

Terms and Conditions of Business – Digital Production Web Services

1. **DEFINITIONS**
In these terms and conditions unless the context otherwise requires, the following words and expressions shall have the following meanings:
"AVT" means AVT Limited;
"Client" means the person, firm or company commissioning AVT to provide the services described in the Booking Order;
"Client's Items" mean all video tapes, films, artwork or other materials of any nature supplied to AVT by the Client or the End User;
"End User" means the person, firm or company who will use the Materials as shown in the Booking Order
"Materials" means all artwork, recordings, films, images, computer generated works or other works of any nature produced or created by AVT pursuant to the Booking Order;
"Working Day" means any weekday between Monday and Friday specifically excluding weekends and public holidays.
2. **Terms and conditions**
- 2.1 The Client agrees that these terms and conditions will govern all work undertaken by AVT in connection with the Booking Order save where expressly contradicted by the special terms in the Booking Order or embodied in a document signed by both parties. Any additions or changes to the agreed services must be recorded in writing and signed by both parties to be effective.
- 2.2 The headings in these terms and conditions are inserted for clarification only and shall not affect the meaning or interpretation of these terms and conditions.
- 2.3 Where the Client requests that a third party is invoiced for work to be undertaken by AVT confirmation must be provided by the third party and the Client will remain liable in the event of default by the third party.
- 2.4 Where no specific written quotation is provided by AVT, work will be charged in accordance with AVT's current rate card at the date of the Booking Order plus value added tax at the prevailing rate.
- 2.5 The Client is responsible for ensuring the accuracy of the terms of the Booking Order. Any extra time or expense incurred as a result of changes requested by the Client to the Booking Order will be chargeable to the Client.
3. **Exclusion of Liability and Insurance**
- 3.1 The prices quoted for work undertaken by AVT do not take into consideration any special value of Client's Items forwarded to AVT. Clients should insure all Client's Items against all risks to their full value (including any consequential loss or damage) and AVT accepts no liability whatsoever for any loss or damage to Client's Items, howsoever caused, whether by the default or negligence of its staff, agents or subcontractors or otherwise, other than the cost of replacing film, video tape or equivalent items.
- 3.2 AVT will not be accept any liability for failure to meet deadlines or any costs arising from mechanical breakdown, staff illness or any other circumstance or event beyond the reasonable control of AVT.
4. **PAYMENT TERMS**
- 4.1 For credit account clients, all invoices are payable within 30 days of the date of the invoice. If the Client fails to pay the invoice in full by the due date the Client shall pay interest on a daily basis at a rate of 8% p.a. over the base rate from time to time quoted by HSBC plc and reimburse AVT for all costs and expenses (including legal costs) incurred in the collection of any overdue amount.
- 4.2 AVT reserves the right to request payment in advance of the whole or part of the amount quoted for particular work before undertaking it.
- 4.3 Any concession made by AVT to the Client concerning discounts or special rates must be confirmed in writing by AVT. Any discounts or special rates are agreed conditional upon payment being made by the Client within 30 days or as otherwise specified of the date of AVT's invoice and failure to make payment within this period will render the Client liable for payment at AVT's full rates as shown on AVT's applicable rate card without discount.
5. **CONFIDENTIALITY**
The Client shall treat all information concerning the business of AVT acquired by it during the course of doing business with AVT as confidential save that this clause shall not apply if and to the extent that the information: (i) is now or shall hereafter enter into the public domain otherwise than as a consequence of an unauthorised disclosure by the Client or by any third party; or (ii) was rightfully and without restriction on disclosure or use known to the Client prior to the date of disclosure by AVT to the Client; or (iii) is required by law to be disclosed.
6. **CANCELLATION OF BOOKING ORDERS**
No Booking Order can be cancelled without prior written consent of AVT and as a condition of any such consent AVT reserves the right to charge the Client as follows:- (a) Cancellation less than 14 Working Day from the time scheduled by AVT for the Booking Order to commence - 100% of the Booking Order value (b) Cancellation less than 21 Working Days from the time scheduled by AVT for the Booking Order to commence - 50% of the Booking Order value.
