

## **STOCK FOOTAGE LICENSING GUIDELINES FOR PRODUCTION COMPANIES**

*The purpose of these guidelines is to provide basic pointers to production companies that intend to license images, audio and audio-visual material. Do keep in mind that these guidelines are merely indicative, subject to changes and are not exhaustive in nature.*

1. The template annexed as Exhibit A to these guidelines (“**Material License Agreement Template**”), is to be used for all materials (including any images, audio-video or audio recordings and as set out in the definition of Materials in Exhibit A) being licensed from third parties for Amazon Original Shows/ Movies (“**Program**”). The Material License Agreement Template is **NOT** to be used for licensing music i.e. existing sound recordings (with or without lyrics) from third parties.
2. The third-party licensing the material is referred to as the “**Licensor**” and the production company receiving the permission to use materials is referred to as the “**Licensee**”. In the event the third party licensing the material (such as stock footage providers like *Getty, Shutterstock, Pond5* etc.) insists on executing a license agreement other than the Material License Agreement Template (“**Third-Party License Agreement**”), please ensure that the Third-Party License Agreement being executed incorporates the below guidelines:
  - The license must be *transferrable, sub-licensable worldwide* and for use in *perpetuity*.
  - The licensed rights should include the right to use the licensed materials in and in connection with the Program, *including for the promotion and marketing of the Program*.
  - The license must extend to *all modes, mediums and formats including all future modes, mediums and formats* and there should be no restriction on usage on any mode, medium or format.
  - There should be *no restrictions placed on the usage of the licensed materials*. For example, there must be *no restriction on the duration of the licensed materials that can be used in the Program, the manner in which the material is incorporated in the Program, etc.* Similarly, no rights in the exploitation of the Materials must be *withheld or reserved by the Licensor*
  - The Licensor must not have the right to, in any manner reverse or rescind the rights granted in the licensing agreement.
  - The Third Party License Agreement must incorporate a *waiver of the moral rights* or any other similar and analogous rights of the Licensor.
  - The license agreement *must not have a termination right for the Licensor* including a clause on termination without any cause / by convenience.
  - An exhaustive indemnity clause must be included in the Third Party License Agreement wherein the Licensor must agree to indemnify and hold harmless the Producer along with all affiliates and affiliated organizations against all claims (please seek your legal counsel’s advise on the incorporations for this clause).The Licensor must waive all claims against the Producer, any entity commissioning the Program, assigns, distributors, exhibitors of the Program and each of their affiliates, for any indirect or consequential damages.
  - The Third-Party License Agreement should have a *waiver of Section 19(4) read with Section 30A of the Indian Copyright Act, 1957* and a *waiver of injunctive relief* by the Licensor.

A template license agreement is provided below as an Exhibit. If you choose to proceed with a Third-Party License Agreement instead of the template, please use the above guidelines for reference and share the draft of the Third-Party License Agreement with the Amazon Legal Team before lock and execution.

**For Queries:** In case of any questions/clarifications on these guidelines, the Material License Agreement Template or the requirements of a Third-Party License Agreement, please write to the alias [inog-legal@amazon.com](mailto:inog-legal@amazon.com).

**EXHIBIT A**

**MATERIAL LICENSE AGREEMENT TEMPLATE**

DATE: [REDACTED], 2021

PRODUCER: [\*] (“**Producer**”)

LICENSOR: [\*] (“**Licensor**”)

PROGRAM: [\*]

This agreement shall confirm that, for good and valuable consideration of INR [.] as the fee (“**Fee**”) for the rights granted herein, the receipt and sufficiency of which is hereby acknowledged by the Licensor, the Licensor hereby licenses to Producer, and its successors, licensees and assigns, the non-exclusive, worldwide, perpetual, transferrable, sub-licensable right to:

- (i) incorporate, photograph, record, reproduce, copy, synchronize, edit, adapt, perform and/or otherwise use the Materials or part thereof;
- (ii) exploit, communicate to public, create a sound recording or cinematograph film of, issue copies of, distribute, publicly perform the Material or part thereof in and in connection with the Program.

The Materials may be used, either in whole or in part in and in connection with the Program including in any promotional material and/or footage thereof and all such video and audio recordings, photographs and/or film incorporating the Material shall collectively be referred to as the “**Recordings**” herein.

Without limiting the foregoing, “**Materials**” shall also include without limitation, any underlying musical works, literary works, performances, songs, sound recordings, and any names, products, trademarks, tradenames, logos, copyrighted material and/or other material(s), the rights of which in each instance are hereby granted to the Producer. The Producer has a right to incorporate the Materials whether in whole or in part in and in connection with the Program including any derivative work thereof, and in the exhibition, promotion, advertising, publicity and other exploitation thereof, including in any ‘behind-the-scenes’, ‘bloopers’ or similar footage, and any merchandising or commercial tie-ins, in any manner and in all media, formats, devices, processes and technology, whether now known or hereinafter devised, including without limitation, all forms of television, home video (e.g. videocassettes, videodiscs and DVD), and interactive “electronic” media (e.g. Internet and CD ROM), in all territories throughout the universe, in perpetuity. Parties agree that Section 19(4) read with Section 30A of the Indian Copyright Act, 1957 shall not apply to this agreement. Producer shall have the sole right to determine the manner in which the Material shall be used pursuant to this agreement, and Producer shall not be obligated to use the Materials as part of the Program or otherwise, or to distribute or otherwise exhibit, advertise, promote or exploit the Materials/Program. Without prejudice to the foregoing, Producer shall be entitled to delete from, add to, alter, change, modify, edit, transpose, enhance the Materials or part thereof and/or combine the Materials or part thereof with any other materials, at its own discretion, for purposes of utilizing, exercising the rights granted hereunder.

