



Santa Monica video, Inc.  
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## Terms & Conditions

- 1. PRICES:** Prices to be charged for use of all facilities (herein after "services") shall be in accordance with the rate card of Santa Monica Video, Inc. (herein after "SMV"), which is incorporated herein as though fully set forth. Client hereby accepts the standard prices stated in the SMV rate card and shall in addition pay all applicable sales, use, manufacturing, excise or other similar taxes or government charges. Audio and visual tapes, hard drives, property and products, artwork, reproduction, film and all other assets and materials (herein after referred to as "materials") submitted to SMV shall be suitable for use by methods employed by SMV in its customary commercial operations. Unless otherwise specified, the published prices of the SMV rate card are for work deemed by SMV to be a standard process of products. Prices for any other type of processing or products shall be quoted upon request. Unless otherwise specified, transportation of all materials to and from SMV, whether provided by Client, SMV or its agents or subcontractors, shall be at Client's risk and expense.
- 2. EXTENSION OF CREDIT:** Applications for Credit or Client Credit Summary Sheets submitted to SMV for the purpose of obtaining credit with SMV will be processed as actual SMV Credit Applications. Clients submitting such documents acknowledge that an owner, corporate officer or qualified decision maker with their company has read, understands and agrees to all terms and conditions of SMV.
- 3. BILLABLE TIME:** All facilities, manpower charges and services are billed at SMV's standard rates.
- 4. TERMS OF PAYMENT:** Subject to approval of credit, Client agrees to pay SMV on or before thirty (30) days from date of invoice. If payment is not made when due, Client agrees to pay interest at a rate of one and one half percent (1.5%) per month. Any claims for adjustments in connection with any invoice must be presented to SMV in writing within ten (10) days from the date of the invoice. Client hereby waives any claim for adjustment that is not timely presented according to the provisions of this paragraph. In any action to enforce the provisions of these terms and conditions, the prevailing party shall be entitled to recover cost and reasonable attorney's fees.
- 5. CREDIT CARD AUTHORIZATION:** Clients may submit written authorization for payment by credit card at SMV. Submission of such authorization signifies acknowledgement of satisfactory completion of work performed by SMV and entitles SMV to charge the Client's credit card for any outstanding balances at SMV for the Client, its representatives, subsidiaries, divisions, affiliates, dba's and/or any company with which the Client submitting authorization is associated whether affiliated with the company under which the authorization was submitted or not.
- 6. TENTATIVE SCHEDULING:** If Client has requested the use of SMV's facilities, equipment, materials and services on a "hold" basis, such request shall be deemed to be "confirmed" upon the earliest to occur of the following events:
  - a. 48 hours before scheduled commencement of SMV services unless canceled by Client.
  - b. Client provides SMV with confirmation any time prior to 48 hours before scheduled commencement.
  - c. SMV notifies Client that another client is prepared to confirm time tentatively scheduled by Client and Client confirms scheduled work. If tentatively scheduled Client elects not to confirm upon such notification, then the tentatively scheduled time shall be deemed canceled. If Client provides no cancellation of confirmed schedule, then cancellation charges set forth in Paragraph 5 shall be assessed against Client.
- 7. CANCELLATION:** Facilities and services scheduled at Client's request but not used will be billed in the following manner; 50% of the full rate charges for facilities and services booked unless notice of cancellation is received prior to forty-eight (48) hours before the scheduled start time of the session, 100% of the full rate charges for facilities and services booked if notice is not received prior to twenty-four (24) hours before the scheduled start time of the session.
- 8. CLIENT LIABILITY FOR INFRINGEMENTS:** Client shall indemnify and hold harmless SMV from all suits, claims, demands and other liabilities for trademark or copyright infringement arising out of the production, distribution or exhibition of any other materials with which SMV furnished services. SMV shall give Client prompt written notice of all suits and claims for infringement. Client hereby agrees to defend SMV and to pay all costs in connection with any infringement action.
- 9. RETURN OF CLIENT'S MATERIAL:** Upon receipt of a written request by Client and after all outstanding amounts due SMV have been paid, SMV is hereby authorized to send all materials to Client at Client's expense. Any of Client's materials that have been retained at SMV after completion of Client's work may be returned to the Client at the Client's expense, charged a customary storage fee for each day thereafter that the materials remained unredeemed, charged a removal fee for each element, and/or advise the Client that his materials will be disposed of if not redeemed within sixty (60) days of written notice.
