

EFILM, LLC
STANDARD TERMS & CONDITIONS (DI)

ALL SERVICES ARE ACCEPTED SUBJECT TO THE FOLLOWING TERMS & CONDITIONS:

1. **SERVICES AND PRICES:** EFILM, LLC ("EFILM") and the Customer have entered into a service and pricing arrangement, as described in the Digital Intermediate Agreement (the "Agreement") between EFILM and the Customer to which these Terms and Conditions are attached, which sets forth the parties' mutual understanding and acceptance of all services to be performed by EFILM and the prices to be paid by the Customer for such services. Any verbal or written quotations discussed or submitted by EFILM to the Customer in the past are superseded by the Agreement, including these Terms & Conditions.

2. **ELEMENTS:** The term "Elements" shall mean all film whether negatives or positives, originals or intermediates, prints or separations and all artwork, all audiotapes, disks or tapes whether master tapes or duplicates and all other recorded media, videotape, solid state computer chips to the extent containing film content or computer data storage media, including discs or tapes, as well as any equivalent tangible embodiment or medium for containing materials of an equivalent nature to the foregoing including, without limitation, all video tape, film negatives, master positives, submaster positives, master videotapes, submaster videotapes, sound tracks, reversal originals, reversal intermediates, cuts and trims, positive prints or videotape dubs, separations, audio tapes, sprocket magnetic film, sound track optical negatives, striped film prints or film prints, in all cases whether delivered by the Customer or produced by EFILM therefrom.

3. **TERMS OF PAYMENT:** All work is accepted on a COD basis, unless special terms for payment or credit have been established in writing signed by both parties and the Customer is current and within its credit limits. Bills rendered by EFILM are due net 30 days from the date of invoice. All payments must be in U.S. currency.

All invoices not paid within the agreed terms will be subject to a late charge of 1.5% per month (18% per annum) on the unpaid balance, provided however, that the Customer shall not be required to pay a late charge in excess of the maximum charge allowed by law.

In the event that EFILM agrees to provide services under the Agreement on a fixed bid basis, the compensation due EFILM, unless otherwise specified in the Agreement, shall be payable as follows: (a) upon execution of the Agreement, including these

Terms and Conditions, the Customer shall provide EFILM a purchase order for the full amount of the Agreement and pay EFILM a deposit of 1/2 the total Agreement amount as an advance of any monies payable hereunder for EFILM services; (b) a progress payment of 1/4 shall be made when EFILM informs the Customer in writing that one-half of the services have been performed; and (c) a final payment of 1/4, plus any overages, shall be due when the completed products are ready to be received by the Customer. All Deliverables (as defined in the Agreement) will be billed separately and invoiced at the time when those Deliverables are ready for delivery.

The Customer agrees to pay all costs and expenses (including but not limited to attorneys' fees, collection agency costs and court costs) incurred by EFILM in connection with the enforcement of EFILM's rights hereunder. Any claim for adjustment in connection with an invoice must be presented to EFILM in writing within fourteen (14) days from the date of the invoice in question. The Customer hereby waives any claim for adjustment in billing that is not presented to EFILM in a timely fashion according to the provisions of this section.

4. **ADDITIONAL SERVICES:** If the Customer requests additional services or changes to the services in the Agreement, EFILM shall advise the Customer whether EFILM will be able to provide these additional services or changes in the time and in the manner desired. If so, the Customer and EFILM will agree upon a supplement to the Agreement reflective of the additional services or modified time schedule. Until such supplement is executed by the Customer and EFILM and the Customer issues a revised or additional purchase order for the supplemental services, EFILM shall have no obligation to perform such additional services. In all other respects, these Terms and Conditions shall govern the additional services.

All prices for services provided by EFILM are based upon normal work hours. Should the Customer require an accelerated work schedule, or require additional services, EFILM may require overtime work schedules to meet the completion requirements or desires of the Customer. Should overtime work schedules be required, such overtime charges as related to the overtime work schedules shall be billable to the Customer at the rates contained in the current EFILM Rate Card.

Notwithstanding anything to the contrary, EFILM shall not be obligated to allocate time or provide additional services that are beyond the scope of the services contemplated in the Agreement, as it may be supplemented from time to time; provided, however, that EFILM shall use reasonable good faith efforts to make itself available for any requested change or addition that it is technically able to provide.

