

Feature Film Competition Terms and Conditions

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY. BY ENTERING A COMPETITION AND SUBMITTING YOUR SHORT FOR CONSIDERATION, YOU ARE GRANTING RIGHTS IN YOUR SHORT TO FILMAKA INC. AS STATED IN THESE TERMS AND CONDITIONS.

1. **Definitions.** Capitalized words used herein have the following meanings:

- a. "Acceptance" means the Company's acceptance of a Short meeting the requirements of Paragraph 2.
- b. "Final Competition" means Final Competition run by the Company pursuant to Paragraph 6
- c. "Company" means Filmaka Inc.
- d. "Competitions" means Periodic Competitions and Final Competition, collectively.
- e. "Delivery Rules" means the Delivery Rules for Shorts that are submitted for the Periodic Competitions or for the Final Competition, which Delivery Rules are available on the Company's website.
- f. "Jury" means a panel of jurors appointed by the Company for each Competition from a pool of industry professionals selected by the Company from time to time.
- g. "License Period" means a period of time commencing from the date of your submission to the Company of your Short and ending on the date which is one (1) year after the final date for submission of Shorts for the Competition for which your Short was submitted (the "License Period").
- h. "Member" means an individual who has validly joined the membership of Company as determined by Company in its sole discretion.
- i. "Periodic Competitions" means Competitions run and announced by the Company periodically for Shorts based on a particular theme designated by the Company.
- j. "Rights" has the meaning set forth in Paragraph 3.
- k. "Shorts" means the short films (between one minute and three minutes in length) for which the Company runs Competitions.
- l. "Terms and Conditions" means these Terms and Conditions.

2. **Submission Requirements.** In order to validly submit a Short for any Competition, it must meet all of the following conditions for Acceptance, as determined by the Company in its sole and absolute discretion:

- a. You must be a Member.
- b. The Short must be based on the theme designated by the Company for that Competition;
- c. The Short must not contain any content that would be rated more restrictively than "R";
- d. You must submit your correct email address;
- e. You must accept these Terms and Conditions;
- f. You must enter a valid electronic signature;
- g. You must meet the Delivery Rules which are deemed to be a part of these Terms and Conditions and are incorporated herein by reference;
- h. You must be of legal age in the jurisdiction in which you live.

- i. You must pay a submission fee of Ten Dollars (\$10.00) per Short submitted via Paypal, credit card or other valid payment process.
- j. You must provide appropriate banking documentation, as determined by the Company in its sole discretion.

3. **Grant of Rights.** By uploading a Short for any Competition, you hereby grant to the Company the following rights (the "Rights"):

a. an exclusive license for the License Period of all rights in the Short and all underlying material thereto, including, without limitation, the exclusive, worldwide right to exploit, sublicense, and assign the Short and all ancillary and derivative rights thereto in all media now known or hereafter devised in any and all languages (the "Exclusive Rights") including the right to permit such Short to be posted and viewed by third parties on the Company's website;

b. a twelve-month option (the "Option") commencing from the date which is the final date for submission of Shorts for the Competition for which your Short was submitted (the "Option Period") to acquire the Exclusive Rights, including without limitation all rights protected under Section 106 of the Copyright Act, to such Short in consideration for the compensation, if any, payable under Paragraph 7. This option shall be deemed to have been timely exercised by the Company unless Company sends an email notice to you prior to the expiration of the Option Period notifying you of Company's decision not to exercise the Option.

c. if a pilot and/or series is produced based upon the Short, then for a period of twelve (12) months commencing with the date such pilot and/or series is ordered or for a period of twenty four (24) months if six (6) or more episodes of a series are produced, you grant Company a right of first negotiation with respect to any other project you have or develop during such period.

d. the right in perpetuity to use your name, address, voice, statements, biography, photograph, image and other likenesses without any further consideration, in any medium, including, without limitation, in still photos, film, video, television, radio and the internet, and in any publicity carried out by Company or any of its related entities, insurers, promotions companies and service providers, unless prohibited by law.

