

SAFARI MONTAGE® DIGITAL CONTENT LICENSE AGREEMENT

BY USING THE SAFARI MONTAGE SYSTEM (DEFINED BELOW) FROM LIBRARY VIDEO COMPANY D/B/A SAFARI MONTAGE ("SAFARI MONTAGE"), CUSTOMER ("CUSTOMER") HEREBY AGREES TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS OF THE SAFARI MONTAGE DIGITAL CONTENT LICENSE AGREEMENT (THE "AGREEMENT"). IF YOU DO NOT AGREE WITH ANY OF THE FOLLOWING TERMS AND CONDITIONS OF THE AGREEMENT, DO NOT USE THE SAFARI MONTAGE SYSTEM.

THIS IS A LICENSE, NOT A SALE.

1. **DEFINITIONS.** For purposes of this Agreement, the following definitions shall apply:
 - 1.1. "Digital Content" shall mean the programs comprising the digital content package(s) licensed to Customer for use on the SAFARI Montage System and any teacher's guides, curriculum correlations, abstracts, metadata, and any other content provided with each such program or content package at SAFARI Montage's sole discretion, which programs SAFARI Montage may from time to time withdraw, substitute, or supplement. Digital Content shall not include OER Content (defined below).
 - 1.2. "OER Content" shall generally mean any weblinks to, and content and material available from, free or open educational, research, or other resources which may reside in the public domain or are available under open licensing that generally permits use, repurposing, and sharing by others. SAFARI Montage may facilitate access to certain OER Content for use on the SAFARI Montage System, but such content generally need not be accessed through the SAFARI Montage System and SAFARI Montage makes no representations in this Agreement regarding such content.
 - 1.3. "SAFARI Montage System" shall mean a server- or cloud-based digital video content management system, or hybrid thereof, that utilizes SAFARI Montage proprietary software and which provides Customer and End Users with access to the Digital Content.
 - 1.4. "Authorized Institution" shall collectively mean all school districts, schools, libraries, and other educational institutions specified in the quote by SAFARI Montage to Customer to access and use the Digital Content through the SAFARI Montage System under this Agreement; provided, however, that where Digital Content is licensed by Customer on a student enrollment basis or on an enterprise-wide basis, then, unless otherwise agreed in writing by SAFARI Montage and Customer, an Authorized Institution shall not include charter schools.
 - 1.5. "End Users" shall mean educators, administrators, staff, students, and parents and guardians of students of an Authorized Institution who are authorized to access and use the Digital Content by means of the SAFARI Montage System under this Agreement.
 - 1.6. "Activation Date" shall mean the date on which Customer begins using the SAFARI Montage System.
2. **GRANT OF RIGHTS.**
 - 2.1. SAFARI Montage hereby grants to Customer a limited, revocable, non-exclusive, non-transferable right and to use, publicly perform, display, and exhibit the Digital Content by means of the SAFARI Montage System for viewing and use by End Users solely for educational purposes in accordance with the rights and restrictions set forth in this Agreement and no greater than the rights and restrictions set forth in any licenses granted to SAFARI Montage for such content. Customer acknowledges and agrees that: (i) the Digital Content shall be used only in connection with the SAFARI Montage System for access by End Users within a confined viewing or listening environment physically located within a building of the Authorized Institution, including, without limitation, classrooms, libraries, and media centers, with the number of buildings or enrolled students as specified in the quote by SAFARI Montage to Customer; and (ii) Customer shall notify SAFARI Montage of any new school or building added to the Authorized Institution or its regional media center during the Term (defined in section 4 below) that will have access to the Digital Content. Except as otherwise expressly authorized by SAFARI Montage under this Agreement, Customers and End Users shall not store, copy, manipulate, transmit, download, or in any way redistribute the Digital Content outside of the SAFARI Montage System. All rights not specifically granted to Customer under this Agreement with respect to the Digital Content are reserved by SAFARI Montage.
 - 2.2. Provided Customer has a current software license for managed home access, SAFARI Montage grants to Customer the right to password-protected access to the Digital Content from a location outside of the Authorized Institution for the use and benefit of End User for educational purposes.
 - 2.3. To the extent download rights, if any, are available for certain Digital Content, Customer acknowledges and agrees that such downloading shall be solely for the use and benefit of the End User for educational purposes. Upon expiration or termination of this Agreement, Customer will delete all copies of the Digital Content downloaded by End Users.
3. **CONSIDERATION.** In consideration for the rights granted under this Agreement, Customer agrees to pay any and all license fees, taxes, and other charges as applicable related to the Digital Content as set forth in the quote received by Customer for the Digital Content or as otherwise invoiced to Customer. All payments due under this Agreement shall be paid in accordance with the payment terms set forth in the invoice provided to Customer for such payment. Customer's failure to pay any and all amounts due under this Agreement may result in the imposition of additional charges, late fees, or termination of this Agreement, in SAFARI Montage's sole discretion.
4. **TERM.** Unless terminated sooner as provided in section 7 below, or as otherwise stated in the quote provided to Customer, the term ("Term") of this Agreement shall begin on the Activation Date and run for a period of one (1) year thereafter. Upon approval by SAFARI Montage, in its sole discretion, the Term of this Agreement may be renewed for an additional one (1)-year period under the same terms and conditions set forth in this Agreement, subject to Customer's payment of additional license fees.
5. **CUSTOMER OBLIGATIONS.**
 - 5.1. Customer shall permit the delivery of the Digital Content to End Users for educational purposes only by means of the SAFARI Montage System.
