

hallmarkproductions

Moving Images Worldwide

www.hallmarkproductions.com
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30 Woodside Road
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Terms & Conditions – Hallmark Productions

These are the terms and conditions of supply of Hallmark Productions in relation to the provision of media duplication services. These terms shall be deemed accepted by our customers upon their placing of an order with us.

See also the sections on Virus Protection and Quality at the bottom of this page.

1. Services

1.1 The services we shall provide to our customers, the price(s) to be paid for such work, the dates for delivery and other relevant details are as agreed with our customers from time to time in relation to each order. Where alterations to the services to be provided are proposed during the course of the work these shall be agreed in writing before the work proceeds.

1.2 Unless otherwise agreed in writing, payment to us for the work to be undertaken is due on receipt of order and, if applicable, all fees are payable plus value added tax at prevailing rates.

1.3 In addition to the prices/fees agreed, customers agree to pay our reasonable out of pocket expenses, including, without limitation, postage and packing.

1.4 We will use our reasonable endeavours to abide by the dates agreed for delivery of Supplies. Customers agree to supply the Materials in sufficient time for us to process each order and we will not be liable where failure to deliver as agreed is caused by customers' delay.

1.5 We will not be responsible for any delay or failure to deliver material to customers caused by circumstances beyond our control, such as Acts of God, fire, strikes, failure of subcontractors or suppliers to supply material required. Where such delay occurs, our obligations to customers shall be suspended for the period of the delay.

1.6 Where the customer does not confirm in writing acceptance of the Supplies within 7 days of delivery, the Supplies are deemed accepted at the earlier of the expiration of that 7 day period or the customer's first use of the Supplies. Where the Supplies are rejected by the customer, whether in whole or in part, we shall endeavour to correct the Supplies to ensure compliance with these terms and conditions.

1.7 Where payment is not received within the timescales agreed in respect of the job we reserve the right to charge interest and administration fees in relation to the payment amounts overdue.

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2. Warranty.

2.1 "Supplies" means all CDs, CD-Rs, video tapes, DVDs, disks and other media we provide to each customer but does not include Materials. "Materials" means the films, CD's, CD-R's, video tapes, DVDs and scripts, data files or disks and other materials each customer is to provide to us in order for us in order to perform our services to that customer.

2.2 Customers agree that performance of the services we provide to that customer will not infringe any law or regulation, including, without limitation any law of copyright or similar law, or any contract (including, without limitation, any licensing agreement) to which that customer is a party or to which that customer is bound or to which the Materials are subject, and that the Material is not obscene, blasphemous or defamatory and will not adversely reflect on our public perception or image.

3. Indemnity and Limitation of Liability

3.1 We agree that until such time as the Supplies are delivered and approved by a customer, we will indemnify that customer against all damages awarded by a court in England and Wales incurred by that customer as a result of a breach of clause 4 by us.

3.2 Customers agree to indemnify us against all claims, demands, losses, damages, costs and expenses incurred by us as a result of breach by that customer of any provision of these terms and conditions, law or regulation and as a result of any third party legal action or threatened action in relation to the Material or through our involvement with that customer.

3.3 Save as provided above, customers agree our liability for breach of these terms and conditions or any other liability of us to that customer shall be limited to the total value of the contract and that all implied terms, conditions or other legal provisions are hereby excluded; save that neither party shall exclude or limit its liability to the other for death or personal injury caused by negligence. Furthermore, we draw customers attention to our terms relating to Anti Virus procedures and duplication quality notified to customers or appearing on our website. Customers agree that the exclusion and limitation of liability in this clause is reasonable, reflects the respective financial positions of the parties and that the price agreed reflects the position on liability. In no event shall we be liable to customers for indirect, financial, consequential loss, loss of profit, revenue or goodwill.

3.4 The termination of our contract with any customer shall not affect the provisions of this clause which shall continue thereafter.

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4. Confidential Information

4.1 Any information about us or our customers or about our procedures or our customers' products or financial or business information shall be treated as confidential, used only for the purpose of performance of obligations hereunder and not disclosed save as permitted hereunder, without limit as to time. Provided that information in the public domain otherwise than through the default of the other party shall not be deemed confidential under this clause.

4.2 The termination of any contract between us and our customers shall not affect this clause.

4.3 We shall be entitled to make reference to our relationship with any customer in our publicity material.

5. Customers' Obligations.

5.1 Customers undertake to supply Materials and other resources to us promptly as agreed between us.

5.2 We do not check the accuracy of data supplied on materials supplied by the customer. The customer must satisfy themselves that the materials supplied to us are accurate, complete and finalised to their satisfaction before submission to us. We cannot be held responsible for any mistakes or omissions that appear on source materials.

