



# SAFARI Montage® Products and Services

## General Terms and Conditions of Sale

THESE GENERAL TERMS AND CONDITIONS (“**TERMS**”) APPLY TO A CUSTOMER’S (“**CUSTOMER**” OR “**YOU**”) PURCHASE OF PRODUCTS AND SERVICES SOLD BY LIBRARY VIDEO COMPANY D/B/A SAFARI MONTAGE (“**SAFARI MONTAGE**,” “**WE**,” “**US**,” OR “**OUR**”) IN THE UNITED STATES, INCLUDING, WITHOUT LIMITATION, HARDWARE, ON-PREMISE SOFTWARE, AND DIGITAL CONTENT LICENSES (THE “**PRODUCTS**”), AND CLOUD-HOSTED SOFTWARE, INSTALLATION, SUPPORT, AND OTHER SERVICES (THE “**SERVICES**”). SPECIFIC SAFARI MONTAGE PRODUCTS AND SERVICES MAY BE SUBJECT TO ADDITIONAL TERMS AND CONDITIONS, LICENSES, WARRANTIES, TERMS OF SERVICE, OR OUR PRODUCTS AND SERVICES PRIVACY POLICY, WHICH CAN BE FOUND AT <https://safarimontage.com/termsandconditions.aspx> (COLLECTIVELY, THE “**SAFARI MONTAGE AGREEMENTS**”). BY SUBMITTING A PURCHASE ORDER, ACCEPTING DELIVERY OF THE PRODUCTS, OR USING THE PRODUCTS OR SERVICES, CUSTOMER ACCEPTS AND IS BOUND BY THESE TERMS AND ALL APPLICABLE SAFARI MONTAGE AGREEMENTS. WE RESERVE THE RIGHT TO UPDATE, MODIFY, AND DELETE PORTIONS OF THE TERMS AND THE SAFARI MONTAGE AGREEMENTS AT ANY TIME. IF YOU DO NOT WISH TO BE BOUND BY ANY ONE OR MORE PROVISIONS OF THESE TERMS OR THE SAFARI MONTAGE AGREEMENTS, DO NOT SUBMIT A PURCHASE ORDER, USE, OR CONTINUE TO USE THE PRODUCTS OR SERVICES.

DEFINED WORDS IN THESE TERMS SHALL HAVE THE SAME MEANING IN THE SAFARI MONTAGE AGREEMENTS. ANY REFERENCE TO THE SINGULAR INCLUDES THE PLURAL AND VICE VERSA, AND “INCLUDING” MEANS “INCLUDING BUT NOT LIMITED TO” UNLESS OTHERWISE SPECIFIED.

### 1. PURCHASING PRODUCTS AND SERVICES.

#### 1.1. Ordering.

- 1.1.1. *Quotes.* In response to a request for a quotation from a Customer, SAFARI Montage will issue a “**Quote**” for the Products and Services requested, or reasonable alternatives. Unless otherwise stated, all prices are firm for 120 days from the date of the Quote so long as supplies last. We are not responsible for pricing, typographical, or other errors made in any Quote and specifically reserves the right to amend or cancel any orders resulting from such errors. Lead times will vary and a Quote may include additional charges for rush orders.
- 1.1.2. *Purchase Orders; Acceptance.* To order the Products and Services in the Quote, Customer shall submit a purchase order to SAFARI Montage that is consistent with the Quote (including any additional terms set forth in the Quote) and these Terms. We may reject or accept (through a sales order acknowledgment or other means) any purchase order. Any additional or differing terms in a Customer’s purchase order are rejected unless expressly accepted by us in writing.
- 1.1.3. *Modification.* We may change the prices, specifications, construction, and design of Products from time to time. If such changes do not affect the form, fit, or function of any Products, the changes are accepted by Customer as conforming to the Quote and purchase order. We will entertain changes to the delivery date for Products and on-site Services only upon receipt of a written change order request. If Customer requests scheduling changes for on-site Services, such requests must be made at least five business days in advance of the scheduled start date and Customer shall reimburse us for any and all costs and expenses we incur due to rescheduling, including change fees and penalties paid to third parties in anticipation of providing such Services (such as altering travel arrangements), which we will invoice to Customer.
- 1.1.4. *Pilot Program.* To evaluate SAFARI Montage Products and Services prior to submitting a purchase order, additional terms and conditions may apply.

