

**INTERNET VIDEO ARCHIVE TERMS OF SERVICE FOR
METACRITIC.COM CONTENT**

These Terms of Service (“ToS”) between You and Internet Video Archive LLC (“IVA”) constitute the terms and conditions for Your use of METACRITIC.COM CONTENT. “You” or “Your” means you and the entity identified in an IVA Service account on whose behalf you are authorized to act. By accessing METACRITIC.COM CONTENT via IVA, You agree that You have the authority to bind and You agree to be bound by the terms of these ToS. If You do not agree to the terms of these ToS, do not access the METACRITIC.COM CONTENT.

RECITALS

WHEREAS, Internet Video Archive (IVA) has a partnership with CBSi who owns and operates Metacritic.com, a website which provides users with scores, news, review excerpts and information related to certain content categories; and

WHEREAS, You desire to display content from Metacritic.com as further described herein.

NOW THEREFORE, in consideration of the mutual obligations made herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, IVA and You hereby agree as follows:

1. Definitions.

1.1. “You” means any corporation, firm, partnership, person or other entity which directly or indirectly owns, is owned by or is under common ownership with such party, and any person, firm, partnership, corporation or other entity actually controlled by, controlling or under common control with such party.

1.2. “Content Feed” means the method of delivery through which IVA will deliver the Metacritic Content to You, which may include without limitation, an API or an alternative method of delivery mutually agreed upon between the parties.

1.3. “Metacritic Content” means the content from Metacritic.com (including its subdomains and related applications) described in Exhibit C attached hereto and provided to You under this Agreement.

1.4. “Metacritic Marks” mean any trademarks, trade names, service marks, logos or distinctive brand elements that appear from time to time on Metacritic.com or are otherwise provided or made available to You by CBSi and are protected under copyright law or as to which CBSi has established trademark or trade dress rights and any modification to the foregoing that may be created by CBSi.

1.5. Interaction Data. Any data collected by You from user interactions with the Metacritic Content within the Approved Platforms of the Assets (collectively, the “Interaction Data”) may only be disclosed to a third party in an anonymous and aggregate format that will not enable such third party to reverse engineer the Interaction Data to trace the data source to either the Metacritic Content.

2. Your Use of Metacritic Content.

2.1. Display within the Your Assets. You shall display all or any of the Metacritic Content within the Your Assets. You may not edit or otherwise modify any individual item of Metacritic Content.

2.2. Storage of Metacritic Content. All Metacritic Content delivered to You shall be stored on servers located within the U.S., shall not be permanently co-mingled with non-Metacritic content or data on such servers and, further, shall be sufficiently segmented from Your’s or other third party content and data so as to enable the prompt, thorough and efficient purging of Metacritic Content following the termination of this Agreement.

2.3. Attribution and Placement Requirements. Your display of the Metacritic Content within the Your Assets must be in accordance with (i) the attribution requirements set forth in Exhibit D attached hereto (the “**Attribution Requirements**”) and (ii) the placements depicted in the mockups attached hereto as Exhibit E (the

“**Placement Requirements**”), if any. In addition, the Metacritic Content shall at all times be placed (a) more prominently (e.g., above or in front of) third party content (if any) within the You Assets that is similar to and/or competitive with, the Metacritic Content and (b) no less prominently than, or in comparable placements to, any of Your content (if any) within Your Assets that is similar to and/or competitive with, the Metacritic Content.

2.4. Linking Requirements. You shall provide the following links and ensure that all links are functional and link to the designated pages as set forth herein (the “**Linking Requirements**”): (i) each element of the Metacritic Content depicted in the Attribution Requirements, including the colored score box, the Metacritic “circle m” logo, the name “metacritic” and the corresponding tagline (e.g. “Based on 73 critics”), will be clickable links that, when clicked by an end user of a You Asset on any Approved Platform, will link directly to the corresponding asset page on Metacritic.com (e.g. any Metacritic Content (excluding the Critic Review Quotes) related to Skyfall displayed within the You Assets shall link to <http://www.metacritic.com/movie/skyfall>); (ii) all Critic Review Quotes (as defined in Exhibit C) displayed within a You Asset on any Approved Platform shall directly link back to the corresponding review page of the third party publication from which the Critic Review Quote originated (e.g., the Tampa Bay Times Critic Review Quote for Skyfall on any You Asset shall link to <http://www.tampabay.com/features/movies/skyfall-takes-james-bond-to-new-territory/1260071>); and (iii) the text “See all critic reviews on metacritic.com” shall immediately follow the last Critic Review Quote displayed within a You Asset on any Approved Platform and the text in its entirety shall be a clickable link which shall link directly to the corresponding asset page on Metacritic.com. Each element of the Linking Requirements that consists of text (e.g. third party publication name, “Based on 73 critics” and “Read all Reviews at Metacritic”), must not only be a clickable link but it should also be reasonably apparent from looking at said text that the same is “clickable” (e.g. different color and underlined), as depicted in Exhibit D.

