

SUBSCRIBER AGREEMENT

This SUBSCRIBER AGREEMENT (“Agreement”) governs any and all use of the Website and Services made available to Subscriber by FILMPAC, LLC (“FILMPAC,” “We,” “Us,” or “Our”).

Capitalized terms are either defined in the body of this Agreement or in the “Definitions” section at the end of this Agreement.

SECTION 1. ONLINE SERVICES; REGISTRATION; SUBSCRIBER ACCOUNT; TRIAL SERVICES

- 1.1** Definition of a Subscriber. Subscriber” means the individual or legal entity that has completed the registration process to create an account on the Website. Where the individual is acting as a company representative (e.g. as an employee) for a business, rather than as an individual, the “Subscriber” is the business, not the individual.
- 1.2** Online Services. Subject to the terms and conditions of this Agreement, FILMPAC grants Subscriber a limited, non-exclusive, non-transferable, non-sublicensable right and license for the Subscription Term to use the Subscription Services identified on the Order Confirmation and to download the Clips accessible via such Subscription Services. In addition to this Agreement, Subscriber’s right to use the Subscription Services and Clips is subject at all times to Subscriber’s compliance with the terms of the License. Subscriber shall not loan, sell, rent, lease or charge any fee for, or permit any third party to otherwise access or use the Services, except as expressly provided in this Agreement. Subscriber may not reverse engineer, decompile, disassemble, or work around technical limitations in the Services.
- 1.3** Registration. Only Subscribers can access Subscription Services. Subscribers must provide and maintain accurate, complete, and current information as prompted by the registration form. Subscriber is responsible for maintaining the confidentiality of login credentials and account information, and is fully responsible for any and all activities that occur under the Subscriber’s account. Subscriber agrees to (a) immediately notify FILMPAC of any suspected or actual unauthorized use of their password or account or any other breach of security, and (b) ensure that they exit from their Subscriber account at the end of each session when accessing the Services. FILMPAC will not be liable for any loss or damage arising from a Subscriber’s failure to comply with this provision.
- 1.4** Subscriber Account. The Subscriber account, including any information pertaining to it, e.g. contact information, billing information, details listed on Order Confirmations, Subscription Services, etc., is strictly personal to the Subscriber. Except as expressly permitted by this Agreement, Subscriber may not allow any third-party to use the Subscriber account.
- 1.5** Trial Services. FILMPAC may make certain Services available to Subscriber on a trial basis, for a limited time, free of charge (“Trial Services”). Subscriber may use the Trial Services in a manner consistent with the terms and conditions of this Agreement, but FILMPAC

may, at its sole discretion, disable certain features of the Trial Services and enforce time limits on Subscriber's right to use Trial Services.

SECTION 2. SUBSCRIPTION SERVICES

2.1 Offer Details; Ordering.

- (a) Offer Details for the Subscription Services are displayed on the Website. Offer Details for any specific Subscription Service are non-binding until Subscriber has completed their purchase; the Offer Details for that specific transaction are identified on the Order Confirmation. Subscriber agrees to pay all fees identified on the Order Confirmation. All payments are non-refundable, non-cancelable and non-creditable except as otherwise provided in this Agreement or when required by law.
- (b) Subscription Services are billed pursuant to the Billing Cycle identified on the Order Confirmation, *e.g.* single annual upfront payment or 12 monthly payments, paid in advance).
- (c) Subscriber acknowledges and agrees that: (a) Subscriber is not relying on future availability of any Subscription Services beyond the current Subscription Term; (b) Subscriber will be billed using the billing method selected through the Subscriber Account, the ordering process, or otherwise; and (c) failure to make payment to FILMPAC when due may result in the Services being made unavailable to Subscriber and termination of this Agreement and the License. Subscriber represents and warrants that the provided credit card information is correct. Subscriber shall promptly notify FILMPAC of any change in credit card information or change of payment provider.

