

# EASYMOVIE GENERAL TERMS AND CONDITIONS

Version dated October 15, 2018

If the customer identified in the Special Terms and Conditions (the "Customer" is located in the United States, these general terms and conditions (the "**General Terms and Conditions**") are entered into between EasyMovie, 833 Broadway, New York, NY 10003 and the Customer.

If the Customer is located outside the United States, the General Terms and Conditions are entered into between MyEasyMovie, a simplified joint stock company with a capital of € 58,380, registered with the Paris Trade and Companies Register under number 791 945 801, with registered office at 92 rue Réaumur 75002 Paris and the Customer.

EasyMovie and MyEasyMovie are identified together in these General Terms and Conditions as "**EasyMovie**".

## Article 1. Definitions

All terms defined below beginning with a capital letter are defined as follows:

"**Administrator**" means the User identified to be in charge of the administration of the EASYMOVIE Platform.

"**Agreement**" means this General Terms and Conditions, the Special Terms and Conditions and any addendums signed between EasyMovie and the Customer.

"**Content**" means all information, data, videos, photographs, images and sounds that the Customer wishes to broadcast in a Video.

"**Customer Settings**" means the settings of the EasyMovie Platform or the development of features made by EasyMovie for the Customer's needs in accordance with the Special Terms and Conditions.

"**EASYMOVIE Application**" means the application developed and edited by EasyMovie (including updates, upgrades and corrections delivered by EasyMovie).

"**EASYMOVIE Platform**" means the platform developed by EasyMovie (including the Customer Settings, updates, upgrades and corrections delivered by EasyMovie) hosted on the Server and enabling the Customer to use the EasyMovie application and the Services in accordance with this Agreement.

"**Premium Music Titles**" means the music titles made available to the Customer by EasyMovie, which can be synchronized and used with the Videos made via the EasyMovie Application in accordance with article 5.2 of the General Terms and Conditions and in return for the payment of the fee defined in the Special Terms and Conditions or in the EasyMovie Application.

"**Royalty Free Music Titles**" means the music titles made available to the Customer by EasyMovie free of charge and that may be used in Videos made via the EasyMovie Application in accordance with article 5.2 of the General Terms and Conditions.

"**Server**" means the server in Ireland, operated by EasyMovie, on which the EasyMovie Application and the EasyMovie Platform are deployed, enabling the provision of the Services.

"**Services**" refers to the services provided by EasyMovie and described in the Special Conditions.

"**Special Terms and Conditions**" means the purchase orders issued by the Customer and expressly validated by EasyMovie or the quotes issued by EasyMovie and accepted by the Customer.

"**User**" means a person authorized by the Customer to use the EasyMovie Application, the EasyMovie Platform and the Services.

"**Video**" means the result obtained by editing using the EasyMovie Application or by EasyMovie, as applicable, from the Customer's Content.

## Article 2. Purpose

The purpose of the Agreement is to define the conditions under which EasyMovie authorizes the Customer to use the EasyMovie Application, the EasyMovie Platform and its Services. The Customer agrees to respect and enforce this Agreement by its Users and Administrators throughout the duration of this Agreement.

All services and offerings of EasyMovie are exclusively made on the basis of this Agreement which takes precedence over the purchase general terms of the Customer. EasyMovie reserves the right at any time to periodically modify, change or update the General Terms and Conditions. The Customer must accept the modified version of the General Terms and Conditions prior to any subsequent service orders entrusted to EasyMovie. The General Terms and Conditions prevail over Apple's or Google's content licensing terms.

## Article 3. Duration – termination

The Agreement shall take effect on the date of acceptance of the General Terms and Conditions and the Special Terms and Conditions by the Customer or on the date indicated in the Special Terms and Conditions, if applicable (the "**Effective Date**").

If the Customer subscribes to a Video package, this Agreement is concluded for a duration of twelve (12) months. This Agreement may be renewed if the Customer orders a new Video package. The Customer is informed and agrees that the Video package has a validity period of twelve (12) months. At the end of this twelve (12) month period, unused credits will not be refunded and may not be carried over to a new period.

If the Customer subscribes to a license for an unlimited number of Videos, this Agreement will be concluded for a period of twelve (12) months from the Effective Date, unless expressly stipulated in the Special Conditions. The Agreement shall then be tacitly extended for successive periods of twelve (12) months unless terminated by one of the parties subject to three (3) months' notice prior to the expiration of the contract period by registered letter with acknowledgment of receipt.

