

Unlisted Images, Inc. Royalty-Free End User License Agreement

THIS IS A LEGAL AGREEMENT (“AGREEMENT”) BETWEEN YOU AND UNLISTED IMAGES, INC. (“LICENSOR”). BY ACCEPTING AND USING LICENSOR’S ROYALTY-FREE PRODUCT, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

Section 1: Definitions

“Product” or “Products” means any Licensor image, photograph, illustration, animation, clipart, footage clip, audio clip, font, or any other audio or visual content, whether obtained via download from any Licensor website or Authorized Distributor’s (as defined below) website, or delivered via any storage media, and shall include all metadata including keywords, descriptions, and captions associated therewith.

“Licensee” means you, your employer, and/or your client (if you are an agent acting on behalf of a client).

“Authorized Distributor” means any distributor that Licensor has authorized to distribute Licensor’s Product.

Section 2: Grant of Rights

Subject to Licensee’s payment of the purchase price for the Product and Licensee’s compliance with the terms of this Agreement, Licensor grants Licensee a non-transferable, non-exclusive, non-sublicensable right to use and reproduce the Product only for the Permitted Uses (“Permitted Uses”) described below. No ownership or copyright in any Product shall transfer to Licensee by the grant of the license contained in this Agreement. All rights not specifically granted by this Agreement are retained by Licensor and the copyright holder.

Section 3: Number of Users / Seat License

Licensee may store the Product on a server, image library, or network configuration to be viewed by Licensee or its clients, provided that no more than 10 designated individuals may use the Product. Before permitting additional use to more than those 10 designated individuals, Licensee must upgrade the seat license with Licensor.

Section 4: Permitted Uses

Licensee may, subject to the Restrictions on Use listed below, use, alter, crop, modify, or adapt the Product in connection with the following permitted uses.

- Print media (provided that such use is not intended to allow the re-distribution or re-use of the Product), including advertising and promotional materials, editorial publications, and consumer merchandise;
- Internet, intranet, online or web-based media, provided the resolution of the Product does not exceed 72dpi or 480x640 pixels;
- Broadcast and theatrical exhibitions;
- Derivative works incorporating the Product, provided Licensee does not use the Product in any electronic template or application, including those that are internet-based, where the purpose is to create multiple impressions of an electronic or printed product, including but not limited to: website designs, presentation templates, electronic greeting cards, business cards, or any other electronic or printed matter without obtaining a license for such purpose;
- Products intended for resale, provided these products are not intended to allow the re-distribution or re-use of the Product; and
- Additional uses approved in writing by Licensor.
- Licensor requests that the following credit appears adjacent to the Product: “Unlisted Images, Inc.”.

Section 5: Restrictions on Use

Licensee may not use nor permit the use the licensed Product beyond the terms of this Agreement without first obtaining an additional license, including any electronic reproduction or promotional rights.

Except as provided herein, Licensee may not:

- Sublicense, sell, distribute, assign, convey, or transfer the Product or any of its rights under this Agreement;
- Sell, license, or distribute its final product in such a way that allows others to extract or access the Product as a stand-alone file;
- Incorporate the Product into a logo, trademark, or service mark;
- Distribute, post, or upload the Product online in a downloadable format or enable it to be distributed via mobile telephone devices;
- Use any Product in a pornographic, defamatory, obscene, offensive, libelous, or otherwise illegal manner, whether directly or in context or juxtaposition with specific subject matter and/or other materials;
- Use any Product in any way that infringes on any copyright, trade name, trademark, or service mark;
- Use Product as part of any use involving sensitive subjects, including, without limitation, topics that may depict the subject matter of a Product in a negative or unfavorable light, that subject persons to ridicule, that imply illegal activities, and topics regarding all sexual issues, feminine hygiene, incontinence, impotence, sexually transmitted diseases, teen pregnancy, abortion and adoption, welfare or economic aid, dating agencies, substance abuse, physical or mental abuse, alcohol, drugs, tobacco, homosexual or alternative lifestyles, political or religious affiliation, medical conditions or procedures, other health and mental health issues, or the disparagement of a person or product;
- Use any Product to promote a business that sells or licenses photographic products, or otherwise competes with Licensor in any manner; or
- Ship, transfer, or export any Product into any country where such Product is prohibited, or use any Product in any manner prohibited by any export laws, restrictions, or regulations.

