

Effective January 11, 2016

## **1. Scope and application**

These general terms and conditions govern the rights and obligations in the relationship between OSA Crypt, 8606 Nänikon, Switzerland, and its customers.

They apply to all business relationships between OSA Crypt and its customers, unless otherwise agreed in writing.

By giving a verbal or written production order, customers are automatically giving their consent to these terms.

Customer terms and conditions shall only apply insofar as they have been accepted in writing by OSA Crypt.

OSA Crypt reserves the right to amend or supplement these terms at any time.

Customers will be notified of the currently applicable terms and conditions in an appropriate manner; they will also be made available online at <https://osacrypt.studio>.

## **2. Clients**

OSA Crypt considers those persons who have placed an order, either verbally or in writing, as its clients, even if they ask the invoice to be sent to a third party.

The client is fully and jointly liable with the invoice recipient for the invoice amount.

If the order is placed on behalf of and billable to a third party, OSA Crypt must be expressly notified of this fact before starting production.

OSA Crypt is under no obligation to check whether the person submitting the order is entitled to do on behalf of said third party.

## **3. Canceling or rescinding orders**

Reservations may be canceled at any time up to two weeks before the scheduled studio date.

For cancellations submitted after that deadline, OSA Crypt may, at its discretion, bill the client in full for the booked time, taking into consideration the reason for the cancellation and the opportunity to rebook the timeslot.

## **4. Work hours & production time**

A working day consists of 8 hours including the usual breaks.

The start and end times of a recording day will be individually set for each order by OSA Crypt in coordination with the client.

OSA Crypt assumes no liability for delays caused by the scheduling problems of third parties, such as musicians etc.

## **5. Materials provided**

Clients assume liability for damage to outside tapes, disks, or data storage devices used for the production, but only up to the material value of the storage device/medium itself.

If clients provide OSA Crypt with irreplaceable sketches/recordings for editing, demonstrations, etc., they do so at their own risk. Insurance (for more than the material value) and backups are recommended. OSA Crypt assumes no liability for such materials.

## 6. Copyright (all rights for mechanical & intellectual property)

If protected works, music or voice recordings are used on production orders at the client's request, the client is responsible for obtaining rights to the same.

Accordingly, OSA Crypt disclaims any and all liability in connection with violations of third-party copyright and other intellectual property rights.

## 7. Outsourcing

If outside service providers are required to complete an order, OSA Crypt is not responsible for the quality, timeliness or cost of these services.

Client assumes liability for third-party claims arising from the performance of the contractual obligations placed on OSA Crypt and therefore agrees to hold harmless and indemnify OSA Crypt.

## 8. Inspection and transfer of risk

Clients are obliged to inspect the products delivered by OSA Crypt immediately upon delivery or pick-up for their completeness and accuracy.

Any damage, defects and complaints are to be made immediately upon discovery, but no later than within 5 working days, in writing (by letter or email) sent to OSA Crypt's address.

If no complaint is made within 5 working days from such time as clients take delivery, the delivery shall be deemed to have been correctly made unless such deviation was not clearly evident despite careful inspection.

Once the products are delivered or handed over to clients, they assume the risk for the same.

If a client fails to pick up products on time as agreed, they will be stored at the client's cost and risk for five days and then forwarded to the client.

## 9. Archiving

Mixing elements on the masters and all other data storage devices will be archived during production at OSA Crypt's sole discretion, unless otherwise agreed in writing.

Once production is complete, clients may have copies made of all data onto their own data storage devices for their own archives to be kept at their premises.

OSA Crypt makes no warranty for the completeness and future readability of this data.

All data recorded during production data will, as a rule, be deleted one month after production is complete, unless otherwise agreed in writing. This one-month archiving is free.

Clients have the option to take out a subscription for continued, long-term archiving with OSA Crypt. In this instance, OSA Crypt guarantees the constant availability and care of archived data within the scope of the selected subscription even once production is complete.

## 10. Prices

The prices shown should be considered estimates only.

The invoiced amount will include the actual labor, materials used, expenses and costs incurred for the use of third-party services or services offered by OSA Crypt partners, unless the production has been offered for a fixed, flat price.

As a rule, clients shall pay 50% of the bid/estimate total to OSA Crypt before the start of any recording, mixing, or mastering session.

