

## **Better Noise Films**

### **Terms of Use**

Please read the following Terms of Use (these “Terms”) carefully before using the Better Noise Films website, located at [www.betternoisefilms.com](http://www.betternoisefilms.com) (the “Website”), which is owned and operated by 11-7 Recording Corp. (“11-7 Recording”, “we”, “our”, or “us”), or participating in any online features, services and/or programs offered by us (each, a “Web Property” and collectively the “Web Properties”).

These Terms are not applicable to any other web page operated and/or owned by any entity other than 11-7 Recording and its affiliates, including, but not limited to, any website, mobile application, blog, forum, or other material operated by any third party identified on the Web Properties. When visiting these third-party websites, you should refer to the terms and conditions in effect for the applicable owner.

PLEASE READ THESE TERMS CAREFULLY, WHICH INCLUDE IMPORTANT INFORMATION ABOUT YOUR LEGAL RIGHTS, REMEDIES, AND OBLIGATIONS. BY ACCESSING OR USING THE WEB PROPERTIES, YOU ARE ENTERING INTO A LEGAL CONTRACT WITH US REGARDING YOUR USE OF THE WEB PROPERTIES. BY ACCESSING OR USING THE WEB PROPERTIES, YOU AGREE TO BE BOUND BY THESE TERMS AND ALL ADDITIONAL TERMS INCORPORATED BY REFERENCE AT ANY TIME AND FROM TIME TO TIME. IF YOU DO NOT AGREE TO ANY PORTION OF THESE TERMS, YOU SHOULD NOT ACCESS OR OTHERWISE USE THE WEB PROPERTIES.

**1. CONVENIENCE AND INFORMATION ONLY.** The Web Properties are provided to you as a convenience and for your information only. By merely providing access to the Web Properties, we do not warrant or represent that: (a) any materials, documents, images, graphics, logos, design, audio, video, audio-visual material, photos, commentary and any other information provided from or on the Web Properties (collectively, the “Content”) is accurate or complete; (b) the Content is up-to-date or current; (c) we have any obligation to update any Content; (d) the Content is free from technical inaccuracies or programming or typographical errors; (e) the Content is free from changes caused by a third party; (f) your access to the Web Properties will be free from interruptions, errors, computer viruses or other harmful components; and/or (g) the Content is non-infringing of any third party’s intellectual property rights.

**2. WEB PROPERTIES USE AND CONTENT.** You may view, copy or print a single copy of any page from the Web Properties for personal, non-commercial purposes if you do not remove, modify, or alter any copyright and proprietary rights notices that may be present. You may not otherwise use, modify, copy, print, display, distribute, publish, or sell any information from the Web Properties without our express, prior, written consent. **YOU MAY NOT USE ANY WEB PROPERTY FOR ANY COMMERCIAL USE.** Any special rules for the software, audio files, video files, downloads, and other items accessible through the Web Properties may be included elsewhere in the Web Properties and are incorporated into these Terms by reference. You agree that you will not access the Content through any technology or means other than through the

video playback pages of the Web Properties or other explicitly authorized means we may designate.

**3.** We may make changes to the Web Properties, the Content and/or these Terms, and/or stop providing any of the Web Properties and/or the Content, at any time and without further notice to you. We will make an effort to update the Website with any changes to these Terms and you are encouraged to review these Terms frequently (the date of the most recent revision to these Terms appears at the end of these Terms).

**4.** We know that privacy is very important to you, and it is very important to us as well. By using the Web Properties, you consent to receive electronic communications from us unless you follow applicable opt-out procedures. We will communicate with you by email or by posting notices on our Web Properties. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communication be in writing. Personal data that you provide regarding yourself will be handled in accordance with our Privacy Policy.

