

## **MEMBERSHIP TERMS AND CONDITIONS**

**Last Modified March 31, 2018**

PLEASE READ CAREFULLY. By becoming a member ("Member," "you," "your") of the Filmaka membership program (the "Membership Program") provided by Filmaka, LLC ("Filmaka," "we," "us," or "our") you agree to the following terms and conditions ("Membership Terms and Conditions"). These Membership Terms and Conditions incorporate the Filmaka Terms of Use ("Filmaka Terms of Use") and your agreement to these Membership Terms and Conditions constitutes your agreement to the Filmaka Terms of Use as well as other applicable terms, conditions, limitations and requirements on the www.filmaka.com website (the "Site") all of which (as changed over time) are incorporated herein by this reference. For purposes of interpreting the Filmaka Terms of Use in connection with the Membership Program, the "Filmaka Services" means the Membership Program. If any provision in these Membership Terms and Conditions conflicts with any provision in the Filmaka Terms of Use, the conflicting provision in these Membership Terms and Conditions will control. Capitalized terms used but not defined herein shall have the meanings provided in the Filmaka Terms of Use.

- 1. Membership Benefits**
- 2. Membership Term, Renewals and Payment**
- 3. Cancellation**
- 4. Modification and Termination**
- 5. General Terms and Conditions**
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### **1. Membership Benefits**

If you sign up to become a Member, you will receive the following benefits depending on which membership tier you choose ("Benefits")

#### **Tier 1 Membership**

Free entry for one (1) year to all Filmaka competitions in which winners may be eligible to collect cash prizes and/or to participate in projects commissioned by Filmaka or its sponsors. These projects may include directing a feature film, directing a web series, and creating branded content.

The ability to vote on films ("Films") submitted for Filmaka competitions.

Access to our Jury.

Access to our Industry Circle network.

Access to our Private Screening Room.

The ability to create a Member Profile with streaming capabilities that you control. The Films you submit for Filmaka competitions can be accessed here, plus you can upload personal films too. You will also be able to view comments, receive Filmaka updates, and send and receive in-network messages.

The ability to link your Filmaka profile to your website and to your social and professional media networks.

Networking opportunities within the Industry Circle and with other Filmaka members.

Receipt of the Filmaka Newsletter.

The ability to comment on Films submitted for Filmaka competitions.

## **Tier 2 Membership**

Free entry for one (1) year to any five (5) out of twelve (12) Periodic Competitions, and any three (3) other Filmaka competitions in which winners are eligible to collect cash prizes and/or to participate in fully funded projects commissioned by our sponsors which may include directing a feature film, directing several web series, and creating branded content.

The ability to upgrade to a Tier 1 Membership by (i) paying the difference between your Tier 2 Membership fee and the Tier 1 Membership fee at any time prior to the submission of your entries to either all five (5) out of twelve (12) Periodic Competitions, or three (3) other Filmaka competitions, whichever comes first or (ii) you recommend a friend to become a Member and he/she becomes a Member as at least a Tier 3 Member. Once you become a Tier 1 Member, you will remain a Tier 1 Member and all terms and conditions for the Tier 1 Membership apply, including the automatic renewal of your membership.

The ability to vote on Films.

Access to our Jury.

Access to our Industry Circle network.

Access to our Private Screening Room.

The ability to create a Member Profile with streaming capabilities that you control. The Films you submit for Filmaka competitions can be accessed here, plus you can upload personal films too. You will also be able to view comments, receive Filmaka updates, and send and receive in-network messages.

The ability to link your Filmaka profile to your website and to your social and professional media networks.

Networking opportunities within the Industry Circle and with other Filmaka members.

Receipt of the Filmaka Newsletter.

The right to comment on Films submitted for Filmaka competitions.

### **Tier 3 Membership**

The ability to enter Filmaka competitions for a one-time upload fee per competition unless specifically excluded by Filmaka (the amount to be determined by Filmaka, but not to exceed \$20.00 per competition).

The ability to upgrade to a Tier 1 or Tier 2 Membership at any time by (i) upgrading within three (3) months of your first upload to a competition and your first upload fee will apply towards the Tier 1 or Tier 2 Membership fee, whichever is applicable or (ii) (ii) you recommend a friend to become a Member and he/she becomes a Member as at least a Tier 2 Member. Once you become a Tier 1 Member or a Tier 2 Member, you will remain a Member at that level and all terms and conditions for that membership level applies, including the automatic renewal of your membership.

