Terms and Conditions

1. DEFINITIONS

In these terms and conditions, unless the context otherwise requires:

1.1 Consumer means any individual who acquires Digital Video Experts' services wholly or predominately for personal, domestic or commercial use.
1.2 Customer means any person or entity requesting DVE to provide Services.
1.3 DVE means Digital Video Experts Pty Ltd (ABN 39 106 783 493) of Unit 10, 192A Kingsgrove Road, Kingsgrove NSW 2208.
1.4 Agreed Fee means the fees estimated by DVE in any quotation once accepted by the Customer.
1.5 Materials means any goods, chattels, items or things, including but not limited to any photographs, documents (whether digital or hard copy), tapes, videos, films, footage, props and equipment provided by the Customer to DVE for the purposes of DVE supplying the Services.
1.6 Raw Footage means master footage recorded by DVE as part of provision of the Services.
1.7 Services means video pre-production, production and/or post production services.

2. APPLICATION

These Terms and Conditions apply to and are incorporated into all contracts, agreements, arrangements, transactions and dealings entered into by DVE with any Customer in relation to the provision of Services by DVE. All work carried out by DVE is on the basis that the Customer has agreed to these Terms and Conditions.

3. OWNERSHIP

The raw footage is not provided to The Customer unless agreed otherwise in writing. The Premiere Pro timelines, After Effects, Photoshop, Final Cut, Audition are Digital Video Experts' intellectual property and are not supplied.

The Raw Footage, video files, audio files and edited video files including all copyright remain the property of DVE until full payment is made for the Services. Where Services remain unpaid or in the event that a final agreed payment is not made, DVE reserves the right to withhold all recordings and finished works and use all or portions of the recordings and finished works for display, promotional or commercial purposes. Copyright in all video, images, audio, lyrics or musical composition included or recorded in the edited video or recorded by equipment used by DVE will remain the property of the author or legal entity owning the copyright.

4. SPECIAL PROVISIONS FOR OWNERSHIP

DVE reserves the right to retain ownership of any recorded material of an anomalous nature once discovered in post-production. The copyright of such recordings will belong to DVE. DVE has the right to use edited or unedited video files produced pursuant to these Terms and Conditions for promotional or commercial purposes, unless an alternative arrangement is made between DVE and the Customer. The copyright of such segments will belong exclusively to DVE.

5. BACKUPS

Digital Video Experts does not keep backups of your project after completion.

6. DISPOSAL

Raw Footage, video files, audio files and edited video files will be retained for up to one (1) month only and will then be disposed of, deleted or erased. If at the end of one (1) months Services have not been paid for, DVE reserves the right to dispose of all Raw Footage, video files, audio files, edited video files, recorded materials and finished works.

7. STAGNATING PROJECTS

Any estimate of the date by which DVE will complete any part of the Services is contingent upon the Customer providing complete instructions to DVE and fully cooperating with DVE until DVE has ceased providing Services to the Customer. The Customer must appoint a person who has complete authority to provide instructions to DVE and respond to requests for feedback until DVE has ceased providing Services to the Customer. The person appointed must be available to respond to communications from DVE on every day which is a business day in New South Wales, Australia.

After 1 month of inactivity from The Customer, DVE will invoice for file storage, at a cost of $150 +gst per 500Gb (or part thereof), per business week of inactivity (or part thereof).

Projects that do not progress due to a lack of activity from The Customer will be disposed of, deleted or erased after (1) month of inactivity or non-payment of file storage fees on the first invoice due date.

8. RAW FOOTAGE

If the Customer requires any Raw Footage to be provided, then Customer must pay DVE an additional fee.

9. FILMING ON LOCATION

A day of filming includes up to 1 hour of travel (from Kingsgrove NSW to the location and back) and up to 10 hours on location. Our production time starts from the moment our vehicle arrives in your area (e.g. if access to parking in your area takes 30 minutes, that time is considered production time).

Overtime starts after 10 hours and is calculated at 150% of our current hourly rate.

10. FAILURE OF EQUIPMENT OR ILLNESS OF DVE EMPLOYEES AND CONTRACTORS

Whilst all reasonable care and preparation is taken for videography and editing, DVE will not be liable for any compensation except for return of any Deposit paid, should a failure occur in all or any of the electronic equipment used or due to illness of the operators or person(s) employed or engaged by DVE or because of an unforeseen event or any dispute regarding the ownership of recorded materials

11. OUT OF BUSINESS HOURS, WEEKENDS AND PUBLIC HOLIDAYS

The following applies for pre-production, production and post production work.

