

RACECAPTURE INC.

PHOTOGRAPHER AGREEMENT

PLEASE READ THIS PHOTOGRAPHER AGREEMENT CAREFULLY. IT CONTAINS IMPORTANT TERMS REGARDING FEES, COMMISSION, THE LICENCE YOU GRANT IN YOUR CONTENT, LIMITATIONS OF LIABILITY, AND YOUR COMPLIANCE OBLIGATIONS.

1. Introduction and Acceptance

- 1.1 This Agreement.** This Photographer Agreement (this “**Agreement**”) governs your access to and use of the RaceCapture Community Portal and related platform, tools, and services (collectively, the “**Platform**”) operated by RaceCapture Inc. (“**RaceCapture**,” “**we**,” “**us**,” or “**our**”) for the purpose of uploading, hosting, managing, displaying, and selling event photography and videography. It applies to you as a photographer, studio, or other person who uses the Platform to deliver and sell media (the “**Photographer**,” “**you**,” or “**your**”).
- 1.2 Acceptance.** By clicking to accept this Agreement, creating a Photographer account, uploading any Photographer Content, or otherwise accessing or using the Platform as a photographer, you agree to be bound by this Agreement. If you do not agree, you must not access or use the Platform.
- 1.3 Authority to bind an entity.** If you are accepting this Agreement on behalf of a business, studio, or other legal entity, you represent and warrant that you have the authority to bind that entity, and “Photographer” refers to that entity.
- 1.4 Related documents.** This Agreement incorporates by reference the RaceCapture Privacy Policy, as amended from time to time (the “**Privacy Policy**”). In the event of a conflict between this Agreement and the Privacy Policy with respect to the handling of personal information, the Privacy Policy governs.

2. Definitions

In this Agreement, the following capitalized terms have the meanings set out below. Other capitalized terms are defined where they first appear.

“**Athlete**” means an individual who appears in, searches for, or purchases Photographer Content through the Platform.

“**Athlete Personal Information**” means personal information of an Athlete or other individual that is collected, used, or disclosed through the Platform in connection with your Photographer Content, including images, email addresses, selfies, and face vectors.

“**Beta Services**” means any feature, tool, or service that RaceCapture makes available on a trial, preview, early-access, or beta basis, whether or not labelled as such.

“**Commission**” means the percentage or amount that RaceCapture is entitled to retain from, or charge in connection with, each sale of Photographer Content through the Platform, as set out in the Fee Schedule.

“**Event**” means a race, fitness event, corporate event, or other gathering at which you capture Photographer Content.

- “**Event Organizer**” means the person or organization that produces or hosts an Event and that engages you, or with whom you arrange, to provide coverage.
- “**Face Vector**” means a mathematical representation of the features of a face, generated and used by the Platform to enable facial-recognition search and matching.
- “**Fee Schedule**” means the schedule of subscription fees, storage tiers, and Commission rates made available to you through the Platform or otherwise provided to you in writing by RaceCapture, as amended in accordance with Section 8.
- “**Fees**” means the subscription fees, Commission, and any other amounts payable by or charged to you under this Agreement.
- “**Gallery**” means an online collection of Photographer Content made available through the Platform for viewing, search, and sale.
- “**Photographer Content**” means all photographs, video recordings, and related materials and metadata that you upload, submit, store, or transmit through the Platform.
- “**Stripe**” means Stripe, Inc. and its affiliates, the third-party payment processor used by the Platform, including its Stripe Connect service.
- “**Subscription**” means your paid subscription to the Platform under a plan described in the Fee Schedule.
- “**Subscription Term**” means the monthly or annual period for which you have purchased a Subscription, as applicable.

3. Eligibility and Authority

- 3.1 Capacity.** You must be the age of majority in your jurisdiction of residence and have the legal capacity to enter into a binding agreement.
- 3.2 Authority over content.** You represent and warrant that you own, or are validly licensed or otherwise authorized to use and exploit, all Photographer Content you upload, and that you have all rights necessary to grant the licence in Section 10.
- 3.3 Global registration.** The Platform may be accessed from many jurisdictions. RaceCapture makes no representation that the Platform, or your use of it, is appropriate, lawful, or available in any particular location. You are solely responsible for determining whether your use of the Platform is lawful in each jurisdiction in which you operate, and for complying with all applicable local laws. You must provide accurate registration and location information and must not use a virtual private network or other means to misrepresent your location for the purpose of evading legal or Platform requirements.