All rights of every kind and nature whatsoever in the Recordings and Program shall be owned by Producer and its licensees, successors, and assigns, which rights Producer may assign without the consent of the Licensor or any other party. Producer may exploit the Recordings and the Program including the Materials or part thereof in any and all media, now known and hereafter devised, throughout the universe and in perpetuity, including in connection with ancillary exploitation of the Program such as publications, soundtracks and merchandising, and in connection with publicity and advertising for the Program.

The Licensor warrants and represents that: (i) the rights granted to Producer hereunder shall be free and clear of any and all third party claims for royalties, residuals, or other compensation; (ii) Licensor is the sole owner or holder (or the authorized representative of the sole owner or holder) of the rights granted herein, including, but not limited to any and all copyrights, trademarks, and rights in the image or likeness of individual depicted, if any, in the Materials; (iii) Licensor is authorized to enter into and execute this agreement; (iv) except as set forth herein nothing of value apart from the Materials was given (or was agreed to be given) to Producer or any other person or entity in exchange for use of the Materials in the Program; (v) the consent of no other person or entity is required to enable Producer to

use the Materials as described herein; (vi) the Materials and parts thereof are original; in compliance with applicable laws; and the Producer's use of such Materials do not infringe the rights of any third party including any rights in and to intellectual property; (vii) the provisions of this agreement and the grant of rights hereunder do not contravene the provisions of Section 19(8) of the Indian Copyright Act, 1957. The Licensor is not a member of any copyright society in any jurisdiction of the world; and (viii) The Licensor shall not disclose any information regarding the Program or Licensor's association with the Program to any third party whatsoever and keep the same confidential.

Licensor hereby irrevocably waives all so-called "moral rights" or "droit moral" rights and any similar or analogous rights under the applicable laws of any country of the world in relation to the Materials or parts thereof, to the extent permissible by law. To the extent that such rights cannot be waived or assigned by the operation of law, Licensor shall not institute any action on the ground that any changes, adaptations, deletions, additions, or other use of such Materials violate such rights.

Licensor agrees to indemnify and hold Producer, its parent, subsidiaries, and affiliated organizations, and each of their agents, employees, successors, and assigns, free and harmless from and against any and all claims, damages, liabilities, costs and expenses, including but not limited to reasonable attorneys' fees, resulting from any breach by Licensor of any warranty, representation, or agreement made herein. In the event Licensor makes any claim for breach of this agreement by Producer, Licensor hereby acknowledges and agrees that Licensor's sole remedy shall be an action for damages and to the maximum extent permissible by law, Licensor perpetually and irrevocably waives any right to seek or obtain equitable or injunctive relief in relation to the production, distribution, advertisement, exhibition or exploitation of the Materials, Program and/or Recording. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSOR HEREBY WAIVES ALL CLAIMS AGAINST THE PRODUCER, ANY ENTITY COMMISSIONING THE PROGRAM, ASSIGNS, DISTRIBUTORS, EXHIBITORS OF THE PROGRAM AND EACH OF THEIR AFFILIATES, FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES.

Any royalties payable by the operation of law (if any) in India for any performances, and/or for the utilization of any literary works and/or musical works forming part of the Materials, may be collected by the applicable registered copyright society in India of which the performer/author is a member, at rates prescribed by the applicable laws and subject to any judicial and/or quasi-judicial decision, provided that the applicable provisions under the Copyright Act, 1957 (as amended) with respect to payment of royalties to performers, authors, remain in force.

This agreement is the entire agreement of the parties with respect to the subject matter hereof and cannot be modified or cancelled except by written instrument signed by both parties. In the event that any provision hereof shall be held to be invalid or unenforceable due to any reason, the said provision shall be modified to the extent necessary, and in any event, such invalidity or unenforceability shall have no effect upon the remaining provisions or terms and conditions hereof. Licensor acknowledges that Licensor has not entered into this agreement in reliance upon any representation (written or oral, express or implied) of Producer not contained herein. Licensor agrees that Producer may assign this agreement and its rights hereunder to any third party. This agreement shall inure to the benefit of and be binding upon the parties' respective successors, licensees, heirs and assigns. This agreement will be governed by the laws of India. The parties hereby irrevocably consent to the exclusive jurisdiction and venue of the courts located at Mumbai, India with respect to any claims, suits or proceedings arising out of or in connection with this agreement, and waive any claim or defense that any such court is an inconvenient or improper forum.

Provisions related to grant of rights and ownership, representations, warranties, undertakings, indemnities, waivers, governing law, limitation of liability, jurisdiction, and confidentiality shall survive the termination or expiration of this agreement.

ACCEPTED AND AGREED:

[LICENSOR]

PRODUCER

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DATED: 2021/12/17

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_