



## Terms and Conditions

### 1. Control and Work Orders:

This is subject to the order of all persons whose names and signatures are placed on file by the Customer with Pacific Title Archives ("Archives") who shall, until authority is revoked by written notice to Archives, have authority to order any disposition of the goods, including reels of film or tape, records, or any kind of personal property ("Goods") stored, or otherwise placed in the custody of Archives for the Customer's account and for all services for the Customer's account.

Customer shall give all distribution schedules and work orders for services to be performed for its account to Archives in writing.

### 2. Charges, Terms of Payment:

All services shall be on a monthly basis. All storage charges are due and payable on the first date of the storage month. Archives shall be deemed to have earned its regular scheduled charges in connection with all Goods in the Customer's account notwithstanding any or all of the Goods, are temporarily in the custody of the Customer, its lessees, agents or representatives. Rates may be changed upon 30 days' written notice. Current rates are on attached schedule.

### 3. Agent of Customer:

It is understood and agreed that in dealing with Third Persons, Archives shall perform all services as provided and authorized herein as Customer's agent; that all instructions, authorizations and contracts which Archives gives or makes with Third Persons in carrying out Customer's instructions shall be made for Customer's account regardless of whether made in Customer's name or made in Archives' name.

### 4. Pickup and Delivery:

Transportation: Archives agrees to pick up and deliver, from and to Customer's normal place of business, Goods; provided, however, that Customer's place of business shall be within a 50 mile radius of Archives' place of business. In the event Customer desires and Goods to be delivered to any point within such 50 mile radius other than to Customer's place of business, the express written direction of Customer must be made to Archives prior to any such delivery.

Customer agrees that Archives shall in no event act as a carrier or transportation company. Upon Customer's express written request Archives shall deliver Goods to carrier or transportation company depots, but shall in no way be responsible for any agreements relating to the shipment of the Goods by any carrier or transportation company.

### 5. Collection of Delinquent Charges:

Customer agrees to pay promptly all charges as they become due and to pay all cost including attorneys' fees reasonably incurred by Archives in either collecting any delinquent charges and advances, or defending itself in the event that it is made a party to any litigation concerning said Goods, or in filing any interpleader action for the determination of ownership, rights or interest in said Goods.

6. The prices charged are based on payment being made within thirty (30) days of invoice date. If invoices are not paid when due, there is a time price differential. The time price is equal to the above stated price, plus 2% per month or any fraction of a month. The effectiveness of the time price does not change the due date.

7. **Warranties:** The Customer warrants and represents that:

- a) it is the owner or legal custodian and has the lawful right to possession of the goods which it delivers now and in the future to Archives;
- b) it does not and will not deliver any nitrate or inflammable Goods of any kind to Archives without written notice;**
- c) it owns exhibition or performance rights in each film or tape, and the licenses which it grants to exhibit the same are valid and subsisting;
- d) none of the Goods or any material contained therein violates the private, civil or property rights or right of privacy, or any other rights, of any person whatsoever and does not offend the public morals or decency.
- e) All material stored of Archives are and will continue to be insured for the full value and its insurance company (ies) has (have) waived the right (s) of subrogation against Pacific Title Archives.



**8. Indemnification of Archives: Customer agrees to indemnify and hold Archives harmless from and against all claims, damages, liabilities, cost and expenses, including attorneys' fees arising out of any claim, action or proceeding based either upon any alleged facts which, if established, would constitute (a) a breach of any of the warranties and representations contained in paragraph 7, or (b) based upon any action taken by Archives pursuant to this agreement as agent for Customer.**

