

LIBRARY VIDEO COMPANY d/b/a SAFARI Montage
DIGITAL CONTENT LICENSE AGREEMENT

By using the SAFARI Montage System (defined below) from Library Video Company d/b/a SAFARI Montage (“LVC”), customer (“Customer”) hereby agrees to be bound by the following terms and conditions (this “Agreement”):

1. **Definitions.** For purposes of this Agreement, the following definitions shall apply:

- (a) “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 LVC’s sole discretion.
- (b) “SAFARI Montage System” shall mean a digital video content management system that utilizes LVC SAFARI Montage proprietary software, and which provides Customer and/or End Users with access to the Digital Content.
- (c) “Authorized Institution(s)” shall mean the school, school district, library and/or other educational institution authorized to access and use the Digital Content 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 LVC and Customer, charter schools shall not be considered Authorized Institutions.
- (d) “End Users” shall mean educators, staff and/or student (and parents of each student) members of an Authorized Institution(s) who are authorized to use the Digital Content by means of the Safari Montage System.
- (e) “Activation Date” shall mean the date on which Customer begins using the SAFARI Montage System.

2. **Grant of Rights.**

- (a) LVC hereby grants to Customer a limited, revocable, non-exclusive, non-transferable license to publicly perform, display and/or exhibit the Digital Content by means of the SAFARI Montage System for viewing by End Users in accordance with the rights and restrictions set forth herein including paragraph 2(b), below. 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 at the Authorized Institution(s), including, without limitation, classrooms, libraries and/or media centers, with the number of buildings or enrolled students as specified by LVC to Customer; and (ii) Customer shall, during the term of this Agreement, notify LVC of each new school within its school district or added to its regional media center, that will have access to the Digital Content, and/or any buildings or schools that are newly provided access to the Digital Content. Except as otherwise expressly authorized by LVC under this Agreement, Customers and/or End Users shall not store, copy, manipulate, transmit, download, or in any way redistribute the Digital Content apart from the SAFARI Montage System. All rights not specifically granted to Customer under this Agreement are reserved by LVC.
- (b) Concurrent with the rights granted above, provided Customer has a current Managed Home Access software license, End Users shall have the right to access the Digital Content from a location outside of the Authorized Institution for lesson planning or other educational purpose provided that such access is password protected. To the extent download rights, if any, are available for Digital Content, Customer acknowledges and agrees that such downloading shall be for educational purposes only for the use and/or benefit of the End User. Upon expiration or termination of this Agreement, all copies of the Digital Content downloaded by End Users shall be deleted.

3. **Consideration.** In consideration for the rights granted under this Agreement, Customer agrees to pay any and all license fees, service charges and/or taxes 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 received by Customer for such payment. Customer’s failure to pay any and all fees and/or charges due under this Agreement may result in additional service charges and/or termination of this Agreement at LVC’s sole discretion.

4. **Term.** Unless terminated sooner, as provided below, or as otherwise stated in the Quote provided to Customer, the term of this Agreement shall begin on the Activation Date and run for a period of one (1) year thereafter. Upon approval by LVC, in its sole discretion, this Agreement may be renewed for additional one (1) year periods under the same terms and conditions set forth in this Agreement, subject to payment of additional digital license fees.

5. **Customer Obligations.**

- (a) Customer shall permit the delivery of the Digital Content as provided in paragraph 1, above, to the End Users only by means of SAFARI Montage System and shall not charge End Users any direct or indirect fees for viewing the Digital Content.
- (b) Customer agrees that Customer shall not, and shall instruct End Users that End Users shall not, modify, edit, copy, tape, reproduce, duplicate, transmit, broadcast, decompile, disassemble, reverse engineer, loan, rent, lease, sublicense, create derivative works 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. Nothing in this Agreement shall prohibit Customer from interrupting, fast forwarding or rewinding the Digital Content during its viewing.

