

Access Video & Photo Services

STANDARD TERMS & CONDITIONS OF SALE

**ENTIRE AGREEMENT:** This agreement contains the entire agreement between Access Video & Photo Services (hereafter referred to as Access Video) and the Customer concerning the services performed and resulting Products produced by Access Video from source Materials (such as masters and artwork) provided by the Customer. No prior agreements, understandings or representations, either written or oral, supercede the terms of this agreement. Any amendments to this agreement must be written and signed by both parties.

**ACCEPTANCE:** By placing an order or accepting shipment of ordered Products from Access Video, Customer agrees to be bound by all of the terms and conditions set out herein. Access Video reserves the right to refuse to accept Purchase Orders or Work Orders for any reason. Acceptance of such orders is also contingent upon review of Customer source Materials. Among other policies, Access Video does not process "adult", pornographic, illegal, or objectionable Materials. Access Video may also refuse to process Material lacking adequate copyright ownership documentation, or Material which is in poor physical condition, unusable, or otherwise inadequate to produce acceptable results without repair, restoration, or special handling/processing.

**MATERIAL CERTIFICATION:** Customer warrants it has the rights and authority to reproduce Materials provided to Access Video and the right to extend that authority to Access Video to the extent needed to perform the services ordered. Customer certifies that performance of ordered services or production of ordered Products by Access Video does not violate any laws, such as obscenity or slander, nor the rights of any third party, such as copyrights, patents, trademarks, or other proprietary rights. Customer agrees to indemnify, defend, and hold Access Video harmless from and against any and all actions, suits, claims, liabilities, losses and expenses (including legal fees and court costs) arising directly or indirectly from work performed or Products produced by Access Video as a result of Products or services ordered by Customer.

**CANCELLATIONS:** Access Video will accept order cancellations, without penalty, up until the time work has begun on the Products or services ordered or until special materials have been purchased to process the order, whichever is earlier. However, due to the custom nature of work performed, Customer agrees to pay in full for all completed Products and services ordered by Customer even if Customer fails to pick-up, delays shipment or refuses shipment of such Products. In the event of a cancellation for work that has begun but is not yet complete, Access Video will prorate charges, at its sole determination, to an amount proportional to the work completed and costs incurred. Customer agrees to pay all such cancellation charges.

**TERMS OF PAYMENT:** Products and services are invoiced at the time of shipment (or at completion of service if shipment is delayed by Customer), or for local Customers, at the time work is complete and Customer is notified Products are ready for pick-up. Terms are Net 15 or Net 30 (indicated on invoices) to all established accounts. Local non-established account Customers must pay for Products and services by cash, check or accepted credit card at the time of pick-up. For some services, Access Video may require partial or complete pre-payment before work can begin. For shipped Products to local non-established accounts, payment must be received by Access Video by cash, check or accepted credit card before Products ship, and in many cases must be pre-paid before work can begin. Non-local, non-established account Customers must pre-pay for services by money order, check or accepted credit card before work can begin. For established account Customers, past due invoices will be charged interest at the rate of 1½ percent per month. If the account is placed for collection, the Customer agrees to pay all costs of collection, including attorney's fees and court costs. Customer authorizes Access Video to report the status of the account to credit agencies.

**LIEN ON MATERIALS AND PRODUCTS:** In order to secure payment, Customer grants Access Video a first and valid lien and security interest in all property of Customer held by Access Video regardless of the relationship of the property to the indebtedness. Access Video shall maintain a security interest in all Products, regardless of possession, until payment is received in full for such Products.

**ESTIMATES:** The amounts and dates on Access Video Estimates and Work Orders are good faith estimates of the anticipated charges and completion time. Unknown factors, such as the length of a video program or poor quality of source material, can result in higher (or lower) prices and affect completion time. Factors beyond Access Video's control, such as machine malfunctions and power failures can also increase completion time. Access Video will notify customers as soon as practical if total charges or completion time will significantly exceed estimates.

**LIABILITY:** Customer is responsible for insuring Materials and/or maintaining backup copies of Materials provided to Access Video. Access Video will exercise reasonable care in handling Materials but does not accept responsibility for any loss or damage to Customer's Materials from any cause whatsoever. Customer should allow reasonable time for contingencies during completion of services. Access Video shall not be held liable for any loss of any kind due to delays in completion of services ordered by Customer. All shipment of Products will be F.O.B. Access Video facilities in Austin, Texas. Access Video does not accept liability for losses in shipping or for loss or damage to Products awaiting pick-up by Customer or otherwise held for Customer at Access Video's facilities for more than five days after notification to customer that such Products are available for pick-up or shipment.

**STORAGE OF MATERIALS:** Except in the case of master tapes and similar Materials stored by Customer at Access Video's facilities for ongoing services, Customer is responsible for retrieving all Customer Materials and purchased Products within 30 days of notification of completion of services. In the event Customer fails to retrieve Materials or Products, upon additional 30 day notification, Access Video shall have the right to either ship Material to Customer's most recently provided address at Customer's expense, or dispose of the Material in any other manner without liability.

**TOOLING AND DATA:** Access Video retains title to all tooling and data, including computer files, temporary masters, and programs developed by Access Video in the course of performing services and producing Products for Customer under this agreement.

**RETURNS:** Due to the custom nature of the services provided, Access Video does not accept any returns other than Warranty returns.

**WARRANTY:** Access Video provides a 30-day limited warranty against defects in materials or workmanship. As the Customer's sole remedy, and Access Video's sole liability, Access Video will repair, replace, or refund the purchase price, at its sole discretion, any Products returned and found to be defective by Access Video during the 30-day period from the date of Customer pick-up or delivery. Access Video will not be liable for defects caused by defective source material provided to Access Video, for incompatibility with individual playback equipment, for normal wear, nor for damage to Products caused by Customer neglect, abuse, or misuse. Except as otherwise expressly provided in this paragraph, Access Video disclaims all warranties or conditions, expressed or implied, including, but not limited to, any warranty or condition as to performance, merchantability, or fitness for a particular purpose. Access Video shall not be liable and Customer expressly waives any claim for indirect, incidental, punitive, exemplary, special or consequential damages.

**FORCE MAJEURE:** Access Video shall not be liable for failure to complete obligations under this agreement caused by events or circumstances beyond its reasonable control, including but not limited to acts of God, labor disruptions, power or equipment failures, and unavailability of materials.

**SEVERABILITY:** If any provision of this agreement is found to be unenforceable, invalid, or void by a court of law, such provision will be deemed to be severed from this agreement and all other provisions of this agreement will remain in full force and effect.

**GOVERNING LAW:** This agreement shall be governed under the laws of the State of Texas.