These terms and conditions apply to customer's purchase of products, services and/or support sold by Library Video Company and its divisions, Schlessinger Media and Safari Montage, in the United States, including, without limitation, software, hardware, Audio-Visual Materials (Schlessinger Media branded VHSP tapes and DVDs and associated MARC records) and digital content (colloquially and/or collectively and without limitation, the “Company”). In the context of this document, “the Company” shall include Schlessinger Media and Safari Montage. If a purchase order is in writing and issued by Company to be valid. Unless otherwise provided in the quotation, all prices contained in a quotation are firm for sixty (60) calendar days from the date of the quotation, or while supplies last. All purchase orders for Products are subject to acceptance by Company. No order shall be binding on Company until so agreed to in writing by Company. Company reserves the right to reject any order for any reason or to revoke acceptance. If changes do not affect the form, fit and function of the Products, any Products so changed shall be accepted by customer as Products conforming to existing quotations and purchase orders.

1. RIGHTS

1.1. Quotations, Orders and Prices. All quotations must be in writing and issued by Company to be valid. Unless otherwise provided in the quotation, all prices contained in a quotation are firm for sixty (60) calendar days from the date of the quotation, or while supplies last. All purchase orders for Products are subject to acceptance by Company. No order shall be binding on Company until so agreed to in writing by Company. Company reserves the right to reject any order for any reason or to revoke acceptance. If changes do not affect the form, fit and function of the Products, any Products so changed shall be accepted by customer as Products conforming to existing quotations and purchase orders.

1.2. Software, Digital Content. All software is subject to a software license agreement. All digital content is subject to a SAFARI Montage Digital Content License Agreement. Customer agrees to be bound by each such license agreement and must accept the terms of the license agreements before use of the Products. These license agreements may be available on-line and/or shipped with the Product.

1.3. IMPORTANT LICENSING INFORMATION. Schlessinger Media and Safari Montage determines the Audio-Visual Materials to be returned or canceled. If any of these Company-branded Products are deemed by Company in its sole discretion to be defective, Company will repair or exchange them in accordance with the applicable Company warranty and/or Software Upgrade Plan.

2. RIGHTS, WARRANTIES, LIMITATION OF LIABILITY

2.1. Returns

2.1.1. Hardware Products, Software and Digital Content: Unless otherwise agreed by Company in writing, all sales of services and hardware, software and digital content Products are final and may not be returned or canceled. If any of these Company-branded Products are deemed by Company in its sole discretion to be defective, Company will repair or exchange them in accordance with the applicable Company warranty and/or Software Upgrade Plan.

2.1.2. Audio-Visual Materials: Audio-Visual Materials that Company has determined to be returned only if the Audio-Visual Materials are damaged or defective, or were sent in error by Company, is entirely within the discretion of Company. To return Audio-Visual Materials that Company has determined to be returned only if the Audio-Visual Materials are damaged or defective, or were sent in error by Company, Company will issue invoices upon shipment of Products. Unless otherwise agreed by Company, customer must pay all invoices in full within thirty (30) calendar days from the date of invoice. Company may invoice portions of a purchase order separately. Company reserves the right to ship Products C.O.D., require a prepayment or down-payment, or change the Payment Terms.

1.4. Limited Warranty. Company warrants that the Products are free from defects in material and workmanship under normal use and service for a period of ninety (90) days from the date of the quotation, or while supplies last. All purchase orders for Products are subject to acceptance by Company. No order shall be binding on Company until so agreed to in writing by Company. Company reserves the right to reject any order for any reason or to revoke acceptance. If changes do not affect the form, fit and function of the Products, any Products so changed shall be accepted by customer as Products conforming to existing quotations and purchase orders.