4. Account Registration and Security

- 4.1 Accurate information.** You agree to provide accurate, current, and complete information when you register a Photographer account and to keep that information up to date.
- 4.2 Credentials.** You are responsible for maintaining the confidentiality of your account credentials and for all activity that occurs under your account, whether or not authorized by you. You must notify RaceCapture promptly if you become aware of any unauthorized use of your account.
- 4.3 One account.** You must not maintain more than one Photographer account without RaceCapture’s prior written consent, and you must not share your account or credentials to circumvent Fees, storage limits, or other restrictions.

5. Licence to Use the Platform

- 5.1 Licence grant.** Subject to your compliance with this Agreement and your payment of all Fees, RaceCapture grants you a limited, revocable, non-exclusive, non-transferable, non-sublicensable licence to access and use the Platform during your Subscription Term solely for the purpose of uploading, managing, displaying, and selling your Photographer Content.
- 5.2 Reservation of rights.** The Platform, and all intellectual property in the Platform and the materials within it, are owned by or licensed to RaceCapture. Except for the limited licence in Section 5.1, no rights are granted to you.
- 5.3 Restrictions.** You must not:
- (a) modify, copy, prepare derivative works of, decompile, reverse engineer, or disassemble the Platform or any software within it;
 - (b) rent, lease, sell, sublicense, resell, or otherwise make the Platform available to any third party, except for the sale of your own Photographer Content as contemplated by this Agreement;
 - (c) remove or alter any copyright, trademark, watermark, or other proprietary notice;
 - (d) access or use the Platform to build a competing product or service, or scrape, harvest, or index any part of the Platform or its data;
 - (e) interfere with, disrupt, or attempt to gain unauthorized access to the Platform, its infrastructure, or other users' accounts or data; or
 - (f) use the Platform in violation of this Agreement or any applicable law.

6. Subscription Plans and Fees

- 6.1 Subscription.** Access to the Platform requires a paid Subscription. RaceCapture offers storage-based Subscription plans on a monthly and annual basis. The features, storage allowances, subscription fees, and Commission rates applicable to each plan are set out in the Fee Schedule.
- 6.2 Storage.** Your Subscription includes a storage allowance as set out in the Fee Schedule. RaceCapture may measure storage based on the volume of Photographer Content stored on the Platform. If your usage exceeds your allowance, RaceCapture may require you to upgrade your plan, may charge overage fees as set out in the Fee Schedule, or may limit further uploads.
- 6.3 Subscription Term and renewal.** Your Subscription begins on the date you first purchase it and continues for the applicable Subscription Term. Unless you cancel in accordance with Section 9, your Subscription renews automatically at the end of each Subscription Term, monthly Subscriptions for a further monthly term and annual Subscriptions for a further annual term, at the then-current Fees.
- 6.4 Taxes.** All Fees are exclusive of applicable sales, use, value-added, goods and services, harmonized sales, and similar taxes. You are responsible for all taxes arising from your sales of Photographer Content and from your use of the Platform, other than taxes on RaceCapture's net income. Where RaceCapture is required to collect or remit tax in connection with the Platform, it may do so and charge that amount to you.