11.1 Working hours prior to 7am (where our presence on location is required before 7am) and after 7pm (where our presence on location is required after 7pm) incur and surcharge which is calculated at 150% of the applicable hourly rate.

11.2 Filming hours on weekends incur a surcharge which is calculated at 150% of the applicable hourly rate.

11.3 Filming hours on public holidays incur a surcharge which is calculated at 200% of the applicable hourly rate.

12. YOUR RESPONSIBILITIES

You must do all things reasonably necessary, and supply Digital Video Experts in a timely fashion with all materials reasonably required by Digital Video Experts, in order for Digital Video Experts to perform the services. This may include without limitation supplying copy, photographs and other visual or audio-visual material, and if required, performing sub-editing and copywriting.

Without limiting Digital Video Experts' rights under this agreement, if Digital Video Experts is unable to complete any services because of your actions or omissions, or if you instruct Digital Video Experts to cease or postpone any work, Digital Video Experts may still render invoices for time expended or work already performed, including for any third-party disbursements incurred or agreed to.

Digital Video Experts accepts no responsibility for errors that you do not detect at sign-off stage, nor for any loss or damage of any kind (including legal costs on an indemnity basis) which you or any third party may suffer as a result of those errors not being detected, or as a result of changes requested or required by you after sign-off.

13. VENUE LOCATION FEES & PERMISSIONS

Unless otherwise agree in writing, The Customer must obtain any necessary consent or permission and pay any fees which may apply for DVE to film at a particular venue, location or event.

14. POST PRODUCTION AMENDMENTS

A determined number of amendment rounds is agreed during the quotation process. If no number is agreed, the default of 2 rounds of amendments applies.

DVE will provide the Customer with 'version one (1)' of an initial edited video file. The Customer must notify DVE of all proposed changes within seven (7) days of receipt of the draft copy, constituting 'round one (1)' of amendments.

Once the proposed changes have been made, DVE will provide the Customer with the 'version two (2)'. The Customer must notify DVE of all proposed changes within seven (7) days of receipt of the draft copy, constituting 'round two (2)' of amendments.

Once the proposed changes have been made, DVE will provide the Customer with the final version in the agreed format, or the 'version three (3)', which follows the same procedure as previous rounds.

Additional rounds of amendments, over the agreed amount or default number of two (2), will be charged at our applicable post production hourly rate and added to the final invoice. Please be aware each round of amendments (even for a short sequence) takes a considerable amount of time to check, render & upload for review. It is recommended to avoid drip-feeding amendments throughout the process as this will increase the number of amendment rounds required.

15. ARTISTIC LICENCE

The Customer acknowledges and agrees that editing an event and the production of finished works may include elements of artistic expression and interpretation. DVE reserves the right to use 'Artistic Licence' in any commissioned works that require editing or the production of finished works. The re-editing of commissioned works is offered as an optional extra by prior arrangement. A quotation for re-editing will be provided by DVE on request (see 'post production amendments' above)

16. SUB-CONTRACTING

DVE reserves the right to sub-contract any Services that DVE has agreed to perform for the Customer as it sees fit.

17. TERMS OF USE OF VIDEO BY THE DIGITAL VIDEO EXPERTS

Unless otherwise specified in writing, the Digital Video Experts reserve the right to use the raw footage and final edit(s) for their own marketing purposes, including (but not limited to) displaying on their website, adding all (or parts) to promotional/marketing material online or offline.

18. RIGHT OF REFUSAL OR TERMINATION

DVE reserves the right to terminate the provision of Services, if:

18.1 the videographer, or any person(s) employed or contracted by DVE is placed in a position where there is an actual or apparent risk of injury; or
18.2 there is a risk that any of the equipment used may be damaged.

If DVE terminates the provision of Services then any Deposit paid by the Customer is non-refundable. DVE may seek compensation from the Customer for any loss or damage suffered.

19. LIMITATION OF LIABILITY

The parties acknowledge that, under applicable State and Commonwealth law, certain clauses, conditions, guarantees and warranties may be implied in these Terms and Conditions and there are rights and remedies conferred on the Customer in relation to the provision of goods or of services which cannot be excluded, restricted or modified by agreement ("Non-excludable Rights").

