

Producer Rewards® Program Terms

These Producer Rewards Terms (the “Terms”) apply to the Metacafe Producer Rewards program.

As used in these Terms, “Website” means www.metacafe.com and any successor, mirror or cobranded site, the Metacafe client application, Metacafe video players embedded on third-party websites and any other online widget or player developed by Metacafe.

Effective Date of Terms

The effective date of these Terms is October 26, 2008.

If your video was accepted into the Producer Rewards program prior to November 1, 2008, by maintaining your video on the site after November 1, 2008, you will be bound by these Terms, which will replace and supersede any prior terms or agreements relating to the participation of the video in the Producer Rewards program. If you do not wish to be bound by these terms, you must remove all (but not less than all) of your Producer Rewards videos that have already been accepted into the program from the Metacafe website by emailing us at [address] with your user name and a request to remove your Producer Rewards videos from the Metacafe website.

You may remove videos that have been submitted to the program but not yet accepted (Producer Rewards Candidates) through your Metacafe account.

Notice of these new terms was sent to all Producer Rewards participants on October 26, 2008 and was posted to the Website on that date.

Agreement to Terms

By submitting a video to the Producer Rewards program, you are agreeing to these Terms (the “Terms”). If you do not agree to any of these Terms, then you may not submit a video to the Producer Rewards Program. You are also accepting the general [Usage Rules](http://www.metacafe.com/terms) <www.metacafe.com/terms> of the Website and the [Privacy Policy](http://www.metacafe.com/privacy) <www.metacafe.com/privacy>. In the event of a conflict between the Usage Rules of the Website or the Privacy Policy and these terms, these terms will govern.

By submitting content to Metacafe and agreeing to these Terms, you are certifying that you have all necessary rights to agree to these Terms. Please read them carefully and ensure that every person appearing in or participating in the creation of your video has also consented to these Terms in writing, because you will be held responsible.

Any video that you submit for acceptance into the Producer Rewards Program is referred to as a “Producer Rewards Submission.”

1. Creating an Account

In order to submit a video, you will have to create a Metacafe account. You must provide accurate and complete information when creating the account. If we determine that any

information that you have provided to us is inaccurate, we may terminate your account and remove any content that you have submitted from Metacafe.

2. Producer Rewards Submissions – Eligibility and Acceptance

The Producer Rewards Submission must comply with these Terms and the [Producer Rewards Eligibility Requirements](http://help.metacafe.com/?page_id=241) <help.metacafe.com/?page_id=241>.

If a Producer Rewards Submission has met the minimum view requirements within six months of first submission to the Website, we will review it to determine whether to accept it into the Producer Rewards Program. It will be put through an intake process, which may include authentication of the information provided in your account and requests for additional information and proof of rights. Not all videos that meet the Producer Rewards Eligibility Requirements will be accepted into the program.

We reserve the right to accept or reject any video into the Producer Rewards Program at our sole discretion.

Our acceptance of a submitted video into the Producer Rewards Program will be evidenced by our first payment with respect to that video.

3. Payment Terms

If Metacafe accepts the Producer Rewards Submission into the Producer Rewards program, Metacafe will pay you \$2.00 (in US dollars) for each 1000 times the Producer Rewards Submission is viewed on www.metacafe.com or through a Metacafe player embedded on a third party website by a user whose IP address is within the United States, as measured and determined by Metacafe. Metacafe will pay you within approximately 30 days after the end of each month for Producer Rewards Submissions viewed during the previous month. If your payment for any given month would be less than \$100, Metacafe may hold payment to you until the amount due is equal to or exceeds \$100. Payment is in U.S. Dollars.

Metacafe may change the rate of payment under the Producer Rewards program at any time upon five United States business days notice to you. Metacafe may remove your Producer Rewards Submission from the Producer Rewards Program at any time without notice to you, which will terminate all further payment obligations other than payment for views of the Producer Rewards Submission prior to its removal from the Producer Rewards Program.

You are solely responsible for reporting and paying any applicable tax or tariffs on the payment. If Metacafe determines that it is required to report payments to you to the taxing authority in any jurisdiction, you hereby consent to such reporting and agree that your video will not be deemed accepted into the Producer Rewards Program and no payments will be made to you until you have provided any information or forms necessary for Metacafe to file such report, such as your social security number and address. Metacafe may withhold from payments any taxes that it is required to withhold under applicable law. Additional requirements may be necessary with respect to producers located outside of the United States and Metacafe may request additional representations from such producers at any time.

If you think that a mistake has occurred in a payment, you must contact Metacafe's support desk within 30 days of receipt of payment. No requests for evaluation of payment errors will be considered more than 30 days after receipt of payment.

4. Display and Removal of the Producer Rewards Submission

Metacafe will determine in its sole discretion how and where the Producer Rewards Submission will be displayed on the Website, including whether the Producer Rewards Submission will be displayed in a particular "channel" or themed area of the Website.

Metacafe reserves the right to do any of the following at any time, in its sole discretion and without notice (except as provided below or as required by law):

- a. Terminate the Producer Rewards program;
- b. Remove any Producer Rewards Submission from the Producer Rewards program;
- c. Remove any Producer Rewards Submission from the Website altogether or from any other distribution channel;
- d. Change these Producer Rewards Program Terms, including payment terms, by providing you with five United States business days advance notice.