5.3 Any goods supplied to the customer remain the property of Hallmark Productions until full payment for the goods has been made by the customer.

5.4 Our insurers will not provide insurance cover for any data, recordings, tapes discs or any other materials lost or damaged by us whilst in our possession. Therefore, it is the responsibility of the clients to ensure that they have a backup of all and any materials supplied to Hallmark Productions before they are submitted to us, as we are unable to accept liability for any loss damage whatsoever to any materials given to us by customers or their agents.

6. Termination

6.1 These terms and conditions shall continue until either performance of the work contracted for, or where an on-going work commitment is signed may be terminated on thirty days' notice from either party to the other given at any time save as provided below.

6.2 Where one party is in breach of these terms and conditions, the other may serve written notice to terminate the contract forthwith, save that where the breach can be

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remedied, 7 days notice to remedy shall first be given and where remedied such termination shall not take effect.

6.3 Our customers or ourselves may terminate the contract forthwith by written notice where the other goes into liquidation or is declared bankrupt or otherwise is unable to pay its debts as they fall due.

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7. General

7.1 No variation of these terms and conditions will be valid unless agreed in writing.

7.2 Customers may not assign their contracts with us without our prior written consent.

7.3 These terms and conditions, and the documents and agreements (electronic or otherwise) referred to herein set out the entire agreement between ourselves and each customer.

7.4 All representations, warranties or other assurances made by or on behalf of us other than as set out herein, and whether on our website or otherwise, do not form part of these terms and conditions nor shall they be legally enforceable or actionable.

7.5 If any provision of these terms and conditions is found to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions hereof all of which shall remain in full force and effect.

7.6 No forbearance or delay by us in enforcing rights hereunder will prejudice or restrict rights and no waiver of any breach of such rights or waiver of the rights will be deemed to be a waiver of any other right or of any later breach.

7.7 Nothing herein shall constitute or be deemed to constitute a partnership or joint venture or the relationship of partnership and agent or employer and employee.

7.8 All notices shall be in writing and sent to the customer at its address notified to us, or to us at our address given in correspondence, or such other address as the recipient may designate by notice given in accordance with this provision. Any notice may be delivered personally by first class prepaid letter or facsimile transmission (confirmed by first class post) and shall be deemed to have been served if by personal delivery when delivered, if by post 48 hours after posting and if by facsimile transmission when despatched (with successful transmission report).

7.9 These terms and conditions shall be governed by English law and we both submit to the non-exclusive jurisdiction of the English courts in relation to any dispute hereunder.

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Virus Protection

Hallmark Productions` software's anti virus procedures are based upon the wider requirement to protect our client masters from any unauthorised "change and modification" while in our care.

In order to achieve this we 'Write Protect' masters as they arrive on the premises and do not 'load', 'run' or 'execute' any programs or data files from client duplication masters. (Write protecting a disk prevents infection/modification).

During the duplication process we compare a sample of copies against the master to ensure they are the same, and prior to despatch we conduct a virus check on a sample from the duplicated batch (PC disks and CDs only).

While we make every effort to ensure we do not 'infect' client disks, or ship duplicated disks with viruses, we do advise clients to satisfy themselves that disks are virus free prior to onward shipment or internal use. Due to the ever changing nature of viruses, we can not guarantee absolutely that disks are virus free.

We currently subscribe to Norton Antivirus on a regular update basis. Please call for our current version. We especially recommend that clients distributing disks and CDs in Macintosh format conduct their own virus checks prior to use.

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Quality

We make every effort possible to ensure the quality, integrity, and performance of all CDs or DVDs duplicated by us. However, we do not check the accuracy of data supplied on materials supplied by the customer. The customer must satisfy themselves that the materials supplied to us are accurate, complete and finalised to their satisfaction before submission to us. We cannot be held responsible for any mistakes or omissions that appear on source materials.

Only high quality media is used, and not only are quality controls applied at each stage of our duplication procedures, but a high proportion of completed disks are sampled and tested at the end of the duplication run.

Where we know that the CDs or DVDs may be used on a variety of different versions of a given computer (or example the games market) we do whatever possible to test the dupes on different machines. (We cannot guarantee to have conducted tests on all the possible variations however).

For these reasons we have every confidence that the CDs or DVDs supplied to you are of high performance and fault free.

However, because the performance of software and CDs or DVDs is a function of the interplay between the two; the machine they are applied to; and to the operator, we cannot accept responsibility for the performance of disks once they have been onwardly distributed (sold or freely) from yourselves.

It is incumbent upon you as our client therefore to satisfy yourselves before onward shipment that your own standards have been met.

If there is ANY quality shortfall, please contact us immediately and steps will be put in hand forthwith to ensure you get what you have paid for, and we have promised.