5. TRANSPORTATION AND TAXES: All prices are FOB the place of business where the services are furnished. Transportation of Elements to and from EFILM's premises shall be at the Customer's risk and expense. A handling charge may be added to all prepaid shipments. Any and all applicable local, state, federal or other governmental charges for sales, manufacturing, personal property and like taxes or duties shall be added to the billed charges. The Customer will pay or reimburse EFILM for taxes or duties (including interest and penalties) levied against EFILM or that EFILM pays pursuant to any present or future law by reason of the Customer's use of EFILM's premises, facilities, or services including without limitation sales, use and other like taxes or duties.

6. PRICE CHANGES: In the event that the prices of film, laboratory fees or third-party materials being used by EFILM, direct costs of manufacturing or the cost of labor (which shall include fringe benefits) to EFILM are increased above those in effect on the date of this Agreement, then the prices to be paid by the Customer may be increased to reflect such changed prices to the extent that they are not already included on the current EFILM Rate Card. EFILM shall give prompt notice to the Customer of any cost increase, but any delay in notice shall not affect the effective date of the price increase.

7. CANCELLATION CHARGES: In the event that Customer cancels services ordered, the following charges will apply: (a) The fee paid in order to reserve the use of a color timing suite for any period is an advance with respect to the services provided under the Agreement and shall not be refunded unless the Customer cancels the reservation more than 30 days before the commencement of the reserved period; (b) if the Customer cancels any services less than 72 hours but more than 24 hours before the services are scheduled to begin, the Customer will be charged 50% of the agreed price for those services; and (c) if the Customer cancels any services less than 24 hours before the services are scheduled to begin, the Customer will be charged 100% of the agreed price for those services

8. LIENS: In addition to any other lien, right, or remedy available to EFILM under the Agreement, these Terms and Conditions or applicable law, the Customer hereby grants, assigns and transfers to EFILM a security interest in and lien on any and all Elements in EFILM's possession or control, including

all Elements made by EFILM, as security for the payment of any and all services and materials furnished to the Customer by EFILM. This security interest is subject to all preexisting security interests and rights, but shall take precedence over all subsequent security interests or rights.

If the Elements are voluntarily restored or delivered to the Customer or some third person prior to payment to EFILM for its materials and services, EFILM's lien and security interest shall not be extinguished but shall survive, and upon request by EFILM, the Customer shall execute such documents, including a UCC-1 Financing Statement, as may be required to protect and perfect such security interest.

ALL LIENS, RIGHTS AND REMEDIES OF EFILM SHALL BE DEEMED CUMULATIVE AND NOT EXCLUSIVE OF ONE ANOTHER. THE EXERCISE BY EFILM OF ANY RIGHT OR REMEDY SHALL NOT PRECLUDE ASSERTION OF OTHER RIGHTS. PAYMENT TO EFILM AS A RESULT OF ANY PUBLIC OR PRIVATE SALE SHALL NOT ELIMINATE THE CUSTOMER'S OBLIGATION TO PAY WHATEVER DEFICIENCY MAY BE DUE AFTER THE PROCEEDS ARE APPLIED TO PAYMENT OF THE INDEBTEDNESS, INCLUDING, WITHOUT LIMITATION, ALL LEGAL AND OTHER COSTS, EXPENSES AND CHARGES INCURRED IN THE COLLECTION, SALE, DELIVERY OR PRESERVATION OF THE ELEMENTS.

The Customer agrees that if EFILM shall enforce its rights under any law, it or any other party acquiring any right, title or interest in or to any Elements at public or private sale, shall have and is hereby granted, all right, title and interest of the Customer, including, without limitation and, to the extent available given preexisting liens or rights, the unrestricted license to distribute, exhibit and otherwise exploit such Elements by all media for its own account. EFILM will notify the Customer and provide a reasonable period, not in excess of one week, to cure any breach before exercising its rights to sell, distribute, exhibit or otherwise exploit such Elements.

EFILM will not release to Customer or any other person any Element it holds or under its control until such time as all charges for work performed have been paid in full. Charges may include but are not limited to the following: digital intermediate work, materials, finance charges, storage fees and shipping charges (if applicable).