#### 1.2. Price; Payment Terms; Invoice Disputes; Delinquent Accounts.

- 1.2.1. *Price.* All prices and fees to be paid by Customer for the Products and Services are stated in the Quote.
- 1.2.2. *Payment Terms.* You will pay all amounts due and owing under an invoice within 30 days of the invoice date. We do not accept credit card payments. If you are located outside of the U.S. or a U.S. territory, payment for all Products and Services must be made by international money order, wire transfer, or check written in U.S. funds of a bank maintaining a U.S. branch. We reserve the right to ship Products C.O.D., require a prepayment or down payment, or change the payment terms. You grant us a purchase money security interest in the Products until we receive full payment, and you will reasonably assist us in taking all necessary action to perfect and protect such interest.
- 1.2.3. *Invoice Disputes.* You will notify SAFARI Montage in writing of any invoice inaccuracy along with a reasonably detailed and documented description within 20 days after receipt of such invoice. Invoices for which no such timely notification is received will be deemed accepted by you as true and correct, and you will pay all amounts due under such invoice. The parties will seek to resolve all invoice disputes expeditiously and in good faith. If the problem remains unresolved on the invoice due date, you will pay the full amount of the invoice “under protest,” and we will set aside such appropriate funds until the matter is resolved or until the parties determine that no such resolution is possible. You will not set off, deduct, recoup, or withhold payment of any amounts due and payable under an invoice based on any claim or dispute with us, any legal theory, or otherwise, and whether relating to our breach, bankruptcy, or otherwise.
- 1.2.4. *Delinquent Accounts; Remedies.* If you fail to make any payment to or breach any agreement with us, all of your outstanding invoices will become immediately due and payable without further notice or demand. We may charge interest at a rate of 1.5% of the outstanding amount due (or the highest rate permissible under applicable law), calculated daily and compounded monthly. Any discounts, rebates, administrative fees, or other credits due to you will be applied against delinquent balances before the interest is added or reimbursements made to you. In addition to all other remedies available under these Terms or at law (which we do not waive by the exercise of any rights hereunder), we may suspend further delivery of Products and Services to you until all overdue amounts are paid. You will reimburse us for any and all costs and expenses we may incur in connection with collection of late payments, including reasonable attorneys’ fees and change fees and penalties paid to third parties. We will invoice you for such additional charges and Customer will pay all such amounts due.

#### 1.3. Shipping; Title; Inspection.

- 1.3.1. *Shipping.* Fees and charges associated with shipping and handling are additional costs payable by you as set forth in the Quote. We are responsible for packing and boxing the Products. The Products will be shipped to the address specified in the Purchase Order. In the event a Product is ordered that we do not have in stock the Product may be back ordered and shipped when available. We do not guarantee that Products will be delivered on any specific date or by any specific carrier. Shipping dates may change without notice to you. We assume no responsibility or liability due to a third party’s shipping delay or inability to deliver. Special, custom, large, or back orders may extend shipping and delivery dates. Products are not available for pick-up.

- 1.3.2. *Title; Risk of Loss.* Title and risk of loss to the Products passes to you upon delivery at the address specified in the Quote. Nothing in this section conveys title to any software or digital content, OER content, or other third-party products. We are not responsible for damage or loss during transit if the order was shipped using your designated shipping or freight account and risk of loss will transfer upon tender to such carrier.
- 1.3.3. *Shipping Damage.* In order to preserve the right to replacement Products in the event of covered shipping damage or loss, consignee or Customer will: (i) refuse delivery of any Products with visible signs of physical damage to the outer packaging or shipping crate; (ii) note the damage in reasonable detail on the shipping record at the time of delivery; and (iii) immediately report the damage to us (or, if applicable, the authorized SAFARI Montage reseller) in as much detail as possible, including photographs where available. Within three days of delivery (or such other time as stated in the Quote), consignee or Customer shall: (iv) open the outer packaging to inspect the Products; and (v) report to us (or our reseller) any signs of concealed shipping damage to the Products. You agree that such time periods are reasonable. In the event of concealed shipping damage, all Product packaging must be preserved and you and consignee must fully cooperate with us (or our reseller) as we instruct in order to promptly preserve any claim against the carrier. We will replace the damaged Products with new ones and ship the replacement Products at our expense. Failure to comply with this section will be deemed acceptance of the delivery and no Products will be replaced.
- 1.3.4. *Nonconforming Order.* Within 20 days of delivery, you shall notify us (or our reseller) if any part of the order is believed to be incomplete, incorrect, or nonconforming to the order. You agree that such time period is reasonable. Failure to provide such notice within 20 days shall be deemed acceptance in full of all Products not reported to us consistent with this section. We will replace the rejected Products with new ones (except where Products exceed the quantity ordered) and ship the replacement Products at our expense.
- 1.3.5. *Returns of Damaged, Incorrect, Nonconforming Products.* You must notify us (or our reseller) of shipping damage or receipt of incomplete, incorrect, or nonconforming Products by contacting our Technical Support Team at (800) 782-7230 or by email at [cs@safarimontage.com](mailto:cs@safarimontage.com). We will, in our sole discretion, make a determination whether the Products are in fact damaged or nonconforming and eligible for return or replacement. As applicable and at our expense, we will resend the Products or authorize a return of the damaged Products by supplying you with an RMA and prepaid shipping label to return the damaged Products to us or our supplier as applicable.

