



# Terms of Use and License Agreement

Of  
Batch AI, LLC

*“Live More, Edit Less”*

*Last Updated: November 17, 2021*

**THESE TERMS ARE IMPORTANT AND AFFECT YOUR LEGAL RIGHTS. PLEASE CAREFULLY READ THESE TERMS OF USE AND CONDITIONS PRIOR TO EXPLORING OUR WEBSITE OR PLACING AN ORDER FOR OUR SERVICES. THESE TERMS CONTAIN A BINDING ARBITRATION CLAUSE. PLEASE READ THESE TERMS AND THE ARBITRATION PROVISION SO THAT YOU ARE AWARE OF YOUR LEGAL RIGHTS.**

## **Section 1 – Introduction & Consent to Terms**

Welcome to Batch AI, LLC, a Delaware limited liability company’s (referred to herein as “Batch.AI”, “we”, “us”, or “our”) Terms Use and License Agreement (referred to herein as the “Terms” or the “Agreement”).

**If you do not agree to these Terms, we ask that you please not use our photo editing and retouching services (“Services”). Your use of our Website or our Services constitutes acceptance of these Terms.**

These Terms apply to all users of our website, [www.batch.ai](http://www.batch.ai) (our “Website”), our plug-in, our mobile website, our social media accounts, or other platforms now or hereinafter created (collectively, our “Platform”), and our Services. By using our Platform or purchasing our Services, you agree to be bound by these Terms.

If you are using our Website or our Services on behalf of an entity, you represent and warrant that you are authorized to accept these Terms on such entity’s behalf and that such entity agrees to be responsible to us if you or the entity violates these Terms.

We reserve the right to modify the contents of these Terms at any time. You agree that it is your responsibility to monitor changes to these Terms. Any modification to these Terms will be notated at the top of these Terms.

## **Section 2 – Privacy Policy**

Please refer to our Privacy Policy which includes information about how we collect, use, and disclose information about you. If you are a California resident, please also review our additional privacy disclosures that are directed towards you.

## **Section 3 – Eligibility, Installation, & Account**

Our Services are not meant to be used by anyone under the age of eighteen (18) without the consent of their parent or guardian.

By using our Services, you represent and warrant that (a) you are at least eighteen (18) years old or have secured the consent of your parent or guardian to use the Services; (b) have an active Adobe Lightroom account; and (c) you have the full power and authority to enter into these Terms.

Our Services are offered through a software plug-in on Lightroom. In order to use our Services, you must have Lightroom and you must add our software as an extension. If you do not have an Adobe Lightroom account or do not add our software as an extension, we cannot offer you our Services.

In order to use our Services, you are required to create and maintain an account. It is your sole responsibility for maintaining the confidentiality and security of your account and password. You are also responsible for any and all activities that occur under your password and account.

#### **Section 4 – Services and How Our Process Works**

We offer an artificial intelligence driven service that allows the editing of large amounts of photographs in a fraction of the time this process has traditionally taken. Typically, using our software, you can edit one thousand (1,000) photographs in about thirty (30) minutes!

We offer a free trial of our plug-in which will allow users to edit up to five hundred (500) photographs.

*How our process works:*

Step 1: Download and Install batch.ai for free via our website and using our installation wizard;

Step 2: Launch batch.ai within Adobe LR's Published Services sidebar;

Step 3: Create one or more anchor images, labeling your anchors using a pre-defined LR color, star or flag. An anchor image is a photograph that you edit, that represents you and how you want your photographs to look and feel, and that will be used to teach our artificial intelligence how to edit the rest of your photographs.

Step 4: Process your photographs and let Batch.AI do its thing! All of your images will be matched with your anchor image and will have a similar look and feel that has been customized to YOU!

Step 5: Select all photos including anchors and process batch; and

Step 6: Once complete, all finished edits will be delivered back into your LR for any further tweaking or adjustments necessary prior to export.

Please note that if you, for example, want to alter your anchor image after completion, you can.