9. OWNERSHIP OF ELEMENTS: Unless the Customer gives EFILM prior written notice contrary to the contents of this section, the Customer warrants and represents that it is the sole owner of all Elements delivered to EFILM by it or for its account for storage, development, printing, dubbing, transferring or processing of any kind; that the Customer has the right to engage EFILM and is now

and at the time EFILM services are rendered and materials furnished hereunder, and continuing until such time as all its indebtedness under the Agreement is paid to EFILM, will be the sole owner of all rights to (or have all necessary legal right to and authority for) possession, use, exhibition and distribution of the Elements, including without limitation the copyright, trademarks and trade names therein, and all relevant, related music, television, motion picture, literary, paperback, book and dramatic rights.

EFILM shall retain ownership of all digital Elements, intermediate Elements, computer tapes, film separations, and the like used to generate the deliverable product for the Customer, except that title to the deliverable products shall pass to the Customer upon payment in full.

The Customer will defend, indemnify and hold harmless EFILM, its officers, directors, members, employees, subcontractors, agents and affiliates from any and all liability arising out of or in connection with the publication, processing, use, distribution, contents or exhibition of Elements delivered to EFILM, including without limitation any alleged liability for libel, slander, defamation, invasion of privacy or infringement of patent, copyright, trademark, or other proprietary right.

10. STORAGE, DISPOSITION AND REMOVAL OF ELEMENTS: 30 days after the completion of the services contemplated in the Agreement and provided that EFILM has been paid in full for all of its charges, any original Elements must be picked up by the Customer or may be moved to a satellite location for temporary storage until further required, at the Customer's expense.

Any Elements remaining under EFILM's control more than 60 days after completion of services shall be subject to a reasonable storage charge.

In the absence of written instructions from the Customer to the contrary, 180 days after completion of the Customer's work, EFILM retains the right to destroy, reuse or make any disposition of Elements as EFILM determines in its sole discretion. The Customer will defend, indemnify and hold harmless EFILM, its officers, directors, members, employees, subcontractors, agents and affiliates from all liability arising out of or in connection with EFILM's destruction or disposition of Elements as provided in this section. EFILM will attempt to notify the Customer and provide a reasonable period, not in excess of one week, to cure any breach of this paragraph 10 before exercising its rights to destroy, reuse or otherwise dispose of such Elements.

11. PUBLICITY: In connection with its publicity or promotional activities, EFILM may use the name of the Customer and the name of the Customer's project after EFILM has been engaged to perform

services. In addition, EFILM may use a single image or a sequence of less than 30 seconds duration from the Customer's project, with or without superimposing EFILM's trade names or logos, at any time at least one week after initial release of the Customer's project.

12. CREDITS ON PROJECTS: The Customer will exhibit or obtain all necessary right to have the exhibitor exhibit in the end credits of each project the appropriate EFILM logo as provided by EFILM. EFILM shall supply to the Customer the specific nature of the credit EFILM is to receive and any necessary artwork.

In addition, if technical credits for any film (e.g., Kodak) or post-production services are to be given in any form of print advertising under the direction and/or control of the Customer, including but not limited to newspapers, magazines, billboard posters (including those posters known generally in the trades as one sheets or two sheets), then the Customer will give EFILM credit equal in size to the other technical credits, in the manner specified by EFILM.

13. RIGHT TO REFUSE SERVICE: Without liability to EFILM, EFILM has the right to refuse to provide services with respect to any Element that EFILM, in its sole discretion, deems to (i) be unlawful, pornographic or degrading, (ii) tend to incite prejudice or passion, or (iii) have the possibility of subjecting EFILM, its directors, members, officers, employees or agents to criminal or civil process or liability of whatever nature.

EFILM, in its sole discretion, may refuse to accept for processing old or shrunken Elements or Elements showing any imperfection or having an unusual photographic or physical condition. In the event that such Elements are accepted for processing of any kind, EFILM shall not be responsible for quality problems resulting from such Element conditions or the potential additional time requirements. The Customer will promptly pay any additional charge for additional processing time or additional materials used, whether or not a satisfactory Element is ultimately produced by EFILM.

