



## PLAYER MAP X-Ray Subscription Agreement

Subscription to PLAYER MAP X-Ray ("PMX"), an online service by PLAYER MAP, Inc. ("PM"), is activated upon you (the "User") pledging compliance with all terms and conditions of this agreement (the "Agreement").

**1. Service.** PMX is provided to User upon subscription (the "Subscription") in accordance with this Agreement, and CANNOT BE SHARED OR ACCESSED BY ANYONE OTHER THAN USER (i.e. 1 PMX Subscription for 1 PMX User).

**2. Use.** PM shall (i) maintain and upgrade PMX to ensure it performs efficiently, (ii) contact User regarding PMX support, upgrades, usage tips, new products or services, or the Subscription (iii) use commercially reasonable efforts to make PMX available 24 hours a day, 7 days a week, except for: (a) planned downtime, of which PM shall give User at least 8 hours notice, or (b) any unavailability caused by a software platform owned by or subscribed to by User or User's company, or (c) circumstances beyond PM's reasonable control (see Force Majeure, Section 24.), (iv) safeguard subscription, login, password and all PMX data via SSL encryption site wide, (v) provide PMX only in accordance with applicable laws and government regulations, and (vi) provide detailed PMX help documentation and limited PMX support via e-mail or phone. PM shall not (i) modify User PMX data, (ii) disclose User PMX data, except as permitted in writing by User or as compelled by law, (iii) access User PMX data, except to provide PMX service, address technical problems, or to assist User upon their verbal or written request. PM does not warrant User results in using PMX (see Warranty, Section 11.), nor provide free coaching on using PMX (PM is available for advanced coaching PMX at additional cost – for more insight, visit [www.playermap.com](http://www.playermap.com) or contact [pmx@playermap.com](mailto:pmx@playermap.com)).

User shall (i) safeguard all PMX login and password information, (ii) ensure only User accesses PMX, (iii) use reasonable efforts to prevent unauthorized access to PMX, and notify PM immediately of any unauthorized access or use, (iv) be solely responsible for the accuracy, quality, integrity and legality of all data ("Data") entered into PMX, and the means by which that Data is acquired, (v) exclusively own all rights, title and interest in the Data, (vi) use PMX only in accordance with applicable laws and government regulations, (vii) not use PMX to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (viii) not use PMX to transmit malicious code, and (ix) not interfere with or disrupt the integrity or performance of PMX or attempt to gain access to PMX or related services or their related systems or networks.

User can permit approved people ("Team Members") to access their Player Maps, provided (i) Team Members are current PMX subscribers, (ii) User authorizes Team Members via the PMX share folder function [NOT by facilitating unauthorized access to their PMX account], (iii) User accepts authorized Team Members can view and copy Player Maps from and deposit Player Maps to PMX shared folders, and (iv) User agrees to immediately delete any Team Members from a PMX shared folder who are no longer granted access (e.g. person is off team, person leaves company).

**3. Trial.** If User is authorized by PM to use PMX for a trial period of 30 days (the "Trial"), PM shall provide User with a PMX login and password good only for the duration of the Trial. If User does not purchase a Subscription to PMX before the end of the Trial, any Player Map(s) created during the Trial will be permanently lost, unless User exports the Player Map(s) via JPEG or PDF download before the Trial ends. All provisions of this Agreement shall be in effect during and remain enforceable after the Trial.

**4. Term.** User agrees that they shall be responsible for the purchase of PMX for a period of 1 year (the "Term"). The Term shall AUTOMATICALLY RENEW for additional one year terms at the same rate, unless either party advises the other of its intent to terminate at least 30 days, but not more than 120 days before the end of any particular Term. PM must advise User in writing of any price change for future terms at least 30 days before the end of any particular Term, in which case the pricing change shall be effective upon renewal and thereafter.