7. Commission, Payments, and Payouts

- 7.1 Payment processing through Stripe.** All payments by Athletes for Photographer Content are processed through Stripe, including Stripe Connect. To receive payouts, you must create, connect, and maintain a Stripe account in good standing, and you must comply with Stripe’s applicable terms of service and connected-account agreement. RaceCapture is not a bank, money services business, payment processor, or fiduciary, and does not hold funds on your behalf.
- 7.2 Commission.** RaceCapture is entitled to the Commission on each sale of Photographer Content through the Platform, as set out in the Fee Schedule. The Commission, together with applicable Stripe processing fees, may be deducted from the proceeds of each sale before the balance is paid out to you.
- 7.3 Merchant of record.** As between you and RaceCapture, you are the merchant of record for each sale of your Photographer Content to an Athlete. You are responsible for fulfilling the sale, for issuing any receipts or tax documents required by law, for responding to Athlete enquiries and disputes, and for any chargebacks, reversals, or refunds relating to your sales. RaceCapture acts solely as the operator of the Platform and as a technical facilitator of payment through Stripe.
- 7.4 Payouts.** Payouts of sale proceeds, net of Commission and processing fees, are made to your connected Stripe account in accordance with Stripe’s payout schedule and terms. RaceCapture is not responsible for delays, holds, reserves, or failures in payout that are caused by Stripe, by your Stripe account status, or by your failure to provide required information.
- 7.5 Chargebacks and refunds.** You are responsible for all chargebacks, reversals, and refunds relating to your sales, including the associated fees. RaceCapture may deduct or recover such amounts, together with any related Commission adjustments, from your current or future payouts or charge them to you directly. Without limiting the foregoing, where RaceCapture issues a refund or credit to an Athlete in respect of your Photographer Content under the RaceCapture Website Terms and Conditions, the amount of that refund or credit, together with any associated fees, is treated as a refund of your sale and is recoverable from you under this Section 7.5.
- 7.6 Your records and taxes.** You are responsible for your own bookkeeping, business registration, licensing, and tax obligations in every jurisdiction in which you operate. Stripe provides reporting on sales processed through the Platform; you are responsible for reconciling and reporting your own income and taxes.

8. Pricing and Feature Changes

- 8.1 Right to change.** RaceCapture may introduce, modify, or discontinue Subscription plans, Fees, Commission rates, storage allowances, features, and functionality of the Platform at any time.
- 8.2 Effect on existing Subscriptions.** Changes to Fees or Commission do not apply to an annual subscriber during the annual Subscription Term that the Subscriber has already paid for; such changes take effect on renewal. For monthly Subscribers, changes take effect on the next monthly renewal following the change.
- 8.3 Notice.** Although RaceCapture is not required to give advance notice of every change, RaceCapture will use reasonable efforts to notify subscribers of material changes to Fees, Commission, or core features before they take effect. Your continued use of the Platform after a change takes effect constitutes your acceptance of the change.

9. Refunds and Cancellation

- 9.1 Cancellation by you.** You may cancel your Subscription at any time through the Platform. Cancellation stops the automatic renewal of your Subscription. Your Subscription, and your

access to the Platform, continue until the end of the Subscription Term you have already paid for, after which the Subscription ends.

- 9.2 No mid-term or pro-rata refunds.** Fees are non-refundable. RaceCapture does not provide refunds or credits for partially used Subscription Terms, including where an annual subscriber cancels part-way through an annual Subscription Term, and does not provide pro-rata refunds.
- 9.3 No refund on termination for breach.** If RaceCapture terminates or suspends your account for breach of this Agreement, no refund of any Fees is payable.
- 9.4 Effect of cancellation on content.** The treatment of your Photographer Content and Galleries following cancellation or termination is governed by Section 10 and Section 16.

10. Photographer Content and Licence Grant

- 10.1 You retain ownership.** You retain all copyright and other intellectual property rights in your Photographer Content. RaceCapture does not claim ownership of your Photographer Content.
- 10.2 Licence to RaceCapture.** You grant RaceCapture a non-exclusive, royalty-free, worldwide licence to host, store, reproduce, process (including through Amazon Rekognition for facial indexing, search, and content moderation), index, adapt, format, watermark, transmit, display, market, deliver, back up, and sell or facilitate the sale of your Photographer Content to Athletes through the Platform. This licence includes the right for RaceCapture to sublicense these rights to its service providers solely as necessary to operate and provide the Platform. The licence also includes the right for RaceCapture to grant to each Athlete who purchases your Photographer Content, on your behalf, the personal, non-commercial end-user licence described in the RaceCapture Website Terms and Conditions, and to perform any other acts reasonably necessary to give effect to that grant.
- 10.3 Duration of the licence.** The licence in Section 10.2 is structured as follows:
 - (a) **Content sold or delivered to an Athlete.** With respect to Photographer Content that has been sold or delivered to an Athlete, the licence is irrevocable and survives cancellation or termination of this Agreement, but only to the extent necessary to continue providing that Athlete with access to and delivery of that content
 - (b) **All other content.** With respect to all other Photographer Content, the licence continues for your Subscription Term and for a wind-down period of 30 days following cancellation or termination, after which RaceCapture will cease actively displaying, marketing, and selling that content and will, on your written request, delete or return it, subject to RaceCapture's backup cycles and legal retention obligations.
- 10.4 Backups.** RaceCapture may retain residual copies of Photographer Content in routine backups for a limited period after deletion. RaceCapture will not use such residual copies for any purpose other than disaster recovery and legal compliance.
- 10.5 Feedback.** If you provide RaceCapture with suggestions, ideas, or other feedback about the Platform, you grant RaceCapture a perpetual, irrevocable, royalty-free, worldwide licence to use that feedback without restriction or obligation to you.

