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## SUBSCRIPTION AGREEMENT

This Subscription Agreement and all exhibits and attachments hereto (this "Agreement") is entered into as of the date of the last signature below (the "Effective Date") by and between Immaterial Inc., d/b/a Cabinet magazine, a 501(c)(3) non-profit corporation having an address at 300 Nevins Street, Brooklyn, New York 11217 ("Cabinet") and the "Subscriber" specified on the "Order Form" attached hereto (each, a "Party" and, collectively, the "Parties"). The Parties hereby agree as follows:

### 1. SERVICES

- 1.1 Order Forms. Subscriber shall order a subscription to Cabinet's digital magazine (including any editorial content relating thereto) ("Cabinet magazine") by completing and signing an Order Form, the form of which is attached as Exhibit A. Cabinet may also accept Order Forms submitted by subscription agents on behalf of Subscriber. Each accepted, fully-executed Order Form shall become incorporated herein by reference.
- 1.2 IP Whitelist. Subscriber must provide a list of IP addresses that shall have access to Cabinet magazine pursuant to an Order Form (the "IP Whitelist"). Cabinet shall store such IP Whitelist internally solely for the purposes of providing such access.
- 1.3 License Grant. Subject to the terms and conditions of this Agreement, including without limitation, Subscriber's payment of the Subscription Fees and Subscriber's and its Users' (as such term is defined below) compliance with all applicable terms and conditions set forth or referenced in this Agreement, Cabinet will use commercially reasonable efforts to make Cabinet magazine available to Subscriber's Users through Cabinet's website during the Term for their own personal and non-commercial use.

### 2. SUBSCRIBER RESPONSIBILITIES

- 2.1 Use of Services. Subscriber shall be fully liable for any acts or omissions of any individual users that access, receive, or use Cabinet's website, Cabinet magazine, or any other associated content, software, systems, or technology (collectively, the "Cabinet Platform") from the IP Whitelist (collectively, "Users") as if such acts or omissions were made by Subscriber itself. Cabinet reserves the right to suspend or terminate access to the Cabinet Platform, including suspension or removal of access rights for any or all Users or IP addresses (including those included among the IP Whitelist) immediately in the event Cabinet reasonably determines that any such Users or activity associated with any such IP addresses pose a threat to the security or integrity of the Cabinet Platform or otherwise fail to conform to the terms and conditions set forth herein or any additional terms and conditions provided or made available by Cabinet to Users in connection with their access or use of the Cabinet Platform (collectively, the "Cabinet End User Terms"). Without limiting the foregoing, where feasible Cabinet will use commercially reasonable efforts to contact Subscriber prior to suspending or terminating such access. References to the Cabinet Platform herein shall refer to the Cabinet Platform both collectively and any component of such Cabinet Platform individually.
- 2.2 Restrictions on Use. Subscriber agrees that Subscriber and its Users shall not (i) disrupt, prohibit, or circumvent access to or use the Cabinet Platform, (ii) sublicense, resell, rent, lease, transfer, mirror, or assign the Cabinet Platform or its use thereof, or offer the Cabinet Platform on a time-share basis to any third party, (v) reverse engineer, decompile, decode, or disassemble the Cabinet Platform, or (vi) otherwise attempt to derive the source code for the Cabinet Platform or attempting to gain access to any underlying code used to implement or deploy the Cabinet Platform, (vii) use the Cabinet Platform, or allow the transfer, transmission, export, or re-export of all or any part of the Cabinet Platform in each case, in violation of any export control laws or regulations of the United States or any other relevant jurisdiction, or (viii) permit any third party to engage in any of the foregoing proscribed acts.

