

**DAMAGE DONE S.R.O.**  
**(D/B/A XVINYLYX)**  
**TERMS AND CONDITIONS OF SALE**

1. Confirmation. These Terms and Conditions apply to any order for XVINYLYX Products and Services (as hereafter defined) that is placed by a customer (“**Buyer**”), including orders placed directly with **Damage Done s.r.o. (d/b/a XVINYLYX)**, a Czech Republic company (“**Seller**”), and orders placed through other members of the **XVINYLYX Group**, including **XVINYLYX, Inc.**, an Oregon corporation (“**XVINYLYX USA**”), and **XVINYLYX PTY LTD**, an Australian Private Company (“**XVINYLYX AUS**”). Any additional or differing terms or conditions proposed by Buyer or included in Buyer’s acceptance of a quotation from Seller shall not become part of any agreement between the parties and are hereby rejected, unless Seller expressly agrees in writing to accept such additional or differing terms and conditions when it accepts the order. No order shall become an agreement unless and until it is accepted in writing by Seller. Each accepted order shall constitute a legally binding contract between Seller and Buyer, and these Terms and Conditions are incorporated into each such contract. All references herein to Seller include Damage Done s.r.o., XVINYLYX Inc. and XVINYLYX PTY LTD, unless the context requires otherwise.
2. Products and Services. The Products and Services shall be those specifically listed on the quotation or order acceptance by Seller, which may include but not be limited to print and packaging, replication of optical discs, replication of vinyl records, audio cassette duplication, mastering services, fulfillment and distribution (collectively, “**Products and Services**”).
3. Prices. Prices stated are those now in effect and shall be DAP Buyer’s port (Incoterms 2010), unless otherwise agreed by the parties in writing. Seller reserves the right, however, to invoice Products and Services at Seller’s prices prevailing at the time of shipment. Payment must be made in E.U. Euros (XVINYLYX) or U.S. Dollars (XVINYLYX USA) or Australian Dollars (XVINYLYX AUS), unless otherwise agreed by Seller in writing.
4. Taxes. Prices do not include any sales, use, excise, value-added or other local, provincial or national taxes or assessments or similar taxes. In addition, prices do not include import duties or fees for clearance through customs, unless specifically agreed by the parties in writing. Any such taxes, import duties or customs clearance fees which Seller may be required to pay or collect upon the sale, licensing or delivery of the Products shall be paid by Buyer to Seller, unless Buyer provides direct payment authority or appoints Seller to serve as its payment agent using the appropriate form valid in the country to which the Product is shipped.
5. Terms of Payment. Unless otherwise agreed by both parties in writing, Buyer shall provide one hundred percent (100%) of the total purchase price for the Products (without deduction or bank charges) in immediately available funds by wire transfer to an account designated by Seller. All payments shall be made in E.U. Euros (XVINYLYX) or U.S. Dollars (XVINYLYX USA) or Australian Dollars (XVINYLYX AUS) and shall be due upon Seller’s acceptance of the order. The purchase price for Services shall be paid as per the terms and conditions of the order accepted by Seller.
6. Credit Acceptance. Shipment and delivery shall at all times be subject to the approval of Seller’s credit department. In the event Seller shall have any reasonable doubt as to Buyer’s financial condition or likelihood or ability to pay, Seller may decline to make any further shipments hereunder, except upon receipt of satisfactory security (such as a Standby Letter of Credit). All Products ordered by Buyer but withheld from delivery by Seller for any of the foregoing reasons shall be stored by Seller at Buyer’s sole cost and expense, or the order may be terminated by Seller in its sole and absolute discretion.

7. Finance Charge. Interest shall be charged at the rate of two percent (2%) per month of the outstanding past due balance or the maximum rate permitted by law, whichever is lower.
8. Delivery and Title. Unless otherwise agreed by both parties in writing, delivery of the Products shall be made DAP Buyer's port (Incoterms 2010) ("Delivery"). Title to the products shall be deemed to pass from Seller to Buyer at the time of Delivery.
9. Delay. Seller will use commercially reasonable efforts to meet scheduled delivery dates; however all delivery dates are estimates only, and Seller shall not be liable for late delivery. In addition, and without prejudice to the foregoing, Seller shall not be held liable for its failure to deliver the Products as scheduled due to causes beyond its reasonable control. In particular, Seller shall not be liable for any delay in manufacture or delivery due to acts of nature, acts of government, embargo, sanction, strike, riots, differences with workmen, terrorist acts, inability to procure supplies or raw materials, delays in transportation, precedences or priorities granted at the request or for the benefit, directly or indirectly, or the federal or state or foreign government or any subdivision or agency thereof or any contingencies beyond the control of Seller. In the event of any delay requested by Buyer or any delay caused by lack of shipping instructions, Seller will store all Products ordered at Buyer's risk and expense, and will invoice Buyer for 100% of the agreed upon unit price for all Products ready for shipment. If the manufacture of Products is delayed by Buyer, payment shall be made based on the percentage of completion and the unit price on Buyer's confirmed purchase order.
10. Order Cancellation. Orders will be accepted with the understanding that Buyer shall not require any modifications or changes to specifications of the Products unless its request for such modifications is agreed to in writing in advance by Seller. Buyer may, prior to the scheduled date of shipment, cancel the shipment of any Products provided that (1) Seller received written notice of such cancellation before such shipment date, and (2) Buyer pays to Seller within thirty (30) days from date of Seller's invoice a cancellation charge of 100% of the agreed unit price for all Products ready for shipment per Buyer's confirmed purchase order. If any Products have been purchased by Seller or any labor has been applied to the assembly of ordered Products not ready for shipment, such cost will be invoiced to Buyer if cancelled by Buyer. Terms of payment as noted above apply.
11. Acceptance. The Products will be deemed accepted by Buyer unless Buyer notifies Seller in writing within five (5) days after receipt of Delivery of the Products of any defect or shortage. Buyer shall specify the nature of the defect or shortage. Upon receipt of such notice from Buyer, Seller shall replace the defective Products free of charge within a commercially reasonable time or refund that portion of the purchase price attributable to the defective Products, provided that: (i) damage to the Products was caused by transportation of the Products by Seller or its designated carrier or was due to defects in design, workmanship or materials, (ii) the defective Products shall be returned to Seller for inspection at Seller's expense, in the manner specified by Seller, (iii) the claimed defect was not already present in the source material, sample, artwork, data, material or documentation approved by Buyer or provided by Buyer, and (iv) the percentage of the Products claimed to be defective exceed one percent (1%) of the total number of units Delivered. Seller shall not be liable for minor defects which do not impair the use of the Products, normal wear and tear, damage occurring after transfer of risk of loss, use by Buyer, or other causes not explicitly attributable to and assumed by Seller. Buyer shall reimburse Seller for any and all of its expenses or damages incurred in receiving and inspecting returned Products if Buyer's rejection of the Products is unjustified, in Seller's sole and absolute discretion. Buyer shall be deemed to have accepted the provision of Services by Seller unless Buyer provides notice to Seller of any material deficiency within five (5) days of Seller's completion of the Services. Seller's sole obligation