e. during the License Period and in perpetuity if the Option is exercised, the right to change, add to, take from, translate, reformat or reprocess the Short in any manner Company may in its sole discretion determine. To the fullest extent allowable under any applicable law, you hereby irrevocably waive or assign to Company your so-called "moral rights" or "droit moral." If under any applicable law the above waiver or assignment of "moral rights" or "droit moral" is not effective, you agree to exercise such rights reasonably and in a way that will not have a material adverse affect upon any other individual or upon Company's exploitation of the Short.

f. In addition, Filmaka has a first opportunity of good faith negotiation to represent any Member who is a Semi-Finalist or Finalist of any Filmaka Contest for management and/or agency representation worldwide, subject to any third party obligation by such Member. The terms of the Company's management agreement are available at the Company's website, www.filmaka.com.

4. **Voting Requirements.**

- a. A Member who does not submit a Short in a Competition is permitted to cast one (1) vote worth one star in such Competition.
- b. For each Short which a Member submits in a Competition, a Member is permitted to cast five votes in a five (5) star ranking system in such Competition, with five (5) stars awarded to the Member's first choice and one (1) star awarded to the Member's fifth choice. You may not vote for Shorts you have submitted.

5. Periodic Competition and Prizes.

- a. The Members will vote to elect ten (10) semi-finalist Shorts for each Periodic Competition, and the Jury may choose up to ten (10) additional semi-finalists. If a Short which you submitted is selected as a semi-finalist, the Company will pay you Five Hundred Dollars (\$500), subject to Paragraph 9.c. of these Terms and Conditions. You may then compete in a final round by submitting a new Short for that Periodic Competition for every Short you submitted that was a semi-finalist for that Periodic Competition. Upon Acceptance of each such new Short and subject to Paragraph 9.c. of these Terms and Conditions, the Company shall pay you One Thousand (\$1,000). From the submissions and subject to Paragraph 9.c. of these Terms and Conditions, the Jury will choose (i) a 1st place winner and the Company will pay such winner a prize of Three Thousand Dollars (\$3,000); (ii) a runner-up and the Company will pay such runner-up a prize of Two Thousand Dollars (\$2,000); and (iii) a special Jury prize winner (no cash prize).
- b. For each Periodic Competition, there will also be three "Wild Card" winners selected as follows: one (1) Short will be selected based upon voting by the Members; one (1) Short will be selected by Company; and one (1) Short will be selected by one (1) or two (2) members of the Jury. The makers of these three (3) Wild Card winners will each be allowed to compete in the Final Competition. Upon Acceptance of a new Short for the Final Competition submitted by a Wild Card winner and subject to Paragraph 9.c. of these Terms and Conditions, the Company will pay the maker thereof One Thousand Dollars (\$1,000).

6. Final Competition and Prizes. At the end of 12 periodic Competition and One Wild card Competition, the winners, the runners-up, the special Jury prize winners and the Wild Card winners of the Periodic Competitions may compete in the Final Competition by submitting one (1) new Short for every Short they submitted that was a winner, runner-up, a special Jury prize winner or Wild Card winner for the Periodic Competitions. Subject to Paragraph 9.c. of these Terms and Conditions, the Company shall pay the maker of a new Short Five Hundred Dollars (\$500) following the Company's Acceptance of such new Short for the Final Competition. The winner shall be given the opportunity to direct a feature film for the Company on terms and conditions determined by the Company, and Company shall pay the runner-up Five Thousand Dollars (\$5,000), subject to Paragraph 9.c. of these Terms and Conditions.

7. Compensation.

- a. As full consideration for the grant of Rights, the Company will pay you a royalty equal to (i) Fifty Percent (50%) of "Gross Receipts" (defined below) from such Rights minus (ii) the sum of (a) all expenses paid by the Company relating to the acquisition, development, production, or distribution of such Rights, (b) interest at Six Percent (6%)

on the amount of such expenses from the date incurred to the date of recoupment, and (c) a distribution fee to the Company equal to Thirty Five Percent (35%) of Gross Receipts.

