

# PHYLCO AUDIO TERMS AND CONDITIONS

## INTELLECTUAL PROPERTY RIGHTS PROTECTION POLICY

Phylco Audio supports the International Recording Media Association's (IRMA) Anti-Piracy Compliance Program, which protects property rights owners from the unauthorized distribution of their content.

Phylco Audio reserves the right, at its sole discretion, to investigate the ownership of any and all materials provided for manufacturing.

If Phylco Audio determines, or has reason to believe, that the customer does not have the authority to reproduce the product or materials provided, Phylco Audio will have no further obligations to the customer to provide any reproduction services or any other services under any agreements with respect to such product or materials, and will return such product or materials to the customer. By reserving these rights, Phylco Audio does not in any way assume an obligation to investigate or verify ownership of any and all intellectual property or other materials provided by the customer, and Phylco Audio will rely solely on the customers' representations and warranties, as provided under Phylco Audios' *Intellectual Property Rights Form*.

The customer represents and warrants that it is the true and rightful owner of, or is licensed or otherwise possesses legally enforceable rights to use, the registered and unregistered rights, titles, and interests in and to any United States or foreign trademarks, service marks and trade names, copyrights, or other intellectual property rights relating to the customer's property subject to this agreement, including but not limited to the right to use certain films, music, and sound recordings, pictures, software, etc.

The customer is not, or will not be, as a result of the execution and delivery of this agreement or the performance of the obligations hereunder, in violation of any intellectual property rights of third parties.

No claims with respect to the customer's intellectual property rights or third party intellectual property rights are currently pending, or, to the knowledge of the customer, are threatened by any person, nor, to the customer's knowledge, do any grounds for any claims exist. Customer agrees to indemnify, defend, protect, and hold harmless Phylco Audio and its subsidiary and their respective officers, directors, agents, affiliates, distributors, franchisees, and employees (collectively, "indemnified parties") against any liabilities, losses, claims, damages, punitive damage, causes of action, lawsuits, administrative proceedings (including interest from the date of such damages), and costs and expenses (including without limitation reasonable attorneys' fees and disbursements of every kind, nature, and description) (collectively, "damages") suffered, sustained, incurred, or paid by the indemnified parties in connection with, resulting from, or arising out of, directly or indirectly (i) any claim, demand, proceeding, or lawsuit by a third party based on any assertion that the services provided to the customer under this agreement breaches the patent, copyright, trademark, trade secret, or other proprietary right of such third party and (ii) any breach of any representation or warranty of the customer set forth in this agreement or the *Intellectual Property Rights Form*, Intellectual Property Ownership Agreement, Purchase Order, or in any other form or document in connection herewith. The customer agrees to provide Phylco Audio, upon request, all necessary documentation for a supplied data source, including all pertinent copyright and licensing information.

## PAYMENT / DEPOSIT

We are happy to accept cash, company check, money order, VISA, MasterCard and American Express. **We cannot accept personal checks for final payment.**

Phylco Audio requires a 60% deposit with your order. Balance of payment, is due upon completion or order, before shipping (No C.O.D.S).

Past due accounts and accounts placed for collection are responsible for all associated fees, including interest at 2% per month on the late balance.

## BILLING POLICY

Customer will be billed for actual quantity shipped.

If customer provides disk art or printed materials any changes needed will be billed to customer.

## PICK UP / DELIVERY POLICY

Phylco Audio is not responsible for storage of any printed materials.

In the event a client fails to pay within 90 days for any work completed, or in the event a client fails to accept delivery or pick up the finished product within 90 days from completion, Phylco Audio has the right to sell, dispose of, or use any such material on hand in any way the company chooses. Any deposit made towards the order will help to pay off and debts incurred.

## PRICING POLICY

Phylco Audio reserves the right to change prices, colors, materials, specifications, and quantities mentioned in our catalog without notice or obligation.

## GUARANTEE POLICY

Phylco Audio guarantees the customer's satisfaction with art and audio proofs. If Phylco Audio cannot satisfy the customer, we will refund the entire deposit amount if customer wants to cancel project. However, once proofs are approved, we will charge for all work performed, even if the project is subsequently canceled.

Your order will be delayed if you have failed to enclose all necessary materials (master, artwork, deposit, signed order form, and signed *Intellectual Property Rights Form*). Quoted or acknowledged delivery dates are only estimated dates of delivery. Phylco Audio specifically disclaims liability for delays in delivery and any resulting consequential damage or losses.

Phylco Audio reserves the right to refuse any order. All masters, artwork, photos, and any other materials furnished to Phylco Audio by the customer remain the property of the customer.

While Phylco Audio will treat the customer's materials with the utmost care, Phylco Audio specifically denies liability for any damage or loss due to fire, casualty, or negligence while the customer's materials are in the care and possession of Phylco Audio. Customers should make duplicates of all materials provided and insurance coverage, as Phylco Audios' policy does not provide protection for customer materials in our possession.

No merchandise may be returned to Phylco Audio without return authorization. Phylco Audio limits liability to rerun or refund (at our sole option) on the services performed and product delivered, provided that the product is deemed defective by reason of workmanship or materials. Phylco Audio disclaims all liability for any consequential damage or losses, under any theory, for defects in material or workmanship. Reruns or refunds will be prorated based on the quantity of goods returned to Phylco Audio. No product is replaced, or credit given, more than sixty (60) days after customer's receipt of product. Phylco Audios' products are unconditionally guaranteed against defects in workmanship.

## ADDITIONAL TERMS

I understand that Phylco Audio is not a record label, and that any use of Phylco Audios' service does not imply that they are functioning as a label for my release. My sending of masters and other final materials implies that I have kept an exact safety copy of the masters, and a computerized or similar backup of all original artwork sent. I will not hold Phylco Audio liable for any damage to or loss of materials. I understand that Phylco Audio does not guarantee an exact color match, nor does it guarantee that there won't be occasional, minor marks on the printing it provides. It does, however, guarantee that colors will be matched within the commercial criterion of "pleasing color," if and only if I approve a color proof of my project.

Electronic files received from customers are considered to be in final form. Changes and corrections made to electronic files after receipt by Phylco Audio will incur charges. All corrections made on such files will incur a charge of \$65 per hour with a minimum of \$65. **No work will proceed on any order until the appropriate forms are signed and a deposit has been received.**

---

I agree to the aforementioned Terms and Conditions