**5. USER ACCOUNT, PASSWORD AND SECURITY.** To the extent that a user account is created by you to access and use any Web Property (“User Account”), the following shall apply:

(a) **USER ACCOUNT.** To access certain features and/or Content available through the Web Properties, we may require that you sign up using your email address and a password to create a User Account. We use reasonable precautions to protect the privacy of your username, password and User Account information. You, however, are ultimately responsible for protecting your username, password and User Account information from disclosure to third parties, and you are not permitted to circumvent the use of required encryption technologies, if any. You agree to: (i) immediately notify us of any unauthorized use of your username, password or User Account, or any other breach of security; (ii) ensure that you exit from your User Account at the end of each session; and (iii) use a security passcode to secure your device where your User Account information is stored. While we provide certain encryption technologies and use other reasonable precautions to protect your confidential information and provide suitable security, we do not and cannot guarantee or warrant that information transmitted through the Internet is secure, or that such transmissions are free from delay, interruption, interception or error.

(b) **ACCURATE INFORMATION.** In creating and using your User Account, you agree to: (i) provide true, accurate, current, and complete information about yourself on any registration form required for the Web Properties, including, but not limited to, your full name and email address (such information being the “Registration Data”); and (ii) maintain and promptly update the Registration Data to keep it true, accurate, current, and complete. If you provide any information that is untrue, inaccurate, not current, or incomplete, or if we have reasonable grounds to suspect that such information is untrue, inaccurate, not current, or incomplete, then we have the right to suspend or terminate your User Account and refuse any and all current or future use of your User Account.

(c) **NON-TRANSFERABILITY OF USER ACCOUNT.** User Accounts are non-transferable, and all users are obligated to take preventative measures to prohibit

unauthorized users from accessing the Web Properties with his or her username and password. We are entitled to act on all instructions received by anyone using your User Account.

(d) **DATA RETENTION POLICY, MANAGING YOUR INFORMATION.** We may retain User Account information and some automatically collected information for as long as you use your User Account and for a reasonable time thereafter, and we may store it in the aggregate. If you would like us to delete your User Account information that you have provided, please contact us [info@betternoise.com](mailto:info@betternoise.com) and we will respond in a reasonable time. Information that you enter into the Web Properties will generally remain there until we receive a legitimate request to remove it.

**6. OBJECTIONABLE MATERIAL.** You acknowledge that in using the Web Properties and accessing the Content, you may encounter material that you deem to be disturbing, offensive or objectionable. You agree to use the Web Properties at your sole risk and you acknowledge and agree that we shall have no liability to you for material that may be disturbing, objectionable or offensive to you.

**7. NOT INTENDED FOR CHILDREN.** We do not collect personal information from any person that we know to be under the age of thirteen (13). Specifically, the Web Properties are not intended or designed to attract children under the age of thirteen (13). You will need to affirm that you are more than eighteen (18) years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms, and to abide by and comply with these Terms. In any case, you affirm that you are over the age of thirteen (13), as **THE WEB PROPERTIES ARE NOT INTENDED FOR CHILDREN UNDER THIRTEEN (13) WHO ARE UNACCOMPANIED BY THEIR PARENT(S) OR LEGAL GUARDIAN(S).**

**8. (a) NO WARRANTIES FOR WEB PROPERTIES.** When using the Web Properties, information will be transmitted in such a way that may be beyond our control. As such, we make no warranty concerning the delay, failure, interruption, or corruption of any data, the Content or other information transmitted in connection with the use of the Web Properties. **YOU EXPRESSLY AGREE THAT YOUR USE OF THE WEB PROPERTIES IS AT YOUR SOLE RISK. THE WEB PROPERTIES AND THE CONTENT ARE PROVIDED “AS IS” AND “AS AVAILABLE” FOR YOUR USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, UNLESS SUCH WARRANTIES ARE LEGALLY INCAPABLE OF EXCLUSION. WE MAKE NO REPRESENTATIONS OR WARRANTIES THAT THE WEB PROPERTIES, THE CONTENT OR ANY SERVICES OFFERED IN CONNECTION WITH THE WEB PROPERTIES, ARE OR WILL REMAIN UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE WEB PAGES ON OR THROUGH THE WEB PROPERTIES, OR THE SERVERS USED IN CONNECTION WITH THE WEB PROPERTIES, ARE OR WILL REMAIN FREE FROM ANY VIRUSES, WORMS, TIME BOMBS, DROP DEAD DEVICES, TROJAN HORSES, OR OTHER HARMFUL COMPONENTS. WE DO NOT GUARANTEE THAT YOU WILL BE ABLE TO ACCESS OR USE THE WEB PROPERTIES AT TIMES OR LOCATIONS OF YOUR CHOOSING, OR THAT WE WILL HAVE ADEQUATE CAPACITY FOR THE WEB PROPERTIES AS A WHOLE OR IN ANY SPECIFIC GEOGRAPHIC AREA.**