2.5. Reporting. You agree to provide CBSi with the following metrics on a quarterly basis: (i) the number of unique users of Your Assets per Approved Platform; (ii) the number of pages on which the Metacritic Content is displayed within the Your Assets per Approved Platform; (iii) the number of clickthroughs from Your Assets to Metacritic.com per Approved Platform; and (iv) other information that CBSi may reasonably request.

3. Compensation. CBSi agrees to waive any license fees for Your use of the Metacritic Content within Your Assets as long as You abide by usage requirements set forth in Section 4 of this Agreement.

4. Advertising Sales; Keywords. Without CBSi’s prior written approval, You will not: (i) use the Metacritic Content or the Metacritic Marks to sell any advertising; and (ii) deliver any advertising against the Metacritic Content. Furthermore, You will not purchase or bid on keywords that are Metacritic Marks or combination of keywords which include Metacritic Marks, from any third party search, social media and/or other advertising programs, including without limitation Google AdSense, Microsoft Bing and Facebook.

5. Intellectual Property.

5.1. CBSi Rights. You acknowledges and agrees that CBSi and You, CBSi or its licensors own all rights in and to the Metacritic Content, the Metacritic Marks, Metacritic.com, including all content contained therein, including, without limitation, as applicable, all copies thereof and all rights to patents, copyrights, trademarks, service marks, trade secrets and other intellectual property rights inherent therein and appurtenant thereto. All rights not expressly granted herein are reserved CBSi.

5.2. Your Rights. CBSi acknowledges and agrees that as between You and CBSi, You owns and shall retain all rights, title and interest in and to Your Assets, including, without limitation, as applicable, all copies thereof and all rights to patents, copyrights, trademarks, service marks, trade secrets and other intellectual property rights inherent therein and appurtenant thereto. All rights not expressly granted herein are reserved by You.

6. Term and Termination.

6.1. Term. The initial term of this Agreement will begin on the Effective Date and continue for a period of one (1) year (the “**Initial Term**”). Thereafter, this Agreement will automatically renew for successive one (1) year periods (each a “**Renewal Term**”) unless one party notifies the other party in writing of its intent not to renew the Agreement at least thirty (30) days prior to the end of the Initial Term or the then-current Renewal Term. Together, the Initial Term and any Renewal Term(s) shall be referred to herein as the “**Term**.”

6.2. Termination.

6.2.1. Material Breach. This Agreement may be immediately terminated by IVA if You fail to cure any material breach of the Agreement within five (5) business days after such breach was conveyed in reasonable detail in writing to the breaching party.

6.3. Effect of Termination. Upon termination of this Agreement for any reason, You shall cease, within five (5) business days, all use of the Metacritic Content, including the Metacritic Marks, and shall promptly remove the foregoing from Your Assets and Company servers. The provisions of Sections 1, 6, 7, 8.3, 9, 11, 12, 13 and 14 will survive any termination of this Agreement for any reason.

7. Disclaimer of Warranties. IVA HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE METACRITIC CONTENT, THE METACRITIC MARKS, METACRITIC.COM, AND ANY OTHER MATERIALS WHICH MAY BE PROVIDED BY IVA HEREUNDER, INCLUDING WITHOUT LIMITATION TO ANY WARRANTY CONCERNING THE ACCURACY OF THE METACRITIC CONTENT, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY IMPLIED BY COURSE OF DEALING OR PERFORMANCE.