14. LIMITATION OF LIABILITY: EFILM undertakes to render its services in a good and workmanlike manner, but the Customer recognizes that EFILM's services involve creativity and the use of unique and complex computer hardware and software. The Customer's Elements are received, processed, and stored by EFILM solely at the Customer's risk and EFILM shall not be liable or responsible for loss, damage or destruction of such Elements even if due to the simple or gross negligence of EFILM or its employees. The Customer shall retain duplicate copies of all Elements. **THE CUSTOMER ASSUMES ALL RISK OF LOSS, DAMAGE OR DESTRUCTION TO ALL ELEMENTS DELIVERED TO EFILM.**

EFILM shall not be responsible for any discrepancy whatsoever that might result from or be caused by any deficiency in the condition or quality of the Customer's Elements. EFILM will also not be responsible for any damages or loss caused by any failure to deliver Elements to EFILM on a timely basis.

The Customer agrees that EFILM has not made and does not make any representation or warranty and has not assumed and does not assume any liability or responsibility as to the character or quality of the materials or services furnished by it or as to the results of any of its undertakings. THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE ARE HEREBY EXPRESSLY EXCLUDED. Without limiting this disclaimer, EFILM shall not be liable for loss of any kind whatsoever for acts of God, the quality or condition of the Elements received by it, strikes, lockouts, fire, failure of transportation, acts of war, local riots or a public enemy, inability to obtain qualified personnel, or any other similar cause. In any event, any liability of EFILM shall be limited to the replacement of any tape or film or any other media involved with fresh tape, unexposed film stock or any other raw media at EFILM's option. In no event shall EFILM be liable for consequential damages.

The Customer waives and releases EFILM, its officers, directors, members, employees, subcontractors, agents and affiliates from any and all liabilities, claims, demands, actions, causes of action, loss, costs, damage and expenses arising out of or based upon the use of EFILM services or products (including but not limited to subrogation claims against EFILM by the Customer's insurance carrier or others), or the present or future fitness, quality, condition, merchantability or performance of EFILM services or products, or of the material or workmanship thereof, no matter how caused or occasioned, including but not limited to the simple or gross negligence of EFILM, its officers, directors, members, employees, subcontractors, agents or affiliates. The Customer will defend, indemnify and hold harmless EFILM, its officers, directors, members, employees, subcontractors, agents and affiliates from and against any and all liability, claims, demands, actions, causes of action, loss, costs, damage and expenses brought or made against or suffered or incurred by them or any of them arising out of or based upon the present or future fitness, quality, condition, merchantability or performance of the services or products provided under the Agreement.

IN THE EVENT THAT THE ELEMENTS OF THE CUSTOMER DELIVERED TO OR DEPOSITED WITH EFILM ARE LOST, DESTROYED OR DAMAGED BY REASON OF ANY ACT OR OMISSION OF EFILM, ITS OFFICERS,

DIRECTORS, MEMBERS, EMPLOYEES, SUB-CONTRACTORS, AGENTS OR AFFILIATES, EFILM'S LIABILITY SHALL BE LIMITED TO THE REPLACEMENT OF THE LOST OR DESTROYED ELEMENTS WITH FRESH TAPE, UNEXPOSED FILM STOCK OR OTHER RAW MEDIA, AS APPROPRIATE.

15. INSURANCE: The Customer will insure fully, at its own expense, Elements delivered to or deposited with EFILM against all insurable risks including damage to or loss or destruction of such Elements by EFILM, its employees, subcontractors or agents or by the transportation of any Element to or from EFILM. Such insurance shall insure against any and all losses (including incidental and consequential losses). The Customer agrees that such insurance is available. The policy of insurance will name EFILM as an additional insured, will provide for 15-days advance notice before modification or cancellation, and will provide that the insurer waives all claims of subrogation against EFILM and its employees, affiliates, subcontractors and agents. Customer shall provide a certificate of insurance in conformity with these requirements upon EFILM's request. EFILM SHALL IN NO EVENT BE LIABLE FOR ANY LOSS OR DAMAGE THAT WAS, OR COULD HAVE BEEN, COVERED BY INSURANCE.

16. DEFECTS IN DELIVERY: If an Element produced by EFILM is erroneously labeled or shipped or if nonconforming services or materials are furnished by EFILM, EFILM's liability shall be limited to the correction of the errors in shipment or labeling or the providing of conforming services or materials at EFILM's expense; provided that the defective Element is returned and written notice of such imperfection or error in labeling or shipment is given EFILM within 21 days after shipment.