WE MAKE NO REPRESENTATION OR WARRANTY REGARDING GOVERNMENT COMPLIANCE OF ANY SOFTWARE USED IN RUNNING THE WEB PROPERTIES.

(b) **INDEMNIFICATION.** You agree to defend, indemnify, and hold harmless 11-7 Recording, its affiliates, and our directors, officers, employees, and agents from and against any and all claims, demands, suits, proceedings, liabilities, judgments, losses, damages, expenses, and costs (including, but not limited to, reasonable attorneys' fees) assessed or incurred by us, directly or indirectly, with respect to or arising out of: (i) your failure to comply with these Terms; (ii) your breach of your obligations under these Terms; and/or (iii) your use of the rights granted hereunder, including, but not limited to, any claims made by any third parties.

**9. LIMITATION OF LIABILITY.** IN NO EVENT WILL WE BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING FROM YOUR USE OF OR INABILITY TO USE THE WEB PROPERTIES AND/OR CONTENT PROVIDED IN CONNECTION WITH THE WEB PROPERTIES OR FOR ANY OTHER CLAIM RELATED IN ANY WAY TO YOUR USE OF THE WEB PROPERTIES AND/OR CONTENT PROVIDED THROUGH THE WEB PROPERTIES. ADDITIONALLY, WE SHALL NOT BE LIABLE FOR NEGATIVE REPERCUSSIONS TO ANY PARTY BASED ON THE USE OF OR INABILITY TO USE THE WEB PROPERTIES, INCLUDING, BUT NOT LIMITED TO, LOST GOODWILL OR LOST PROFITS. WE SHALL BE LIABLE ONLY TO THE EXTENT OF ACTUAL DAMAGES INCURRED BY YOU, NOT TO EXCEED THE AMOUNT YOU ACTUALLY PAID TO US FOR GOODS OR SERVICES IN THE PRIOR SIX (6) MONTHS, IF ANYTHING. WE ARE NOT LIABLE FOR ANY PERSONAL INJURY, INCLUDING DEATH, OR PROPERTY DAMAGE CAUSED BY YOUR USE OR MISUSE OF THE WEB PROPERTIES AND/OR CONTENT. REMEDIES UNDER THESE TERMS ARE EXCLUSIVE AND ARE LIMITED TO THOSE EXPRESSLY PROVIDED FOR IN THESE TERMS. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS OUR LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW.

**10. THIRD PARTY CONTENT AND THIRD PARTY APPLICATIONS.** We may provide hyperlinks to other websites maintained by third parties, or may provide third party content on the Web Properties by framing or other methods (collectively, "Third Party Content"). In addition, the Web Properties may include certain applications, features, programs and services provided by third parties (collectively, the "Third Party Applications"). We do not monitor Third Party Content or Third Party Applications and can make no guarantee as to the accuracy or completeness of such Third Party Content or Third Party Applications. THE LINKS TO THIRD PARTY WEBSITES, ANY THIRD PARTY CONTENT, AND ANY THIRD PARTY APPLICATIONS MAY BE PROVIDED FOR YOUR CONVENIENCE AND INFORMATION ONLY. THE CONTENT ON ANY LINKED WEBSITE OR IN ANY THIRD PARTY APPLICATION IS NOT UNDER OUR CONTROL AND, JUST AS WITH THE WEB PROPERTIES, WE ARE NOT RESPONSIBLE FOR THE CONTENT OF LINKED WEBSITES AND/OR THIRD PARTY APPLICATIONS, INCLUDING ANY FURTHER LINKS CONTAINED IN A THIRD PARTY WEBSITE. WE MAKE NO REPRESENTATIONS

OR WARRANTIES IN CONNECTION WITH ANY THIRD PARTY CONTENT OR THIRD PARTY APPLICATIONS, WHICH AT ALL TIMES AND IN EACH INSTANCE IS PROVIDED “AS IS.” IF YOU DECIDE TO ACCESS ANY OF THE THIRD PARTY WEBSITES LINKED TO THE WEB PROPERTIES, ANY THIRD PARTY CONTENT, AND/OR ANY THIRD PARTY APPLICATION, YOU DO SO ENTIRELY AT YOUR OWN RISK.