**5. Subscription.** User is responsible for paying the PMX Subscription, as more specifically described in the PMX ordering process on [www.playermapxray.com](http://www.playermapxray.com) or in the PM or authorized PM representative invoice for PMX that accompanies this Agreement (the "Order"). Subscriptions fees are based on a yearly period, the period beginning on the Subscription start date and then each yearly anniversary that follows; therefore, fees for Subscriptions for Users registered during a year will be charged for the full year period. Subscription fees are (i) payable in United States dollars, (ii) are based on services purchased and not actual usage. User is also responsible for any applicable federal, state, or local franchise fees, surcharges, sales and use taxes, and any other taxes (except those related to PM's net income) related to the Order (collectively, the "Taxes"), and shall pay all Taxes at the time of purchase. User owns the PMX license and all associated Player Maps, but if User expenses the Subscription and their company pays for the Subscription, then the Company owns the PMX license and all associated Player Maps. If you or your company offers a product or service that is similar to or competitive with PMX, you may not subscribe to PMX without the express written permission of PM to do so.

**6. Payment.** Payment for the Order shall be (a.) paid by User's credit card, debit card or PayPal account on [www.paypal.com](http://www.paypal.com), or if previously agreed to by PM, (b.) Square or User requested payment service, or (c.) due according to the terms of the invoice to User or User's company from PM or authorized PM representative, and as such, PM does not collect any personal financial information. User further agrees that for any amounts not paid when due, User shall pay compound interest at the lesser of 1.0% per month or the highest amount permitted by law.

**7. Modification.** Once placed, the Order may not be cancelled without PM's written consent. Thereafter, the User may modify the Subscription via (a.) "Modify Subscription" section of the "My Account" page on [www.playermapxray.com](http://www.playermapxray.com), or (b.) e-mail a subscription modification request to [pmx@playermap.com](mailto:pmx@playermap.com). If PM, in its sole discretion, provides its written consent, User shall be responsible for any costs, charges, or fees associated with the Order that have been incurred at the time of PM's receipt of cancellation.

**8. Personal Information.** PM collects personal information from User only on a voluntary basis per the [PM Privacy and Security Policy](#), and processes it in accordance with the EU General Data Protection Regulation (GDPR) requirements directly applicable to PM providing PMX services. Any information User provides to PM or creates in the PMX account setup process, including without limitation, name, title, e-mail, phone, company, address, login, password, and other personally identifiable information (“User Information”), will be true, accurate, current and complete information. PM may e-mail or phone User to support their use of PMX, however User may choose to opt-out of such communications via an e-mail request to [pmx@playermap.com](mailto:pmx@playermap.com).

User is solely responsible for all transactions and transmissions that occur through the use of its User Information, and it is User’s responsibility to maintain and promptly update its User Information. User agrees that PM is not liable to it or any third party for damages or losses related to the accuracy or disclosure to PM of its User Information. It is User’s responsibility to maintain the confidentiality of its User Information. PM requires that User agree not to share its User Information with another person, nor allow another person to use its User Information. If User believes that someone has used its User Information to access PMX without User’s authorization, please contact PM immediately at [pmx@playermap.com](mailto:pmx@playermap.com).

Please review PM’s [Privacy and Security Policy](#) for more information regarding PM’s policies and procedures for disclosing and using User Information. PM complies with the EU-US Privacy Shield Framework and Swiss-US Privacy Shield Framework as set forth by the US Department of Commerce regarding the collection, use, and retention of personal information from European Union member countries and Switzerland to the United States, respectively. Subject to the [Privacy and Security Policy](#), PM retains a perpetual, irrevocable, non-exclusive, royalty-free, worldwide license to use and store User Information (in any media, currently known or unknown) related to this Agreement or PM’s provision of PMX. User agrees not to impersonate any person or entity, misrepresent any affiliation with another person, entity or association, use false e-mail or other headers, or otherwise conceal its identity from PM for any purpose.