Section 6: Editorial Credit

If any Product is used in an editorial manner, the credit line, "[BRAND NAME]/UNLISTED IMAGES, INC.", must appear adjacent to the Product or as otherwise indicated by Licensor. Product used for advertising purposes does not require credit, although it is appreciated.

Section 7: Releases and Captions

Licensor grants no rights and makes no warranties with regard to the use of names, people, trademarks, trade dress, logo types, registered, unregistered, or copyrighted designs or works of art or architecture depicted in any Product, and Licensee must satisfy itself that all the necessary rights, consents, or permissions regarding any of the above, as may be required for reproduction, have been obtained. Licensee acknowledges that some jurisdictions provide legal protection against a person's image, likeness, or property being used for commercial purposes without their consent. Licensor does not warrant the accuracy of caption and keyword information.

Section 8: Termination and Revocation

Licensor reserves the right to automatically terminate this Agreement or revoke the license contained in this Agreement and Invoice without notice if Licensee fails to comply with any provision of this Agreement. Upon termination, Licensee must immediately stop using the Product, delete the Product and all copies from all computer systems and storage, and destroy all other copies.

Licensor reserves the right to discontinue Licensee's use of any Product for any reason and elect to replace such Product with an alternative Product, and this Agreement shall automatically apply to such alternative Product. Upon notice to discontinue the use of any Product, Licensee agrees not to use the Product in the future.

Section 9: Electronic Storage

For all Product that Licensee takes delivery of in electronic form, Licensee must retain Licensor's name and the image number or other identification number associated with the Product as may be included as part of the electronic file. Licensee will take all reasonable measures to safeguard against unauthorized third-party access to the Product. Licensee may make one (1) high-resolution backup copy of the Product

for internal back-up purposes. Limited, temporary transfers of the Product are permitted to third parties integral to the creation of the final product, provided such third parties agree to abide by the terms of this Agreement. Upon the expiration or earlier termination of this Agreement, Licensee shall promptly delete the Product from its computer systems and storage.

Section 10: Cancellation Policy

Any claims for adjustment or rejection of terms must be made to Licensor within five (5) business days after receipt of Invoice. If Licensee submits a written request to cancel this Agreement within thirty (30) days after receipt of the Product, and such Product has not been used by Licensee, Licensor may grant a full refund of the licensee fee, less Licensor's current transaction fee and any incidental fees or charges. Incidental fees or charges may include but are not limited to shipping, handling, research fees, and administrative fees, which are non-refundable.

Section 11: Warranty and Disclaimers

Licensor represents that it has the right to grant the license herein and warrants the Product to be free from defects in material and workmanship under normal use for 30 days from the date of license. Licensor's entire liability and Licensee's sole and exclusive remedy for a breach of the foregoing warranty and with respect to any claims arising out of this Agreement is the refund of the purchase price or replacement of the Product, at Licensor's option.

Licensee represents and warrants that it has the right and authority to enter into this Agreement, and that it will not use the Product in any way that is not permitted by this Agreement. Licensee agrees that Licensor makes no warranties with regard to the use of names, people, trademarks, trade dress, logo types, registered, unregistered, or copyrighted designs or works of art or architecture depicted in any Product, and Licensee must satisfy itself that all the necessary rights, consents, or permissions regarding any of the above, as may be required for reproduction, have been obtained.

LICENSOR MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE LICENSED MATERIAL OR ITS DELIVERY SYSTEMS, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. LICENSOR SHALL NOT BE LIABLE TO LICENSEE OR ANY OTHER PERSON OR ENTITY FOR ANY GENERAL, PUNITIVE, SPECIAL, EXEMPLARY, DIRECT, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES; LOST PROFITS OR LOSS OF PROSPECTIVE COMPENSATION, GOODWILL OR LOSS THEREOF; OR ANY OTHER DAMAGES, COSTS OR LOSSES ARISING OUT OF LICENSEE'S USE OF THE PRODUCT, OR OTHERWISE, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, COSTS, OR LOSSES.