If the Customer subscribes to a monthly license, without commitment, for use for an unlimited number of Videos, the Agreement will be concluded for a period of thirty (30) days from the Effective Date, unless expressly stated otherwise in the Special Terms and Conditions. The Agreement will then be tacitly extended for successive periods of thirty (30) days, unless terminated at the initiative of one of the parties subject to a fifteen (15) day notice period prior to the expiry date of the current contractual period by email at [billing@easy.movie](mailto:billing@easy.movie)

Either party may terminate this Agreement by operation of law without legal proceedings, without prejudice to any claim for damages, in the event of default by the other party to any of its obligations under this Agreement, if has not been remedied by the defaulting party within thirty (30) days of the written notification of such failure by the other party by registered letter with acknowledgment of receipt.

## Article 4. Financial Terms

Taking into account the special conditions of use of the EasyMovie Application by the Customer and the Users, the parties have agreed to waive the general conditions of services of Apple or Google, as the case may be. The applicable financial terms are defined in the Special Terms and Conditions or in the EasyMovie Application.

Unless otherwise stipulated in the Special Terms and Conditions, the Customer agrees to pay all sums due in respect of the Services on the day of the order.

In the event of non-payment on the due date, EasyMovie will be entitled to apply late payment penalties, calculated on the basis of

three (3) times the legal interest rate in force. An indemnity of at least EUR 40/USD 50 for recovery costs will also be due as of right.

## **Article 5. Licensing conditions**

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### **5.1 Terms of Use of the EasyMovie Application and EasyMovie Platform**

The EasyMovie Application and the EasyMovie Platform, as well as all components (such as trademarks, logos, computer programs, graphics, images, texts) are the exclusive property of EasyMovie or have been granted to it. EasyMovie may have to develop Customer Settings which in any case remain the property of EasyMovie. The Agreement does not imply any assignment of intellectual property rights of any kind on the elements belonging to EasyMovie. The Customer will not from directly or indirectly infringing the intellectual property rights of EasyMovie.

In consideration of the payment of service fees, EasyMovie grants the Customer a non-exclusive, personal, non-transferable right to use the EasyMovie Application and the EasyMovie Platform for the whole world and for duration of this Agreement, solely for the purpose of using the EasyMovie Application and the Services, under the conditions and limits specified in this Agreement. The right to use the EasyMovie Application includes the right to install it on a smartphone and to use the features offered by the EasyMovie Application. Customer is advised that the EasyMovie Application is compatible with the current version and the two (2) previous versions of the operating systems of smartphones and Internet browsers.

In any event, the Customer is not authorized to:

- make a copy of or reproduce all or part of the EasyMovie Application and/or the EasyMovie Platform, in any way whatsoever;
- modify, improve, translate, adapt or arrange the EasyMovie Application and/or the EasyMovie Platform, or to create derivative works from all or part of the EasyMovie Application and/or the EasyMovie Platform, in any way whatsoever;
- place the EasyMovie Application and/or the EasyMovie Platform on the market, distribute, rent, lend or sub-license them, free of charge, or by any process;
- correct errors in all or part of the EasyMovie Application and/or the EasyMovie Platform;
- make more than one (1) backup copy of the EasyMovie Application;
- decompile or reverse engineer all or part of the EasyMovie Application, especially for interoperability purposes without first requesting from EasyMovie the information necessary for interoperability.

Notwithstanding the foregoing, Customer may authorize Users to use the EasyMovie Application and the EasyMovie Platform solely for the purpose of using the Services, under the terms and conditions specified in the Special Conditions, a non-exclusive, personal, and non-transferable sublicense.

EasyMovie has the right to check the number of User and/or Administrator accounts created by the Customer to ensure that the number of accounts created does not exceed the number of licenses acquired from EasyMovie. In this context, the Customer undertakes to generate a report containing the actual number of users within five (5) working days of the written request of EasyMovie. When the actual number of users exceeds the number of Users, the Customer undertakes to correct the situation and to order additional licenses.

The EasyMovie Application contains the open source MySQL software (<https://github.com/mysql/mysql-server>) distributed under the GPL license.

### **5.2 Terms of Use of Premium Music Titles and Royalty Free Music Titles**

EasyMovie provides the Customer with Premium Music Titles and Royalty Free Music Titles to be integrated and synchronized with the

Videos. The Customer must obtain directly from authors and rights holders, the right to use sounds or music other than Premium Music Titles and Royalty Free Music Titles in its Videos.