### 3. PROPRIETARY RIGHTS

- 3.1 Intellectual Property Ownership. As between the Parties, Cabinet owns and retains all rights, title, and interest, including all related Intellectual Property Rights (as such term is defined below), in the Cabinet Platform. This Agreement does not transfer ownership rights of any kind in the Cabinet Platform. The Cabinet name, the Cabinet logo, and the product names associated with Cabinet magazine are trademarks of Cabinet or third parties, and no right or license is granted to use them. Subscriber may not use or disseminate any content, data, or other information in association with Cabinet's name or trademarks without the prior written consent of Cabinet. "Intellectual Property Rights" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world. There are no licenses granted pursuant to this Agreement, whether express or implied, and all rights not expressly granted to Subscriber are reserved by Cabinet and its licensors.

### 4. SUBSCRIPTION FEES AND PAYMENT

- 4.1 Subscription Fees. Subscriber shall pay Cabinet all fees or charges as specified on each executed Order Form ("Subscription Fees") in accordance with the payment terms herein. Cabinet charges and collects Subscription Fees annually in advance, unless otherwise specified in an Order Form. All Subscription Fees are non-cancelable and non-refundable and shall be paid in U.S. Dollars. Cabinet reserves the right to modify its fees and charges and to introduce new charges at any time, upon at least sixty (60) days prior notice to Subscriber.

### 5. TERM AND TERMINATION

- 5.1 Term. The term of this Agreement shall begin on the Effective Date and continue in force unless terminated as set forth below.
- 5.2 Termination. Either Party may terminate this Agreement (a) immediately upon prior written notice after the expiration of all Order Forms or (b) if the other party breaches any material term of this Agreement which, in the case of Subscriber, will include any breach of Subscriber's payment obligations or unauthorized use by Subscriber of Cabinet magazine, if the other Party fails to cure such breach within thirty (30) days after written notice of such breach by the non-breaching Party. For the avoidance of doubt, any termination of this Agreement shall result in the contemporaneous termination of all Order Forms.
- 5.3 Rights on Termination. Subscriber has and reserves all rights and remedies that it has by operation of law or otherwise to enjoin the unlawful or unauthorized use of the Cabinet Platform. On termination, all rights granted to Subscriber under this Agreement shall immediately cease and Subscriber will promptly cease all use of the Cabinet Platform. Sections 2, 3, 4, (to the extent payment obligations have not been satisfied), this Section 5.3, 6, 7, and 9-10 will survive termination or expiration of this Agreement.

