

## Terms and Conditions of Sale

1. **Agreement** All sales by CD Video Manufacturing, Inc. ("Seller"), to the customer ("Customer") identified in this Terms and Conditions of Sale Agreement ("Agreement") shall be governed by the provisions contained in this Agreement. Special conditions contained on Customer's order forms which are at variance with or in addition to the terms and conditions contained herein are not binding on Seller unless specifically accepted by Seller in writing. The signature of Customer, or Customer's authorized representative, on this Agreement constitutes Customer's acknowledgment and acceptance of the terms and conditions of this Agreement.
2. **Payment Terms** Within 30 days from date of invoice, Customer shall pay to Seller the amount stated on the front of the invoice in the box marked "Total." In addition, Customer is responsible for the ultimate payment of all taxes, including, without limitation, sales and use taxes, stamp charges, licenses, duties and government exactions by whatever name which may be assessed or levied on account of the goods and/or services purchased by Customer (the "Goods"). Any amount unpaid after 30 days from the date of the invoice shall accrue interest at a rate of eighteen percent (18%) per annum. Unless otherwise agreed to in writing by Seller, all sales are FOB Seller's place of manufacturer of the Goods.
3. **Warranties and Disclaimer of Warranties** Seller disclaims any and all express and implied warranties in any way relating to the Goods purchased by customer, whether based on breach of contract, negligence, strict liability or otherwise, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose, except that the goods shall meet Seller's quality standards. Customer assumes all risk and liability resulting from the use of such goods, whether used singly or in combination with other products or goods.
4. **Claims** Customer may reject all or part of the Goods, revoke its acceptance of all or part of the Goods or assert a claim or defense based on the quality of all or part of the Goods, only if, within five (5) days after receipt of the Goods, Customer sends to Seller at Seller's manufacturing location, by prepaid parcel post or express delivery, (1) a letter specifying the nature of the complaint, and (2) a small sample of the Goods alleged to be defective or inferior. No charges or expenses incident to any claims will be allowed unless approved in advance and in writing by an authorized representative of Seller. Other than this small sample, Goods shall not be returned to Seller without Seller's prior permission. Compliance by the Customer with these conditions precedent shall not constitute an admission by Seller of the merits or amounts of the Customer's claim or defense.
5. **Seller's Liability** No claim of any kind, whether as to Goods delivered or for no delivery of Goods, shall exceed the purchase price of the Goods for which such damages are claimed. In no event shall Seller be liable for any of Customer's lost profits or any other special or consequential damages. Seller neither assumes nor authorizes any person to assume for Seller any other liability in connection with the sale or use of the Goods.
6. **Ownership and Sale of Property** Materials provided by the Customer to Seller in connection with the Goods shall be lawfully in Seller's possession, but shall remain Customer's property. Customer shall furnish to Seller, at Seller's request, written evidence of Customer's right to permit Seller to replicate, duplicate, print or otherwise use the materials submitted to Seller. Seller shall not be liable for loss or damage to Customer's property; Customer is responsible for insuring its property. Seller reserves the right to withhold Customer's property until full amount is paid to Seller for the Goods, including any outstanding account balance. If Customer fails to pay any invoice or account balance, or fails to claim its property within six months after Customer's account has been paid in full, Seller may dispose of Customer's property in any manner Seller deems appropriate.
7. **No Waiver** Seller's failure to exercise any right or take any action permitted hereunder, or to insist upon strict performance of any provision hereof, shall not be deemed a waiver thereof, or as a waiver of other rights, remedies, breaches or subsequent defaults by the Customer in the performance of or compliance with any of the terms of this Agreement.
8. **Delay in Performance** Seller shall not be liable for delay in Seller's performance caused by circumstances beyond Seller's control, including without limitation, storm, flood, act of God, fire, war, riot, government action, labor strike or lockout or other labor trouble or shortage, or inability to obtain material, equipment or transportation.