If a third party links or refers to the Web Properties, it is not necessarily an indication of an endorsement, authorization, sponsorship, affiliation, joint venture, or partnership by or with us. In most cases, we are not even aware that a third party has linked to or refers to the Web Properties.

**11. INTELLECTUAL PROPERTY.** The Content of the Web Properties is intellectual property owned, controlled and/or licensed by us and/or our subsidiaries and affiliates, or intellectual property that we are legally permitted to access and use. All applicable intellectual property laws, including copyright and trademark laws, protect our rights in and to the Content. No portion of the Content may be reproduced in any form or by any means, except as expressly provided in Section 2 (Web Properties Use and Content) and elsewhere in these Terms.

We are the copyright owner or authorized licensee of, or are otherwise permitted to use, all trademarks, service marks, and logos used and displayed on the Web Properties. All trademarks and service marks of 11-7 Recording, or our subsidiaries or affiliates, that may be referred to on the Web Properties are the property of 11-7 Recording, or one of our subsidiaries or affiliates. Other parties’ trademarks and service marks that may be referred to on the Web Properties are the property of their respective owners. Nothing on the Web Properties should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any of 11-7 Recording’s, or our subsidiaries’ or affiliates’, trademarks, service marks, or copyrights without our prior written permission. We aggressively enforce our intellectual property rights. Neither the name of 11-7 Recording, our subsidiaries or affiliates, nor any of our other trademarks, service marks, or copyrighted materials may be used in any way, including in any advertising, hyperlink, publicity, or promotional materials of any kind, whether relating to the Web Properties or otherwise, without our prior, written permission, except that a third party website that desires to link to the Web Properties and that complies with the requirements of Section 10 (Third Party Content and Third Party Applications) above may use the name “11-7 Recording Corp.” or the title of any Content in or as part of that link.

**12. COPYRIGHT COMPLAINTS.** We own, protect and enforce copyright and other rights in our own intellectual property, and respect the intellectual property rights of others. We will respond to alleged copyright infringement in accordance with the Digital Millennium Copyright Act (“DMCA”). Under the DMCA, a copyright owner may give notification to an online service provider of an alleged copyright infringement. During this process, the service provider responds by taking down the alleged infringing content, and takes reasonable steps to contact the owner of the removed content so that a counter-notification may be filed. If a valid counter-notification is filed, we typically will restore the content in question, unless we receive notice from the notification provider that a legal action has been filed seeking a court order to restrain the alleged infringer from engaging in the infringing activity. We may provide copies of such notices to the

affected parties or to any other third parties, at our discretion and as required by law. Our Privacy Policy does not protect information provided in these notices.

When notifying us of potential infringement, you must include the following:

- identification of the copyrighted work(s) alleged to have been infringed. If multiple copyrighted works, then a representative list of such works on the Web Properties;
- identification of the allegedly infringing material that is to be removed;
- information reasonably sufficient to permit us to locate the material on the Web Properties;
- contact information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number, or email address;
- a statement that the complaining party has a good faith belief that use of the material is in fact infringing and/or not authorized by the copyright owner, its agent, or the law;
- a statement that, under penalty of perjury, the information in the notification is accurate and where relevant that the complaining party is authorized to act on behalf of the copyright owner; and
- the signature, physical or electronic, of the copyright owner or a person authorized to act on his or her behalf.