Except to the extent of Non-excludable Rights, DVE will not be liable for:

19.1 Any claim by the Customer or any person, including without limitation any claim relating to or arising from all clauses, conditions, guarantees and warranties express or implied, and all rights and remedies conferred on the Customer, by statute, the common law, equity, trade, custom, usage or otherwise; and
19.2 Any representations, warranties, conditions or agreement made by any agent or representative which are not expressly confirmed by DVE in writing, and
19.3 the liability of DVE for any such matters is hereby excluded.

Where (and to the extent) permitted by law the liability of DVE for a breach of a Non-excludable Right can be limited, DVE's liability is limited, at DVE's option, to one of the following:

19.4 The supply of the service again; or
19.5 Payment for the cost of having the services supplied again.

Notwithstanding any other provision, DVE is in no circumstance (whatever the cause) liable in contract, tort (including without limitation negligence or breach of statutory duty) or otherwise to compensate the Customer for:

19.6 Any increased costs or expenses;
19.7 Any loss of profit, revenue, business, contracts or anticipated savings;
19.8 Any loss or expense resulting from a claim by a third party;
19.9 or Any special, indirect or consequential injury, loss, damage or expense whatsoever and howsoever arising.

20. FORCE MAJEURE

If DVE cannot carry out an obligation under the Contract either in whole or in part because of anything outside its reasonable control, including without limitation, fire, flood, storm, earthquake, explosion, accident, road or rail closures, rail derailment, wharf delays, war, terrorism, sabotage, epidemic, quarantine restriction, labour dispute or shortage, act or omission of any third person or public authority, then DVE's obligations under the Contract will be suspended for the duration of the event or waived to the extent applicable.

21. CANCELLATION

If the Customer has engaged and confirmed DVE to provide Services on a specified date, the Customer may notify DVE in writing (during normal business hours) that the Customer does not require the Services to be provided on that date ("the cancellation"). If notification of the cancellation is provided outside of normal business hours, it is deemed to have been provided at the commencement of the following business day.

A booking is '**tentative**' until it is '**confirmed**' in writing by DVE or the Customer. If required, DVE will seek confirmation in writing for a booking to be 'confirmed' after which the date will be released if no confirmation is received within 24 hours from the Customer.

21.1 If the cancellation is made more than 20 days prior to the day on which DVE has been engaged to provide the Services, the Customer must pay 40% of the Agreed Fee plus any expenses incurred by DVE in preparation for provision of the Services.

21.2 If the cancellation is made between 19 days and 9 days prior to the day on which DVE has been engaged to provide the Services, the Customer must pay 60% of the Agreed Fee plus any expenses incurred by DVE in preparation for provision of the Services.

21.3 If the cancellation is made between 8 days and 48 hours prior to the day on which DVE has been engaged to provide the Services, the Customer must pay 85% of the Agreed Fee plus any expenses incurred by DVE in preparation for provision of the Services.

21.4 If the cancellation is made within 48 hours of the time at which DVE has been engaged to provide the Services, the Customer must pay the Agreed Fee in full plus any expenses incurred by DVE in preparation for provision of the Services.

21.5 If the cancellation is made while DVE is providing Services to the Customer, the Customer must pay the Agreed Fee in full. Any amount payable must be paid by the Customer within 14 days of the cancellation.

22. CUSTOMER'S MATERIALS

All Materials are used and stored by DVE solely at the Customer's risk and DVE is under no obligation to insure any Materials. Neither DVE nor any of its officers, employees, agents or subcontractors will be liable for any loss, destruction or damage ("Loss") of the Materials other than loss caused by their negligence but any liability for such loss will be limited to replacement of the Materials; DVE will not be liable in respect of any Loss of the Materials arising out of the action of any person not employed or engaged by or associated with DVE even though such person is present during and involved with the performance of the Services; and The Customer must retain a master copy of each and every recording delivered to DVE for the purposes of the Contract.

23. CUSTOMER ACKNOWLEDGEMENTS

The Customer acknowledges and agrees that: DVE will have a lien on Materials provided by the Customer; and No title (including any copyright) in the Services manufactured, produced, duplicated or otherwise provided by DVE will be transferred to the Customer until the Customer pays all amounts due to DVE in full. The Customer acknowledges and agrees that upon payment of all outstanding invoices due to DVE, the Customer is entitled to receive the finished works, but has no entitlement to the working files of DVE. The Customer acknowledges and agrees that the content, views and opinions expressed in the finished works produced for the Customer by DVE are solely those of the Customer. The finished works are intended to represent the opinion of the Customer and in no way reflect the views and opinions of DVE, its employees and subcontractors.