#### 1.4. Services.

- 1.4.1. *Statement of Work.* Services may be governed by a statement of work (“SOW”) that identifies the particular Services to be performed and the applicable specifications during each phase of the project or implementation. The SOW is incorporated into these Terms. You will cooperate with us to promptly schedule the Services. We must agree to any change request in writing.
- 1.4.2. *Work Product.* Unless otherwise agreed in writing, with respect to Services other than cloud-hosted software services, we will hold all rights, title, and interest in our work product, including the results and proceeds of the Services. We grant to Customer a nonexclusive, limited, revocable, non-sublicensable, non-transferable license to use our work product as part of such Services in connection with the SOW. You will have no right, title, or interest in or to our work product except in accordance with this section, and we reserve all rights not expressly granted in these Terms or applicable SAFARI Montage Agreements.

- 1.5. **Returns.** All sales of Products and Services are final and may not be returned or canceled. Unauthorized returns will be shipped back to you at your expense.

## 2. WARRANTY, REPRESENTATIONS.

- 2.1. **Limited Product Warranty.** We warrant each specific SAFARI Montage-branded Product in accordance with the written limited warranty accompanying the hardware, software, or digital content license Product. The details of each limited warranty may be found at <https://safarimontage.com/termsandconditions.aspx>, described in the applicable SAFARI Montage Agreement, or shipped with the Product.
- 2.2. **Limited Service Warranty.** For Services other than cloud-hosted software services, we warrant that the Services will be delivered in a professional and workmanlike manner and, if applicable, will substantially conform to the deliverables specified in the applicable SOW. No service we provide is guaranteed to produce any specific result. Your exclusive remedy and the entire liability of SAFARI Montage under this Limited Service Warranty will be performance of the non-conforming deliverables as we in our sole discretion determine. You may contact our Technical Support Team at (800) 782-7230 or by email at [techsupport@safarimontage.com](mailto:techsupport@safarimontage.com) within 10 business days of completion of the Services for assistance.
- 2.3. **Third-Party Products.** Any applicable warranties, services, maintenance, or support, if any, with respect to third-party products are provided by the original manufacturer, supplier, provider, or other third party, not by us. Additional terms and conditions may apply.
- 2.4. **Mutual Representations and Warranties.** Each party represents and warrants to the other party that it: (i) is duly organized, validly existing, and in good standing as a corporation or other entity under the laws of the jurisdiction of its incorporation or other organization; and (ii) has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under these Terms and any SAFARI Montage Agreements.
- 2.5. **Disclaimer.** EXCEPT AS PROVIDED IN APPLICABLE SAFARI MONTAGE AGREEMENTS, THE WARRANTIES SET FORTH HEREIN ARE CUSTOMER’S SOLE AND EXCLUSIVE REMEDIES AND SAFARI MONTAGE’S ENTIRE LIABILITY FOR THE PRODUCTS AND SERVICES. THE PRODUCTS, THIRD-PARTY PRODUCTS, AND SERVICES ARE PROVIDED BY SAFARI MONTAGE “AS IS.” SAFARI MONTAGE MAKES NO OTHER WARRANTIES WHATSOEVER WITH RESPECT TO THE PRODUCTS, THIRD-PARTY PRODUCTS, OR SERVICES, AND SAFARI MONTAGE SPECIFICALLY DISCLAIMS, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, FREEDOM INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, OR FREEDOM FROM ERROR OR INTERRUPTION, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, TRADE USAGE, OR OTHERWISE. CUSTOMER IS SOLELY RESPONSIBLE, AND BEARS THE ENTIRE RISK, FOR THE SELECTION OF THE PRODUCTS, THIRD-PARTY PRODUCTS, AND SERVICES TO ACHIEVE INTENDED RESULTS AND FOR THE USE AND RESULTS OBTAINED. SAFARI MONTAGE MAKES NO WARRANTY OF ANY KIND THAT THE CLOUD-HOSTED SERVICES OR SAFARI MONTAGE MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER’S OR ANY OTHER PERSON’S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