#### **Section 5 – Plan Options and Terms of Sale.**

You have three options for purchasing our Services:

a) Subscription Plan. We also offer a monthly Subscription Plan (“Subscription Plan”) that enables clients to have a set number of photographs they can edit per month and obtain special pricing. Additional photograph packages can be added on if you reach your Subscription Plan limit. We generally have three (3) tiers of Subscription Plan: (1) Basic; (2) Standard; and (3) Pro. Our offerings in a Subscription Plan and for each respective tier are described and can be found on our Website - <https://batch.ai/pricing> – at the time of purchase. Our Subscription Plan the respective tiers are subject to change at any time prior to purchase. Each Subscription Plan is recurrent and will automatically renew without any action by you. You will be charged in accordance with the plan you select. If you want to terminate your Subscription Plan, you need to terminate our Services in accordance these Terms. Failing to use your Subscription Plan does not terminate the renewal.

b) Custom Enterprise Plan. Finally, we also offer customized Services to our enterprise clients who may have larger orders or may want to use our Services on different terms than can be found on our Website (“Custom Enterprise Services”). Custom Enterprise Plan can be tailored to your specific needs. If you would like to inquire about our pricing and options for our Custom Enterprise Services, please contact us through any of the contact methods as found on our Website and we would be happy to customize a plan that works best for you!

c) Plan Add-On. If you need additional photograph edits over the limit in your Subscription Plan or Custom Enterprise Plan, you can purchase additional edits on an a la carte basis, which will give you the ability to order and edit additional photographs without the commitment of a higher-tier plan. Our add-on options will vary depending on the number of photographs you want edited. Pricing can be found on our Website at <https://batch.ai/pricing>.

## **Section 6 – Additional Terms of Sale**

Our Services plan offerings are described on our Website at the time of purchase. All prices shown for the Services are shown in U.S. Dollars. We reserve the right to change our Services at any time, provided that if we change the amounts or other charges associated with your Services, we will provide you thirty (30) days advance written notice of such changes. We reserve the right to reject our Services to anyone and for any reason. We also reserve the right to discontinue certain Services at any time. If we discontinue Services, in our sole discretion, you will be reimbursed any money paid where we did not provide Services.

For the Subscription Plan or the Custom Enterprise Plan, invoices are due at the beginning of each month. Add-ons are due at the time of purchase.

Failure to pay an invoice, in full, within thirty (30) days of receipt will cause that invoice, or part thereof, to accrue interest at one percent (1%) per month until paid in full. If you fail to pay any monies due, Batch.Ai reserves the right to terminate your access to the Services. Batch.Ai reserves the right to transfer your invoice, account, and any past-due payments to a collection agency or attorney. If your invoice, account, and any past-due payments is transferred to a collection agency or attorney, Batch.Ai shall be entitled to recover all costs and fees in collecting your past-due balance, including all reasonable attorneys’ fees.

## **Section 7 – Pause, Cancellation & Refunds**

You may cancel or pause your Subscription Plan or Custom Enterprise Plan at any time by doing so at [www.batch.ai/myaccount](http://www.batch.ai/myaccount).

If you pause or cancel your plan after an invoice date, your cancellation request will be processed with the next scheduled invoice. You are solely responsible for all charges, including taxes, incurred with respect to any Subscription Plan or Custom Enterprise Plan processed prior to the cancellation of your type of plan.

Please be aware that if you pause your Subscription Plan or Custom Enterprise Plan, this only pauses your subscription for a one (1) month period. Pausing is not indefinite and must be re-paused each month that you choose to do so. If you would like to have an indefinite pause, cancelling your plan is most applicable. You can rejoin at any time down the road.

We generally do not offer refunds for our Services. If you are unhappy with your Services, please contact us, detailing the reason why you are unhappy with the Services. We will do our best to ensure that you are satisfied with our Services.

## **Section 8 – Ownership of Work Product and License Granted**

All edits and retouches created by Batch.Ai (the “Work Product”) shall be owned and shall be the exclusive property of you once all payments are made. If you do not pay an invoice or charge back your payment, all Work Product associated with the unpaid invoice shall remain owned exclusively by Batch.Ai and you do not have any authorization to use the Work Product.

Upon payment of an invoice, all Work Product created in connection with that invoice shall be transferred to you, including all rights to the Work Product, including, without limitation all copyrights or copyrighted matter that arises out of the Work Product. Failure to pay an invoice shall constitute unauthorized use of all Work Product.

After payment, Batch.Ai does not reserve any rights of any kind to use or license the Work Product.

