

DEFINITIONS:

"Company" means Soft Immersion Labs, Inc., its employees, agents or subcontractors.

"Company Liability" means any and all liabilities, losses, damages, demands, claims, causes of action, judgments and all costs and expenses incurred in connection therewith, including legal fees.

"Element and elements" means any material received from or produced for a Customer with respect to which services are performed or goods are sold by Company or from which Company obtains information in connection with the performance of services or sale of goods to the Customer.

"Customer" means either the sole owner or owners or the duly authorized agent or licensee of the sole owner or owners or a person who has the right to possession and use of the elements delivered to Company.

"Defective" means an operational deficiency or an error in functionality in the final manufactured production that did not exist in the final proof accepted by the client prior to manufacturing. Without restricting the generality of the foregoing, subjective judgment of compressed video quality is hereby excluded from the definition of "Defective".

"Integration" means the process of transforming the Customer's source videotape into an interactive HyperVideo software application.

"Prime" means the prime rate of interest as announced from time to time by the Bank of Canada.

TERMS AND CONDITIONS OF BUSINESS

1. **PRICES:** Prices to be charged for all goods and services shall be prices of the Company in force at the date of acceptance of work by the Company. The Company reserves the right to change prices without notice. Unless otherwise specified, published prices are for work deemed by the Company, at the sole discretion of the Company, to be standard processing or products. Prices for any other type of processing or product shall be quoted upon request.

2. **REPLICATION/DUPLICATION:** Initial and all subsequent replication and/or duplication orders must be placed through Soft Immersion Labs, Inc.

3. **TERMS OF PAYMENT:** Unless credit has been established, all work requires payment in full prior to commencement of manufacturing and duplication.

Payment by Customers with established credit, for services and materials invoiced by the Company to the Customer, are due net 30 days from the invoice date. All credit terms are subject to a 25% handling fee on all third party manufacturing and packaging charges. Customer shall pay interest charges, on all overdue amounts, at Prime plus 10% to the maximum rate allowed by Law. Any claim for adjustment must be presented to Company within 10 days from invoice date.

The Company reserves the right, at any time, to limit the credit terms of any and all Customer(s) with respect to the Company's value-added charges only, and to demand payment for duplication and manufacturing prior to commencing the duplication and manufacturing of the Interactive HyperVideo Software application.

A sample of all products or materials judged to be Defective by the Customer shall be immediately supplied to the Company and, within a reasonable period of time, confirmed by the Company as Defective. Within a reasonable period of time after the Company confirms the product or materials as Defective, the Company shall post on the Company website a remedy to the defect. It shall be the Customer's responsibility to download and implement the remedy. The parties agree that this method of remedying post-production defects is reasonable and is that which is commonly used and accepted in the interactive software industry.

Company Liability for Defective products or materials does not extend to defects caused as a result of an error in the duplication, replication or other manufacturing process of said products or materials.

4. **SHIPPING CHARGES, SALES AND OTHER TAXES:**

Transportation of Elements to and from the Company's place of business shall be at the Customer's risk and expense. All shipments shall be insured at the Customer's expense. Unless the Customer has made other arrangements, all materials will be shipped collect. Existing or future municipal, provincial, federal or other governmental charges for sales, manufacturing, excise and like taxes shall be added to the price charged to the Customer. The Customer agrees to reimburse, indemnify, and hold the Company harmless from any and all taxes which the Company may pay or collect under any existing or future law in connection with the services performed for the Customer, or the sale purchase, delivery, storage, processing, use or consumption of any elements delivered to or deposited with the Company.

5. **STORAGE AND RETURN OF ELEMENTS:**

The Company will store Elements during the time of Integration only. The Customer agrees to remove the Elements at the Customers' expense, within thirty (30) days after written notice from the Company. Such written notice will be sent by regular mail service to the last Customer address on record with the Company. IN THE EVENT THAT THE CUSTOMER FAILS TO REMOVE THE ELEMENTS WITHIN THIRTY (30) DAYS, THE COMPANY SHALL HAVE THE RIGHT TO DESTROY, ERASE, REUSE OR MAKE ANY DISPOSITION OF SUCH ELEMENTS WITHOUT LIABILITY TO THE CUSTOMER OR ANY OTHER PARTY. The Customer agrees to indemnify and hold the Company harmless from any liability arising out of the destruction, erasure, re-use or other disposition of such Elements.

6. **LIMITATION OF WARRANTY:**

THE COMPANY MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE MATERIALS OR SERVICES PROVIDED BY IT AND ASSUMES NO RESPONSIBILITY FOR THE CHARACTER OR QUALITY OF MATERIALS OR SERVICES PROVIDED BY IT. THE COMPANY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. **LIMITATION OF LIABILITY:**

It is understood and agreed that the Customer's Elements are transported, received, processed, used and stored at the Customer's risk and the Company shall not be liable for any lost profits or other damages caused by the loss, damage, or destruction of any Elements belonging to the Customer (or any other party) while in transit or in the possession of the Company, provided, however, that the Company shall replace the Elements in a manner consistent with the following paragraph, if the loss, damage or destruction occurs while the elements are in the possession of the Company (but not in transit) and if such loss, damage or destruction is caused solely by the negligence of the Company.