## 3. INDEMNIFICATION.

- 3.1. **Customer Indemnification.** Unless prohibited by applicable law, Customer shall defend, indemnify, and hold harmless SAFARI Montage and our resellers, employees, contractors, officers, directors, agents, successors, and assigns (each collectively or individually, the “SAFARI Montage Indemnified Parties”) from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, and expenses of whatever kind (including attorneys’ fees and the costs of enforcing any right to indemnification or pursuing insurance providers) (collectively, “Losses”) incurred by the SAFARI Montage Indemnified Parties in connection with an action, claim, or other demand by a third party arising or resulting from, or alleged to arise out of or result from: (i) any injury or death of persons or damage to or loss of any property due to Customer’s misapplication, misuse, or improper installation or repair of the Products or Services; (ii) any information or materials (including any documents, data, specifications, software, content, intellectual property, or technology) provided by or on behalf of Customer or any User or third party, including SAFARI Montage’s compliance with any specifications or

directions provided by or on behalf of Customer or any User to the extent prepared without any contribution by SAFARI Montage; (iii) allegation of fact that, if true, would constitute Customer's breach of any of its representations, warranties, or obligations under these Terms or any applicable SAFARI Montage Agreements; (iv) a negligent or more culpable act or omission of Customer, any User, or any third party on behalf of Customer or any User in connection with these Terms or any SAFARI Montage Agreement; or (v) Customer's failure to comply with applicable laws, regulations, or agreements. Customer may be subject to additional indemnification obligations under applicable SAFARI Montage Agreements.

- 3.2. **SAFARI Montage Indemnification.** SAFARI Montage shall defend, indemnify, and hold harmless Customer and Customer's administrators, employees, contractors, officers, directors, agents, and successors (each collectively or individually, the "Customer Indemnified Parties") from and against any and all Losses incurred by the Customer Indemnified Parties arising out of or in connection with any injury or death of persons or damage to or loss of any property, but only to the extent caused by SAFARI Montage. SAFARI Montage may be subject to additional indemnification obligations under applicable SAFARI Montage Agreements.

4. **LIMITATION OF LIABILITY.** UNLESS OTHERWISE AGREED TO BY THE PARTIES IN WRITING, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL SAFARI MONTAGE OR OUR EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, REPRESENTATIVES, SUCCESSORS, ASSIGNS, SUPPLIERS, OR MANUFACTURERS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY (i) INCREASED COSTS, DIMINUTION IN VALUE, OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (ii) LOSS OF GOODWILL OR REPUTATION; (iii) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY, OR RECOVERY OF ANY LICENSED SOFTWARE, OPEN SOURCE COMPONENTS, OR OTHER THIRD-PARTY MATERIALS; (iv) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (v) COST OF REPLACEMENT GOODS OR SERVICES; OR (vi) CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, ENHANCED, OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE.

UNLESS OTHERWISE AGREED TO BY THE PARTIES IN WRITING, EXCEPT FOR OUR INDEMNIFICATION OBLIGATIONS AS SET FORTH IN THESE TERMS AND IN ANY APPLICABLE SAFARI MONTAGE AGREEMENTS, IN NO EVENT SHALL SAFARI MONTAGE'S AND OUR EMPLOYEES', OFFICERS', DIRECTORS', AGENTS', REPRESENTATIVES', SUCCESSORS', ASSIGNS', SUPPLIERS', OR MANUFACTURERS' AGGREGATE LIABILITY ARISING OUT OF OR IN ANY WAY RELATED TO THESE TERMS OR ANY SAFARI MONTAGE AGREEMENTS, REGARDLESS OF CIRCUMSTANCES, FORM OF ACTION, OR THEORY OF LIABILITY (INCLUDING BREACH OF CONTRACT, WARRANTY, TORT, STRICT LIABILITY, OR OTHERWISE) EXCEED THE AMOUNTS PAID UNDER THESE TERMS IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO THE CLAIM. THIS LIMITATION OF LIABILITY SHALL APPLY EVEN IF CUSTOMER'S REMEDIES UNDER THESE TERMS FAIL IN THEIR ESSENTIAL PURPOSE. This section 4 will survive the expiration or termination of these Terms and any applicable SAFARI Montage Agreements.