7. **DELIVERY**
- 7.1 At the Client's request, expense and sole risk, AVT may (at all times having absolute discretion as to whether or not it shall provide this service) arrange to despatch or collect the Client's Items or deliver the Materials, as appropriate, to or from an address specified by the Client provided that it shall be the Client's sole responsibility to insure the Client's Items and the Materials in transit.
- 7.2 AVT shall use all reasonable efforts to deliver the Materials in accordance with quoted times but any time quoted for delivery shall not be of the essence and shall merely be an estimate and AVT shall not be liable for any loss or damage arising from late delivery howsoever caused.
- 7.3 Delivery shall be deemed to take place when the Materials are delivered to or collected by the Client at the address nominated for delivery or collection, as appropriate.
- 7.4 If for any reason the Client cannot accept delivery of or collect the Materials at the time the Materials are due and ready for delivery or collection, AVT may elect to store the Materials pending their actual delivery or collection and the Client shall be liable to AVT for the costs of such storage but AVT shall be under no obligation to insure the Materials in storage and any loss or damage to the Materials howsoever arising will be the Client's responsibility.
- 7.5 The Client shall inspect the Materials immediately on delivery or collection and shall within 7 days of such delivery or collection give notice to AVT in writing of any defect or deficiency. In the event that the Client establishes to AVT's reasonable satisfaction that the Materials are not in accordance with the Booking Order or are so defective the Client's sole remedy shall be limited, as AVT may elect, to the replacement or repair of the Materials or the refund of any monies already paid by the Client in relation to the Materials.
- 7.6 All risks in the Materials shall pass to the Client on delivery to the Client.
8. **GENERAL LIEN**
AVT shall have a general lien upon all Client's Items in AVT's possession for any sum due or to become due to AVT from the Client whether in respect of the Booking Order to which they relate or otherwise. AVT's general lien on Client's Items in its possession shall continue until all sums owed by the Client to AVT have been paid.
9. **TERMINATION**
AVT may without incurring any liability whatsoever to the Client suspend all work and/or cancel all deliveries under the relevant Booking Order in the event of default by the Client in making any payment due to AVT or if the Client (being an individual) dies or (being an individual or body corporate) becomes insolvent, makes or purports to make a general assignment for his/its creditors, is unable to pay his/its debts as they fall due, or an encumbrancer takes possession or a receiver, administrative receiver, trustee for creditors, or similar officer is appointed over all or any part of the undertaking, property or assets of the Client, or (where the Client is a body corporate) an Booking Order is made or an effective resolution is passed or a petition is presented for the winding up of or the making of an administrative Booking Order in relation to the Client.
10. **COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS**
- 10.1 The End User (and , where they are not the same, the Client on behalf of the End User) shall be granted an exclusive licence for the period specified in the Booking Order to use the Materials on payment in full of all sums due from the Client in respect of the Materials. The exclusive licence granted pursuant to this clause 10.1 only allows the Materials to be used in the form in which they are supplied by AVT to the Client and for the purposes for which they are supplied, and does not permit any use to be made of individual elements for any purpose whatsoever by either the Client or the End User. The copyright in any software and source codes created or used by AVT when undertaking the services will be owned by AVT.
- 10.2 All Booking Orders for work of any nature are accepted by AVT on the understanding that the Client warrants that AVT has the right to reproduce all material supplied by the Client or the End User and that AVT shall be indemnified by the Client against all claims, loss or damage arising from any breach by AVT of any third party rights in reproducing material provided by the Client or End User. AVT shall be entitled to require the End User to give a similar warranty in writing directly to AVT.
- 10.3 Copyright in the Materials will remain vested in AVT at all times and the licence to use the Materials will only arise once all invoices due to AVT have been paid unless otherwise agreed between the parties.
11. **AVT PERSONNEL**
The Client will not, without prior consent in writing from AVT, within two years of using the services of AVT, employ or procure or attempt to procure directly or indirectly the employment of any personnel who have been in the employment of AVT and have provided services to the Client and/or the End User.
12. **GOVERNING LAW AND JURISDICTION**
These conditions shall be construed in accordance with English law and the parties hereto submit to the jurisdiction of the English Court