 - 5.2. Customer shall not, and shall instruct End Users that End Users shall not, charge End Users any direct or indirect fees for viewing the Digital Content or exhibit the Digital Content to any audience where admission is charged or under any circumstances from which exhibitors derive monetary gain.
 - 5.3. Customer shall not, and shall instruct End Users that End Users shall not, copy, tape, reproduce, duplicate, transmit, broadcast, decompile, disassemble, reverse engineer, loan, sell, rent, lease, sublicense, create derivative works, upload or make available to the Internet or any publicly accessible network, or make any other use whatsoever of the Digital Content, in whole or in part, except as expressly authorized herein or as otherwise permitted under the U.S. Copyright Act of 1976, including, without limitation, any "fair use" provisions under Section 107 of such Act. No exhibition of the Digital Content shall be interrupted, preceded, or followed by any commercial announcement; provided, however, that nothing in this Agreement shall otherwise prohibit Customer from interrupting, fast forwarding, or rewinding the Digital Content during its viewing.
 - 5.4. Customer shall not, and shall instruct End Users that End Users shall not, modify, alter, delete, edit, cut, adapt, or make additions in or to any of the Digital Content, including, without limitation, the deletion of any copyright notices or credits from the Digital Content or from any other material supplied to Customer hereunder. The Digital Content shall not be used in any manner to promote or endorse any commercial products or services without the express written permission of the copyright owner for the respective Digital Content.
 - 5.5. Upon written notice from SAFARI Montage that any Digital Content is subject to a threatened or actual claim of infringement, violation of another right, or any other claim for which SAFARI Montage may be liable herein, or if SAFARI Montage withdraws any Digital Content for any reason, Customer shall cease all further use of such Digital Content and take any necessary action as may be instructed by SAFARI Montage to block further access to such Digital Content. SAFARI Montage shall provide Customer with comparable Digital Content (which comparability will be determined by SAFARI Montage in its reasonable commercial judgment) free of charge, but subject to the terms and conditions of this Agreement.
 - 5.6. Customer shall enable uninterrupted remote access to the SAFARI Montage System via the Internet, and SAFARI Montage or its authorized representative shall have the right to remotely access the SAFARI Montage System via the Internet for content and software updates, maintenance, operational and administrative purposes, and data collection. In the event online access to the SAFARI Montage System is interrupted or otherwise not available for any reason, upon request by SAFARI Montage, Customer shall grant SAFARI Montage or its authorized representative direct on-site access to the SAFARI Montage System during normal business hours.
 - 5.7. Customer agrees that it shall not use any trade names, service marks, or trademarks belonging to SAFARI Montage or any third party provider of Digital Content licensed hereunder, including, without limitation, any name or title of any Digital Content.
6. **COPYRIGHT.** Customer acknowledges and agrees that no ownership or copyright in any Digital Content shall pass to Customer. Customer shall not remove or alter the copyright information from any Digital Content or any digital file related to the Digital Content. Customer further agrees that the use of any copies of the Digital Content hereunder shall not affect the copyright holder's continued and separate copyright ownership in the Digital Content. Should Customer come into possession or ownership of the copyright in the Digital Content, or any versions or derivatives thereof, Customer shall transfer and assign such ownership of copyright to SAFARI Montage (or SAFARI Montage's designee) immediately and without request or demand by SAFARI Montage. Notwithstanding anything to the contrary herein, nothing in this Agreement shall limit or otherwise restrict Customer's fair use defenses under the U.S. Copyright Act of 1976.
7. **TERMINATION.**
 - 7.1. SAFARI Montage reserves the right to terminate this Agreement, effective immediately, upon Customer's breach of this Agreement.
 - 7.2. SAFARI Montage may terminate this Agreement at any time upon written notice to Customer, effective immediately, if Customer seeks protection of any bankruptcy, insolvency, or similar law, or terminates its operations.
 - 7.3. In the event of any termination of this Agreement for breach by Customer or for any other reason hereunder, the rights and obligations of Customer still in force at the time of such termination shall automatically revert to SAFARI Montage.
 - 7.4. Upon expiration or termination of this Agreement, Customer shall immediately cease use of the Digital Content and shall return to SAFARI Montage all drives containing the Digital Content within thirty (30) days.
8. **INDEMNIFICATION.** Customer agrees, to the extent permitted by law, to indemnify and hold SAFARI Montage and its Digital Content licensors (including their affiliates, subsidiaries, successors, and assigns, and their respective directors, trustees, officers, employees, and agents) harmless against any and all claims, liabilities, damages, losses, penalties, costs, and expenses, including attorney's fees, arising in any manner whatsoever from (i) the unauthorized use of any Digital Content, (ii) Customer's use of any third party content in connection with the SAFARI Montage System, and (iii) Customer's breach of any of the terms of this Agreement.
9. **WARRANTY AND LIMITATION OF LIABILITY.**
 - 9.1. SAFARI Montage warrants to Customer that SAFARI Montage has secured all necessary rights to enter into this Agreement and to grant the rights granted hereunder. The sole and exclusive remedy for a breach of this Agreement, including, without limitation, any breach of the foregoing warranty, is the replacement of the Digital Content, which replacement shall be subject to the terms and conditions of this Agreement. Warranty service for the SAFARI Montage System shall be subject to the warranty terms and conditions for such system as provided by SAFARI Montage.