## **Section 9 – Batch.Ai Intellectual Property & Your License to Use Plug-In Software**

The contents of our Website and Platform are protected by United States and international copyright laws. The contents of our Website and Platform are owned exclusively by Batch.Ai or licensed to us. You may not, and may not cause or encourage others to, reproduce, distribute, display, sell, transfer, assign, license or use for commercial purposes any copyrighted material on our Platform or Website (the “Intellectual Property”) without our prior written consent. All rights not expressly granted in these Terms are reserved to Batch.Ai.

Batch.Ai and its name, logos, slogans, or otherwise are trademarks or service marks (“Marks”) of Batch.Ai. All rights in these Marks are reserved by Batch.Ai. You may not use any Batch.Ai-provided Marks or other logos or graphics, without our prior written consent.

We grant you a limited, revocable, non-transferable and non-exclusive license to access and make uses of our Website, Platform, and plug-in software consistent with these Terms. This limited license does not include the right to: (a) republish, redistribute, transmit, sell, license or download our Website or any content except as is necessary to view and/or use our Website; (b) make any use of the Website or any and/or all content other than uses consistent with the Services or exploring the Services; (c) modify, reverse engineer or create any derivative works based upon either the Website, our plug-in, or our Platform; (d) collect account information for the benefit of yourself or another party; or (e) use software robots, spiders, crawlers, or similar data gathering and extraction tools, or take any other action that may impose an unreasonable burden or load on our infrastructure.

Any unauthorized use by you of the Website or Platform automatically terminates this license without prejudice to any other remedy provided by applicable law or these Terms.

## **Section 10 – Payment, Billing, Other**

When you provide payment information, you represent and warrant that the information you provide is accurate, that you are authorized to use the payment method provided, and that you will notify us of changes to the payment information. We reserve the right to utilize third party payment card updating services to obtain current expiration dates on credit cards and debit cards. By providing a credit card, you represent and warrant that you authorize us to charge your payment method for all charges you incur for your purchase of a Subscription Plan, Custom Enterprise Plan, or any of our other Services. You agree that you are responsible to pay for and will pay for all such charges. If you have signed up for a subscription and your payment is denied, you will be responsible for fee of fifty dollars (\$50.00) which is not a penalty but rather is ‘liquidated damages’ for our reasonable administrative costs in contacting you for new payment, etc. Failure to keep a valid payment method does not constitute cancellation of a Subscription Plan or a Custom Enterprise Plan and your subscription will continue until cancelled in accordance with these Terms.

If you have enrolled in Subscription Plan or Custom Enterprise Plan, you expressly acknowledge and agree that: (1) Batch.Ai (or our third-party payment processing company or application) is authorized to charge you on a

monthly or other basis for the price of your chosen subscription, including taxes and other fees, for as long as your subscription continues; and (2) your subscription is continuous until you pause it, cancel it, or we suspend or terminate the subscription.

The initial monthly recurring charges for your subscription will be set forth during the purchase process. The amount you are charged may vary depending on the preferences you select and may be adjusted in accordance with these Terms. You are responsible for all charges with respect to an untimely cancellation.

### **Section 11 – Your Photographs & License**

We take no responsibility and assume no liability for any photographs submitted by you (“Photographs”), including for any claims brought by third parties alleging a form of intellectual property claim.

You hereby grant to Batch.Ai a worldwide, royalty-free, and non-exclusive license to your Photographs to offer you the Services. By submitting Photographs on our Platform, you represent and warrant that (a) the Photographs are owned or licensed by you; (b) if neither ownership or license applies to your Photographs, that you have all necessary approvals for us to provide the Services using the Photographs; and (c) that editing the Photographs will not infringe on the intellectual property rights of any party or entity.

By submitting a Photographs, you hereby acknowledge and agree that you will indemnify and hold harmless Batch.Ai and its agents, employees, owners, parents, subsidiaries, affiliates, and similarly situated companies or persons from any claims, demands, actions, proceedings, or similar from any third-party intellectual property matter(s).

### **Section 12 – Third Party Links**

Our Platform, Website and any content thereof may contain links to third-party web sites or services that are not owned or controlled by us. Batch.Ai has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third-party web sites or services. You further acknowledge and agree that Batch.Ai shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such websites or services. By using the Services and our Platform, you expressly waive us, our employees, agents, contractors, affiliates, successors and principals from all liability arising from your use of any third-party website.

We strongly encourage you to read the terms and conditions and privacy policies of any third-party web sites or services that you visit, including Lightroom.

### **Section 13 – Term & Errors**

These Terms will remain active and in full force and effect so long as they are posted on our Website.