For a period of one (1) year from the date of purchase, the Premium Music Titles may be used by the Customer in Videos made via the EasyMovie Application, several times and worldwide. Once synchronized with Videos, the Premium Music Titles may be broadcasted by the Customer with these Videos, for the duration of legal copyright protection, for internal and external institutional uses for all media (excluding television and radio), for the whole world and without any additional remuneration being due by the Customer.

## **Article 6. Provision of Services**

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EasyMovie undertakes to provide the Services under an obligation of means and within the time periods agreed in the Special Terms and Conditions. The Customer is informed and accepts that EasyMovie does not grant any guarantee as to the results obtained from the Customer's Content, and in particular as to the quality, visibility or relevance of the Content, in particular for the production and Video assembly Services provided by EasyMovie.

In the case of editing services provided by EasyMovie, they will follow an approval process between the parties which may consist of a maximum of two (2) back and forth exchanges of edits. Unless otherwise stipulated in the Special Terms and Conditions, EasyMovie will make changes (i) for the first version of the Video within seventy-two (72) business hours from receipt of the Customer's requests and (ii) the second version of the Video within forty-eight (48) business hours from receipt of Customer's requests. In case of request for additional changes, any edit exchange will be charged at EUR 49/USD 59 excluding tax to the Customer by EasyMovie, unless otherwise stipulated in the Special Terms and Conditions. The choice of automatic Video publication or download by the Customer will be deemed as acceptance of the last version of the Video presented by EasyMovie on the approval platform.

The Customer is informed and accepts that some Services might be delivered by EasyMovie and/or its subcontractors located in Tunisia.

## **Article 7. Intellectual Property**

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The Customer is and remains the owner of the rights on all the Contents and Videos. If Services are ordered from EasyMovie, the Customer grants EasyMovie the non-transferable and non-exclusive right to reproduce, modify, adapt and translate all or part of the Content for the sole needs of the Customer, for the duration of this Agreement and for the whole world. Customer agrees that changes to the Content by EasyMovie for Video purposes do not affect the integrity of such Content.

It is agreed between the parties that the Customer holds all the economic rights for the Videos, for the whole world and for the duration of the intellectual property rights. The Customer is thus free to exploit, reproduce, broadcast, assign or transfer the Videos on any medium, by any means, free or expensive, worldwide and for the legal term of intellectual property rights protection.

The Customer authorizes EasyMovie to use all or part of its Videos for promotional and advertising purposes, in any medium, worldwide and for the duration of legal copyright protection, subject to informing the Customer in writing in advance. In case of refusal by the Customer or request for changes, the Customer must notify EasyMovie in writing within five (5) working days of receipt of notification by EasyMovie. In any case, the Customer warrants to have all rights in the relevant Videos to authorize use by EasyMovie in accordance with this article and holds EasyMovie harmless against any recourse by third parties due to the use of Videos in accordance with this article and for whatever basis.

## **Article 8. Guarantees Regarding Content**

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The EasyMovie App offers tools for creating and editing Videos. The Customer guarantees that it has all the necessary rights on the

Content to create the compilations, use the Content and broadcast the Videos. In particular, the Customer warrants that the Content and Videos:

- do not infringe the rights of third parties, and in particular do not infringe on the private life, privacy or image rights of individuals;
- are not defamatory or abusive, outrageous, false or slanderous to third parties, natural or legal persons;
- do not constitute an act of counterfeiting, unfair competition or parasitism;
- do not incite to commit a crime, a crime or an act of terrorism;
- do not contain any viruses, worms, Trojan horses or any file, computer program likely to interrupt, destroy or limit the functionalities of the EasyMovie Application and / or the EasyMovie Platform;
- are not contrary to public order and morality, and in particular are not liable to prosecution and criminal conviction;
- comply with the applicable legal provisions.

The Customer holds EasyMovie harmless against any request, action or claim by third parties (including the employees of the Customer or EasyMovie) due to the use of Content contrary to this article in a Video. In addition, EasyMovie reserves the right to refuse certain Content that it considers likely to violate the provisions of this article.

#### **Article 9. Guarantees regarding EasyMovie Application**

If the Customer is a consumer located in one of the member states of the European Union, EasyMovie is held by the defects of conformity of the EasyMovie Application and the EasyMovie Platform to the contract and hidden defects of the product sold.