2.2 Payment; Third Party Processors.

- (a) All sums payable hereunder shall be payable in U.S. dollars, unless other currency is indicated by FILMPAC. In calculating the amount owed, if currency conversion is necessary, the exchange rate to be used shall be as published in the Wall Street Journal for the New York market closing rate on the last day of the applicable Reporting Period, or another rate mutually agreed to by the parties in advance of payment. All sums not paid by the due date shall bear interest from the due date until paid at the rate of 1.5% per month or the highest rate permitted by law, whichever is lower.
- (b) We often use a third party not affiliated with FILMPAC to process payments for Subscription Services ("Third Party Processor"). You agree that the Third Party Processor is solely responsible for controlling, handling, processing or otherwise fulfilling purchases processed through their system. When using such Third Party Processor you will be subject to their terms of service and privacy policy.

2.3 Subscription Terms and Renewals. Your subscription will continue indefinitely until terminated in accordance with this Agreement. The initial subscription period for any specific Subscription Service is identified on the Order Confirmation provided by FILMPAC at the time of initial purchase ("Initial Subscription Term"). **Unless cancelled as provided**

in Section 2.4, all Subscription Services will automatically renew for additional subscription periods of equal length to the initial Subscription Term (each a “Renewal Term” and together with the Initial Subscription Term, the “Subscription Term”). Pricing for each Renewal Term will be at the price set forth in FILMPAC’S then current Offer Details, and all other terms and conditions set forth in such Offer Details shall also apply. Subscriber agrees that FILMPAC may bill their credit card for each Renewal Term prior to expiration, or on the anniversary of, the initial Subscription Term or then-current Renewal Term. Subscriber acknowledges and agrees that it is the responsibility of Subscriber to review the Offer Details displayed on the Website for pricing and other changes.

- 2.4** Subscription Cancellation. FILMPAC may cancel your subscription at any time upon notice to you. Subscriber can cancel Subscription Services at any time through the Subscriber account, by emailing us at info@filmpac.com, or by calling us at 1 (833) 345-6722. If canceled, Subscription Services will terminate at the end of the then-current Subscription Term (or Renewal Term, if applicable).

Example: Subscriber initiates a 1 Year Subscription Term with monthly payments on January 1, 2020, and then cancels that subscription on August 1, 2020, Subscriber will continue to be charged monthly payments until the end of the Subscription Term with a final payment on December 1, 2020.

There are no refunds, except as provided below.

- 2.5** Refunds. We reserve the right to issue refunds or credits at our sole discretion. If we do issue a refund or credit, we are under no obligation to issue the same or similar refund in the future.
- 2.6** Taxes; Withholding. Fees payable hereunder are exclusive of taxes. Subscriber shall be responsible for all sales, use, excise, and value added taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental authority on any amounts payable by Subscriber hereunder. Subscriber shall pay all such sums free and clear of all deductions and withholdings whatsoever, unless the deduction or withholding is required by law. If any deduction or withholding is required by law, Subscriber shall pay to FILMPAC such sum as will, after the deduction or withholding has been made, leave FILMPAC with the same amount as it would have been entitled to receive without any such requirement to make a deduction or withholding. Subscriber will notify FILMPAC of any required withholding and provide any related documentation to FILMPAC promptly.

SECTION 3. AMENDMENT OF LICENSE. For purposes of the Subscription Services identified on the Order Confirmation and all Clips accessible via such Subscription Services, the License is hereby amended as follows:

- 3.1** Purchaser Different from Licensee. Notwithstanding anything to the contrary in the License, only a Licensee may purchase FILMPAC’S subscription services and download Footage. Use of a Purchaser is not allowed.
- 3.2** Definition of Footage. The existing definition of “Footage” is deleted in its entirety and replaced with the following:

“Footage” means all still images, film, video or other media downloaded by the subscriber through the subscription services identified on the applicable order confirmation.

3.3 License Grant. Section 1.1 is deleted in its entirety and replaced with the following:

“License Grant. Subject to the terms and conditions of this Agreement, FILMPAC hereby grants to Licensee, for the term of the applicable FILMPAC subscription service, the nonexclusive, worldwide, right and license to Use all or any part of the Footage in connection with the development of End Products for use by Licensee or by Licensee’s Direct End Clients in any and all media and formats now known or hereafter devised but solely within the Permitted Scope of Use. Ongoing usage rights are subject to Licensee’s compliance with all terms and conditions set forth in this Agreement.”