**9. Confidentiality.** “Confidential Information” means information disclosed by one party (the “Disclosing Party”) to the other (the “Receiving Party”) under this Agreement, and any and all trade secrets, proprietary data or other information of Disclosing Party including, but not by way of limitation, (a.) intellectual property including computer and web-based software, programs, products, services, inventions, confidential know-how, developments, designs, techniques, materials, presentations, BLOGS, VLOGS (collectively “IP”), and (b.) other original works of authorship, including models, processes, formulas, techniques, and designs, and (c.) information about a party’s business. All Confidential Information shall remain the sole property of Disclosing Party, and Receiving Party shall have no interest to or rights with respect thereto. Receiving Party agrees to maintain Confidential Information in strict confidence, and further agrees to take all reasonable precautions to prevent any unauthorized disclosure of such information to any employee or third party, unless that employee or third party is bound by a like confidentiality agreement to Receiving Party or one with terms as restrictive as this Agreement. Information shall not be deemed Confidential Information to the extent that Receiving Party can prove such information: (i) is already known to Receiving Party free of any restriction at the time it is obtained from Disclosing Party; (ii) is subsequently learned from an independent third party free of any restriction and without breach of this Agreement; (iii) is or becomes publicly available through no wrongful act of Receiving Party; or (iv) is independently developed by Receiving Party without reference to or use of any Confidential Information of Disclosing Party. All Confidential Information furnished under this Agreement will remain the property of Disclosing Party, and upon termination of this Agreement, Receiving Party will destroy all Confidential Information and all other documents, e-mails, memorandum, notes, computer code, web-based software and any other tangible embodiments that were prepared by Receiving Party and are based on or include Confidential Information. If Receiving Party is requested by Disclosing Party at any time within two years of termination, Receiving Party will provide within 30 days a written and signed certification that all Confidential Information has been destroyed.

**10. Proprietary Rights.** PM retains all right, title, and interest in PMX and in all copyrights, patents, trade names, trademarks, service marks, computer and web-based software, programs, content, graphics, and any other materials associated, displayed or generated with PMX. User retains all right title and interest in its copyrights, patents, trade names, trademarks, service marks, the Data and any and all information provided by User to PMX pursuant to this Agreement.

PM shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into PMX any suggestions, enhancements, recommendations or other feedback provided by User relating to PMX. User is granted the limited right to use and access PMX for its own internal business purposes during the Term. User will not remove, deface or obscure any of PM’s or its suppliers’ copyright or trademark notices and/or legends or other proprietary notices on, incorporated therein, or associated with PMX. User may not reverse engineer, reverse compile or otherwise reduce to human readable form any software associated with PMX, including to develop or assist in the development of derivative works based on PMX, build a competitive product or service to PMX, or copy any features, functions or graphics similar to PMX. Other than using PMX for User, and except as expressly permitted under this Agreement or other written agreements between User and PM, User may not resell, distribute, make any commercial use of, use on a timeshare or service bureau basis, or use to operate a website or otherwise generate income from PMX.

**11. Warranty.** PMX is provided on an “as is, where is” basis, and User is solely responsible for determining the appropriate use of PMX. PM EXPRESSLY DISCLAIMS ALL WARRANTIES, express or implied, including, but not limited to, the implied warranties of fitness for a particular purpose, of merchantability, of infringement of third party rights, or any other Warranty arising from a course of dealing, usage or trade practice.

**12. Termination.** PM or User may terminate this Agreement if (i) the other party materially breaches any of its representations, warranties or obligations under this Agreement, and such breach is not cured within 3 business days following receipt of written notice specifying the breach, or if (ii) the other party becomes the subject of any proceeding relating to bankruptcy, insolvency, receivership, liquidation or assignment for the benefit of creditors. Upon termination for cause by User, PM shall refund User any prepaid fees covering the remainder of the Term of the Subscription if beyond 1 month from the effective date of termination. PM may also terminate this Agreement without cause at any time upon 3 day’s prior written notice to User. Upon termination of this Agreement, User must cease any further use of PMX and destroy any copies of associated software within User’s possession and control. Within 30 days after the effective date of PMX termination, User can e-mail a request to [pmx@playermap.com](mailto:pmx@playermap.com) for PM to download User Player Map(s) to PDF, which PM in its sole

discretion will either (i) enable User to do, or (ii) PM will do and e-mail to User. After such 30-day period, PM shall have no obligation to maintain or provide User any Player Map(s), and shall thereafter, unless legally prohibited, delete all User Player Maps and Data in PMX and PM systems, possession or control.