11. Photographer Representations, Warranties, and Covenants

You represent, warrant, and covenant, on a continuing basis and each time you upload Photographer Content, that:

- (a) you own, or are validly licensed or otherwise authorized to use and exploit, all Photographer Content, and you have all rights necessary to grant the licence in Section 10;
- (b) you have obtained, or the Event Organizer has obtained, all consents, waivers, and authorizations necessary for the capture, upload, processing, facial-recognition indexing, display, delivery, and sale of the Photographer Content, including the consent of each individual depicted and, where applicable, that individual's parent or guardian;
- (c) the Photographer Content does not infringe or violate the intellectual property, privacy, publicity, moral, or other rights of any person, and is not unlawful, defamatory, or otherwise in breach of Section 12;
- (d) you comply, and will comply, with all laws applicable to you and to your use of the Platform in every jurisdiction in which you operate, including privacy and data protection laws, consumer protection laws, anti-spam laws, and tax laws;
- (e) you comply with the policies, registration terms, and media waivers of each Event Organizer, and with any contractual restrictions applicable to your coverage of an Event;
- (f) you are responsible for your own business registration, licensing, insurance, and tax obligations; and
- (g) you will not represent that RaceCapture endorses you, and will not misrepresent your relationship with RaceCapture.

12. Acceptable Use and Prohibited Content

12.1 Prohibited content. You must not upload, store, display, sell, or transmit through the Platform any content that:

- (a) is sexually explicit, pornographic, nude, vulgar, or obscene;
- (b) depicts or promotes violence, or is harassing, threatening, hateful, defamatory, or discriminatory;
- (c) depicts, sexualizes, or exploits a minor, including any child sexual abuse material, which is strictly and absolutely prohibited;
- (d) constitutes non-consensual intimate imagery or voyeuristic content, or is used to harass, stalk, intimidate, or identify an individual without authorization; or
- (e) is otherwise unlawful or in breach of this Agreement.

12.2 Moderation. RaceCapture applies automated content moderation (including through Amazon Rekognition) and may conduct manual review, but you remain solely responsible for your Photographer Content. RaceCapture is not obligated to monitor content and the existence of moderation tools does not shift responsibility to RaceCapture.

12.3 Consequences and reporting. RaceCapture may, at its sole discretion and without notice or refund, remove or quarantine content, and suspend, terminate, or permanently ban any account, that it reasonably believes breaches this Section 12. RaceCapture will report suspected child sexual abuse material and other suspected criminal content to the appropriate authorities, including the Canadian Centre for Child Protection and, where relevant, the United States National Center for Missing & Exploited Children, and will cooperate with law enforcement.

13. Facial Recognition and Biometric Obligations

- 13.1 How the feature works.** The Platform uses Amazon Rekognition to generate Face Vectors and to enable facial-recognition search and matching, so that Athletes can find their media. Face Vectors and selfies are treated as sensitive biometric information and are subject to the Privacy Policy.
- 13.2 Your responsibility for consent.** You are responsible for ensuring that the Event Organizer has obtained, through its registration and waiver process, the express consent of each participant to facial-recognition processing of their image. If the Event Organizer has not done so, you must obtain that consent yourself before uploading the relevant Photographer Content. You must not upload content for facial-recognition processing where the necessary biometric consent has not been obtained.
- 13.3 Permitted use only.** You must not use, and must not encourage or enable any third party to use, the facial-recognition features of the Platform for surveillance, law enforcement, identity verification unrelated to media delivery, or any purpose other than delivering event media to the individuals depicted. You must not attempt to extract, copy, reconstruct, or derive Face Vectors or other biometric data from the Platform, and must not reverse engineer or attempt to replicate the facial-recognition or matching technology.

