and the Delivery Materials (and resultant Products) do not infringe upon the rights (including copyright or any other intellectual property rights) of any third party;
 - 7.1.3 you have obtained all necessary rights, clearances, consents and licenses in respect to any sound recordings, literary works, musical compositions, artwork or other materials included in the Delivery Materials where owned and/or controlled by third parties, and any payments and royalties due to any third parties or any other party which arise from the manufacture, sale and distribution of the Products and exploitation of the Products; and
 - 7.1.4 the Delivery Materials are not misleading, deceptive, criminally obscene, or defamatory.
- 7.2 We are entitled at our absolute discretion to require further reasonable evidence that you possess all the relevant rights, clearances, consents and licenses in respect of any Delivery Material and we may withhold commencement of the Order or otherwise pause manufacturing and/or delivery of the Products until such time as you provide us with all documentation reasonably requested.
- 7.3 You must indemnify us and keep us indemnified against any loss, damages or expenses, including but not limited to, reasonable legal fees, which we may suffer or incur as a result of any claim, action or proceeding (including threatened claims, actions or proceedings) arising from any breach by you of your obligations, warranties or representations under this Agreement including, without limitation, a breach of the warranties and representations contained in clause 8.1.

8. LIMITATION OF LIABILITY

- 8.1 When you send us files electronically, or if you send us physical master tapes (yes we can press from these), we are assuming that you have backups of your originals. Servers crash, mail goes missing, floods happen. Please make sure you have original copies as we can't be responsible for these going missing or getting damaged. That said, we will look after your music with care and respect. However to the full extent permitted by law, we exclude all liability in respect of loss of files or tapes, interruption of business or any consequential or incidental damages.
- 8.2 To the full extent permitted by law, we exclude all representations, warranties or terms (whether express or implied) other than those expressly set out in these Order Terms.
- 8.3 These Order Terms are to be read subject to any legislation which prohibits or restricts the exclusion, restriction or modification of any implied warranties, conditions, guarantees or obligations. If such legislation applies, to the extent possible, we limit our liability in respect of any claim to, at our option:
 - 8.3.1 the supply of the services again; or
 - 8.3.2 the payment of the cost of having the services supplied again.

9. TERMINATION

- 9.1 In the event any of the following occurs we may at our absolute discretion either suspend the provision of our Services, or terminate any Order:
 - 9.1.1 you fail to make payment of any amount due in respect of the Order within fourteen (14) days after it has become due and payable; or
 - 9.1.2 you fail to provide the Delivery Materials in a timely manner or perform those obligations reasonably necessary for us to complete the Order; or
 - 9.1.3 we determine, in our sole and absolute discretion, that the Delivery Materials and resultant Products, do not match our ethos or are, or are likely to be, misleading, deceptive, criminally obscene, or defamatory or of an offensive or extremist nature.



- 9.2 Following any termination by us, we shall be entitled to retain any amounts paid by you in respect of the Order (including any Deposit). Termination pursuant to this clause shall not prejudice any other actions legally available to us.
- 9.3 In the event that we suspend our provision of Services, you shall be liable for all reasonable additional costs incurred by us in relation to the Order and due to such suspension.

10. GENERAL

- 10.1 You must not assign, sublicense or otherwise deal in any other way with any of your rights under Order Terms. We may assign, license or otherwise dispose of or deal with any or all of our rights under these Order Terms, either wholly or partially, without notice or obligation to you.
- 10.2 If a provision of these Order Terms is invalid or unenforceable it is to be read down or severed to the extent necessary without affecting the validity or enforceability of the remaining provisions.
- 10.3 These Order Terms, constitute the entire agreement of the parties regarding the Order and supersedes any and all preceding and contemporaneous agreements between you and us, and may be updated from time to time at our sole discretion upon providing notice of the same.
- 10.4 The parties to this Agreement are independent contractors. Nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representation, or employment relationship between the parties. Neither party has authority to make or accept any offers or representations on behalf of the other party.
- 10.5 These Order Terms and any separate agreements whereby we provide you services shall be governed by and construed in accordance with the laws of the state of Queensland, Australia and each party consents to the jurisdiction and venue of said court.