3.4 Restricted Uses. Section 2.3(c) is deleted in its entirety and replaced with the following:

“If you have purchased a standard license, Licensee must maintain the Footage in a manner that ensures only permitted Editors have access to: (a) the downloaded Footage; and (b) any End Product in its native format.”

3.5 License Fee. Section 3.1 is deleted in its entirety and replaced with the following:

“Unless otherwise stated on the order confirmation, no additional per Footage unit fees are due where access is provided pursuant to FILMPAC’s subscription services.”

3.6 License Term. Section 6.1 is deleted in its entirety and replaced with the following:

“Term. The term of this Agreement commences on the Effective Date and continues until the last to occur of the following: (a) all End Product is removed from Use; or (b) this Agreement is otherwise terminated as permitted herein.”

SECTION 4. RECORDKEEPING; AUDITS

4.1 Recordkeeping. Subscriber will keep records in accordance with generally accepted accounting principles and in sufficient detail to permit the determination of Subscriber’s compliance with obligations required under this Agreement.

4.2 Audits. On two business days’ written notice requesting an audit, Subscriber will permit auditors designated by FILMPAC, together with any legal and technical support that FILMPAC deems necessary, to examine, during ordinary business hours, the books, records, materials, and facilities of Subscriber for the purpose of verifying compliance with this Agreement. Each party will pay its own costs incurred in the course of the audit, however, if the results of an audit conducted in accordance with this section show Subscriber is not in compliance with its obligations under this Agreement, Subscriber shall reimburse FILMPAC for the cost of the audit.

SECTION 5. TERM; TERMINATION

- 5.1** Agreement Term. This Agreement will remain in effect until the expiration or termination of all of the Subscription Services.
- 5.2** Termination; Suspension. We may terminate, or suspend, the Subscription Services and the Subscriber account immediately, without notice, if (a) it is reasonably needed to prevent unauthorized access to the Services; (b) Subscriber does not pay amounts due under this Agreement; (c) requested by Subscriber (for example, self-initiated account deletions); or (d) Subscriber violates the terms of this Agreement.
- 5.3** Effect of Termination on the License. Upon termination or expiration of any Subscription Services: (a) Subscriber's access to the Subscription Services, and all Clips available via such services, terminates, i.e. such Clips are no longer available for download, (b) Subscriber may no longer use Clips to develop End Product, (c) Subscriber must delete or otherwise destroy all copies of downloaded Clips, and (d) if requested, confirm to FILMPAC in writing that Licensee has complied with all of these requirements. The License will remain in effect in accordance with its terms.

SECTION 6. INDEMNITY; DISCLAIMER; LIABILITY LIMITATION

- 6.1** Indemnification. To the extent not prohibited by law, Subscriber agrees to indemnify, defend and hold harmless, FILMPAC, its employees, officers, directors, agents, suppliers and licensors ("FILMPAC Parties") from and against any and all damages, losses, liabilities and costs, including without limitation, reasonable attorneys' fees, arising from access and use of the Website, the Subscriber account, Subscriber's violation of this Agreement, and the Subscription Services.
- 6.2** Warranty Disclaimer. USE OF THE SUBSCRIPTION SERVICES IS AT SUBSCRIBER'S SOLE RISK AND THE SUBSCRIPTION SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. THE FILMPAC PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT, NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COUSE OF DEALING OR USAGE OF TRADE, TO THE MAXIMUM AMOUNT PERMITTED BY LAW. THE FILMPAC PARTIES MAKE NO WARRANTY THAT: (a) THE SUBSCRIPTION SERVICES WILL MEET SUBSCRIBER'S REQUIREMENTS; (b) THE SUBSCRIPTION SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; (c) THE CONTENT AVAILABLE THROUGH THE SUBSCRIPTION SERVICES IS OF A PARTICULAR QUALITY, IS ACCURATE, CURRENT OR COMPLETE; OR (d) THAT ANY ERRORS IN THE SUBSCRIPTION SERVICES WILL BE CORRECTED. ANY MATERIAL DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH THE SUBSCRIPTION SERVICES IS ACCESSED AT SUBSCRIBER'S OWN RISK, AND SUBSCRIBER SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO SUBSCRIBER'S PROPERTY OR PERSON, INCLUDING, BUT NOT LIMITED TO, SUBSCRIBER'S COMPUTER SYSTEM AND ANY DEVICE USED TO ACCESS THE SUBSCRIPTION SERVICES, OR ANY OTHER LOSS THAT RESULTS FROM ACCESSING SUCH MATERIALS.
- 6.3** Limitation of Liability. EXCEPT WITH RESPECT TO DAMAGES CAUSED BY FILMPAC'S WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, IN NO EVENT WILL FILMPAC OR ANY