- 10. LIMIT OF LIABILITY:** SMV shall not be liable for any lost profits or special, incidental, indirect consequential, or any other type of damages whatsoever resulting from defective equipment provided by SMV whether or not such damage or destruction is caused by the negligence of SMV, its employees, agents or subcontractors, including, but not limited to, improper storage, processing or loss of materials. The extent of SMV's liability will be limited to the replacement of similar quality raw material that had been lost or damaged by SMV, its employees, agents or subcontractors. SMV gives no warranty, express or implied as to merchantability, fitness for a particular purpose, or quality of services and equipment provided by SMV. It is understood and agreed that SMV is not an insurer and that payments made for the services and equipment provided by SMV are based solely on the value of such services. In no event and under no circumstances shall SMV be liable for any damages because of delays due to the elements, equipment failure, acts of God, acts of Client or the alleged negligence of SMV, its employees, agents or subcontractors. SMV hereby disclaims any and all liability for, but not limited to any loss or damage that could occur to any Client's owned materials, such as Masters or Sub Masters, film, video, audio, electronic, or original elements in our possession for any and all reasons, at any time, including, but not limited to acts of God, negligence, delays, equipment failure or otherwise, regardless of guilt. It is the Client's responsibility to have insurance or suitable back-up materials for any property or irreplaceable materials they own placed under the care of SMV. If any action is filed for a third party for a delay in producing said materials caused by the foregoing, Client hereby agrees to indemnify, defend and hold harmless SMV from any and all suits, claims, demands or other liabilities. Client is required by SMV to remain in SMV lobby and/or designated client areas only. If Client enters any other area of the facility, it is with the understanding that they do so at their own risk and agrees to hold SMV harmless for any incidental or other physical injury that may occur. Client is required by SMV to fully attend to their children and pets. SMV accepts no responsibility for any incidental or other injury that may occur to any child or pet entering the facility. SMV hereby disclaims any and all liability for any loss or damage that could occur to Client, Client's child, Client's pet, or any Client's owned materials in our facility for any and all reasons, at any time, including, but not limited to acts of God, negligence or otherwise, regardless of guilt. Client hereby agrees to indemnify, defend and hold harmless SMV from any and all suits, claims, demands or other liabilities alleged while at SMV.
- 11. WARRANTIES BY OWNER:** Client warrants that it is the sole owner and/or has the right to possession and use of all elements delivered to SMV by Client or his agent. Client shall indemnify and hold harmless SMV from all liability costs and expenses arising out of or in connection with the publication, processing, use, distribution, content, or exhibition of elements delivered to SMV, including without liability, costs and expenses for claims based upon libel, slander, defamation, invasion of privacy or infringement of patent, copyright, trademark or other proprietary rights.
- 12. THIRD PARTIES:** Client acknowledges its sole financial responsibility for timely payment in full for services rendered by SMV to it regardless of Client's arrangements, contracts or understandings with third parties. SMV will not look to third parties for payment, since Client bears such responsibility and hereby acknowledges same.
- 13. LIENS:** Client hereby grants SMV a lien on all materials delivered by Client to SMV and on all materials made by SMV therefrom for the balance of the account due to SMV. If any such balance shall be unpaid for a period of ninety (90) days after it becomes due in accordance with the terms of this agreement, SMV may, upon five (5) days written notice to Client, which specifies the amount due and informs the Client that the payment of the amount due within five (5) days will entitle Client to redeem materials, sell the materials at a public or private sale to satisfy the account. The proceeds of the sale, after paying the expense thereof, shall be applied to liquidate the indebtedness secured by the lien, including all storage charged to date and the aforesaid indebtedness and accrued charges. Client shall pay the difference to SMV. Client acknowledges and hereby agrees that no civil action will be filed against SMV for exercising its rights pursuant to the foregoing. Further, Client hereby agrees to indemnify, defend and hold harmless SMV of any delays that are caused by SMV's enforcement of their lien.
- 14. RIGHT TO REFUSE SERVICE:** SMV, in its sole discretion, may refuse, without liability, to perform post-production services. If at any time, SMV in its sole judgment elects not to provide services, SMV will notify Client and will retain possession of all materials until Client has paid in full for the services provided. Upon receipt of said payment in full, SMV shall return all such materials in its possession to Client. Other than its obligation to return said materials upon receipt of payment in full from Client, SMV shall incur no further obligation or liability of any kind whatsoever to Client.
- 15. PUBLICITY AND ADVERTISING CREDIT:** SMV shall have the right to use Client's name and to publicize and advertise Client's order or purchase of services and materials from SMV.
- 16. PARTIAL VALIDITY:** The provisions of this stipulation are severable and should any provisions for any reason be unenforceable, the balance shall nonetheless remain in full force and effect.
- 17. CHOICE OF LAW, JURISDICTION AND VENUE:** This agreement shall in all respects be interpreted, enforced, governed and construed in accordance with the laws of the State of California. This stipulation is deemed to have been jointly prepared by the parties hereto, and any uncertainty or ambiguity existing herein shall not be interpreted against any of the parties, but according to the application of the rules of interpretation of contracts. In the event of an action between SMV and Client for any dispute and/or to enforce any rights granted hereunder the prevailing party in such action or proceeding shall be entitled, in addition to any other relief granted by the court, to such reasonable attorneys' fees and costs. Any action based upon this work shall be brought exclusively in the appropriate court of the State of California, County of Los Angeles.
- 18. SMV reserves the right,** at its sole discretion, to change, modify, add or remove portions of these Terms and Conditions, at any time.