

# LICENSE AGREEMENT

This License Agreement (herein after referred to as “Agreement”) is a legal agreement between you (either an individual or legal entity, herein after referred to as “Customer”), and Reshape Media Inc. (herein after referred to as “Reshape Media”) for the use of the Export Kit software.

Reshape Media is a limited corporation operating under the laws established in the province of Ontario, Canada. All questions concerning this Agreement should be directed towards Reshape Media via <http://www.exportkit.com/>.

This Agreement is effective starting the date of installation of Export Kit until terminated. Without prejudice to any other rights, Reshape Media may immediately terminate this Agreement if Customer fails to comply with any of the terms and conditions set forth in this Agreement. This Agreement shall supersede all prior oral, written or digital communication and representation with respect to Export Kit or any other subject matter covered by this Agreement.

## ARTICLES

Customer agrees to be bound by the terms and conditions of the Agreement by downloading, copying, installing or otherwise using Export Kit.

**DO NOT USE EXPORT KIT IF YOU DO NOT AGREE TO THIS AGREEMENT**

## DEFINITIONS

- a) All digital items including but not limited to: source code, files, eBooks, emails, web posts, blogs; collectively referred to as ("Digital Materials").
- b) The 48 hour trial period for testing Export Kit, referred to as ("48 Hour Trial").
- c) The usage period for Export Kit after activation of product keys, referred to as ("Yearly License").
- d) All Digital Materials created by Customer during the 48 Hour Trial, collectively referred to as ("Trial Materials").
- e) All Digital Materials created by Customer after activating Export Kit product keys, collectively referred to as ("Customer Materials").
- f) All Digital Materials, Trial Materials and Customer Materials, collectively referred to as ("Materials").

### 1. WITNESSETH

The Export Kit software and all Digital Materials included in its distribution (herein after referred to as “Export Kit”) are sole property of Reshape Media and is licensed to Customer under this Agreement. Reshape Media reserves all rights not explicitly granted to you within this Agreement.

In all considerations of mutual covenants, herein contained with good and valuable consideration, the sufficient receipt of all considerations are hereby acknowledged, and agreed upon as follows:

## 2. GRANT OF USE

During the 48 Hour Trial, Customer has unlimited usage of Export Kit and will retain ownership, without limitation of all Trial Materials created. The Yearly License will allow unlimited usage of Export Kit and grant Customer full and exclusive rights and ownership of all Customer Materials.

Customer acknowledges that Reshape Media may at any time, at its sole discretion, grant a Commercial License for use of Export Kit. Export Kit, without limitation, may only be used on one Customer computer per activation key. If you have not rightfully obtained a Commercial, Educational or Enterprise License, you cannot use Export Kit beyond the 48 hour trial period.

Customer may transfer, assign, copy and distribute Export Kit and its Digital Materials to other persons provided the following condition(s) are met, otherwise this license will be rendered null and void:

- a) Customer cannot sell, rent, lease, sublicense or collect any monetary amounts from any other person or legal entity, except as expressed in this Agreement.

## INFORMATION COLLECTION

Customer acknowledges that personal information submitted to Reshape Media for the purpose of Export Kit is correct and accurate, and will update Reshape Media if this information changes or becomes outdated.

### **RESHAPE MEDIA MAY REQUIRE VERIFICATION OF ANY CHANGES TO PERSONAL INFORMATION**

Customer acknowledges that failure to keep his/her personal information up-to-date with Reshape Media may render this Agreement null and void. To update any personal information, please log in to:

(Herein after referred to as "Profile Page"): <http://www.exportkit.com/your-profile/>

Customer agrees to log in and update the current information, or contact Reshape Media directly through Export Kit where available to update personal information.

### **RESHAPE MEDIA WILL NOT SELL OR IN ANY WAY DISTRIBUTE YOUR PERSONAL INFORMATION**

Customer agrees that Reshape Media and its subsidiaries are free to use this information in any format that does not personally identify Customer.

## 3. TECHNICAL

Reshape Media and its subsidiaries may collect and use technical and related information, notwithstanding, computer information, system and application information, usage and errors.

## 4. PERSONAL

Reshape Media may collect and use your personal information to validate your Activation Keys, to contact you with information related to Export Kit and other Reshape Media products, if you acquire Export Kit through an approved reseller – communications with reseller regarding your purchase.

## GENERAL TERMS AND CONDITIONS

Customer acknowledges that he/she will abide by all the terms and conditions set forth in this Agreement.

### 5. INTELLECTUAL AND PROPRIETARY PROPERTY

Customer acknowledges that all materials provided to Customer via Export Kit, shall belong solely to Reshape Media. The materials include, without limitation, files, samples, documents, designs or any other digital material provided to Customer upon download of Export Kit, wherever the same subsists or shall subsist, including in any renewal, extension or reversion of Export Kit now or hereafter provided, and all other rights of any nature whatsoever, including those that may arise subsequently to the date of this Agreement, weather now or hereafter devised, and including the right to bring action for past infringement or other misuse of any rights in the Materials, and the right to restrain publication of the Materials. Customer agrees not to modify, translate, decompile, adapt, reverse engineer, disassemble or otherwise attempt to reveal any or all parts of the inner workings or view, change, copy, or use source code of Export Kit except where explicitly stated in this Agreement.

You agree not to remove any label or text indicating any Digital Material owned by Reshape Media for the purpose of Export Kit. You agree not to purchase Export Kit for the purpose of reselling, licensing or collecting monetary amounts except where a prior written agreement from Reshape Media is granted.

### 6. VERSION SPECIFIC TERMS AND CONDITIONS

Customer agrees that the usage of Export Kit is limited to the terms and conditions of the most current License Agreement found on the Export Kit website:

(Herein after referred to as “License Web Link”): <http://www.exportkit.com/docs/license/>

Customer acknowledges that the License Agreement found at the License Web Link will be considered binding of the usage of Export Kit and shall survive any terms and conditions provided in the Digital Materials of that version.

### 7. THIRD PARTY SOFTWARE LICENSES

Export Kit may make use of third party software within reason. The use of some third party software included in Export Kit may be subject to individual terms and conditions as set out by the third party. The official copyright notices and specific license conditions can be found in the “About” window of Export Kit, or can be emailed to Customer upon request if not available. Customer agrees to the terms and conditions of such third party software.

### 8. WARRANTY AND LIMITED LIABILITY

Reshape Media does not warrant the use and operation of Export Kit on the specific computer intend by the Customer to use Export Kit. Customer acknowledges that he/she is responsible for obtaining a computer compatible with Export Kit and the required program environments.

#### **EXPORT KIT IS PROVIDED ON AN “AS IS” BASIS WITHOUT WARRANTY OF ANY KIND**

The results and export times are not guaranteed and the performance of any Materials is not warranted by Reshape Media from use of Export Kit. Reshape Media states no claims that Export Kit operates

“Error Free”. Customer acknowledges that any changes made to their design files for the purpose of using Export Kit, may alter the overall visual state of their output if the correct settings are not applied.

To the maximum extent permitted by applicable law, Reshape Media is not liable to Customer or third party for any damages, either direct, indirect, incidental, consequential or otherwise; including in each case, but not limited to damages arising from the inability to use Export Kit, notwithstanding, or access data, loss of data, loss of business, loss of profits, business interruptions or the like; arising from the use or inability to use Export Kit.

Notwithstanding the provisions provided above, or anything else provided in this Agreement, Reshape Media is not responsible for any death or injury resulting from negligent use of Export Kit and such action shall be limited.

## 9. INFRINGEMENT

In the event that Export Kit is, or in Reshape Media’s opinion is likely to become, the subject of a claim of infringement, Reshape Media shall have the right, without obligation, superseding all prior terms and conditions, and at its sole discretion to:

- a) Procure the use of Export Kit and or any and all Material produced by Export Kit by Customer.
- b) Replace or modify Export Kit in such a way as to make the modified Export Kit version non-infringing.
- c) Terminate this agreement.

Customer acknowledges the entire liability and obligation of Reshape Media in the foregoing, and Customer’s sole remedy with respect to any actual or alleged infringement of intellectual property rights of any kind.

## 10. SEVERANCE

If one or more provisions of this Agreement are found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, such provision or provisions shall be severed from this Agreement and the not affect any other provisions of the Agreement which will continue in full force and effect.

## 11. AMENDMENT

This Agreement and any provisions within may not be waived, amended or modified in any form except by Reshape Media. Any such waiver shall not operate or be constructed as a waiver of any other provision, or of the same provision, on any other occasion.

## 12. APPLICABLE LAW

This Agreement is governed by the laws of the Province of Ontario, or at Reshape Media’s sole discretion, the law of any court which may have jurisdiction. This Agreement shall not be governed by contract involving the international sale of goods, unless explicitly expressed by Reshape Media. Customer agrees that Reshape Media, at its sole discretion, may bring legal action regarding any dispute arising from or in connection with this Agreement before the courts of Ontario, Canada, or in any court in any country which may have jurisdiction and Customer herewith irrevocably and unconditionally submits to the exclusive jurisdiction of the courts chosen by Reshape Media.