AFFILIATE BE RESPONSIBLE OR LIABLE TO SUBSCRIBER OR ANY OTHER INDIVIDUAL OR ENTITY, FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR LOST PROFITS, REGARDLESS OF LEGAL THEORY, AS A RESULT OF THIS AGREEMENT, ANY LICENSE, OR ANY OTHER AGREEMENT WITH FILMPAC, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. FILMPAC'S AGGREGATE LIABILITY TO SUBSCRIBER FOR ALL DAMAGES AND LOSSES ARISING OUT OF OR RELATED TO THE SUBSCRIPTION SERVICES, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL BE LIMITED TO THE TOTAL AMOUNT OF MONIES RECEIVED FROM OR OTHERWISE PAID TO FILMPAC HEREUNDER FOR THEN CURRENT SUBSCRIPTION TERM.

SECTION 7. MISCELLANEOUS

- 7.1** General. This Agreement, the License, and the Order Confirmation, and any other terms and conditions set forth at www.filmpac.com (all of which are hereby incorporated by reference) set forth the entire agreement and understanding between the parties as to the subject matter hereof. As between this Agreement, the License, the Order Confirmation, and terms and conditions set forth on the FILMPAC website the following order of priority applies: (1) Order Confirmation; (2) this Agreement; (3) the License, and (4) the website terms. There shall be no amendments or modifications to this Agreement, except by a written document provided to Subscriber by FILMPAC which is affirmatively consented to by Subscriber (a document only viewable by Subscriber online, whether through Subscriber's account with FILMPAC or whether otherwise sent via email to the email address of record for Subscriber, is an acceptable form of writing). This Agreement shall not be construed or interpreted in favor of or against FILMPAC or Subscriber on the basis of draftsmanship or preparation of the Agreement. Captions contained in this Agreement are for reference purposes only, and are not intended by either party to describe, interpret, define, broaden or limit the scope, extent or intent of this Agreement or any of its provisions. Any delay in enforcing a party's rights under this Agreement or any waiver as to a particular default or other matter shall not constitute a waiver of such party's rights to the future enforcement of its rights under this Agreement, excepting only as to an express written and signed waiver as to a particular matter for a particular period of time. Nothing in this Agreement, express or implied, is intended or may be construed to confer on any person, other than the parties to this Agreement, any right, remedy, or claim under or with respect to this Agreement.
- 7.2** Severability; Electronic Signature; Notice. If any provision of this Agreement is found to be invalid, void or otherwise unenforceable, that provision shall be deemed severable and shall not affect the validity and enforceability of any remaining provisions. The parties hereto specifically agree to contract with each other via electronic transmissions and that email communications shall be the primary format for all communications regarding this Agreement. Any notice to be provided to FILMPAC pursuant hereto shall be delivered to info@filmpac.com. Any notice to be provided to Subscriber shall be by email to the email address FILMPAC then currently has on file as the email of record, postings within the Subscriber's FILMPAC online account or other reasonable means. Any such notice shall be considered received when actually sent to recipient's correct email address or FILMPAC account, if applicable, by the sender.