for any deficiency of the Services shall be limited to the provisions of the LIMITED WARRANTY section set forth below.

12. WARRANTY DISCLAIMER. All sales are final. SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, RELATED TO THE PRODUCTS, INCLUDING WITHOUT LIMITATION, ANY REPRESENTATIONS AND WARRANTIES AS TO THE SUITABILITY, DURABILITY, FITNESS FOR USE, MERCHANTABILITY, CONDITION, QUALITY, PERFORMANCE OR NON-INFRINGEMENT OF THE PRODUCTS. THE SALE OF THE PRODUCTS IS MADE ON AN "AS-IS" BASIS.
13. LIMITED WARRANTY FOR SERVICES. Seller shall perform all Services in a professional and workmanlike manner and consistent with generally accepted industry standards. EXCEPT AS EXPRESSLY STATED HEREIN, SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WHETHER STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE REGARDING THE SERVICES.
14. LIMITATION OF LIABILITY. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY LOST PROFITS, BUSINESS INTERRUPTION LOSSES, THIRD PARTY LOSSES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES ARISING OUT OF THE PRODUCTS OR SERVICES SOLD HEREUNDER. SELLER'S TOTAL LIABILITY TO BUYER FOR DELIVERY OF THE PRODUCTS OR PROVISION OF THE SERVICES SHALL BE LIMITED TO ONE HUNDRED PERCENT (100%) OF THE PURCHASE PRICE ATTRIBUTABLE TO THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM.
15. Indemnification. Buyer shall indemnify, defend and hold harmless Seller from and against any and all claims, disputes, proceedings, actions, fines, penalties, suits, losses, expenses or damages arising out of or due to (i) the ordered Products infringing on any copyright or any other intellectual property right of a third party; (ii) Buyer's failure to possess all rights or licenses to the content contained on or in the Products, (iii) Buyer's failure to pay any royalties or fees when due on licensed or unlicensed content contained on or in the Products.
16. Termination. Seller may terminate any agreement with or purchase order from Buyer if Buyer breaches any of its obligations hereunder or thereunder and fails to cure such breach within thirty (30) calendar days after receiving notice of such breach from Seller. Seller may terminate any agreement with or purchase order from Buyer immediately and without providing Buyer with an opportunity to cure such breach and, at Seller's option, cancel all undelivered Products or any confirmed purchase orders upon notice to Buyer if (i) Buyer makes an assignment for the benefit of creditors, (ii) a voluntary or involuntary petition or other action in bankruptcy or for reorganization or under any other insolvency law is filed by or against Buyer, (iii) Buyer admits its inability to pay its debts as they become due, (iv) a trustee, receiver or liquidator is appointed for any part of the assets of Buyer, or (v) Buyer fails to make payment to Seller in accordance with the terms hereof. Seller shall not be required to proceed or continue with performance of any agreement or purchase order while Buyer is in default under the terms hereof.
17. Governing Law; Venue. The agreement between Buyer and Seller created hereby shall be governed by the internal laws of the state of Delaware, U.S.A., without resort to its conflict of laws rules. The parties agreed that the United Nations Convention on the International Sale of Goods (1980) shall not apply to these Terms and Conditions. The parties submit to the exclusive jurisdiction of the state and federal courts of the State of Delaware, U.S.A. for the resolution of any disputes arising out of any purchase order or Seller's delivery of the Products or Services hereunder.

*January 1<sup>st</sup>, 2020*

18. Regulatory Requirements and/or Standards. Seller makes no promise or representation that the Products and/or Services will conform to any national, state or local ordinances, regulations, codes or standards, except as particularly specified and agreed upon for compliance in writing as part of an agreement between Seller and Buyer. The proposals submitted to Buyer by Seller do not include the cost of any related inspections, permits or inspection fees unless expressly stated.
19. Severability. If any term or condition, or the application thereof, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of these Terms and Conditions shall remain in full force and effect.
20. Entire Agreement; Amendment. These Terms and Conditions constitute the entire agreement between the parties and supersede all previous understandings, agreements and representations, either written or oral, with respect to the subject matter hereof. No modification of these Terms and Conditions shall be binding unless made by written agreement of the parties and signed by their duly authorized representatives.