1.5. Shipping, Delivery. All fees and charges associated with shipping and handling are additional unless otherwise expressly agreed to in writing by Company. Company does not guarantee or warrant that Products will be delivered on any specific date or by any specific carrier. Shipping dates provided by Company are estimates only and are subject to change without notice to customer. In the event that Company is not able to deliver in time to avoid any late fee or charge as required by any agreement with the customer, Company shall be responsible for any costs, liability, and shipping damage is excluded from any and all warranty coverage provided by SAFARI Montage. Customer shall inspect Products upon receipt for signs of shipping damage, to reject any Products which have sustained shipping damage, and to report such damage immediately to SAFARI Montage (or, if applicable, to the authorized SAFARI Montage dealer). Customer must also preserve all packaging materials and shipping documentation for at least thirty (30) days. If customer locates any box which contains products concerning which any of the above actions are advised, customer shall notify Company at once of such discovery and contain such box with all shipping labels and documentation. Nothing in this section conveys title in or to any software, digital content or media program, and title to any software and/or digital content and/or media program will remain with the applicable licensor(s). Accordingly, the applicable license agreements and the posted public performance rights govern customer’s use of software, digital content and media programs and customer has no right to make copies of any such materials in the Products. The entire risk as to the quality and performance of the Products is borne by customer. COMPANY MAKES NO WARRANTIES FOR NON-COMPANY BRANDED PRODUCTS, SERVICES, MAINTENANCE OR SUPPORT. SUCH PRODUCTS, SERVICES, MAINTENANCE OR SUPPORT INCLUDE, BUT ARE NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, MERCHANTABLE QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. In particular, Company does not represent or warrant that any Products purchased will meet customer's specific needs, or that the operation of them will be uninterrupted or error-free. Except for the limited Product Warranty, the Products are provided "as is." Customer assumes responsibility for the selection of the Products to achieve intended results, and for the use and results obtained from the Products. As a result, the entire risk as to the quality and performance of the Products, including any risk of injury to the person or property of customer or others, is assumed by Company and/or customer. As a result, the customer agrees that the entire risk as to the quality and performance of the Products is assumed by Company and/or customer, and COMPANY IS NOT LIABLE FOR ANY CLAIM OR DEMAND AGAINST THE CUSTOMER BY ANYONE, EVEN IF SUCH CUSTOMER OR PARTY HAS BEEN ADVISED (OR KNOWS OF OR SHOULD HAVE KNOWN OF) THE POSSIBILITY OF SUCH LOSS OR DAMAGE. TO THE_extent THAT THE LIMITATION OF LIABILITY PROVISIONS BELOW ARE expressly DISCLAIMED OR MODIFIED, THE LIMITATION OF LIABILITY PROVISIONS BELOW SHALL BE MODIFIED TO THE extent THAT SUCH DISCLAIMER OR MODIFICATION MAKES SUCH PROVISIONS NON-ENFORCEABLE, BUT IN SUCH CASE, THE LIMITATION OF LIABILITY PROVISIONS SHALL APPLY IN SUCH MANNER WHATSOEVER FROM WHATSOEVER PRODUCT, LICENSE OR SERVICE DELIVERED HEREUNDER, INCLUDING, WITHOUT LIMITATION ANY UNINCURRED MATERIAL DEFAULT, BREACH, OR FAILURE ON THE PART OF SAFARI MONTAGE, SHALL IN NO EVENT EXCEED THE FEES PAID BY THE CUSTOMER FOR SUCH PRODUCT(S), LICENSE(S) OR SERVICE(S).
applicable laws or regulations resulting from or in connection with customer’s installation, use, repair of the Products or in connection with information supplied by customer. The obligations, indemnities and covenants contained in this paragraph shall survive the termination of these terms and conditions and/or the underlying transaction.

3. SCOPE OF TERMS AND CONDITIONS, GENERAL TERMS

3.1. Entire Agreement, Other Documents, Non-Waiver. These terms and conditions constitute the entire, complete, and exclusive agreement between the parties with respect to the subject matter hereof and contain all the terms and conditions of sale; no course of dealing or usage of the trade shall be applicable unless expressly incorporated herein. These terms and conditions may NOT be altered, supplemented, or amended by the use of any other document(s) unless otherwise agreed to in a written agreement signed by both customer and Company. Accordingly, all differing terms and conditions contained in any prior oral or written communication, negotiation or representation, such as a proposal, are hereby rejected and not binding on Company. Any additional and/or conflicting terms, conditions and/or warranties set forth in any purchase order or any other document issued by customer shall not apply. Company’s failure to insist upon the strict performance of any term or condition herein shall not be deemed a waiver of any of Company’s rights or remedies hereunder, nor of its right to insist upon the strict performance of the same or any other term herein in the future.

3.2. Force Majeure, Severability. Neither party shall be liable to the other if delayed or prevented from performance by causes beyond its reasonable control that would make performance commercially impracticable. In the event of a force majeure event, the affected party shall be entitled to a reasonable extension of time for the performance of its obligations hereunder. In the event that a court of competent jurisdiction finds any specific term or condition herein to be invalid or unenforceable, the validity, legality and enforceability of the remaining provisions contained shall not, in any way, be affected or impaired thereby.

3.3. Compliance with Applicable Laws. Customer agrees to comply with all applicable laws and regulations of the various states and of the United States.

3.4. Applicable Taxes. Customer is responsible for all taxes, duties and other governmental charges in connection with the sale, purchase, delivery and use of any Product. For sales delivered to states where Company collects tax, Company will add the amount of any applicable sales or other taxes to the amount due under its invoice and, upon collection, remit such tax to the appropriate taxing authority; otherwise, Customer shall report and pay applicable taxes itself. In the event Customer claims an exemption from tax that Company would otherwise be required to collect, Customer shall, upon request, provide Company with a copy of its valid tax exemption certificate.

3.5. Not for Resale or Export. Customer agrees and represents that it is buying the Products for its own internal use only, and not for resale or export. Please contact Company for Company’s separate terms and conditions governing resale of Products.

3.6. Governing Law and Jurisdiction. Customer agrees that any claim, dispute or controversy (whether in contract, tort or otherwise, whether preexisting, present or future, and including statutory, common law and equitable claims) between customer and Company arising from or relating to these terms and conditions, any sales made hereunder, Company’s advertising, or any related purchase, shall be governed by the laws of the Commonwealth of Pennsylvania, without regard to conflict of laws rules. Subject to Company’s right to elect binding arbitration under paragraph 3.7, below, Customer consents to the exclusive jurisdiction of the state courts of the Commonwealth of Pennsylvania, Montgomery County and the United States District Court for the Eastern District of Pennsylvania in all such disputes.

3.7. Arbitration. Customer agrees that Company may, at its sole discretion, elect to submit any controversy or claim arising out of or relating to these terms and conditions, or the breach thereof, to be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any such arbitration shall be held in Montgomery County or Philadelphia, Pennsylvania.

Schlessinger Media and SAFARI Montage Terms and Conditions of Sale Version 04.04.2019

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