**9. LIABILITY OF ARCHIVES:**

- a) **SERVICES:** CUSTOMER AGREES THAT IN THE EVENT A NEGLIGENT ERROR OR OMISSION OR ANY OTHER ACT OR CAUSE ON THE PART OF ARCHIVES IS THE PROXIMATE CAUSE OF AN EXHIBITION OF ANY GOODS AND PARTICULARLY OF A FILM OR TAPE SCHEDULED UNDER A CONTRACT BETWEEN CUSTOMER AND ONE OF ITS LICENSEES BEING MISSED, DELAYED OR IMPAIRED IN QUALITY, ARCHIVES' LIABILITY, IF ANY, TO CUSTOMER, ITS LICENSEES, THE SPONSOR OF SAID EXHIBITION, IF ANY, AND ITS ADVERTISING AGENCY, IF ANY, SHALL BE LIMITED TO A SINGLE SUM EQUAL TO EITHER THE AGREED LICENSE FEE FOR THE EXHIBITION, ONE HUNDRED DOLLARS (\$100.00), OR THE ACTUAL AMOUNT OF ANY DAMAGES PAID BY CUSTOMER OR ITS LICENSEE, AND/OR THE SPONSOR, AND/OR THE ADVERTISING AGENCY, WHICHEVER IS THE LESSER.
- b) **NEGLIGENT LOSS OR DAMAGE TO THE GOODS:** IN THE EVENT THE GOODS ARE LOST, STOLEN, DESTROYED OR DAMAGED WHILE IN ARCHIVES' CARE AND CUSTODY, BE IT ON ITS PREMISES OR IN TRANSIT ON ARCHIVES' VEHICLES', AS A RESULT OF ARCHIVES' NEGLIGENCE, ARCHIVES SHALL PAY TO CUSTOMER A SUM EQUAL TO EITHER ONE HUNDRED (100) TIMES THE MONTHLY STORAGE CHARGE PER UNIT COST (AS SHOWN ON ARCHIVES RATE GUIDE, A COPY WHICH IS HERETO ATTACHED) OR \$100.00 PER UNIT WHICHEVER IS LESSER. ARCHIVES SHALL NOT HAVE ANY LIABILITY FOR LOSS OF DAMAGE TO GOODS SUFFERED WHILE IN THE ACTUAL POSSESSION OF ANY CARRIER OR LICENSEE OF THE CUSTOMER TO WHICH IT HAS BEEN DELIVERED OR FORWARDED BY ARCHIVES. THE CUSTOMER DECLARES AND ACKNOWLEDGES THAT THE DAMAGES ARE LIMITED AS ABOVE STATED, PROVIDED HOWEVER, THAT SUCH LIABILITY MAY ON WRITTEN REQUEST OF THE CUSTOMER, WITHIN A REASONABLE TIME AFTER RECEIPT OF A WAREHOUSE RECEIPT BE INCREASED ON PART OR ALL OF THE GOODS, HEREUNDER WITHIN THE LIMITS PERMITTED BY LAW AND THE LIMITS PRESCRIBED BY AN INSURER SELECTED BY ARCHIVES, IN WHICH EVENT A MONTHLY CHARGE WILL BE MADE IN ADDITION TO THE REGULAR MONTHLY CHARGE. A QUOTATION FOR SUCH MONTHLY CHARGE, WHICH MAY BE CHANGED FROM TIME TO TIME, MAY BE OBTAINED FROM ARCHIVES.
- c) **NON-NEGLIGENT LOSS OR DAMAGE TO GOODS:** IT IS AGREED THAT ALL GOODS OF CUSTOMER SHALL BE SERVICED AND HANDLED AT CUSTOMER'S RISK WITH RESPECT TO LOSS OR DAMAGE CAUSED BY ACTS OF GOD, THE PUBLIC ENEMY, THE ACTS OF PUBLIC AUTHORITY, QUARANTINE, WAR, INSURRECTION, STRIKES, LABOR TROUBLES, RIOTS, EARTHQUAKE, DETERIORATION BY TIME, DAMPNES OR ATMOSPHERE, AND EXTREMES OF TEMPERATURE, MOTH, TERMITES, VERMIN, RODENT, LEAKAGE AND HEAT, DEFECT OR INHERENT VICE THEREIN, IN THE EVENT OF LOSS OR DAMAGE FROM FIRE OR THEFT, ARCHIVES SHALL ONLY BE LIABLE FOR SUCH LOSS OR DAMAGE INCURRED BY REASON OF ITS NEGLIGENCE. THE LIABILITY FOR SUCH LOSS OR DAMAGE SHALL BE LIMITED AS SET FORTH IN PARAGRAPH 9 (B) ABOVE. THE BURDEN OF PROVING THE NEGLIGENCE OR FAILURE TO USE THE CARE REQUIRED BY LAW SHALL BE UPON THE CUSTOMER.

**10. Archives Assertion and Reservation of Lien:**

Archives asserts and reserves for itself a lien for any and all charges owed or due to Archives under any and all of the provisions of §7209 of the California Uniform Commercial Code and Customer concurs that Archives shall have such lien. Archives may enforce said lien in accordance with §7210 of the California Uniform Code. Archives may, in addition, enforce its lien by public or private sale of Goods in blocks or parcels at any time or place and on any terms, which are commercially reasonable, after proper notification to all parties known by Archives to claim an interest in the Goods.

**11. Miscellaneous:**

- a) Any quotations, including charges for increased liability, given related hereto are to be applied on the basis of the actual quantity of Goods handled and services rendered irrespective of any estimate and supersede any previous rate or other quotations, estimates or representations concerning charges to be made.
- b) All Goods are to be accompanied by a Transmittal list completed in accordance with instructions thereon including the use of temporary numbers on each container.



c) Mandatory 30-day notice is required prior to account closure(s).

Customer Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title or Position: \_\_\_\_\_ Date Signed \_\_\_\_\_

Pacific Title Archives: \_\_\_\_\_

By: \_\_\_\_\_

Title or Position: \_\_\_\_\_ Date Signed \_\_\_\_\_