(Continued)

- 9.2. **EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 9, SAFARI MONTAGE MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SAFARI MONTAGE AND ITS AFFILIATES, SUBSIDIARIES, SUCCESSORS, AND ASSIGNS SHALL NOT BE LIABLE TO LICENSEE OR ANY OTHER PERSON OR ENTITY FOR ANY GENERAL, PUNITIVE, SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, LOST PROFITS, OR OTHER DAMAGES ARISING OUT OF THIS AGREEMENT, EVEN IF SAFARI MONTAGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
10. **RIGHT TO INSPECT.** SAFARI Montage may at any time inspect any records, accounts, and books relating to Customer's use of the Digital Content to ensure that the Digital Content is being used in accordance with the terms of this Agreement.
11. **ASSIGNMENT.** This Agreement and any and all of the rights granted to Customer hereunder shall not be assigned by Customer, in whole or in part, without the prior written consent of SAFARI Montage, and any purported assignment absent such consent shall be null and void. SAFARI Montage may assign this Agreement and any and all of its obligations hereunder, in whole or in part, in its sole discretion.
12. **MISCELLANEOUS.**
- 12.1. This Agreement contains the full and complete understanding of the parties regarding the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, between the parties. No waiver, alteration, or modification of any provision of this Agreement shall be binding unless in writing and signed by both parties. In the event of any conflict between this Agreement and any information or agreement otherwise provided to Customer in connection with the SAFARI Montage System, the terms of this Agreement shall govern.
- 12.2. Except as otherwise provided in section 9 above, no failure or delay of either party to exercise any rights or remedies under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any rights or remedies preclude any further or other exercise of the same or any other rights or remedies, nor shall any waiver of any rights or remedies with respect to any circumstances be construed as a waiver thereof with respect to any other circumstances.
- 12.3. In the event that any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, and the application of such provision in any other circumstances, shall not be affected thereby.
- 12.4. Unless the Authorized Institution is a government or similar body such that state or local procurement law in which the Authorized Institution is located applies, and such law requires otherwise, then this Agreement shall be governed by and construed in conformance with the laws of the Commonwealth of Pennsylvania, without regard to any conflict of laws principles.
- 12.5. Any notices required to be given hereunder shall be given in writing and addressed as follows: if to Customer, to the address and individual on file, and if to SAFARI Montage, to Library Video Company d/b/a SAFARI Montage, Five Tower Bridge, 300 Barr Harbor Drive, Suite 700, West Conshohocken, PA 19428, Attn: General Counsel.

SAFARI Montage Digital Content License Agreement 07.12.2019