9. **Customer's Representations and Warranties** Customer represents and warrants that: (1) Customer has the right and legal authority to execute and deliver this document to Seller and perform Customer's obligations hereunder and that all necessary action has been taken by or on behalf of Customer to authorize and approve this Agreement; (2) Customer is the sole owner of all materials delivered to Seller for duplication, replication, printing and use by Seller; (3) Customer has the right and authority to possess, use, duplicate, replicate and print any and all materials delivered to Seller for duplication, replication or printing; (4) neither such material, nor the duplication, replication, printing or other use of the same in any way is defamatory or violates or infringes any copyright, trademark, patent, other intellectual property right or any other right of any person or entity, wherever located; and (5) such materials are not obscene and do not otherwise violate any local, state or federal law or regulation.
10. **Customer's Indemnification** Customer agrees to indemnify, defend and hold Seller, and its directors, officers, agents and employees, harmless from and against any loss, liability, cost, expense (including reasonable attorneys' fees), causes of actions, claims or demands arising out of or in connection with (1) any breach or default by Customer under this Agreement or (2) the duplication, replication, printing, distribution, publishing, processing, use, contents or exhibition of the materials supplied by Customer, or Goods purchased by Customer from Seller, including, without limitation, any claim asserted by any third party against Seller based on Seller's actual or alleged violation of applicable law or infringement of rights of a third party resulting from Seller's replication, duplication, printing or other use of materials submitted by Customer to Seller pursuant to this Agreement. Seller agrees (at Seller's option) to either (1) permit Customer to defend a third party claim asserted against Seller with counsel of Customer's choice and approved by Seller, in which case, Seller shall provide all assistance reasonably requested in prosecuting the defense, or (2) to defend such claims with counsel of Seller's choice, in which case Customer shall provide all assistance reasonably requested in connection with such defense. Customer's indemnity hereunder shall extend to all replications, duplications or printing in all formats that are undertaken by or for Seller, on Customer's behalf.
11. **Claims by Customer** In addition to Seller's right to attorneys' fees and costs under paragraph 10 above, if (1) Customer asserts any claim against Seller in connection with this Agreement or otherwise relating to the sale or purchase of Goods, and (2) Seller succeeds in denying substantially all of Customer's claim, Seller shall be entitled to recover from Customer the attorney fees and costs incurred by Seller in defending against such claim regardless of whether litigation is instituted or prosecuted to judgment.
12. **Entire Contract** This instrument contains the entire agreement of the parties hereto with respect to the sale and purchase of Goods, and no modification or waiver of the terms and conditions contained herein shall be of any force unless such modification or waiver shall be in writing and signed by Seller's authorized representative. Customer agrees that all terms and conditions of each sale and purchase of Goods shall be the terms and conditions contained in this Agreement, and that any different, additional or conflicting terms and conditions contained in Customer's purchase orders or other Customer document are inapplicable and without effect.
13. **Separability** If any term or provision of this Agreement shall be deemed to be invalid or unenforceable, such a determination shall not affect any of the remaining terms and provisions, and all such remaining terms and provisions shall remain in full force and effect.
14. **Successors and Assigns** This Agreement shall be binding upon and inure to benefit of the respective successors and assigns of each of the parties hereto; provided, however, that Customer may not assign this Agreement or any rights hereunder without the prior written consent of Seller, and any prohibited assignment shall be absolutely void. No consent to any assignment by Seller shall release Customer of any its obligations to Seller hereunder.
15. **Governing Law; Consent to Jurisdiction; Waiver of Jury Trial** This Agreement shall be governed by and construed in accordance with the laws of California. The parties agree that neither shall commence any litigation or any other type of proceedings against the other party over a dispute arising out of this Agreement or either party's rights and obligations hereunder, except in Orange County, California. Each party consents to and subjects itself to the exclusive jurisdiction of such courts for any dispute arising out of this agreement or in any manner related to the purchase and sale of the goods, and each party agrees that such jurisdiction and venue are reasonable and just under the circumstances. Each party expressly waives the right to a jury trial as to any issues arising out of any such dispute.