b. "Gross Receipts" shall mean all nonrefundable cash revenues actually received by the Company attributable to the Rights, except that (i) only Twenty Two Percent (22%) of all video/DVD/VOD or similar revenue received by the Company shall be included in Gross Receipts, and the manufacturing and shipping costs relating to such revenue shall not be deducted; (ii) all membership fees and Short submission fees shall be excluded; and (iii) the revenue Company receives from advertising shall not be included in Gross Receipts unless such advertising revenue is specifically related to and generated by the Company's exploitation of the Rights.

c. In the event that multiple Shorts are distributed as part of a compilation (e.g. Company puts ten (10) Shorts on a DVD and sells it to the public), the Twenty Two Percent (22%) royalty included in Gross Receipts shall be pro rated among those submitting such Shorts.

d. All payments shall be made sixty (60) days after the end of each calendar quarter (accompanied by an accounting statement setting forth the calculation thereof), unless the total revenues due to you are less than Five Hundred Dollars (\$500), in which case payments shall be made on an annual basis.

e. In the event that you enter into an agreement with a party other than Company pursuant to which you are engaged to perform services on a series or other production based upon the Rights, you and Company agree that the terms of Paragraph 7.a. shall not apply to such exploitation of the Rights, but that the terms of Paragraph 7.a. shall continue to apply with respect to any other exploitation of the Rights.

8. Consequence of Invalid Submission. If a submission of a Short is invalid for any reason, the Company will have the right, in its sole discretion, to implement one or more of any of the following sanctions:

a. Forfeiture of the submission fee or prize money for that submission.

b. Rejection or rescission of Acceptance and of the Short's status as a semi-finalist, runner-up, special Jury prize winner, winner or Wild Card winner of any Competition (in which case the remaining Shorts shall move up one place); or

c. Refusal to accept future submissions.

9. Competition Restrictions.

a. The Company reserves the right to cancel a Competition in the event that the Company determines, in its sole discretion, that there are an insufficient number of entries submitted for a Competition.

b. The Company reserves the right to restrict the right to vote in a Competition to those entering the Competition.

c. With respect to a winning Short, no prize or award money will be awarded without submission of a technically acceptable master and appropriate tax and banking documentation, both as determined by the Company in its sole discretion.

10. Your Representations and Warranties. You represent and warrant that you have the full right and authority to grant the Rights and that the exploitation of the Rights will not violate any rights of any persons.

11. Indemnity. You hereby indemnify and hold us harmless if we incur any loss, cost, or expense (including attorneys' fees), due to any claim by you or any other parties relating to our exploitation of the Rights.

12. No Downloading or Copying. You agree not to download or copy any Shorts, and

you will indemnify the Company for any loss, cost, or expense (including attorneys' fees) if you breach this provision.

13. Notices. All notices shall be in writing and shall be delivered by e-mail to each party's last known email address.

14. Entire Agreement. These Terms and Conditions and the other items referred to herein represent the complete agreement of the parties relating to the subject matter hereof.

15. Amendment. The Company reserves the right to amend these Terms and Conditions at any time by posting notice thereof on its website.

16. Governing Law. These Terms and Conditions are governed by the laws of California (i.e., without regard to its conflict of law principles). The exclusive location for any litigation relating to these Terms and Conditions shall be the courts located in Los Angeles, California and you expressly consent to the jurisdiction of such courts.

17. Taxes. By law, the Company is required to withhold Thirty Percent (30%) of all prize and award money and remit it to the U.S. IRS unless the Member is a U.S. citizen or resident and submits to the Company a signed Form W-9 with the Member's social security number. All prize and award money is fully taxable to U.S. citizens or residents, and any withheld taxes (if no Form W-9 is submitted) will be available as a credit against such tax liability. Foreign persons should check with their local tax advisors as to whether the withheld taxes are available as a credit against local taxes.