14. Data Protection

- 14.1 Roles.** With respect to Athlete Personal Information that you cause to be collected or processed through the Platform in connection with your Photographer Content, you are the organization responsible for that personal information (the controller), and RaceCapture acts as your service provider, processing such information on your behalf and on your instructions in order to provide the Platform.
- 14.2 Your obligations.** You are responsible for ensuring that there is a valid legal basis and all necessary consents for the collection, use, and disclosure of Athlete Personal Information through the Platform, and for complying with all privacy and data protection laws applicable to you.
- 14.3 RaceCapture's handling.** RaceCapture processes Athlete Personal Information in accordance with the Privacy Policy and applicable law. The parties will enter into a data processing addendum where required by applicable law or reasonably requested.

15. Analytics and Reporting

- 15.1 Analytics.** The Platform provides analytics and reporting, including earnings, sales by Event, and other statistics. This information is provided for your convenience and on an “as is” basis. You are responsible for maintaining your own books and records, and Stripe's records are the authoritative record of amounts processed and paid out.

16. Suspension and Termination

- 16.1 By RaceCapture.** RaceCapture may suspend or terminate your account and access to the Platform immediately, with or without notice, if you breach this Agreement, if you upload prohibited content, if you fail to pay Fees when due, if required by law, or if RaceCapture reasonably believes your conduct or content may expose RaceCapture, an Athlete, an Event Organizer, or any other person to harm or liability.
- 16.2 By you.** You may terminate this Agreement by cancelling your Subscription in accordance with Section 9 and ceasing all use of the Platform.
- 16.3 Effect of termination.** On termination or expiry of this Agreement, your licence to use the Platform ends, your access to the Platform ceases, and your Galleries may be taken down, subject

to the wind-down and survival provisions of Section 10.3. Pending payouts are handled in accordance with Section 7 and Stripe's terms. No Fees are refunded.

- 16.4 Survival.** Sections 2, 7.5, 10, 11, 12, 14, 17, 18, 19, 23, and any other provision that by its nature should survive, survive termination or expiry of this Agreement.

17. Disclaimers

- 17.1 As is.** The Platform is provided on an "as is" and "as available" basis. To the maximum extent permitted by applicable law, RaceCapture disclaims all warranties, conditions, and representations, whether express, implied, statutory, or otherwise, including any implied warranties or conditions of merchantability, merchantable quality, fitness for a particular purpose, durability, title, and non-infringement.
- 17.2 No guarantee of results.** RaceCapture is a tool that facilitates the delivery and sale of event media and the connection between photographers and Athletes. RaceCapture does not guarantee any level of sales, revenue, traffic, uptime, availability, storage durability, or accuracy of facial-recognition matching, and does not guarantee that the Platform will be uninterrupted or error-free.

18. Limitation of Liability

- 18.1 Exclusion of indirect damages.** To the maximum extent permitted by applicable law, RaceCapture and its directors, officers, employees, agents, and suppliers will not be liable for any indirect, incidental, special, consequential, punitive, or exemplary damages, or for any loss of profits, revenue, goodwill, business, or data, arising out of or in connection with this Agreement or the Platform, regardless of the theory of liability and even if advised of the possibility of such damages.
- 18.2 Aggregate cap.** To the maximum extent permitted by applicable law, RaceCapture's total aggregate liability for all claims arising out of or in connection with this Agreement or the Platform will not exceed the total Fees paid by you to RaceCapture in the three (3) months immediately preceding the event giving rise to the claim. This cap applies cumulatively to all claims you make, regardless of the number of claims.
- 18.3 Limits of these limitations.** Nothing in this Agreement excludes or limits liability that cannot be excluded or limited under applicable law, including liability for gross negligence or wilful misconduct. The exclusions and limitations in this Section 18 do not apply to your payment obligations or to your indemnification obligations under Section 19.