24. CUSTOMER UNDERTAKINGS AND WARRANTIES

The Customer must obtain all necessary permissions and authorities in respect of the use of the Materials which are to be included in the Customer video. The Customer indemnifies and holds DVE harmless from any claims or legal actions related to the content of the Customer's video. The Customer hereby indemnifies and holds harmless DVE against all loss, damage, costs or expenses suffered or incurred by DVE.

25. QUOTATIONS

All efforts are put into providing accurate quotes for video productions. Some video productions, however, require additional resources and/or additional time due to unforeseen circumstances such as (but not limited to) weather, venue availability etc. In the event additional costs are required, we will advise you as soon as possible. Digital Video Experts take no responsibility for extra costs due to reasons outside of their control. It will be assumed and accepted by The Customer that these costs will be charged, in addition to the agreed quote, as long as these additional costs are fair & reasonable.

26. CUSTOMER PAYMENT

All reasonable disbursements and out-of-pocket expenses (such as parking, tolls and crew food on location if not supplied by the customer) incurred by Digital Video Experts in connection with the relevant work are added to the fees payable by Digital Video Experts and must be paid by you – i.e. we add these to the final invoice and are NOT included in the quotation. Without limiting the foregoing, any estimates provided by Digital Video Experts for any stage of work will, unless expressly stated to the contrary, include an estimate of any reasonably foreseeable disbursements and expenses.

The disbursements and expenses incurred by Digital Video Experts may include, without limitation, those pertaining to copywriting, illustration, photographic and other services, models, film, processing, printing, materials, equipment, couriers, catering, on-line time, postage and sundries. Digital Video Experts may charge a reasonable agency fee on the cost of any "bought-ins", in addition to that cost. "Bought-ins" may include without limitation disbursements for copywriting, illustration, photography, models, printing and other materials.

You acknowledge that third party suppliers may change their own fees or costing structure, in which case Digital Video Experts will endeavour where possible to revise any estimates accordingly, however you must pay the full amount of any disbursements incurred by Digital Video Experts.

Payment of video productions or products must be completed according to the terms, by EFT or credit card.

27. DEPOSITS

All work requires a 50% upfront payment, unless otherwise stated in writing by DVE, payable by EFT or credit card. Balance is due on delivery of the final product. We do not accept cheques or cash.

28. LATE PAYMENT FEES AND LEGAL COSTS

All prices quoted are final unless otherwise stated, strictly payable as per the terms on the front of the invoice. In the event of payment not being received by us in full by the due date for payment, our late payment policy applies. This policy is clearly stated on all our formal quotations and invoices.

The charging of late payment penalties does not imply the granting of any extension of the credit terms above. The Customer will be liable for any legal costs incurred by DVE in the recovery of unpaid invoices on an indemnity basis.

29. POSTAGE & HANDLING

All postage & handling is charged on final invoice. DVE takes no responsibility for items lost in the mail. It is the responsibility of The Customer to request additional postage services, such as insurance and/or registered post.

30. TRANSACTING WITH DVE

All prices shown on this site are in Australian Dollars (AUD) and all transactions are conducted in Australian dollars.

We do not accept cheques or cash.

Payment by EFT:

Bank: Commonwealth Bank of Australia
Name: Digital Video Experts
BSB: 062 111
Account: 1107 4272

Credit card fees are added to the amount being paid. This is automated via our accounting software credit card acceptance system. The Customer is responsible for all credit card and bank fees, and these fees are not included in the quotation.

31. PRIVACY

All information received by DVE from the Customer, written or otherwise, will be kept confidential. Any private information will not be divulged or distributed to any third party without the Customer's consent.

32. OTHER MATTERS WHICH AFFECT THE CONTRACT

The laws of New South Wales apply to the Contract and the Customer must bring any proceedings against DVE in a New South Wales Court. If a condition or part of a condition is unenforceable, it must be severed from the Contract and does not make the rest of the Contract unenforceable. DVE is not bound by any waiver, discharge or release of a condition or any agreement which changes the Contract unless it is in writing and signed by or for DVE.

33. AMENDMENT

DVE reserves the right to amend these Terms and Conditions at any time. Amendments will be effective after the Customer has been given 7 days written notice. The most up to date copy of these Terms & Conditions are always available at: www.digitalvideoexperts.com.au/terms