Occasionally there may be information on our Website that contains typographical errors, inaccuracies or omissions that may relate to descriptions, pricing, promotions, offers, and availability. We reserve the right to correct any errors, inaccuracies or omissions, and to change or update information or change Services if any information is inaccurate at any time (including after you have agreed to a type of Service).

### **Section 14 - Disclaimer**

OUR WEBSITE, PLATFORM, AND SERVICES ARE PROVIDED 'AS IS' AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, BATCH.AI AND ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSORS, THIRD PARTY PROVIDERS AND AFFILIATES,

EXCLUDE ALL REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE. WE EXPRESSLY DISCLAIM ANY LIABILITY FOR LOSS OR DAMAGE SUSTAINED BY YOU AS A RESULT OF THE ACCESSING AND USE OF THE PLATFORM, OUR WEBSITE, OR OUR SERVICES.

### **Section 15 – Limitation of Liability**

Batch.Ai shall not be liable for delay or failure in performance for causes beyond our control or any other damage which does not result from a breach of our obligations under these Terms.

WE SHALL NOT BE LIABLE TO YOU FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, EVEN IF WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, NOR SHALL WE BE HELD LIABLE FOR DELAY OR FAILURE IN PERFORMANCE RESULTING FROM CAUSES BEYOND OUR REASONABLE CONTROL. IN NO EVENT SHALL OUR TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION EXCEED THE TOTAL AMOUNT YOU PAID BATCH.AI FOR THE SERVICES.

YOU AGREE THAT NO CLAIMS OR ACTION IN CONTRACT, WARRANTY, OR IN TORT (INCLUDING NEGLIGENCE) ARISING OUT OF, OR RELATED TO, THE USE OF OUR WEBSITE, OUR SERVICES, OR THESE TERMS MAY BE BROUGHT MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION RELATING TO SUCH CLAIM OR ACTION AROSE. IF YOU ARE DISSATISFIED WITH OUR SERVICES, TERMINATION IS YOUR SOLE REMEDY. WE HAVE NO OTHER OBLIGATION, LIABILITY, OR RESPONSIBILITY TO YOU.

### **Section 16 – Indemnification**

You agree to defend, indemnify and hold Batch.Ai, its agents, employees, directors, officers, owners, etc. harmless for any loss, damages or costs, including reasonable attorneys' fees, resulting from any third party claim, action, or demand arising from (i) your use of the Website or Platform in violation of any law, rule, regulation, (ii) your breach of these Terms; or (iii) any intellectual property claims brought by a third-party arising out of Photographs submitted by you.

### **Section 17 – General Provisions**

- a. Entire Agreement. These Terms contains the entire agreement between you and Batch.Ai except for any Services-specific information found on our Website.
- b. Waiver. The failure by Batch.Ai to enforce any provision of these Terms shall not be construed as a waiver or limitation of our right to subsequently enforce and compel strict compliance with every provision of this Agreement.
- c. Assignment. You may not assign, pledge, delegate, or otherwise transfer any of your rights or obligations under this Agreement without Batch.Ai prior written consent.
- d. Relationship. Nothing in these Terms shall create, or is intended to create an agency, employment, franchise, joint venture, or partnership relationship between you and Batch.Ai.
- e. Confidentiality. Any information transferred to Batch.Ai that is confidential in nature shall be kept confidential by Batch.Ai (“Confidential Information”).

- f. Applicable Law/Dispute Resolution. This Agreement shall be governed by the laws of the State of California. Except for non-payment for the Services, any dispute arising from this Agreement shall be subject to binding arbitration. The prevailing party in any dispute arising out of or under these Terms or the Services shall be entitled to recover its/his/her reasonable attorney's fees and costs. The governing rules shall be the rules, then-implemented, by the American Arbitration Association commercial division. Batch.Ai and you agree that any such final decisions may be presented to a court of competent jurisdiction for purposes of being confirmed as a judgment enforceable under the law in which that party is domiciled or where their headquarters are located. Should either party forego arbitration, that party shall be barred from recovering their attorneys' fees or costs.
- g. Notices. All should be sent via email to the contact information found on our Website.
- h. Severability. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable.
- i. Updates. We recommend that you check the Terms periodically for updates.

## **Section 18 – Questions**

If you have any questions or comments regarding these Terms, please feel free to contact us by any of the methods listed on our Website.