A provider of content subject to a claim of infringement may make a counter notification. To file a counter notification with us, please provide the DMCA Agent a written communication containing the following:

- identification of the allegedly infringing material that is to be removed;
- a statement that, under penalty of perjury, you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled;
- your name, address, and telephone number, and a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your postal address is located, and that you will accept service of process from the party who submitted the infringement notification or his, her, or its principal or agent; and
- the signature, physical or electronic, of you or a person authorized to act on your behalf.

We will promptly provide the party that provided the notice of claimed infringement with a copy of the counter notification, and inform the complaining party that we restore the removed or disabled content within ten (10) business days. If we do not receive notice that a lawsuit has been filed within ten (10) business days after we provide notice of the counter-notification, we will restore the removed or disabled materials. Until that time, your materials will remain removed or disabled.

Notice of alleged infringement must be sent by electronic mail to our DMCA Agent at [info@betternoise.com](mailto:info@betternoise.com) or by certified mail and marked "Copyright Infringement", Attn: DMCA AGENT.

Before filing such a notification, make a careful determination as to whether or not the use of the material at issue is or may be protected by the "fair use" doctrine. You could potentially be held liable for costs and attorneys' fees should you file a takedown notice where there is no infringing use. If you are unsure whether there is infringement, it may be advisable to seek legal counsel.

**13. TERMINATION OF SERVICE.** We may terminate your right to access portions of the Web Properties at any time, without notice, for conduct that we believe violates these Terms and/or is harmful to other users of the Web Properties, to us, to our partners, to the contributors, to the business of our Internet service provider, or to other information providers.

**14. ADDITIONAL REMEDIES.** You acknowledge that your conduct that is inconsistent with the provisions of these Terms may cause us irreparable damage for which remedies other than monetary relief may be inadequate. In such instances, you agree that we may seek injunctive or other equitable relief seeking to restrain such conduct without the necessity of proving actual harm or posting a bond.

**15. GOVERNING LAW AND JURISDICTION.** You agree that all matters relating to your access to, or use of, the Website or the other Web Properties shall be governed by the laws of the State of New York. You agree and hereby submit to the exclusive personal jurisdiction and venue of the state and federal courts in New York with respect to such matters.

**16. LOCAL LAWS.** We make no representation that Content or materials on the Web Properties are appropriate or available for use in jurisdictions outside the United States. Access to the Web Properties from jurisdictions where such access is illegal is prohibited. If you choose to access the Web Properties from other jurisdictions, you do so at your own initiative and are responsible for compliance with applicable local laws.

**17. EXPORT RESTRICTIONS.** Any software and all underlying information and technology downloaded or viewed from any Web Property or in connection with the services (collectively, the "Software or Technical Data") by you may be subject to U.S. export controls, including the Export Administration Act (50 U.S.C. Appx. §§ 2401 et seq.) and the Export Administration Regulations (50 C.F.R. Parts 730-774), and may be subject to export or import regulations in other countries. You are solely responsible for complying with all trade regulations and laws, both foreign and domestic, in your use and viewing of the Web Properties, the Content and any of our products or services, including, but not limited to, the Software or Technical Data. Except as authorized by law, you agree and warrant not to export or re-export the Software or Technical Data to any county, or to any person, entity, or end-user subject to U.S. export controls, including, but not limited to, persons or entities listed on the U.S. Department of Commerce Bureau of Export Administration's Denied Parties List and the U.S. Department of Treasury's Specially Designated Nationals. You further represent and warrant that no U.S. federal agency has suspended, revoked, or denied your export privileges.

**18. FEEDBACK.** By submitting comments, information or feedback to us through email and/or the Web Properties, you agree that the information submitted will be subject to our Privacy Policy.

#### Your Consent To This Agreement

By accessing and using the Web Properties, you consent to and agree to be bound by these Terms. If we decide to change these Terms or any part hereof, we will make an effort to post those changes on this web page so that you will be informed of the terms and conditions governing your use of the Web Properties. Your use of the Web Properties following your acceptance of any amendment of these Terms will signify your assent to and acceptance of its revised terms for all previously collected information and information collected from you in the future.

If you have additional questions or comments of any kind, or if you see anything on the Web Properties that you think is inappropriate, please let us know by sending your comments or requests to:

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