The ability to vote on Films for the duration of the competition(s) in which you enter.

For the duration of the competition(s) in which you enter, the ability to create a Member Profile with streaming capabilities that you control. The Films you submit for Filmaka competitions can be accessed here, plus you can upload personal films too. You will also be able to view comments, receive Filmaka updates, and send and receive in-network messages.

The ability to comment on Films submitted for the Filmaka competition(s) in which you enter.

## **2. Membership Term, Renewals and Payment**

By signing up for a membership, you agree that your membership will be automatically renewed, and, unless you cancel your membership, you authorize us to charge your payment method for the renewal term (if applicable). The period of auto-renewal will be the same as your last membership period unless otherwise disclosed to you at the time of sale. The renewal rate will be no more than the rate for the last membership period, excluding any promotional and discount pricing, unless we notify you of a rate change prior to your auto-renewal. From time to time, we may offer a free trial membership for a Filmaka Feature. If you register for a

free trial membership, we will begin to bill your account when the free trial membership expires, unless you cancel your membership before that time.

We will send you a notice when we accept your membership and our acceptance will be deemed complete and for all purposes to have been effectively communicated to you at the time we send the notice. At such time, the contract for sale will be made and become binding on both you and us. We reserve the right to refuse or cancel any membership.

### **Payments and Billing**

When you provide payment information, you represent and warrant that the information is accurate, that you are authorized to use the payment method provided, and that you will notify us of changes to the payment information. We reserve the right to utilize third party credit card updating services to obtain current expiration dates on credit cards.

### **Right of Cancellation**

When you apply for membership, you have the right to cancel your contract within fourteen (14) days after your receipt and acceptance of these terms and you will receive a full refund of the membership fee paid (if any). For annual memberships, if notice of cancellation is received within the first thirty (30) days following the first day of initial billing, you will receive a refund of the membership fee paid (if any). If we refund your membership fee, you will still be obligated to pay other charges incurred.

### **Pricing and Taxes**

We may revise the pricing for the membership we offer. If you pay a periodic membership fee we will provide you with reasonable notice of changes to the fees or billing methods in advance of their effective date and you will be able to cancel your membership prior to such change

## **3. Cancellation**

When you initially apply for membership you have the right to cancel your contract within fourteen (14) days after your receipt and acceptance of these terms and you will receive a full refund of the fee paid. For memberships renewed annually, if notice of cancellation is received within the first thirty (30) days following the first day of initial billing, you will receive a refund of the membership fee paid. If we refund your membership fee, you will still be obligated to pay other charges incurred. No refunds will be available after such thirty (30) day period unless we terminate the Membership Program. Subject to the foregoing, you may cancel your membership by contacting us via e-mail at [membership@filmaka.com](mailto:membership@filmaka.com) or by signing into your account, and clicking on 'Cancel Membership' on My Dashboard ("Membership Account").

#### **4. Modifications and Termination**

Filmaka reserves the right to modify any of the Membership Terms and Conditions set forth herein, including, but not limited to, the Benefits and any Filmaka Services. Filmaka also reserves the right to cancel or terminate the Membership Program at any time, for any reason, with or without notice, even though cancellation or termination may affect a Member's ability to use the Filmaka Services.

Your continued participation in the Membership program constitutes your acceptance of any changes to these Membership Terms and Conditions. You are responsible for remaining knowledgeable as to any changes that Filmaka may make to these Membership Terms and Conditions. The most current version of these Membership Terms and Conditions will be available at [www.filmaka.com](http://www.filmaka.com) and will supersede all previous versions of these Membership Terms and Conditions.

#### **5. General Terms and Conditions**

By enrolling in the Membership Program and as an ongoing condition to your good standing with the Membership Program, you agree to authorize: (a) Filmaka's collection, storage and use of your personal information by the Filmaka, its affiliates and third party service providers, including without limitation, information regarding your Membership Account and use of the Membership Program and (b) the collection, storage and use by Filmaka of the Member's submitted personal and other information, in a manner consistent with The Filmaka Privacy Policy. The terms of the Filmaka Privacy Policy are incorporated herein, by reference Member understands and agrees that personal information submitted by Member may be transferred to and/or stored on servers in the United States and/or outside of the United States, and therefore may be subject to the laws of the applicable jurisdiction and/or other disclosure to or access by local authorities in accordance with or as required by the law or courts or the applicable jurisdiction.