18. Disclaimer. It is possible that Shorts posted to the Company's website may be downloaded or copied by third parties without our permission, and you waive any claim against the Company for such actions. Company is not responsible for telecommunications, network, electronic, technical or computer failures of any kind or for lost, stolen, misdirected, mutilated, damaged, garbled, delayed, misdirected, incorrectly addressed, undeliverable, destroyed, late, incomplete or illegible submissions, including: any hardware or software failures of any kind; lost or unavailable network connections; failed, incomplete or garbled computer, telephone or satellite transmissions; incorrect, inaccurate transcription or loss of submission information; typographical or system errors; any viruses transmitted to computers of Members via the internet; problems or technical malfunctions of any telephone network or lines, computer online systems, servers, providers or computer equipment; or technical problems or traffic congestion on the internet or any combination thereof; or for any technical or human errors associated with the Competition. Entries that are generated by a script, macro or other automated means and/or otherwise not in compliance with these rules will be disqualified. Company shall have the sole and absolute discretion to determine if a submission is in compliance with these Terms and Conditions. Company is not responsible for typographical or other errors in the offering or administration of this Competition, including but not limited to errors in advertising, the Terms and Conditions, the Delivery Rules, the selection and announcement of winners or the distribution of any prize. Company shall not be responsible for any injury or damage to a Member's or any other person's computer related to or resulting from participating in the Competition, or downloading any material for the Competition which may limit a Member's ability to participate. Company may disqualify anyone from participating in the Competition or winning a prize, if in its sole discretion, it determines that such person is attempting to undermine the legitimate operation of the Competition by cheating, hacking, deception or other unfair practices or intending to annoy, abuse, threaten or harass any other Members or Company's representatives. Company reserves the right, in its sole discretion, to cancel,

terminate, modify or suspend the Competition at any time should virus, bugs, unauthorized human intervention, or other causes beyond the control of the Company corrupt or adversely affect the administration, security, fairness, integrity or proper operation of the Competition. CAUTION: ANY ATTEMPT BY A MEMBER TO DELIBERATELY DAMAGE THE COMPANY'S WEBSITE OR UNDERMINE THE LEGITIMATE OPERATION OF THE COMPETITION MAY BE IN VIOLATION OF CRIMINAL AND CIVIL LAWS AND SHOULD SUCH AN ATTEMPT BE MADE, COMPANY RESERVES THE RIGHT TO SEEK REMEDIES AND DAMAGES (INCLUDING ATTORNEYS' FEES) FROM ANY SUCH MEMBER TO THE FULLEST EXTENT OF THE LAW, INCLUDING CRIMINAL PROSECUTION. Company shall have the sole right to disqualify anyone for violation of these Terms and Conditions or any applicable laws relating to the Competition, or tampering with any element of this Competition, and to resolve all disputes in its sole discretion. The Terms and Conditions, as set forth herein, are not subject to amendment or counter-offer, except as set forth herein. In no event shall Company, its parents, partners, and affiliated companies, their respective agents, employees, directors, officers and legal advisors and any other companies or entities participating in the design, administration or fulfillment of this Competition, be liable for personal injuries, damages, expenses or costs or losses of any kind resulting from participation or inability to participate in this Competition or acceptance of or use or inability to use a prize or parts thereof, including, without limitation, claims, suits, injuries, losses and damages related to personal injuries, damage to or destruction of property, rights of publicity or privacy, defamation or portrayal in a false light (whether intentional or unintentional), whether under a theory of contract, tort (including negligence), warranty, or other theory.

19. Further Actions. You agree to execute any and all documents and take any other actions reasonably required to effectuate the purposes of these Terms and Conditions. You appoint us attorney-in-fact for such purposes (it being acknowledged that such appointment is irrevocable and coupled with an interest) with full power of substitution and delegation if you fail to do so within five (5) business days of our written request.

20. Disqualification. THIS COMPETITION IS VOID WHERE PROHIBITED BY LAW INCLUDING, WITHOUT LIMITATION, IN COLORADO, ILLINOIS, TENNESSEE AND VERMONT. Persons included in either of the following categories are not eligible to participate or win a prize: (a) persons who are employees or agents of Company or its parent companies, affiliates, subsidiaries, advertising or promotion agencies, and their immediate families (spouse, parents, children and siblings and their respective spouses) and individuals living in the same household of such persons; and (b) persons who are engaged in the development of, production of, distribution of materials of, or selection of Members for, and/or the winners for, this Competition.

21. Execution. By clicking the appropriate "I Accept" button below, you are "signing" these Terms and Conditions for all purposes under applicable law, including the United States Copyright Act and the Electronic Signatures and Global and National Commerce Acts.

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