The amount already paid will then be deducted from the total amount owed once production is complete.

If the scheduled recording dates cannot be kept for reasons under the client's control, the advance payment will be retained as damages, with the remaining amount owed for the session waived.

The advance payment will be fully refunded only if the relevant dates have been canceled by the customer at least 2 weeks in advance.

All of our prices are net and do not include VAT.

Additional costs, such as costs for packaging, shipping, or the like are not included in these prices, but will be billed to the client (with VAT added).

For the manufacture of recording mediums, the following specific provisions shall apply: The postage and packaging costs are included in the total amount. Import duties and the value-added tax will be billed separately.

Without exception, the client shall pay the total amount due for the manufacture of recording mediums before the start of production.

## 11. Payment terms

Unless otherwise agreed in writing, all invoices from OSA Crypt are to be paid in full in 14 days.

After this period, the client shall be considered to be in default without further warning.

OSA Crypt then reserves the right to asset default interest equal to 6% of the total amount owed.

If the client is in default, all outstanding invoices become immediately due.

If the outstanding invoices remain unsettled after a deadline set by OSA Crypt, OSA Crypt is entitled without further notice to cease further deliveries to the client, either in whole or in part, until such time as its liabilities to OSA Crypt have been settled or secured.

The client shall bear any and all consequences arising from such suspension of deliveries.

OSA Crypt is entitled to assert claims for its reminder, collection, legal, and court costs and any damages incurred.

The client shall notify OSA Crypt in advance if a delay in payment is foreseeable.

## 12. Retention of title

The delivered products remain the property of OSA Crypt until they have been paid in full as agreed herein.

The client agrees to provide written consent to this retention of title in all key points at OSA Crypt's request.

### 13. Confidentiality

The client agrees to treat all data and information from its contractual relationship with OSA Crypt, especially prices, discounts, bonuses, etc. as confidential and not to disclose the same to any third party whatsoever.

OSA Crypt reserves the ownership and copyright of all calculations and estimates. They may not be disclosed to third parties without OSA Crypt's prior consent.

### 14. Liability

a) **OSA Crypt**

OSA Crypt is liable only for direct damages caused by the demonstrably gross negligence of OSA Crypt or third parties working on behalf of OSA Crypt.

Liability is limited to the price of the particular delivery or service.

OSA Crypt, its agents, and third parties working on its behalf hereby disclaim all liability for further damages.

In particular, clients shall have no claims arising from indirect damages such as the loss of orders, loss of profits, loss of reputation, or similar damages, whatever the circumstances.

b) **Client**

The client assumes full liability for any damage caused to OSA Crypt equipment or facilities by its gross negligence or that of persons present on its behalf (musicians, etc.).

Minor damage to consumables (cables, fuses, drumheads, etc.) caused by normal wear and tear are covered by the studio rent and will not be billed to the client.

c) **Archiving**

The following liability provisions apply only to data archived under an archive subscription offered by OSA Crypt as well as data obtained during active production.

Data archived for free for one month after completion of production is excluded from these provisions, because OSA Crypt accepts no liability for such data.

If data or intermediate materials of any kind are lost as a result of negligent archiving or are consequently no longer usable as intended, OSA Crypt will again provide all services that resulted in this data or material at no extra charge provided the injured party can demonstrate a clear business need for the same.

No further liability claims will be accepted.

If data or intermediate materials of any kind are lost despite proper archiving (such as by elemental damage, hardware failures, etc.) or they are consequently no longer usable as intended, OSA Crypt will refund the full amount paid for one billing period of the client's selected subscription.

No further liability claims will be accepted.

### 15. Applicable law, place of jurisdiction

All contracts and these terms and conditions of OSA Crypt are exclusively subject to Swiss law, with express exclusion of international agreements, especially the Vienna Convention on the International Sale of Goods (CISG).

The place of jurisdiction for all disputes arising directly or indirectly from this contractual relationship shall for all parties be the competent courts in Uster or the Canton of Zurich.

OSA Crypt is entitled to pursue legal recourse against the client at any other court holding jurisdiction.

## 16. Severability clause

If any provision of these terms and conditions is unenforceable or invalid, the remaining provisions shall remain unaffected.

The invalid provision shall be interpreted in such a way that corresponds to the intended purpose of the same.