THE COMPANY'S LIABILITY IN SUCH INSTANCE SHALL IN ANY EVENT BE LIMITED TO REPLACEMENT OF A SIMILAR QUANTITY OF UNEXPOSED RAW STOCK OR BLANK TAPE IN THE QUALITY OF MATERIAL LOST, DAMAGED, OR DESTROYED. Notwithstanding anything to the contrary herein, the Company shall in no event be liable to the Customer or any other party for any act or omission of any party selected by the Company to perform services or furnish materials for the Customer, and THE COMPANY SHALL IN NO EVENT INSURE ANY OF THE CUSTOMER'S ELEMENTS WHILE IN THE POSSESSION OF THE COMPANY OR IN TRANSIT. IN NO EVENT AND UNDER NO CIRCUMSTANCES SHALL THE COMPANY BE LIABLE TO ANYONE FOR ANY LOST PROFITS OR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER; (A) RESULTING FROM ANY DEFECTIVE ELEMENTS, PRODUCTS OR EQUIPMENT DELIVERED, PRODUCED OR PROVIDED BY THE COMPANY; (B) RESULTING FROM DAMAGE TO, OR DESTRUCTION OF, ELEMENTS BY THE COMPANY; OR (C) RESULTING FROM ANY NEGLIGENCE OR BREACH OF DUTY (CONTRACTUAL OR OTHERWISE) BY THE COMPANY INCLUDING WITHOUT LIMITATION, IMPROPER STORAGE, PROCESSING, PACKING, IMPROPER STORAGE, PROCESSING, PACKING, DELAYS IN DELIVERY OR SHIPMENT, OR ERRORS IN SHIPMENT OR LABELLING.

8. **LIENS:**

The Company shall have a lien on all films, tapes, and other property delivered by the Customer to the Company and/or made by the Company therefrom ("Elements or Materials") for the balance of any account due to the Company by the Customer.

9. **OWNERSHIP OF ELEMENTS:**

The Customer warrants that it is the sole owner and/or has the right to possession and use of all Elements delivered to the Company by the Customer or for the Customer's account, including, without limitation, the copyright therein, the music, television, motion picture, literature, paperback, book, dramatic and multimedia rights, whether said Elements are delivered to the Company for storage, Integration or processing of any kind. The Customer further warrants that if it is not the owner of all such rights, it is authorized in writing by the true owner or owners thereof to use the Elements and to order services to be performed thereon by the Company on behalf and as agent for said owner or owners. The Company may require the Customer to produce said written authorization upon request. The Customer indemnifies and holds the Company harmless from all suits, claims, demands, and other liabilities and expenses (including legal fees) of every kind and character arising out of or in connection with the Customer's lack of authority to use the Elements and/or services to be performed thereon by the Company. As long as the Customer is indebted to the Company or any Elements of the Customer are in the possession or custody of the Company, the Customer agrees not to pledge, hypothecate, assign or otherwise encumber said Elements without the prior written consent of the Company, which consent may be withheld at the sole discretion of the Company. No processing, Integration, or other work which is to be billed to a third party will be accepted by the Company without prior written consent from said third party.

10. **INDEMNIFICATION:**

In addition to any other indemnification provided by the Customer elsewhere in these Terms and Conditions, the Customer indemnifies and holds the Company safe and harmless from all suits, claims, demands, and other liabilities and expenses (including legal fees) of every kind and character arising out of or in connection with the production, publication, processing, use, distribution, contents or exhibition of Elements, including film or tape, delivered to the Company (or in connection with which the Company shall have furnished any materials or services) including without limitation, any Company liability or libel, slander, defamation, invasion of privacy, or infringement of patent, trademark, copyright, or any other proprietary right. Upon written request from the Company, the Customer agrees, at Customer's sole expense, to promptly defend any claim, demand, action or proceeding to which Company may be a party which involves or is based all or in part on any Company liability from which the Customer has agreed to indemnify and hold the Company harmless pursuant to this paragraph or any and all other indemnification provisions contained in these Terms and Conditions.

11. **RIGHT TO REFUSE SERVICE:**

The Company reserves the right to refuse service and/or to process any elements which the Company, at its sole discretion, deems unlawful, pornographic, degrading to human dignity, or capable of inciting prejudice or passion.

12. **DELIVERY:**

Shipping and delivery dates are approximate. The Company shall not be liable for delay in delivery of materials; nor shall delay of materials constitute grounds for cancellation of customer's work order, notwithstanding the reason for such delay.

13. **GOVERNING LAW:**

These Terms and Conditions shall be governed by, construed and enforced in accordance with the laws of the Province of British Columbia.

14. **NON-WAIVER:**

No waiver of any provision of these Terms and Conditions shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver, modification of any term or condition shall be valid unless in writing and duly signed by an officer or duly authorized agent of Company.