19. Indemnification

- 19.1 Your indemnity.** You agree to indemnify, defend, and hold harmless RaceCapture and its directors, officers, employees, agents, and affiliates from and against all claims, liabilities, damages, losses, costs, and expenses (including reasonable legal fees) arising out of or in connection with:
- (f) your Photographer Content;
 - (g) your Events and your dealings with Event Organizers and Athletes;
 - (h) your use of the Platform;
 - (i) your breach of this Agreement or your representations, warranties, or covenants;

- (j) your violation of any applicable law, including privacy, consumer protection, anti-spam, and tax law; and
- (k) any failure to obtain, or any deficiency in, any consent, waiver, or authorization required under Section 11 or Section 13, including biometric consents.

19.2 Procedure. RaceCapture will notify you of any claim for which it seeks indemnification, and you will assume the defence of the claim with counsel reasonably acceptable to RaceCapture. RaceCapture may participate in the defence with its own counsel at its own expense. You must not settle any claim in a way that imposes any obligation or admission on RaceCapture without RaceCapture's prior written consent.

20. Beta and Early-Access Services

- 20.1 Beta Services.** RaceCapture may make Beta Services available to you. Beta Services are provided for evaluation, are not generally available, and may be incomplete, may contain errors, and may change, be suspended, or be withdrawn at any time without notice.
- 20.2 No reliance.** Beta Services are provided "as is" with no warranties of any kind, and you should not rely on Beta Services for any production-critical or business-critical purpose. Section 17 and Section 18 apply fully to Beta Services.

21. Changes to this Agreement

- 21.1 Updates.** RaceCapture may update this Agreement from time to time. When it does, it will revise the effective date and notify you through the Platform or by email. Changes take effect on the date of posting unless otherwise stated. Your continued use of the Platform after the effective date of a revised Agreement constitutes your acceptance of the changes. If you do not agree to a change, your remedy is to cancel your Subscription in accordance with Section 9.

22. Governing Law and Dispute Resolution

- 22.1 Governing law.** This Agreement is governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflict of law principles.
- 22.2 Jurisdiction.** You irrevocably submit to the exclusive jurisdiction of the courts of the Province of Ontario for the resolution of any dispute arising out of or in connection with this Agreement or the Platform. Although the Platform is accessible from many jurisdictions, RaceCapture operates from Ontario, Canada, and this Agreement is a business-to-business agreement between you and RaceCapture.

23. General Provisions

- 23.1 Entire agreement.** This Agreement, together with the Privacy Policy and the Fee Schedule, constitutes the entire agreement between you and RaceCapture with respect to the Platform and supersedes all prior communications and agreements.
- 23.2 Assignment.** You may not assign or transfer this Agreement or any of your rights or obligations under it without RaceCapture's prior written consent. RaceCapture may assign this Agreement without restriction. This Agreement enures to the benefit of and binds the parties and their permitted successors and assigns.
- 23.3 No partnership or agency.** Nothing in this Agreement creates a partnership, joint venture, employment, or agency relationship between you and RaceCapture. RaceCapture's role in selling

or facilitating the sale of your Photographer Content is limited to operating the Platform and facilitating payment, and does not make RaceCapture your agent for any other purpose.

- 23.4 Severability.** If any provision of this Agreement is found to be invalid, illegal, or unenforceable, that provision will be severed or modified to the minimum extent necessary, and the remaining provisions will continue in full force and effect.
- 23.5 Waiver.** No failure or delay by RaceCapture in exercising any right or remedy will operate as a waiver of it, and no single or partial exercise of any right or remedy will preclude any further exercise.
- 23.6 Force majeure.** RaceCapture is not liable for any failure or delay in performance resulting from circumstances beyond its reasonable control, including natural disasters, pandemics, acts of government, power, internet, or telecommunications failures, third-party service failures, and cyberattacks.
- 23.7 Notices.** RaceCapture may give you notices through the Platform or by email to the address associated with your account. You must send notices to RaceCapture at the contact address set out below.
- 23.8 Language.** The parties have requested that this Agreement and all related documents be drawn up in English. Les parties ont demandé que cette entente et tous les documents qui s’y rattachent soient rédigés en anglais.
- 23.9 Electronic acceptance.** This Agreement is accepted electronically. Your electronic acceptance has the same legal effect as a handwritten signature.

RaceCapture Inc.

Attention: Sean Menezes, Privacy Officer and Director

Email: info@racecapture.ca

Address: [to be inserted]