LICENSOR'S MAXIMUM LIABILITY ARISING OUT OF OR IN CONNECTION WITH LICENSEE'S USE OF OR INABILITY TO USE THE PRODUCT (WHETHER IN CONTRACT, TORT, OR OTHERWISE) SHALL, TO THE EXTENT PERMITTED BY LAW, BE LIMITED TO THE VALUE PAID BY THE LICENSEE FOR THE PRODUCT. ALL CLAIMS MUST BE BROUGHT WITHIN TWELVE (12) MONTHS OF THE DATE THAT LICENSEE DISCOVERED THE CLAIM, OR SHALL BE WAIVED.

THE REPRESENTATIONS AND WARRANTIES MADE BY LICENSOR IN THIS AGREEMENT APPLY ONLY TO THE PRODUCT AS DELIVERED BY LICENSOR AND WILL BE INVALID IF THE PRODUCT IS USED BY LICENSEE IN ANY MANNER NOT SPECIFICALLY AUTHORIZED IN THIS AGREEMENT OR IF LICENSEE IS OTHERWISE IN BREACH OF THIS AGREEMENT.

YOU MAY HAVE ADDITIONAL RIGHTS UNDER SOME STATE LAWS.

Section 12: Indemnity

Licensee agrees to defend, indemnify, and hold Licensor and its parent, subsidiaries, affiliates, and image providers and their respective officers, directors, and employees harmless from all claims, damages, liabilities, cost, and expenses (including reasonable attorneys' fees and costs), arising out of or as a result of

(i) Licensee's failure to abide by any restriction regarding the use of a Product; (ii) claims by third parties relating to Licensee's use of any Product outside the scope of this Agreement; or (iii) any other breach by Licensee of this Agreement.

Section 13: Miscellaneous

Jurisdiction and Attorneys' Fees. This Agreement will be governed and construed in all respects by the laws of the State of Florida, U.S.A., without reference to its laws relating to conflicts of law. Any dispute, controversy, or claim between the parties arising out of or related to this Agreement shall be settled before the Circuit Court of Collier County, Florida, U.S.A., which shall be the only proper venue for any dispute, controversy, or claim arising hereunder, and each party hereby consents to the exclusive jurisdiction to such court to hear all disputes, controversies, and claims, and consent to service of process by registered mail or overnight courier with proof of delivery. To the extent that it would otherwise apply, the United Nations Convention on Contracts for the International Sale of Goods does not govern this Agreement. If Licensor is obligated to go to court to enforce any of its rights, Licensee agrees to reimburse Licensor for its legal fees and disbursements if Licensor is successful. The parties agree that this Agreement has been and shall be written in the English language.

Assignment. Licensor may assign or transfer this Agreement. Licensee may not assign or transfer to anyone else the rights granted to Licensee in this Agreement without the prior written consent of Licensor.

Severability. If one or more of the provisions contained in the Agreement is found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not be affected. Such provisions shall be reformed only to the extent to make it enforceable.

Waiver. No action of Licensor, other than express written waiver, may be construed as a waiver of any provision of this Agreement. A delay on the part of Licensor in the exercise of its rights or remedies will not operate as a waiver of such rights or remedies. A waiver of a right or remedy on any one occasion will not be construed as a bar to or waiver of those rights or remedies on any other occasion.

Entire Agreement. You acknowledge that you have read this Agreement, understand it, and agree to be bound by its terms and conditions. This Agreement contains all the terms of the agreement between Licensor and Licensee concerning the use of the Product and no term or conditions may be added or deleted unless made in writing and signed by Licensor. In the event of any inconsistency between the terms contained herein and the terms contained on any purchase order or other writing sent by Licensee, the terms of this Agreement shall govern.

Revision date: January 30, 2007