When the consumer acts as a legal guarantee of conformity:

- it has a period of two (2) years from the issue of the product(s) to act;
- he can choose between repair and replacement of the product, subject to the cost conditions provided for in Article L. 217-9 of the French Consumer Code;
- it is not required to prove the existence of the lack of conformity of the product during the twenty-four (24) months following the delivery of the product;
- and the legal guarantee of conformity applies independently of any commercial guarantee that may be granted.

The consumer may decide to implement the guarantee against hidden defects of the thing sold within the meaning of Article 1641 of the French Civil Code (the product sold is unfit for the use for which it is intended or the vice decreases so much the use that the customer would not have acquired it or would have given a lower price) and in this hypothesis, it can choose between the cancellation of the sale or a reduction of the price of sale in accordance with article 1644 of the French Civil Code.

#### **9.1 Legal guarantee of conformity (articles L. 217-4 and following of the French Consumer Code):**

If the Customer is a consumer, it has the legal guarantee of conformity.

Article L. 217-4 of the French Consumer Code provides that: "The seller delivers a good in accordance with the contract and is to be liable for any lack of conformity in the goods at the time when they are delivered. He is also to be liable for any lack of conformity resulting from the packaging, the assembly instructions or the installation where provided by the seller or under his responsibility. "

Article L. 217-5 of the French Consumer Code provides that: "The good is in conformity with the contract:

1 If it fits for the customary use of a similar good and, where applicable:

- if it corresponds to the description given by the seller and has the qualities that he has presented to the buyer in the form of a sample or a model;

- if it has the qualities that a buyer can legitimately expect given the public statements made by the seller, the producer or his representative, particularly in advertising or labeling;

2 Or if it has the characteristics defined by mutual agreement by the parties or is suitable for any special use sought by the buyer, made known to the seller and that the latter has accepted. "

Article L. 217-12 of the French Consumer Code provides that:

"The action resulting from the lack of conformity is prescribed by two years from the delivery of the goods. "

#### **9.2 Legal guarantee relating to latent defects (articles 1641 and following of the French Civil Code):**

Article 1641 of the French Civil Code provides that: "The seller is bound by the guarantee for reasons of hidden defects of the good sold which render it unfit for the use for which it is intended, or which diminish so much this use that the buyer would not have acquired it, or would have given it a lesser price, had he known it. "

The first paragraph of Article 1648 of the French Civil Code provides that: "The action resulting from latent defects must be brought by the purchaser within two years from the discovery of the defect. "

The Customer can contact the Customer Service Department of EasyMovie to know the terms of reimbursement when it exercises one of these guarantees.

In any case, the above provisions do not deprive it of its right of withdrawal, in accordance with the terms and conditions of the services of Apple or Google, as the case may be.

#### **Article 10 - Protection of personal data**

EasyMovie processes the personal data provided by the Customer, Users and Administrators as data controller, in accordance with the data privacy policy available at: <https://www.easy.movie/en/privacy>.

EasyMovie also acts as a subcontractor of the Customer for the processing of personal data, in accordance with the data processing agreement attached hereto.

#### **Article 11 – Liability**

Except for any express warranties set forth in this Agreement, all Services are provided "as is" and EasyMovie hereby disclaims all other warranties, whether express, implied, statutory or other, and EasyMovie specifically disclaims all implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and all other warranties arising from course of dealing, usage or trade practice. Except for any express warranties set forth in this Agreement, EasyMovie makes no other warranty of any kind that the Services or results of the use thereof, will meet the Customer's requirements, operate without interruption, achieve any intended result, be compatible or work with any software, system or other services or be secure, accurate, complete, free of harmful code or error free. EasyMovie can in no way be held responsible for an Internet connection problem, a network loss, the non-receipt of a newsletter, maintenance or other restrictions or impossibilities of access to the EasyMovie App and/or the EasyMovie Platform.

EasyMovie also cannot be held responsible for the non-receipt of information in case of error on the part of the Customer and/or its Users, whether deliberate or not, in the provision of personal details for the purposes registration and/or use of the Services.

EasyMovie is liable only for direct damages that are caused to the Customer in the event of breach of its contractual obligations, in accordance with the legal provisions.