Filmaka reserves the right, in its sole discretion and without notice or liability to impacted Members, to restrict, suspend and/or discontinue the participation privileges of any Member who Sponsor believes has engaged in any fraudulent activity or has used the Membership Program in a manner inconsistent with these Terms and Conditions or any federal, state, provincial, municipal, territorial or local laws, statutes or ordinances. In addition to discontinuance of participation privileges, Sponsor shall have the right to take appropriate administrative and/or legal action, including criminal prosecution, as it deems necessary in its sole discretion.

The Membership Program is provided to individuals only. Corporations, associations or other groups may not participate in the Membership Program. You are responsible for ensuring the accuracy of your Membership Account and the information associated with your Membership Account and is encouraged to check your Membership Account regularly and update the information associated with your Membership Account as soon as such updates are necessary.

You are solely responsible for: (a) maintaining the confidentiality and security of your Membership Account, including without limitation, the password associated with your Membership Account; and (b) all activities that occur on or through your Membership Account. You shall immediately notify Filmaka of any suspected fraudulent and/or unauthorized use of your Membership Account. Filmaka will not be responsible for any losses arising from any fraudulent and/or unauthorized use of your Membership Account.

Filmaka is not responsible for any incorrect or inaccurate information supplied by Members while participating in the Membership Program.

## **6. Limitation of Liability**

Filmaka is not responsible for incorrect or inaccurate transcription of information, for problems related to any of the equipment or programming associated with the Membership Program or utilized by any Member, for any human error, for any interruption, deletion, omission, defect, or line failure of any telephone network or electronic transmission, for problems relating to computer equipment, software, inability to access the Site or online service, or for any other technical or non-technical error or malfunction. In the event of a printing error or irregular packaging, neither Filmaka, its related companies, parents, subsidiaries, affiliates, and respective agents and their agencies, suppliers and other companies involved in the development or execution of the Membership Program or the production or distribution of Membership Program materials ("Releasees") shall have any liability. UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, SHALL ANY OF THE RELEASEES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE MEMBERSHIP PROGRAM OR PRODUCTS OFFERED THROUGH THE MEMBERSHIP PROGRAM, EVEN IF ANY OR ALL OF THE FOREGOING OR ANY OF THEIR AUTHORIZED REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BY PARTICIPATING IN THE MEMBERSHIP PROGRAM, AND MEMBER WAIVES ANY AND ALL RIGHTS TO BRING ANY CLAIM OR ACTION RELATED TO SUCH MATTERS IN ANY FORUM BEYOND 1 YEAR AFTER THE FIRST OCCURRENCE OF THE KIND OF ACT, EVENT, CONDITION OR OMISSION UPON WHICH THE CLAIM OR ACTION IS BASED. TO THE FULLEST EXTENT ALLOWABLE BY LAW, THE RELEASEES SPECIFICALLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS AND/OR SERVICES OFFERED BY FILMAKA OR ANY THIRD PARTY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. Some jurisdictions do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to all Members.

As a condition of participating in this Membership Program, you agree that: (a) any action at law or in equity arising out of or relating to these Membership Terms and Conditions or the Site shall be filed, and that venue properly lies, only in state or federal courts located in Los Angeles, California and Members hereby consent and submit to the personal jurisdiction of such courts for the purposes of litigating any such action; (b) any and all claims, judgments and awards shall be limited to actual out-of-pocket costs incurred, including costs associated with entering this

Program, but in no event attorneys' fees; and (c) under no circumstances will you be permitted to obtain awards for, and you hereby waives all rights to claim, indirect, punitive, incidental and consequential damages and any other damages, other than for actual out-of-pocket expenses, and any and all rights to have damages multiplied or otherwise increased.

These Membership Terms and Conditions shall be governed by and construed in accordance with the laws of the State of California and the laws of the United States, without giving effect to any principals of conflicts of law. Filmaka makes no representation that the content on the Site is appropriate or available for use in any particular location. Those who choose to access the Site act on their own initiative and are responsible for compliance with all applicable laws including any applicable local laws.

These Terms and Conditions constitute the entire agreement between Members and Filmaka pertaining to the subject matter hereof and supersedes all prior or other arrangements, understandings, negotiations and discussions, whether oral or written. No waiver of any of the provisions of these Membership Terms and Conditions shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar), nor shall waiver constitute a continuing waiver unless otherwise expressly provided.

If any provision of these Membership Terms and Conditions is found to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be severed from the remainder of these Terms and Conditions, which will otherwise remain in full force and effect.