- 7.3** Force Majeure. In addition to any excuse provided by applicable law, FILMPAC shall be excused from liability for non-delivery or delay in delivery of Subscription Services and any other products and offerings available through the Website arising from any event beyond FILMPAC'S reasonable control, whether or not foreseeable by either party, including but not limited to: labor disturbance, war, fire, accident, adverse weather, inability to secure transportation, governmental act or regulation, and other causes or events beyond FILMPAC's reasonable control, whether or not similar to those which are enumerated above.
- 7.4** Assignment. This Agreement is personal to Subscriber and is not assignable by Subscriber without FILMPAC's prior written consent. FILMPAC may assign this Agreement, without notice or consent, to any Affiliate or to any successor in interest, provided that such entity agrees to be bound by these terms.
- 7.5** Governing Law; Arbitration. This Agreement shall be governed by the laws of the State of Oregon excluding its conflict of law provisions. In the event of any controversy between Subscriber and FILMPAC relating to this Agreement or Subscriber's use of the Clips, the parties will provide formal notice to the other of the dispute. The parties will attempt to resolve all disputes informally. Any disputes that are not resolved will be submitted to binding arbitration pursuant to the Oregon Uniform Arbitration Act. Arbitration procedure shall be pursuant to the Oregon Rules of Civil Procedure, the parties are free to engage in all discovery permissible under the Oregon Rules of Civil Procedure and any discovery requests or subpoenas may be enforced pursuant to ORS 36.675 by petition to the Circuit Court. The parties will agree upon a single arbitrator and, if the parties cannot agree, they will select a neutral third party, who will make a selection from a list comprised of six potential arbitrators, three proposed by each party. The parties expressly waive any right to trial by jury or class treatment of any claim, demand, action or cause of action arising out of or relating to this agreement or the breach thereof. On the application of either party, the award in the arbitration may be enforced by the order of a court of competent jurisdiction. All arbitration proceedings shall be held within Lane County in the State of Oregon.
- 7.6** Headings Not Controlling. The section headings contained herein are for reference only and are not part of this Agreement. The headings shall not control or alter the meaning of this Agreement as set forth in the text.
- 7.7** Relationship. The parties are independent contractors with respect to each other. Neither party shall be deemed a partner, agent, or representative of the other party. Each party shall be responsible for its own business activities including its own liabilities and business expenses and the other party shall have no liability therefore.
- 7.8** No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or may be construed to confer on any person, other than the parties, any right, remedy, or claim under or with respect to this Agreement.
- 7.9** Survival. In the event of expiration or termination of this Agreement by either party, the following provisions shall remain in full force and effect, together with any other provisions which by their nature should survive such expiration or termination: Sections

4, 5.3, 6 and 7.

SECTION 8. DEFINITIONS

- 8.1** “Billing Cycle” means the periodic, recurring basis on which a Subscription will be billed to Subscriber, as identified on the Order. Billing Cycles are typically monthly or yearly.
- 8.2** “Clips” are still images, film, video, and other media made available through the Subscription Services in pre-bundled groups. The name of the pre-bundled group will be identified on the Order Confirmation.
- 8.3** “Editors” means the maximum amount of natural persons, *e.g.* employees of Subscriber, licensed to use the Clips, as identified on the Order Confirmation.
- 8.4** “License” means the FILMPAC STOCK FOOTAGE LICENSE AGREEMENT in effect on the date of Subscriber’s order, as amended by this Agreement, provided, however if a separate written agreement, signed by Subscriber and a duly authorized FILMPAC representative, exists as between Subscriber and FILMPAC (“Custom License”), the term “License” means such Custom License. The License applies to each Clip made accessible to Subscriber through the Subscription Services.
- 8.5** “Offer Details” means the advertised pricing and related terms for Subscription Services displayed on the Website.
- 8.6** “Order Confirmation” means any written or electronic document we provide after Subscriber completes an order to identify Subscription Services, including the number of Seats; Subscription Term; applicable License; Billing Cycle, and pricing.
- 8.7** “Services” means the collective online platform made available by FILMPAC through the Website.
- 8.8** “Subscription Services” means the specific Services that Subscriber has purchased access to, including the applicable Clips accessible via such service, all as identified on the Order Confirmation. Trial Services are a subset of Subscription Services.
- 8.9** “Website” means the online, web-based applications and platform made available at www.filmpac.com and any other websites maintained by FILMPAC.

Capitalized terms used in this Agreement that are not otherwise defined shall have the meaning defined in the License.

Last Revised: July 17th, 2018