In case of breach of his contractual obligations by EasyMovie, EasyMovie is only liable for direct damages within the limit of the

aggregate amount of fees paid by the Customer for the Service concerned. EasyMovie will not be held liable for any consequential, indirect, exemplary, special, incidental, punitive damages or any loss of data, loss of income, loss of profits, loss of opportunity or loss of customers or damage to the image arising from or relating from this Contract regardless of whether such persons were advised of the possibility of such losses or damages or such losses or damages were otherwise foreseeable.

The Customer may only bring an action against EasyMovie's for liability for a period of six (6) months following the occurrence of the breach in question.

The parties cannot be held responsible for any breach of any of their obligations under this Agreement resulting from the occurrence of a force majeure event. Events of force majeure include strikes or social conflicts, the freezing of all means of transport or supply, earthquakes, fires, storms, floods, power outages, wars, attacks, riots, political instabilities, breakdowns of telecommunications as well as all cases of force majeure fulfilling the criteria admitted by the judges.

#### **Article 12. Confidentiality**

EasyMovie undertakes to keep strictly confidential all the information and Content communicated by the Customer as part of the execution of this Agreement. EasyMovie undertakes in particular not to disclose any confidential information of the Customer to a third party, with the exception of its lawyers, its employees and any subcontractors if this disclosure is necessary for the performance of the Services. The confidentiality obligation applies throughout the duration of this Agreement.

This confidentiality obligation does not apply to that part of the information that:

- (i) was in the public domain or publicly known at the time of its disclosure to EasyMovie;
- (ii) attributable to any act or omission on the part of the latter;
- (iii) have come or come into the public domain after their disclosure to EasyMovie by the Customer without being attributable to any act or omission on the part of the Customer;
- (iv) was lawfully obtained by EasyMovie prior to disclosure by the Customer; or
- (v) are independently developed by EasyMovie without the use of, or reference to, the information disclosed by the Customer.

#### **Article 13. Miscellaneous**

13.1. All the Customer's notifications concerning the Agreement must be made in writing and may be sent to EasyMovie by email (admin@easy.movie) or by mail: EasyMovie - 92 Rue Réaumur - 75002 Paris (for Customer located outside the United States) or EasyMovie, 833 Broadway, New York, NY 10003 (for Customer located in the United States).

13.2. The Customer agrees that all correspondence and/or communication and/or transmission of information taking place

with EasyMovie by electronic means is presumed to have the same probative force as a written document.

13.3. The Customer agrees to be referenced in the marketing proposals, marketing materials and the website of EasyMovie and that EasyMovie reproduces its logo in connection with this communication. EasyMovie will be able to write a press release and a case study which, after validation by the Customer, may be distributed by EasyMovie for the purposes of its communications strategy.

13.4. No stipulation in the Agreement creates a partnership agreement, mandate, relationship of subordination or joint venture between the parties.

13.5. The fact that one of the parties does not rely on a breach by the other party of any of the obligations referred to in this Agreement shall not be construed as a waiver of the obligation in question.

13.6. If any provision of this Agreement is void under a rule of law in force or a court decision become final, then it would be deemed unwritten, without causing the nullity of the contract or alter the validity of its other stipulations.

13.7. The Agreement is concluded intuitu personae. Accordingly, neither party may in any case transfer the benefit of this Agreement to any third party without the prior written consent of the other Party. Notwithstanding the foregoing, this Agreement is freely assignable or transferable to any entity in the context of, among other things, a merger, demerger, acquisition, partial transfer of assets and, more generally, a restructuring operation, subject to informing in writing the Customer to perform the said transfer.

13.8. If the Customer is located outside the United States, this Agreement is governed by French law. Unless otherwise required by law, in the event of a dispute between the parties concerning the formation, interpretation, execution and/or termination of this Agreement, the courts of Paris shall have jurisdiction, notwithstanding multiple defendants or warranty claims, even for emergency proceedings or precautionary proceedings by interlocutory motion or petition.

If the Customer is located in the United States, this Agreement is governed by the law of New York State. Unless otherwise required by law, in the event of a dispute between the parties concerning the formation, interpretation, execution and/or termination of this Agreement, the New York State and Federal courts located within New York County, New York shall have jurisdiction, notwithstanding multiple defendants or warranty claims, even for emergency proceedings or precautionary proceedings by interlocutory motion or petition.

13.9. In the event of a dispute, if the Customer is a consumer located in France, the Customer may resort to a conventional mediation procedure or any other alternative method of dispute resolution.