## 5. MISCELLANEOUS.

- 5.1. **Relationship of the Parties.** The parties are independent contractors. Nothing in these Terms shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other.
- 5.2. **Headings.** The headings are for reference only and do not affect the interpretation of the Terms.
- 5.3. **Entire Agreement.** These Terms, together with any Quote, SOW, the applicable SAFARI Montage Agreement, and any written and executed agreements between SAFARI Montage and Customer, constitute the sole and entire agreement between the parties with respect to the subject matter hereof and supersede all prior and contemporaneous understandings, agreements, representations, proposals, and warranties, both written and oral, with respect to such subject matter. All differing terms and conditions contained in any prior oral or written communication, negotiation, or representation, such as a proposal or purchase order, are rejected and not binding on us. No course of dealing or trade usage applies unless expressly agreed to in these Terms or related documents or agreements. In the event of any inconsistency between the statements made in these Terms and any SOW, these Terms shall apply first and the SOW second.
- 5.4. **Modification; Waiver.** These Terms and the applicable SAFARI Montage Agreements may not be modified or amended unless specifically agreed to in a writing signed by an authorized SAFARI Montage representative. Our delay or failure to insist upon strict performance of any specific term or condition does not waive any of our rights or remedies or our right to insist upon strict performance of any term or condition in the future.
- 5.5. **Force Majeure.** Except for the payment of amounts due and owing, neither party shall be liable to the other if delayed or prevented from performance by causes beyond its reasonable control that would make performance under any one or more of the SAFARI Montage Agreements commercially impracticable, including civil disorder, government or military acts or omissions, war, terrorism, import or export regulations, embargoes, labor disputes, strikes, supply disruptions, accident, acts of God (such as severe storms, hurricanes, lightning, floods, fires, and earthquakes), or breakdown of infrastructure (such as web host, communication facilities, internet traffic carriers, or energy). During a force majeure event, each party shall be entitled to a reasonable extension of time, not to exceed 60 days or such other period of time agreed to by the parties, for the performance of its relevant obligations.
- 5.6. **Severability.** In the event any specific term or condition of the Quote, these Terms, or any applicable SAFARI Montage Agreements is held to be invalid or unenforceable, then that term or condition will be limited or disregarded to the minimum extent necessary, and the validity, legality, and enforceability of the remaining provisions will remain in full force and effect.
- 5.7. **Survival.** Sections 2, 3, 4, and 5 will survive any expiration or termination of these Terms and any applicable SAFARI Montage Agreements along with any other right or obligation of the parties that, by its nature, should survive.
- 5.8. **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 or Service. For sales delivered to states where SAFARI Montage collects sales tax, we will add the amount of any applicable sales or other taxes to the amount due under the invoice and, upon collection, remit such tax to the appropriate taxing authority. In all other states, Customer will report and pay all applicable taxes and other charges. In no event will SAFARI Montage apply an exemption in the absence of a valid and appropriate exemption certificate.
- 5.9. **Not for Resale or Export.** Customer agrees and represents that it is buying the Products or Services for internal use only and not for resale or export. Separate terms and conditions apply to the resale of SAFARI Montage Products and Services.
- 5.10. **Assignment.** The Quote, the SOW, these Terms, and any applicable SAFARI Montage Agreement, and any of the rights granted to Customer under any of these, shall not be assigned by Customer, in whole or in part, without SAFARI Montage's prior written consent. Any purported assignment absent such consent shall be null and void. SAFARI Montage may assign any and all of our rights and obligations, in whole or in part, without Customer's consent.



5.11. **Governing Law and Jurisdiction.** Unless applicable law requires a different state's law to apply, and subject to SAFARI Montage's right to elect binding arbitration, 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 SAFARI Montage arising from or relating to the Quote, the SOW, these Terms, and any applicable SAFARI Montage Agreement, or SAFARI Montage's advertising, shall be governed by the laws of the Commonwealth of Pennsylvania without regard to conflict of laws rules. Customer consents to the exclusive jurisdiction of courts located in Montgomery County, Pennsylvania and the United States District Court for the Eastern District of Pennsylvania and waives any objections based on venue, personal jurisdiction, or forum non conveniens.

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