

EastPro Limited - Contributor's Membership Agreement Terms and Conditions

Last Revised : June 1st, 2018

These terms and conditions (these “**Terms and Conditions**”) govern the terms and conditions by which photographers, videographers or other artists (“**Contributors**”) provide stock photographs, illustrations, pictures, images, audio, video clips, moving images, contents, texts, logos, graphics, literature, information, data and other materials and contents (collectively “**Contents**” and “**Content**” shall be construed accordingly) to third parties, customers and users (collectively “**Users**”) through the website www.eastprophoto.com (“**Website**”) and constitute a legally binding agreement (“**Agreement**”) between you as a Contributor and EastPro Limited (“**EastPro**”).

This Agreement remains in full force and effect until terminated in accordance with these Terms and Conditions.

By joining Contributor's membership programme (“**Membership Programme**”) or uploading any of the Contents onto the Website, you accept and agree to be bound by, and to comply with, these Terms and Conditions.

If you are not at least 18 years of age and, in any event, of a legal age to form a binding contract with EastPro, please do not join the Membership Programme or upload any Content onto the Website. By joining the Membership Programme or uploading any Content, you represent and warrant that you are over 18 years of age and are lawfully able to accept and be bound by these Terms and Conditions.

EastPro may also revise these Terms and Conditions from time to time by updating this posting. You agree that all notices posted on the Website constitute valid notices to you under any legal requirements. You are encouraged to visit this area each time you wish to upload any Content onto the Website to keep up to date with the current Terms and Conditions. Your continued uploading of Contents after any such change or revision reaffirms your continuing agreement to the then-current Terms and Conditions posted on the Website. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS OR AT ANY TIME YOU NO LONGER ACCEPT THESE TERMS AND CONDITIONS, PLEASE DO NOT JOIN THE MEMBERSHIP PROGRAMME OR UPLOAD ANY CONTENT OR FOLLOW THE TERMINATION PROCEDURES AS SET OUT IN THESE TERMS AND CONDITIONS. We encourage you to print a copy of these Terms and Conditions for your records.

1. Membership Programme

As a Contributor, you need to join the Membership Programme before you can submit and upload any Contents to EastPro for posting on the Website. Membership is free of charge subject to the opening of an account with EastPro and approval by EastPro in its sole discretion.

Once you have become a Member, you may choose to upload your Content for display only or for licensing.

VIP Program - Members may join EastPro's VIP program by paying HK\$1500.00 in advance, effective for one calendar year from the date of joining. EastPro VIP is entitled to the following additional benefits:

- i. Additional 10% sharing of the net licence fee or purchase price of the Contents;
- ii. HK\$50 free drink / food from the menu per day of visit at the EastPro's VIP lounge.
- iii. An EastPro VIP card and a welcome gift bag; and
- iv. Access to EastPro's VIP lounge for free networking with other Members.

2. Submissions of Contents

Depending on the type of Contents to be submitted and uploaded onto the Website, EastPro has different requirements for different categories of Contents as follows.

- a) Still photography, including 3D renders – please refer to the Licensed Stock Photo Guidelines;

- b) Illustrations, including all vector files and raster files, scans of works of art and digital scans - upcoming;
- c) Video files, animations - upcoming.

In submitting the Contents, you shall:

- i. specify whether the Contents are for browsing only, standard licensing ("**Standard Licensed Contents**") or extended licensing ("**Extended Licensed Contents**");
- ii. provide to EastPro information and documents (such as model or property releases) or software relating to the different types of Contents, as the case may be;
- iii. provide to EastPro any other information or documents as required by EastPro to enable it to fully realize the commercial potential of the rights granted by you to EastPro in the Contents;
- iv. comply with these Terms and Conditions and any other rules, policies and terms as specified by EastPro from time to time and posted on the Website, which are incorporated by reference into this Agreement. Any breach of any of those rules, policies and terms shall be deemed to be a breach of this Agreement.

All Standard Licensed Contents and Extended Licensed Contents shall be collectively referred to as "**Licensed Contents**".