8. Removal of Allegedly Infringing Content. If any individual item of Metacritic Content delivered to You under this Agreement is alleged or held to infringe the intellectual property rights or other proprietary rights of a third party, IVA shall promptly notify You and You shall promptly remove such item of Metacritic Content from the You Assets across all Approved Platforms. You shall notify IVA of any claim You receive alleging that any individual item of Metacritic Content infringes upon the intellectual property rights or other proprietary rights of a third party. CBSi shall also, at its own expense, make commercially reasonable efforts to: (i) provide for Your to resume use of the Metacritic Content in question; (ii) modify the Metacritic Content in question so as to make it noninfringing; or (iii) replace the Metacritic Content in question with non-infringing content of like quality and subject matter.

9. Indemnification.

9.1. By IVA. IVA shall indemnify, defend and hold You and your respective officers, directors, employees and agents, harmless from and against any costs, losses, liabilities and expenses, including court costs, reasonable expenses and reasonable attorney's fees (collectively, "**Losses**"), that You or they may suffer, incur or be subjected to by reason of any third party claim alleging that the Company's use of the Metacritic Marks within the You Assets as permitted under this Agreement infringes the intellectual property rights or other proprietary rights of any third party, is defamatory, violates any right of privacy or publicity, or violates any applicable law.

9.2. By You. You shall indemnify, defend and hold IVA and its CBSi, and their respective officers, directors, employees and agents, harmless from and against any Losses that IVA or CBSi suffer, incur or be subjected to by reason of any third party claim alleging that any content within the Your Assets (other than the Metacritic Content or the Metacritic Marks) infringes the intellectual property rights or other proprietary rights of any third party, is defamatory, violates any right of privacy or publicity, or violates any applicable law.

9.3. Procedures. If any party entitled to indemnification under this section (an "**Indemnified Party**") makes an indemnification request to the other (the "**Indemnifying Party**"), the Indemnified Party shall permit the Indemnifying Party to control the defense, disposition or settlement of the matter at its own expense; provided that the Indemnifying Party shall not, without the consent of the Indemnified Party enter into any settlement or agree to any disposition that imposes an obligation on the Indemnified Party that is not wholly discharged or dischargeable by the Indemnifying Party. The Indemnified Party shall notify the Indemnifying Party promptly of any claim for which the Indemnifying Party is responsible and shall cooperate with the Indemnifying Party to facilitate defense of any such claim; provided that the Indemnified Party's failure to notify Indemnifying Party shall not diminish the Indemnifying Party's obligations under this section except to the extent that the Indemnifying Party is materially prejudiced as a result of such failure. An Indemnified Party shall at all times have the option to participate in any matter or litigation through counsel of its own selection at its own expense.

10. Limitations of Liability. EXCEPT FOR DAMAGES ARISING UNDER SECTION 11 (INDEMNIFICATION) AND SECTION 13 (CONFIDENTIALITY), NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY

(INCLUDING NEGLIGENCE), AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR DAMAGES ARISING UNDER SECTION 11 (INDEMNIFICATION) AND SECTION 13 (CONFIDENTIALITY), THE AMOUNT OF DAMAGES RECOVERABLE BY EITHER PARTY FROM THE OTHER FOR ANY MATTER ARISING UNDER OR RELATING TO THIS AGREEMENT, WHETHER ARISING IN CONTRACT, EQUITY, TORT OR OTHERWISE, MAY NOT EXCEED, IN THE AGGREGATE, TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00).

11. Confidentiality.

11.1. Confidential Information. Each party (the “Receiving Party”) understands that the other party (the “Disclosing Party”) has disclosed or may disclose information of a confidential nature including, without limitation, business plans, records, data or other materials, that is (i) clearly and conspicuously marked as “confidential” or with a similar designation; (ii) identified by the Disclosing Party as confidential and/or proprietary before, during, or promptly after presentation or communication; or (iii) disclosed in a manner which the Receiving Party should reasonably have understood under the circumstances that the disclosure should be treated as confidential, whether or not the specific designation “confidential” or any similar designation is used (collectively, “Confidential Information”).

11.2. Exclusions. Confidential Information shall not include, and nothing in this Agreement shall prohibit or limit either party’s use or disclosure of, information that is: (i) generally available to the public other than as a result of a breach of this Agreement; (ii) independently developed by or for it without use of or access to the other party’s Confidential Information; (iii) acquired by it from a third party which is not under an obligation of confidence with respect to such information; (iv) previously known to it without an obligation of confidence; or (v) approved in writing by the other party for disclosure.

11.3. Use and Disclosure. During the Term and for a period of three (3) years thereafter, neither party shall: (i) use any Confidential Information of the other party for purposes not in furtherance of fulfilling its obligations or exercising its rights under this Agreement; (ii) disclose any Confidential Information other than to employees and legal and financial advisors on a need-to-know basis and who have signed a non-disclosure agreement to protect the confidential information of third parties that is no less restrictive than the obligations contained herein; (iii) make copies or allow others to make copies of such Confidential Information except as is reasonably necessary for internal business purposes to fulfill the obligations under this Agreement; or (iv) remove or export any such Confidential Information from the country of the Receiving Party to the extent prohibited by applicable export laws. The Receiving Party shall protect the Confidential Information with at least the same degree of care and protection as it would use with respect to its own Confidential Information of a similar nature, but in no event less than a reasonable standard of care.

11.4. Disclosure Required by Law. The Receiving Party may disclose Confidential Information that is required to be disclosed by law, regulation or the rules of any applicable securities exchange, or in a judicial, administrative or governmental proceeding, by an applicable securities exchange or on advice of counsel, provided that the Disclosing Party is given prompt notice of such requirement and the scope of such disclosure is limited to the extent possible. The Receiving Party agrees to cooperate with the Disclosing Party’s requests to obtain reliable assurances that confidential treatment will be accorded to any Confidential Information disclosed pursuant to this section.

12. General Provisions.

12.1. Governing Law; Venue. This Agreement and any claim or dispute of whatever nature arising out of or related to this Agreement will be interpreted, construed, and enforced exclusively in accordance with the laws of the State of New Jersey and applicable federal United States laws without giving effect to any choice of law principles that would require the application of the laws of a different state. All claims arising out of or relating to this Agreement will be litigated exclusively in the federal or state courts of the County of Camden, New Jersey, and the Parties consent to the personal jurisdiction of those courts. Public Statements. Neither party shall issue any press release or make any other public statement about this Agreement or the relationship of the parties without the prior approval of the other party.

12.2. No Assignment. Neither party shall assign or transfer its rights or delegate its performance under this Agreement, provided, however, that subject to the provisions of Section 8.2.3, each party shall have the right to

assign or transfer this Agreement to an entity that acquires all or substantially all of its outstanding stock or assets by merger, consolidation, sale or otherwise, without the consent of the other party, but only if twenty (20) days advance written notice of such assignment or transfer is provided.

12.3. Relationship of Parties. The parties hereto are independent contractors and nothing contained herein or done in pursuance of this Agreement shall constitute either party as the agent or employee of the other party or constitute the parties as partners, joint venturers or franchisor and franchisee.

12.4. Notices. Any notice or other communication under this Agreement will be in writing to the address specified in the signature block below, or other address as may be updated by a party in writing from time-to-time, and shall be deemed sufficiently given when: (i) delivered personally; (ii) upon written verification from receipt from an overnight courier; or (iii) upon written verification of receipt of first class registered or certified mail. Notwithstanding anything else to the contrary in this section, routine communications related to the performance of this Agreement may be delivered via email.

12.5. Force Majeure. Neither party will be liable for, or considered to be in breach of or default under this Agreement on account of any delay or failure to perform its obligations hereunder (excluding payment obligations) due to causes beyond such party's reasonable control.

12.6. Entire Agreement; Waiver and Modification. The parties agree that this Agreement and the attached exhibits, which are incorporated into this Agreement by this reference, constitute the complete and exclusive statement of the mutual understanding of the parties, and supersede and cancel all previous written and oral agreements and communications relating to the subject matter of this Agreement. Except as otherwise expressly provided in this Agreement, no waiver, modification or amendment of any provision of this Agreement will be binding against a party unless it is in writing and signed by a duly authorized representative of such party. No waiver of a breach hereof will be deemed to constitute a waiver of any other breach, whether of a similar or dissimilar nature.

12.7. Severability. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision will be enforced to the maximum extent permissible so as to put into effect the intent of the parties, and the remainder of this Agreement will continue in full force and effect.

EXHIBIT C DESCRIPTION OF METACRITIC CONTENT

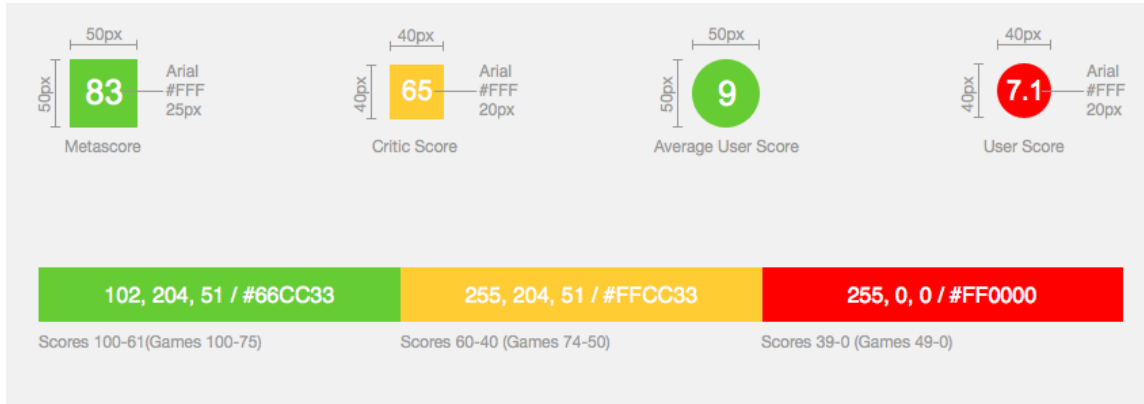
1. **Metacritic Content.** Metacritic Content is comprised of the following:

- **“Metacritic metascore™”** – The metascore™ is the weighted average of review scores assigned by individual critics to a particular item within a Content Category. It is an integral component in the expression of the metacritic™ brand. The metascore™ is displayed as a number in a square or rectangle on a solid colored background. A “good” metascore™ is coded in green, an “average” metascore™ is yellow, and a “bad” metascore™ is red. Products with metascore™ that have yet to be calculated should display “tbd” on a gray background. Please refer to www.metacritic.com/about-metascores for the score conversion scales that specify when each color is used.
- **“Critic Review Quotes”** – the name of the third party publication, critic name (when available) and review quote from up to three (3) third party publications, the publications to be determined in CBSi's sole discretion.
- **“Metadata”** – includes the following data for the respective Content Categories. Please select the Content Categories that you would like to display within Your assets by checking the applicable boxes in the table below.

	Content Categories	Metadata
X	Movies	Title, release date(s), Metascore (score +review count), user score (score + rating count), and link to associated Metacritic review page.
X	Television	Title, season number, first air date, Metascore data, user score, and link to associated Metacritic review page.
X	Games	Title, release date, genre, ESRB rating, UPC code, and link to the associated Metacritic review page.

EXHIBIT D
ATTRIBUTION REQUIREMENTS

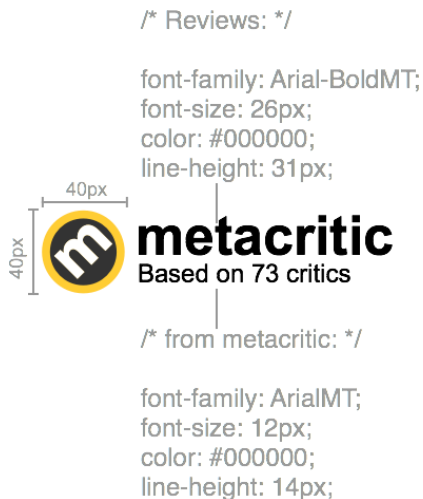
- 1. Metacritic Trademark.** When referred to in print only the “M” in Metacritic and Metascore must be capitalized, the remaining letters are in lower case (i.e. “Metacritic” and “Metascore”).
- 2. Metascore Specifications**



- 3. Displaying Metascore with wordmark.** Metascore with the Metacritic logo, wordmark and review count. Used in connection with a title (movie, game, show or album) on a 3rd party site or application.



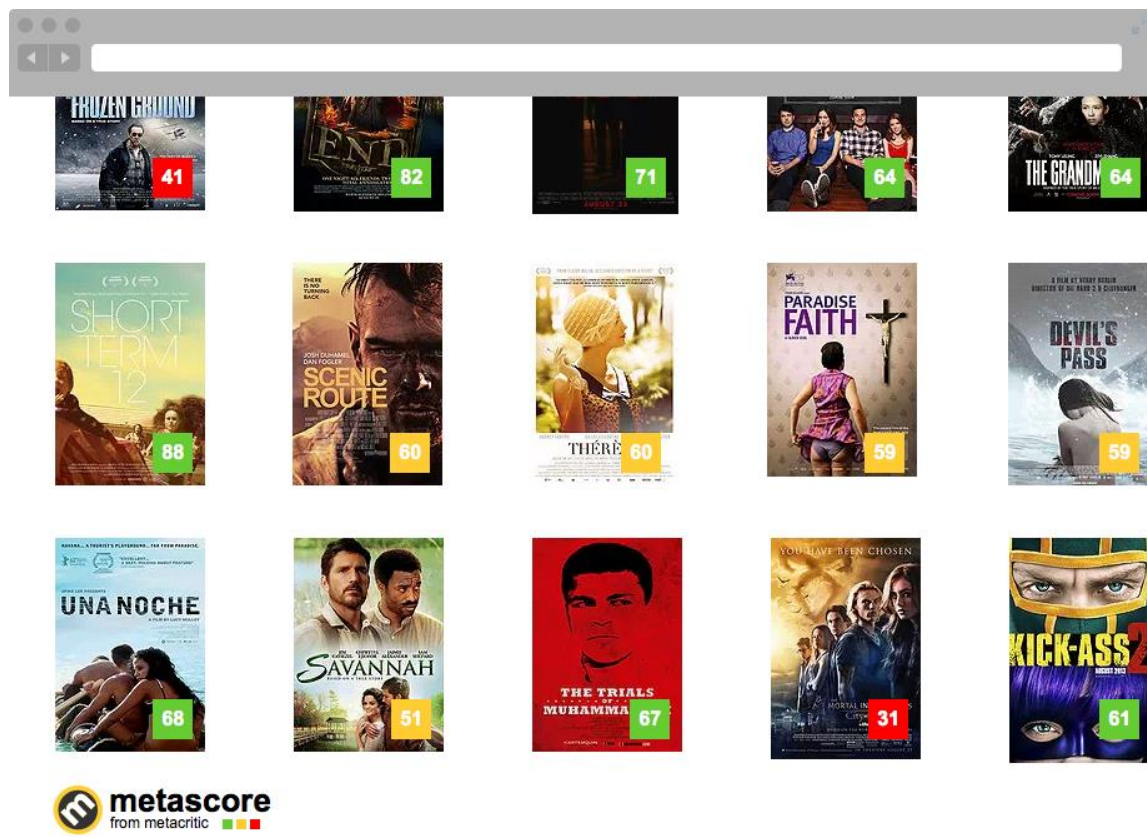
- 4. Displaying Metascore with wordmark (text only).** Metascore with the Metacritic logo, wordmark and review count. Used in connection with a title (movie, game, show or album) on a 3rd party site or application. Styling of the phrases "metascore" and "Based on N critics" may be customized to match the styling of the 3rd party site or application.



5. **Displaying Metascore without wordmark or review count.** Metascore and the Metacritic Logo without wordmark or review count. Suitable for usage in mobile apps and other contexts with limited screen space.



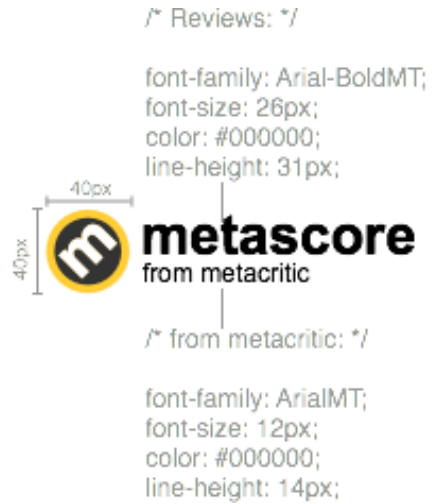
6. **Displaying multiple Metascores.** When multiple Metascores are displayed on a screen (e.g. search results page), it is not necessary to display the Metacritic Logo or wordmark next to each score. The Metascore badge (ex. 7 or 8) should be displayed on the same screen.



7. **Displaying Metascore badge.** Used in conjunction with multiple Metascores and/or critic reviews.



8. **Displaying Metascore badge (text version).** Text version of the Metascore badge used in conjunction with multiple Metascore and/or critic reviews. Styling of the phrases "metascore" and "from metacritic" may be customized to match the styling of the 3rd party site or application.



Your use of METACRITIC.COM CONTENT indicate that You have read and agree to Internet Video Archive's Terms of Service.