- (c) Customer shall not make any modification, deletion, cut, alteration or addition in or to 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 and/or endorse any products and/or services, without the express written permission of the copyright owner for the respective Digital Content.
- (d) Upon written notice from LVC that the Digital Content, or any portion thereof, is subject to a threatened or actual claim of infringement, violation of another right or any other claim for which LVC may be liable herein, or if LVC retires and/or withdraws any Digital Content for any reason, including, without limitation, for editorial reasons, Customer shall cease all further use of such Digital Content and take any necessary action, as instructed by LVC, to block further access to such Digital Content. LVC shall provide Customer with comparable Digital Content (which comparability will be determined by LVC in its reasonable commercial judgment) free of charge, but subject to the terms and conditions of this Agreement.
- (e) Customer shall enable uninterrupted remote access to the SAFARI Montage System via the Internet, and LVC and/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/or data collection. In the event online access to the SAFARI Montage System is interrupted or otherwise not available for any reason, upon request by LVC, Customer shall grant LVC and/or its authorized representative direct on-site access to the SAFARI Montage System during normal business hours.
- (f) Customer agrees that it shall not use any trade names, service marks and/or trademarks belonging to SVN, LVC and/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 and/or alter the copyright information from any Digital Content and/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 inadvertently or for any reason 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 LVC (or LVC’s designee) immediately and without request or demand by LVC.

Notwithstanding anything to the contrary, nothing in this Agreement shall limit or otherwise restrict Customer’s fair use defenses under the U.S. Copyright Act of 1976.

7. **Termination.**

- (a) LVC reserves the right to terminate this Agreement, effective immediately, upon Customer’s breach of this Agreement.
- (b) LVC 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. Customer expressly waives any and all of its rights to sovereign immunity to the extent Customer can seek such protection for any reason in connection with this Agreement and its obligations under this Agreement.
- (c) 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 LVC.
- (d) Upon expiration or termination of this Agreement, Customer shall immediately cease use of the Digital Content and shall return to LVC all drives containing the Digital Content within thirty (30) days of such expiration or termination.

8. **Indemnification.** Customer agrees to indemnify and hold LVC 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 for damages, losses or any costs, including attorney’s fees, arising in any manner whatsoever from (a) the unauthorized use of any Digital Content, (b) Customer’s use of any third party content in connection with the SAFARI Montage System and/or (c) Customer’s breach of any of the terms of this Agreement.

9. **Warranty and Limitation of Liability.**

- (a) LVC warrants to Customer that, LVC 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 LVC.
- (b) **EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 9, LVC MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. LVC, 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 LVC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. **Right to Inspect.** LVC may at any time inspect any records, accounts and/or 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/or any and all of the rights granted to Customer under this Agreement shall not be assigned by Customer, in whole or in part, without the prior written consent of LVC, and any purported assignment absent such consent shall be null and void. This Agreement and/or any and all of LVC's obligations under this Agreement may be assigned by LVC, in whole or in part, without the prior written consent of Customer.
12. **Miscellaneous.**
 - (a) This Agreement contains the full and complete understanding of the parties regarding the subject matter thereof, and supersedes all prior and/or 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 hereto. 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.
 - (b) 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.
 - (c) In the event that any provision of this Agreement is held invalid or unenforceable in any circumstances 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.
 - (d) This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania, without regard to any conflict of laws principles. 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 disputes and matters arising under this Agreement.
 - (e) All notices to LVC contemplated under this Agreement shall be in writing and delivered by hand or registered mail, return receipt requested, as follows: Library Video Company, 7 East Wynnewood Road, Wynnewood, PA 19096, Attn: General Counsel.
 - (f) The headings set forth in this Agreement are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Agreement.

BY USING THE SAFARI MONTAGE SYSTEM, CUSTOMER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS OF THIS AGREEMENT AND AGREES TO BE LEGALLY BOUND BY ALL SUCH TERMS AND CONDITIONS.

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