Upon the occurrence of an event described in Section 4(a) through (c), these Producer Rewards Terms and Conditions will no longer apply to the display of the Producer Rewards Submission on the Website (except for the provisions that survive, as described below), and any continued display of your video through the Metacafe service other than through the Producer Rewards Program will be subject to the Metacafe Usage Rules.

If you object to any change made under this Section 4, you may remove your Producer Rewards Submission from the Website at any time by logging into your Metacafe account.

The following provisions of these Terms will survive any removal of the Producer Rewards Submission from the Producer Rewards Program or from the Website: Section 5, Section 8, Section 9, Section 10 and Section 11. In addition, the license granted under Section 6(b) and Section 7 will survive with respect to any usage or sublicense previously entered into by Metacafe or its licensees until the termination of any sublicense.

5. Representations and Warranties for Producer Rewards User Submissions

You represent and warrant that:

- a. You are the exclusive owner of the Producer Rewards Submission and all rights therein, including but not limited to all content, music and images, and have all rights necessary to license it on a non-exclusive basis to Metacafe without any interference by any other person;
- b. The Producer Rewards Submission does not infringe any rights of any third party, including copyright, trademark, patent, privacy rights, publicity rights, or right of confidentiality, and the display of the Producer Rewards Submission on the Website will not give rise to any royalty or payment right on the part of any third party;

- c. The Producer Rewards Submission meets the [Producer Rewards Eligibility Requirements](http://help.metacafe.com/?page_id=241) <help.metacafe.com/?page_id=241>;
- d. You have the informed written consent and release in the form provided of each person who appears in the Producer Rewards Submission, or whose intellectual property (for example, dialogue, music or images) is used, to license the Producer Rewards Submission to Metacafe under these terms and each such person who is a natural person is either more than 18 years of age (or the age of majority in his or her state) or possesses legal parental or guardian consent to grant these rights and is fully able and competent to grant such rights;
- e. You are either more than 18 years of age (or are the age of majority in your state) or you possess legal parental or guardian consent, and you are fully able and competent to enter into the Producer Rewards Program Terms and to abide by and comply with these terms;
- f. You will not attempt to fraudulently increase the views or rank of any Producer Rewards Submission, including, without limitation, by the following means:
 - through the use of automated means such as bots or crawlers;
 - by providing descriptions, tags, thumbnail images or other data that are misleading or do not accurately describe the Producer Rewards Submission or that are designed to artificially inflate views;
 - by creating false user accounts to view or rank the Producer Rewards Submission; or
 - by masking the origin of any IP address viewing the video.

6. License

(a) For videos accepted into to the Producer Rewards Program on or after November 1, 2008, you grant Metacafe a worldwide, non-exclusive, perpetual, sub-licensable and transferable license to use, copy, distribute, display, perform, combine with other works, including in compilations, rename, edit, package, shorten, insert advertising into, divide into different segments, reformat, and use excerpts of the Producer Rewards Submission (a) on the Website; (b) through mobile with other content from the Website; and (c) if used solely for promotional purposes to promote Metacafe or the availability of the Producer Rewards Submission on Metacafe, in any other media.

(b) For videos accepted into the Producer Rewards Program prior to November 1, 2008, the original license grant as set forth in the terms in effect at the time of submission will apply.

7. Grant of Publicity License.

You grant Metacafe and its successors, agents, licensees and distribution partners the right to use your name, the name of any person appearing in the Producer Rewards Submission, and other information about you or the Producer Rewards Submission in and in connection with the display, distribution and promotion of the Producer Rewards Submission.

8. Release and Indemnity

You agree to release Metacafe and its officers, directors, shareholders, employees, agents and affiliates, subsidiaries, successors and assigns, partners, users, and distribution agents from

any claims in connection with the Producer Rewards Submission, and to defend, indemnify and hold each of them harmless for any claims, losses (including reasonable attorneys' fees), damages or claims arising from Metacafe's use or distribution of the Producer Rewards Submission, as well as any claim which, if true, would constitute a breach of this Agreement or a breach of any of your warranties and representations.

9. Limitation of Liability

Neither party will be liable for consequential, indirect, incidental, punitive or special damages, except for the indemnification obligation under Section 8. Under no circumstances will Metacafe be liable to you, under any theory, for more than \$100.

10. Consequences of Breach of Fraud

If you breach these terms, including any representation, warranty or covenant set forth in Section 5, or if you engage in any other fraudulent, deceptive or inappropriate practices with respect to the Website, Metacafe may immediately remove all of your Producer Rewards Submissions from the Producer Rewards Program and/or from the Website. Upon such event, you agree to repay to Metacafe all amounts previously paid to you under this Agreement. These rights are in addition to any other rights or remedies available to Metacafe.

11. Other

Notwithstanding anything to the contrary in the Usage Rules, these terms are governed by the law of the State of California, excluding its conflicts of laws provisions. Any claim or dispute relating to the Producer Rewards Program will be decided exclusively by federal or state courts located in Santa Clara County, California. Each party agrees to the personal jurisdiction of such courts.

Any notice required under these terms may be sent by Metacafe to you through mail, email, facsimile transmission, personal delivery, by overnight commercial delivery service, such as Federal Express or DHL to the addresses provided through your online account. In addition, notice may be provided to you through your Website account.

Except as set forth in these terms or as prohibited by law, these terms replace any prior correspondence, negotiations, agreements, understandings and representations with respect to all of your Producer Rewards Submissions and videos previously accepted into the Producer Rewards program, other than the Metacafe Usage Rules and the Privacy Policy.

Last updated: October 26, 2008.