3. Grant of Rights

- a) You hereby appoint EastPro as your non-exclusive agent to license, sublicense, distribute and sell your Contents to Users worldwide and to collect and remit funds in connection with those activities in accordance with these Terms and Conditions.
- b) Upon accepting these Terms and Conditions, you may make your Contents available to EastPro by following the "upload" procedures specified by EastPro from time to time. Each upload of Content will be governed by these Terms and Conditions.
- c) For all Contents, you hereby grant to EastPro and its agent:
 - i. the worldwide, royalty-free, right to market and sublicense the right to copy, use, reproduce, distribute, redistribute, sublicense, publish, republish, upload, post, transmit, broadcast, crop, modify, alter, create derivative works of, package, repackage, produce and sell prints or similar image products, or publicly perform or display your Contents on the Website to prospective users, licensees and purchasers in any and all media now in existence or that may in the future be introduced through the Website, other venues owned or operated by EastPro or its affiliates from time to time, and other third party channels;
 - ii. the right to grant perpetual, worldwide, licenses or sublicenses to Users subject to the Terms and Conditions of Licence and Use of Contents ("**Licence Terms**"). All Licensed Contents shall be subject to the Licence Terms;
 - iii. the right to post, reproduce, modify, display, make derivative works or otherwise use any Content for their own business purposes relating to the advertising and promotion of the Contents and Website, including but not limited to the use of the Content and your registered and unregistered trademarks for marketing, sales and promotional efforts whether on the Website or through third parties, provided that no compensation shall be payable to you for such use of the Contents;
 - iv. The right to use and publish your name, likeness, voice, images and other biographical data of you in connection with the above purposes.

4. Intellectual Property

By submitting and uploading Contents to the Website, you are representing and warranting to EastPro and its agents that:

- a) you are the sole and original creator of the Contents and you own all proprietary and intellectual property rights, including copyright, in the Contents;
- b) or alternatively you are the authorized representative of the applicable owner(s) of such Contents, including the intellectual property rights and copyright in and to the Contents with full legal power to grant the rights to EastPro as contemplated in this Agreement;
- c) if and to the extent you are submitting Contents to EastPro as an authorized representative of the applicable copyright owner(s) of such Contents, you acknowledge and agree that you will ensure that such copyright owner(s) comply with these Terms and Conditions as applicable and to the extent Royalties are paid to you in such capacity, you will be solely responsible for compensating the copyright owner(s) as applicable;
- d) the Contents are not copies or substantial copies of any third party work;
- e) the Contents do not infringe any intellectual property rights, including patent, trademark, copyright, trade secret, right to privacy, right to publicity, or any other applicable law or proprietary right ("**Intellectual Property Rights**") of any third party;
- f) unless the Content is for browsing only in the manner and form prescribed by EastPro under the Licence Terms, to the extent that the Content contains images of people or persons, you represent and warrant that you have obtained a valid and binding:
 - i. model release from all required parties that are referenced, pictured or otherwise embodied in the Contents, in substantially the same form as the one specified by EastPro that will permit the uses as specified in the Licence Terms. You will retain the original release and provide a copy to EastPro for records;
 - ii. property release from owners or designers in substantially the same form as the one specified by EastPro that will permit the uses, including commercial use, of Contents by EastPro and its agents and Users. You will retain the original release and provide a copy to EastPro for records. If your Content was taken by a drone or other unmanned device, you represent and warrant that you have adhered with all local laws and access requirements in the operation of the drone and capture of the Content, including any necessary licenses, permissions and permits to own and operate such unmanned device;
 - iii. a trademark, logo or artwork release from owners in substantially the same form as the one specified by EastPro that will permit the uses, including commercial use, of Contents by EastPro and its agents and Users
- g) where the Content is for browsing only, you represent and warrant that the Content has not been manipulated, modified or processed in any manner that might distort the contextual integrity of the Content, provided that cropping and brightness/contrast corrections are permissible where the integrity of the Content has not been distorted.

The Parties agree that all Intellectual Property Rights in and to the Content will be retained by you, and no title or ownership right is transferred or granted in any way to EastPro or any third party subject to the Licence Terms.

You agree that neither EastPro nor any of its directors, officers, employees, partners, affiliates or agents shall be liable for any damages, whether direct, indirect, consequential or incidental, arising out of the use of, or the inability to use any Content, or any error, omission or other matter relating to a model or property release in relation to any Content.

EastPro shall use commercially reasonable efforts to credit you as the source of the Content, using your name as stated in your membership account profile, but EastPro shall not be liable for any omission to give credit.

You hereby agree and acknowledge that:

- i. It is common business practice for commercial uses of Contents that the creator of the Contents is not credited, and that Contents may be modified, used in connection with sensitive topics and may be used or modified in ways that may be controversial or unflattering. You therefore waive your moral rights in relation to objecting to any modification of your Contents or requiring to be acknowledged in the Contents. To the extent that such waivers are not permitted under applicable laws, you agree not to assert your moral rights against EastPro, its affiliates, directors, officers, employees, agents, licensees and distribution partners.
- ii. The Website contains interactive areas allowing Users to comment. You therefore authorize EastPro to make use of your Contents for such purposes.