17. DELAY IN DELIVERY: Orders will be filled as rapidly as practicable taking into consideration the order of delivery to EFILM of Elements by the Customer and elements by all other customers, EFILM's obligations to other customers and EFILM's equipment and plant capacity. Delivery dates and/or shipping dates are approximate, based on the dates of delivery to EFILM as specified in the Agreement, and may be subject to delays. EFILM shall not be liable to the Customer or any third party for any loss or damage (incidental or consequential) directly or indirectly arising from EFILM's delay in delivery or shipping, nor for any failure to give notice of delay; such delay shall not constitute grounds for cancellation by the Customer.

18. SYNCHRONIZATION: The Customer must supply negative and videotape with standard leaders bearing clear proper synchronization marks. Any error in synchronization shall be the responsibility of the Customer and EFILM shall bear no liability. The Customer will defend, indemnify and hold harmless

EFILM, its officers, directors, members, employees, subcontractors, agents and affiliates from any liability arising out of or in connection with any error in synchronization.

19. CONFIDENTIAL INFORMATION: Except as provided above under "PUBLICITY," neither party shall disclose or permit the disclosure of any term of the Agreement, these Terms and Conditions or of any other confidential and proprietary information relating to any other party hereto (collectively, "Confidential Information"); provided that such disclosure may be made (i) to any Person who is a partner, officer, director, employee or affiliate of such party or counsel to or accountants of such party, provided, however, that such Persons are notified of the party's confidentiality obligations hereunder, (ii) pursuant to a subpoena or order issued by a court, arbitrator or governmental body, agency or official, with prompt notification to the other party thereof and (iii) to enforce rights under the Agreement, including these Terms and Conditions.

20. ENTIRE CONTRACT, SEVERABILITY AND NON-WAIVER: These Terms and Conditions apply to all EFILM work performed, services rendered and material furnished for the account of the Customer until rescinded, terminated or modified by a subsequent written agreement signed by an officer of EFILM. They, along with the Agreement, constitute all the terms and conditions relating to the services to be performed for the Customer that are the subject of the Agreement and all matters incidental to such services. These Terms and Conditions and the Agreement together supersede all prior written or oral agreements with respect to their subject matter, including all prior bid quotations or proposals. In the event of any inconsistency between the Agreement and these Terms and Conditions, the terms of the Agreement shall apply. No modification or waiver hereof shall be valid unless in writing and signed by an officer of EFILM. The invalidity or unenforceability of any one or more terms or conditions shall not affect the validity of enforceability of the remaining terms or conditions. The failure of EFILM in any one or more instances to insist upon performance of any of these terms or conditions or to exercise any right or privilege given to EFILM in these Terms and Conditions shall not be construed as a waiver of the breach of any other term, condition, right or privilege set forth in the Agreement, including these Terms and Conditions.

21. SUBCONTRACTING AND ASSIGNMENT: EFILM reserves the right to subcontract all or any part of the work ordered. Before permitting any subcontractor to proceed, EFILM will request written consent from the Customer in advance, which consent shall not to be unreasonably withheld or delayed. EFILM may assign any of its rights under the Agreement or under these Terms and Conditions.

22. ARBITRATION; ATTORNEYS FEES: The parties will arbitrate any and all disputes arising out of or relating to the Agreement, including these Terms and Conditions, or their performance thereunder before one neutral arbitrator in the County of Los Angeles, California pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The Arbitrator in his decision shall apportion the cost of arbitration. The prevailing party shall be entitled to recover its reasonable attorneys' fees and expenses from the other party.

23. GOVERNING LAW: The Agreement, including these terms and conditions, shall be governed by, construed and enforced in accordance with the laws of the State of California applicable to agreements made and entirely to be performed in California by its citizens.

24. NOTICES: All notices and communications to EFILM shall be sent to the following address:

EFILM, LLC
1146 North Las Palmas Ave.
Hollywood, CA 90038, USA
Attention: President
Fax: 323-469-1359

Any notice or communication required or permitted under the Agreement, including these Terms and Conditions, shall be deemed to have been given when in writing and personally delivered or faxed or 3 days after being deposited in the United States mail, Certified Mail, Return Receipt Requested, with postage prepaid to EFILM at the above address or to the Customer at the address shown as its address in EFILM's records, or at such other address as either specifies by written notice given in accordance with this section.

Agreed and accepted:

Customer