**6. LIMITED WARRANTY AND DISCLAIMERS**

- 6.1 Warranties.** Each Party represents and warrants that: (a) it is a duly organized and validly existing under the laws of the jurisdiction in which it is organized; (b) it has full power and authority, and has obtained all approvals, permissions, and consents necessary, to enter into this Agreement and to perform its obligations hereunder; (c) this Agreement is legally binding upon it and enforceable in accordance with its terms; and (d) the execution, delivery and performance of this Agreement does not and will not conflict with any agreement, instrument, judgment, or understanding, oral or written, to which it is a Party or by which it may be bound.
- 6.2 Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, TO THE FULLEST EXTENT PERMITTED BY LAW, CABINET HEREBY DISCLAIMS (FOR ITSELF AND ITS LICENSORS) ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO CABINET MAGAZINE INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, QUIET ENJOYMENT, INTEGRATION, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, WARRANTIES ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE, OR WARRANTIES THAT THE USE OF THE CABINET PLATFORM WILL BE SECURE, TIMELY, UNINTERRUPTED, OR ERROR-FREE, OR THAT CABINET MAGAZINE WILL MEET REQUIREMENTS OR EXPECTATIONS, OR BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. EXCEPT AS SET FORTH ABOVE, THE CABINET PLATFORM IS PROVIDED STRICTLY ON AN "AS IS" BASIS.
- 7. LIMITATION OF LIABILITY.** IN NO EVENT SHALL CABINET'S TOTAL, AGGREGATE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT OR THE CABINET PLATFORM EXCEED FIFTY (\$50) U.S. DOLLARS. IN NO EVENT SHALL CABINET OR ITS LICENSORS BE LIABLE TO SUBSCRIBER OR ANY OF ITS USERS FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE CABINET PLATFORM, ANY INTERRUPTION, INACCURACY, ERROR, OR OMISSION IN THE CABINET PLATFORM, IN EACH CASE, EVEN IF CABINET OR ITS LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 8. ASSIGNMENT.** Neither Party may assign this Agreement to any third party except upon prior written consent, not to be unreasonably withheld. Notwithstanding the foregoing, either party may assign this Agreement to a third party without the consent of the other party, to (a) a parent or subsidiary of the assigning party, (b) an acquirer of all or substantially all of its assets or business of the assigning party to which this Agreement relates, or (c) in connection with a reorganization or merger of the assigning party. Any purported assignment in violation of this section shall be void. Subject to the foregoing, this Agreement and each and all of the provisions hereof bind and benefit the parties and their respective successors and assigns.
- 9. NOTICES.** All notices required to be provided under this Agreement shall be delivered in writing by email and shall be effective upon receipt by the other Party. Subscriber may give notice to Cabinet by emailing [subscriptions@cabinetmagazine.org](mailto:subscriptions@cabinetmagazine.org) and Cabinet may give notice by emailing Subscriber's billing contact as specified on the Order Form. Either party may change its email address by giving timely prior notice of the new email address to the other party pursuant to this section and identifying in such notice the date on which such change is effective.
- 10. MISCELLANEOUS.** This Agreement shall be governed by New York law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction, except that New York General Obligations Law § 5-1401 shall apply. No text or information set forth on any other purchase order, preprinted form or document (other than an Order Form) shall add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. This Agreement and each Order Form are intended for the sole benefit of Cabinet and Subscriber, and shall not be construed for the benefit of any third party, including any Registered User or client of Subscriber. Neither party shall be deemed to be in breach of this Agreement for any failure or delay in performance caused by unforeseeable reasons beyond its reasonable control, including any natural cause, act of God or public enemy, act of any military, civil or regulatory authority, change in any law or regulation, disruption or outage in communications, power or otherwise, or failure to perform by any supplier or other third party. No joint venture, partnership, employment, or agency relationship exists between Subscriber and Cabinet as a result of this Agreement. The failure of either party to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by such party in writing. Subscriber acknowledges and agrees that this Agreement is between Subscriber and Cabinet only, that Cabinet will have no responsibility to any Users hereunder, and that there are no intended third-party beneficiaries. Any modification or amendment of this Agreement shall be in writing signed by the parties. This Agreement, together with any applicable Order Form and the Cabinet End User Terms, comprises the entire agreement between Subscriber and Cabinet regarding the subject matter contained herein and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding such subject matter.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

**Subscriber:**

**Cabinet**

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Name:

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Name:

Title:

Title:

Date:

Date:

**Exhibit A  
Order Form #1**

<b>Subscriber:</b>		<b>Contact:</b>	
<b>Address:</b>		<b>Phone:</b>	
		<b>Email:</b>	
		<b>Fax:</b>	
<b>Location of Access</b>	Pick one: Within U.S.: [INSERT STATE] Outside of U.S.: [INSERT COUNTRY]	<b>Price:</b>	\$50 (U.S. Dollars)
<b>Issue Subscription:</b>	12 Issues on CabinetMagazine.org from the Effective Date, after which this Order Form shall expire. Accessible to IP addresses contained within IP Whitelist, provided such IP addresses are assigned only to devices in the Location of Access above.		

This Order Form, made and entered into as of \_\_\_\_\_ (“Effective Date”), by and between Cabinet, a 501(c)(3) non-profit having an address at 300 Nevins Street, Brooklyn, New York 11217 (“Cabinet”) and the subscriber identified above (“Subscriber”) and is governed by that certain Subscription Agreement entered into between Cabinet and Subscriber (the “Agreement”). This Order Form supplements and amends the Agreement in accordance with its terms and is hereby incorporated within such Agreement. Any defined terms not defined in this Order Form shall take their meaning from the Agreement.

**Subscriber:**

**Cabinet**

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Name:

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Name:

Title:

Title:

Date:

Date: