

JUMP INNOVATIONS MANAGED RIGHTS CONTENT AGREEMENT

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1 DEFINITIONS

1.1 In this Agreement, unless something in the subject matter or context is inconsistent therewith:

"Employer" has the meaning ascribed to it in the definition of the term Licensee.

"Invoice" means the pre-printed invoice provided by Jump Innovations for Rights Managed Content.

"Licensee" means either: (a) the individual who is listed as the account holder of the Jump Innovations user account (the "Registered User") or (b) if the individual is entering into this Agreement for the benefit of or as the agent of his/her employer (the "Employer") and/or a third party (the "Principal"), then such Employer or Principal.

"Principal" has the meaning ascribed to it in the definition of the term Licensee.

"Registered User" has the meaning ascribed to it in the definition of the term Licensee.

"Reproduction" and "Reproduce" mean any form of reproduction, copying or publication, in whole or in part, of Rights Managed Content, in any medium, the distortion or manipulation of Rights Managed Content, in whole or in part, and the creation of any derivative works from Rights Managed Content.

"Rights Managed Content" means content (including any still image, film footage, video footage, audio product or visual representation) which is licensed by Jump Innovations under the terms of this Agreement on a use-by-use basis, with licence fees for such use calculated on the basis of various factors including size, placement, duration of use and geographic distribution of the content.

2 GRANT OF RIGHTS

2.1 Jump Innovations grants to the Licensee a non-exclusive, non-assignable, non-transferable, non-sub-licensable licence to Reproduce the Rights Managed Content set out in the Invoice, subject to the terms and conditions of this Agreement and subject to any terms and conditions set out in the Invoice.

3 OWNERSHIP OF INTELLECTUAL PROPERTY

3.1 The Licensee acknowledges and agrees that nothing in this Agreement shall transfer or convey to the Licensee any right, title or interest in or to the intellectual property rights, including the copyright, or other proprietary rights in the Rights Managed Content. All right, title and interest in and to the intellectual property in the Rights Managed Content is vested in and shall remain the property of Jump Innovations and/or the Rights Managed Content providers. The Rights Managed Content is being licensed only and is not sold to the Licensee.

3.2 No rights or licences to the Rights Managed Content, except the limited licences set out in this Agreement, are granted to the Licensee.

3.3 Unauthorised use of the Rights Managed Content constitutes infringement of copyright and other proprietary rights. Jump Innovations shall exercise all rights and remedies under applicable copyright and other laws, including seeking monetary damages, for the unauthorised use of Rights Managed Content.

3.4 Jump Innovations reserves the right to invoice the Licensee and the Licensee agrees to pay to Jump Innovations ten (10) times the licensee fee for any unauthorised use of Rights Managed Content.

4 RESTRICTIONS ON USE

4.1 Rights Managed Content may be Reproduced solely for the use, medium, time period, print run, placement, size of image, territory and any other restrictions set out in the Invoice. Rights Managed Content shall not be used in any manner other than as set out in the Invoice and this Agreement.

4.2 Pornographic, defamatory or otherwise unlawful use of Rights Managed Content is strictly prohibited.

4.3 Rights Managed Content shall not be used as a trade mark, nor shall Rights Managed Content be incorporated into any logo, trade mark or service mark.

5 CREDIT LINES AND COPYRIGHT NOTICE

5.1 For Rights Managed Content Reproduced for editorial uses, such Rights Managed Content shall include a copyright notice and credit next to the Rights Managed Content as follows: "*© Photographer's Name/Jumplimages.com*". If proper credit and copyright notice is not provided for editorial uses of Rights Managed Content, the Licensee shall pay, one hundred percent (100%) the Invoice amount to Jump Innovations.

5.2 Where technically feasible, a screen credit must be provided for film or video footage used in feature film, broadcast television or cable television production that will be equal in size and placement to like screen credits and must read: "*Film footage supplied by Jumplimages.com*".

5.3 Other than as set out herein, the Licensee shall not use the trade marks or trade names of Jump Innovations without the prior written consent of Jump Innovations.

6 PAYMENT OF FEES

6.1 All licences granted by Jump Innovations are conditional upon receipt by Jump Innovations of full payment from the Licensee of the fees set out in the Invoice, according to the terms and conditions set out therein. The licences granted hereunder shall terminate immediately should the Licensee fail to make full payment when due.

6.2 The Licensee is responsible for the payment of all sales, licensing and use taxes where applicable.

6.3 Licensee shall pay interest on overdue amounts, with interest on overdue interest, at the rate of 6% per annum or the maximum amount provided by law (whichever is less), compounded monthly, on the amount outstanding from the date when payment is due until the date payment in full is received by Jump Innovations.

7 AUDIT RIGHTS

7.1 The Licensee shall keep reliable records, accounts and books relating to its Reproduction of the Rights Managed Content.

7.2 Upon request from Jump Innovations, the Licensee shall submit an accounting or other records verifying its use of the Rights Managed Content.

- 7.3 Upon request from Jump Innovations, the Licensee shall provide to Jump Innovations one (1) copy of any use made of the Rights Managed Content.
- 7.4 In order to ensure that all Rights Managed Content is used in accordance with the terms and conditions of this Agreement, Jump Innovations may, upon reasonable notice, inspect any and all records, accounts and books relating to the Reproduction of Rights Managed Content.

8 RELEASES, CLEARANCES AND CAPTIONS

- 8.1 Unless otherwise stated on the Invoice, in information accompanying the release of Rights Managed Content or on a specific web page applicable to the Rights Managed Content, the rights licensed hereunder do not include (and Jump Innovations makes no representations and warranties that it owns or licences) any rights related to or in any person, places, property or subject matter depicted in the Rights Managed Content. Unless notification is given by Jump Innovations in writing no model or property release has been obtained.
- 8.2 Where Rights Managed Content is lacking a model or property release, the Licensee shall be solely responsible for determining whether a release is required in connection with any proposed use of such Rights Managed Content.
- 8.3 The Licensee is responsible for obtaining any and all releases from any representative, guild, union, professional organisation or other authorised representative.
- 8.4 While Jump Innovations makes efforts to correctly caption the subject matter of the Rights Managed Content, Jump Innovations does not represent and warrant that such captioning is accurate.

9 STORAGE AND BACKUP COPY

- 9.1 The Licensee shall retain the copyright symbol, the name of Jump Innovations and the image number or other identification number associated with the Rights Managed Content as may be included as part of the electronic file. The Licensee shall not make additional high-resolution copies of Rights Managed Content, other than as set out herein. The Licensee may make one (1) high resolution back up copy of the Licensed Material for disaster recovery purposes only. Upon expiration or termination of this Agreement, the Licensee shall delete any and all Rights Managed Content from its computers or other electronic storage systems.
- 9.2 The Licensee shall safeguard the Rights Managed Content from unauthorised use by third parties. If use of the Rights Managed Content is permitted on the Internet or on any other online or interactive media, the Licensee shall use its best efforts to protect the Rights Managed Content from unauthorised use and copying.
- 9.3 Upon expiry or termination of this Agreement the Licensee shall cease all use of the Rights Managed Content and promptly delete or destroy all digital copies thereof, except that the Licensee may retain one copy for archival purposes.

10 CONFIDENTIALITY

- 10.1 During the Term of this Agreement and at any time thereafter, the Licensee shall regard and preserve as confidential any and all confidential information provided to it by Jump Innovations. The Licensee agrees that it shall preserve the confidentiality of any confidential information disclosed to it and will not use the confidential information without the prior written consent of Jump Innovations. As used herein, "confidential information" means any information that is designated as confidential by Jump Innovations or that given the circumstances surrounding its disclosure should be treated as confidential.

11 REPRESENTATIONS AND WARRANTIES

- 11.1 If the Registered User is entering into this Agreement on behalf of an Employer or Principal, the Registered User represents and warrants that:

- (a) such Employer or Principal has authorised the Registered User to enter into this Agreement;
- (b) the licences granted hereunder are on the Employer's or Principal's behalf;
- (c) the Employer or Principal has agreed to be bound by the terms and conditions of this Agreement; and
- (d) the Registered User has actual and express authority to act on behalf of and bind the Employer or Principal to the terms of this Agreement.

11.2 Jump Innovations represents and warrants that:

- (a) it has all necessary rights and authority to enter into this Agreement and carry out its obligations hereunder; and
- (b) the digital copy of the Rights Managed Content provided by Jump Innovations to the Licensee will be free from defects in material and workmanship (but not visual artefacts inherent in the original content) for thirty (30) days following delivery of the Rights Managed Content.

12 DISCLAIMERS AND LIMITATIONS OF LIABILITY

12.1 Jump Innovations' sole obligation and liability, and the Licensee's sole remedy, for Jump Innovations' negligence, breach of warranty, breach of contract or for any other liability in any way connected with or arising out of this Agreement or the Rights Managed Content shall be as follows:

- (a) in all situations involving a defect in the digital copy of the Rights Managed Content the Licensee's sole remedy shall be, at Jump Innovations' discretion, the replacement of the defective Rights Managed Content or the refund of the licence fees actually paid to Jump Innovations by the Licensee for the defective Rights Managed Content; and
- (b) for any other claim in any way related to the subject matter of this Agreement the Licensee shall be entitled to recover actual, direct and provable damages, provided that Jump Innovations' liability for damages for any cause whatsoever, and regardless of the form of action, whether in contract or tort (including negligence), shall be limited to US\$3,500.

12.2 Jump Innovations makes no representations and warranties, and Jump Innovations shall not be liable for, any claims related to or arising from use of the Rights Managed Content, by the Licensee or its subcontractors, which has been modified or combined with other Rights Managed Content, products, text, content or material.

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12.4 EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, JUMP INNOVATIONS DISCLAIMS ANY FURTHER CONDITIONS, REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING THE CONDITIONS AND WARRANTIES OF MERCHANTABILITY, MERCHANTABLE QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, PERFORMANCE AND THOSE ARISING FROM STATUTE.

- 12.5 THE REPRESENTATIONS AND WARRANTIES MADE BY JUMP INNOVATIONS IN THIS AGREEMENT APPLY ONLY TO Rights Managed Content AS DELIVERED BY JUMP INNOVATIONS AND WILL BE INVALID IF THE RIGHTS MANAGED CONTENT IS USED IN ANY MANNER NOT SPECIFICALLY AUTHORISED IN THIS AGREEMENT OR IF THE LICENSEE IS OTHERWISE IN BREACH OF THIS AGREEMENT.
- 12.6 The essential purpose of these stipulated remedies is to completely allocate the risk between the parties. The prices and charges in the Invoice reflect such an allocation of risk and accordingly the foregoing disclaimers and limitations of liabilities are applicable notwithstanding any failure of essential purpose.

13 INDEMNIFICATION

- 13.1 Provided the Rights Managed Content is used as set out in this Agreement and provided the Licensee is not otherwise in breach of this Agreement, Jump Innovations shall indemnify and save harmless from and against all damages (except for punitive damages), liabilities and expenses (including reasonable attorney fees and permitted and authorised costs) awarded against the Licensee, arising out of or in connection with Jump Innovations' breach of its representation and warranties set out in Clause 11.2. Notwithstanding the foregoing, Jump Innovations shall have no obligation under this Clause 13.1 unless the Licensee provides Jump Innovations with written notice within ten (10) days of the Licensee's receipt of any claim subject to this indemnity. Jump Innovations may, at its discretion, assume the handling, settlement or defence of any claim or litigation.
- 13.2 The Licensee shall indemnify and save harmless Jump Innovations, its content providers, officers, directors, employees, licensors and licensees from and against all claims, liability, damages (including punitive damages), judgements, settlements, costs and expenses (including reasonable legal expenses and costs) arising out of or in connection to the Licensee's: (i) breach of any terms, conditions or restrictions (including the terms and conditions set out on any Invoice or on any Rights Managed Content web page); (ii) use, reproduction or modification of any Rights Managed Content, or combination of and Rights Managed Content, with any text, material or other content; (iii) failure to obtain from third parties all necessary permissions and consents for use of the Rights Managed Content (or the subject matter thereof); (iv) use or reproduction of Rights Managed Content which Jump Innovations notified the Licensee not to use or reproduce; or (v) any act or failure by the Licensee or its employees, contractors, Employer, agents, Principal or clients.

14 UNAUTHORISED USE

- 14.1 Any use of Rights Managed Content in a manner not expressly authorised by this Agreement or in breach of the terms and conditions of this Agreement constitutes an infringement of copyright and entitles Jump Innovations to exercise all rights and remedies available to it under copyright laws around the world. The Licensee shall be responsible for any damages resulting from any such copyright infringement, including third party claims.

15 TERMINATION

- 15.1 The licence set out herein will terminate automatically without notice from Jump Innovations if the Licensee is in breach of any term or condition of this Agreement. Upon termination of this Agreement the Licensee must immediately: (i) stop using the Rights Managed Content; (ii) destroy all Rights Managed Content, unless otherwise instructed by Jump Innovations; and (iii) delete or remove the Rights Managed Content from the Licensee's computer and storage systems (be they digital or analogue).

16 GENERAL

- 16.1 The rights and remedies of Jump Innovations set out in this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by Jump Innovations of any right or remedy

precludes or otherwise affects the general exercise of any other right or remedy to which Jump Innovations may be entitled.

- 16.2 The Invoice is incorporated into and is part of this Agreement. All references to this Agreement shall include the Invoice. All restrictions notified to the Licensee with regard to the Reproduction of Rights Managed Content, including any restrictions provided with the Rights Managed Content, on the Jump Innovations website or in any other communication by Jump Innovations (the "Restrictions") shall be incorporated into and made part of this Agreement.
- 16.3 This Agreement, including the Invoice and the Restrictions, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and cancels and supersedes any prior understandings and agreements between the parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set out in this Agreement, including the Invoice and the Representations.
- 16.4 The Licensee shall not assign any of its rights or obligations hereunder, in whole or in part, without the consent of Jump Innovations.
- 16.5 This Agreement and the rights and obligations hereunder will enure to the benefit of and be binding upon the respective heirs, executors, administrators, other legal representatives, successors and permitted assigns of the parties.
- 16.6 No amendment to this Agreement will be valid or binding unless set out in writing and duly executed by both of the parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same and, unless otherwise provided, will be limited to the specific breach waived.
- 16.7 The relationship between the parties is that of independent contracting parties only and not that of partnership, joint venture, agency, employment or any other association whatsoever.
- 16.8 In the event any provision or any part of a provision of this Agreement is determined to be invalid, illegal or unenforceable, such provision or part thereof, shall be considered separate and severable from this Agreement and the remaining provisions shall continue in full force and effect.
- 16.9 Clauses 3, 7, 9.3, 10, 11.1, 12, 13, 14, 16.1, 16.2 and this Clause 16.9 shall survive the expiry or termination of this Agreement and shall remain in full force and effect.
- 16.10 This Agreement is governed by the laws of Hong Kong. The parties submit to the exclusive jurisdiction of the courts of Hong Kong.