**13. Changes in PMX and Services.** PM reserves the right to modify, change, or replace PMX and any goods or services from time-to-time, for any reason, without notice or penalty.

**14. Compliance with Laws.** User shall obtain all licenses, permits and approvals required by any government or applicable authority, and shall comply with all applicable laws, rules, regulations, policies and procedures and any requirements applicable to the importation, exportation, use, sale, loan, purchase, destruction, and distribution of goods in the Order (collectively "Applicable Laws"). User agrees to comply with all applicable export laws and restrictions and regulations of the United States Department of Commerce or other United States agency or authority.

**15. Indemnification.** User will indemnify, defend, and hold PM harmless from and against all claims, damages, losses, liabilities, costs and expenses (including reasonable attorney fees) in connection with claims, demands, suits or proceedings made or brought by a third party arising from: (a) Client's breach of this Agreement or any covenant or obligation contained herein; (b) Client's acts or omission in connection with its use of PMX; and (c) Client's breach of any portion of Section 9. Confidentiality, PM will indemnify, defend and hold Client harmless from and against all claims, damages, losses, liabilities, costs and expenses (including reasonable attorney fees) in connection with claims, demands, suits, or proceedings made or brought by a third party arising from: (a) PM's breach of this Agreement or any covenant or obligation contained herein; (b) PM's acts or omission in connection with its performance of the PMX service; (c) use of the PMX service provided to Client by PM under this Agreement which infringes any patent, copyright, trade secret, trademark, or other intellectual property right; and (d) PM's breach of any portion of Section 9. Confidentiality.

**16. Limitation of Liability.** User acknowledges that the price of PMX in the Order is predicated on the enforceability of the following limitation of liability, that the price would be substantially higher if PM could not limit its liability as herein provided, and that User accepts this limitation of liability in exchange for the lower price. Except as related to its Indemnification and Confidentiality obligations hereunder, PM's sole liability to User, and User's exclusive remedy claims in any way related to or arising under this Agreement or the Order, or under any other theory of recovery, shall be limited as follows" (i) at PM's sole option, PM shall either repair PMX in the Order or refund User the amount paid for defective PMX in the Order; (ii) in all other cases PM's total aggregate liability to User for any claim for damages shall not exceed the amount paid by User in the order for PMX. Notwithstanding the foregoing, in no event shall the PM Parties be liable in any way for any claims for any indirect, special or consequential damages, lost profits, lost data, loss of business, whether foreseeable or not, incurred by User or any other person relating in any way to this Agreement or the Order, whether or not PM or User or person has been advised of the possibility of such loss or damage. This is a comprehensive limitation of the PM Parties' liability that applies to all losses and damages of any kind, provided that nothing in this Agreement shall be deemed to waive any liability or any implied Warranty that is non-waivable as a matter of law.

**17. Limitation of Actions.** User acknowledges and agrees that, regardless of any statute or law to the contrary, any claim or cause of action that User may have arising out of or relating to User's use of the goods or services of PM or PMX must be filed on or before one (1) year after such claim or cause of action arises, or forever be barred.

**18. Relationship of Parties.** User acknowledges and agrees that PM and User are independent parties, and nothing herein shall be construed to create a partnership, joint venture, agency, or employment relationship. Neither PM or User has nor will have any power to bind the other party or to assume or create any obligation or responsibility, express or implied, on behalf of the other party.

**19. No Third Party Beneficiary.** Neither the Order nor any provision hereof is intended to create any right, claim or remedy in favor of, or impose any obligation upon, any person or entity other than the parties hereto.

**20. Dispute Resolution.** If a dispute arises between User and any of the PM Parties, it is the goal of PM to work in good faith with User to quickly and amicably resolve the dispute. All disputes, claims, or controversies ("Claims") arising under or relating to this Agreement, this website, or the goods or services that cannot be resolved informally, will be finally resolved by binding arbitration as described herein.

Any dispute arising under or related to this Agreement, PMX or [www.playermapxray.com](http://www.playermapxray.com) (including the ability to arbitrate such a dispute and the existence, validity, interpretation, performance, termination or breach thereof) shall be finally settled by binding arbitration by a single arbitrator in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association ("AAA"), with the arbitration to be commenced no later than one (1) year after such Claim accrues (in absence of which it shall be deemed forever waived). A judgment upon an arbitrator's award may be entered by any court of competent jurisdiction. The arbitrator shall be an expert in the field of Internet services. To the extent permitted by applicable law, User agrees that there shall be no class action arbitration related to this Agreement or the goods or services. Unless specifically stated otherwise in this Agreement, all parties shall bear their own expenses, except that the parties shall equally share the expenses of the arbitrator (except for the required non-refundable filing fees which shall be paid solely by the party asserting the related Claim).

The above obligations to arbitrate shall not prevent PM from seeking injunctive relief related to claims pertaining to PM Confidential Information, or prevent a party from seeking a preliminary injunction, temporary restraining order, specific performance or other procedures in a court of competent jurisdiction to obtain interim relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution by arbitration of the actual dispute.

Exclusive jurisdiction and venue for arbitration or any other legal action or proceeding in any way related to this Agreement, PMX or PM shall be in Milwaukee, Wisconsin. Any matter brought before a court shall be brought solely in the state or federal courts located in Milwaukee, Wisconsin.

**21. Attorney's Fees.** User is responsible to PM for all attorneys' fees and costs PM may incur in enforcing any provision

of this Agreement, or in connection with the successful defense or settlement of any claim or demand made by User under this Agreement.

**22. Non-Waiver.** Failure by PM to insist upon strict performance of any terms or conditions stated herein shall not be considered a continuing waiver of such terms or conditions or any of PM's rights hereunder. No express waiver shall affect any provision other than that to which the waiver is expressly applicable and only for that occurrence.

**23. Survival of Obligations.** The invalidity of any portion of this Agreement will not be deemed to affect the validity of any other provision. All obligations of this Agreement shall survive termination, cancellation or expiration for any reason, as will any other provision that by its nature is intended to survive beyond the termination, cancellation or expiration of this Agreement.

**24. Force Majeure.** Under no circumstances shall PM be held liable for any delay or failure in performance resulting directly or indirectly from acts of nature, forces or causes beyond its reasonable control, including, without limitation, internet failures, computer equipment failures, telecommunication equipment failures, loss of or fluctuations in heat, light, or air conditioning, or other equipment failures, electrical power failures, strikes, labor disputes, riots, insurrections, civil disturbances, shortages of labor or materials, fires, floods, storms, explosions, acts of god, war, governmental actions, orders of domestic or foreign courts or tribunals, or non-performance by third parties.

**25. Entire Agreement.** This Agreement constitutes the final expression of the agreement of the parties and supersedes any and all other agreements, either oral or written, between the parties hereto with respect to the subject matter hereof; except that any other terms or conditions located in the Website Terms and Conditions of Use and in the Privacy and Security Policy are incorporated herein by reference to the extent they do not diminish the rights or protections of PM or obligations of User in this Agreement. The responsibilities and rights of the parties shall be governed exclusively by this Agreement, and any attempt by User to vary this Agreement in any manner containing additional, different or inconsistent terms is hereby rejected by PM. PM's dealings with User, or silence in response to proposed change, shall not be deemed acceptance of any different terms. No person, agent or party may modify this Agreement unless acknowledged in writing by PM.

**26. Electronic Signature.** By checking the "I have read and agree to the terms & conditions." box on the www.playermapxray.com website, which may be accessed directly or via links integrated into a software platform owned by or subscribed to by User or User's company, or by using PMX, User (a) confirms they have read, understand, agree to, are bound by, meet, and will continue to meet, all of the terms and conditions above, (b) represents they have all necessary authority to enter into this Agreement, (c) promises they are providing the legal equivalent of their handwritten signature, and (d) agrees to print and/or save a copy of this Agreement for their records. PM and User intend that this Agreement can be electronically submitted and accepted.