5. Compensation to Contributors

As a Contributor of Contents, you can set your own pricing for your Contents to be licensed and the amounts to be charged may differ depending on whether it is Standard Licensed Content or Extended Licensed Content, provided that EastPro is entitled to offer any discounts to the pricing of the Licensed Contents or offer any promotional package of the Licensed Contents to Users without prior notice to Contributors ("**Promotions**").

Effective from 1 January 2018 and until further notice from EastPro, EastPro will pay Contributor as royalty 50% of the Net Price (as defined below) of each individual item of the Standard Licensed Contents paid by Users and received by EastPro as licence fee ("**Standard Royalty**").

For licensing of Extended Licensed Contents, the royalty rate will be the same as the royalty rate of the Standard Licensed Contents, that is 50% of the Net Price to the Contributor, if the listed license fee for Licensed Contents is HK\$30,000 or under. If the listed license fee for Licensed Contents is from HK\$30,001 to HK\$60,000, then 60% of the Net Price will be paid to the Contributor. If the listed license fee for Licensed Contents is HK\$60,001 and above, 70% of the Net Price will be paid to the Contributor ("**Extended Royalty**"). Both Standard Royalty and Extended Royalty will be collectively referred to as "**Royalty**".

EastPro shall be responsible for paying expenses for marketing, administration, AsiaPay, PayPal, AliPay or credit cards commission. You shall be responsible for paying all bank and remittance charges for remittance of Royalty to you and any exchange rate fluctuation if any payment made by Users is not in Hong Kong dollars ("**Contributor's Expenses**").

EastPro reserves the right to amend the Standard Royalty upon one month's advance notice posted on the Website, but no individual notification will be given to Contributors. Should you disagree with the new Standard Royalty rate, you may delete the files of all the Contents from the Website upon written notice to EastPro or otherwise terminate this Agreement according to these Terms and Conditions. Continued submission or uploading of Contents or failure to terminate this Agreement will be deemed acceptance by you of all changes to the Standard Royalty, which will be incorporated by reference into this Agreement.

a) Calculation of Royalties

Standard Royalty is calculated based on the Net Price charged to Users of Standard Licensed Contents.

Net Price is the listed license fee for Licensed Contents after deductions of the following items:

- I. All Contributor's Expenses and Promotions offered for each file of the Licensed Contents. Promotions could be 5-25% of the listed license fee for the Licensed Contents;
- II. Any applicable tax (including VAT if any), duty, levy or impost of any nature required to be withheld, deducted or paid by EastPro from any current or future sums due to you by any law, regulation, or treaty (excluding any profit tax payable by EastPro or any income tax payable by Contributors);

- III. Any unauthorized use detection/enforcement fees and expenses;
- IV. Any shipping charges, insurance charges, fees for materials, and service fees such as, for example, special formatting requests, printing/framing costs and technology delivery/access services, distribution or fulfillment fees, and advertising sales commissions, in all cases arising out of or resulting from any license of the Contents;
- V. All cancellations of a license where the original licence has been reported to you including where the cancellation is due to a fraudulent transaction;
- VI. All overpayments of Royalty in a prior period; and
- VII. Any amounts that may be deducted or withheld from you or set off by EastPro against any amount owing to you in accordance with these Terms and Conditions or otherwise at law, including withholding amounts as security for any pending or threatened claim relating to any matter which is the subject of your representation, warranty or indemnity under this Agreement.

Net Price varies depending on how many items were purchased at bulk (in accordance with bulk purchase discounts) and when they were purchased (as there may be other promotions).

The Contributor may receive a written notification when a file is licensed.

b) Payment

EastPro shall pay you the Royalty for each calendar month in which the license was made at the end of the following calendar month ("**Payment Date**"), that is, at least 30 days after EastPro received full and valid payment of the Licensed Contents, subject to the following conditions:

- i. Payment is made only after the amount of Royalty payable to you has accumulated to HK\$500 or above and the Contributor has requested the release of payment through the Website. (The threshold of accumulation amount may be changed by EastPro from time to time without prior notice to Contributors);
- ii. For Contributors residing in Hong Kong SAR, EastPro will send a cheque to them on Payment Date when Royalty amount is over HK\$500; or upon receipt of prior written notification from Contributors, the cheque may be collected by Contributors in person from EastPro's office at 9A, Hyde Centre, 223 Gloucester Road, Wanchai, Hong Kong;
- iii. For Contributors residing outside of Hong Kong SAR, EastPro will arrange payment to such Contributors by AsiaPay or PayPal on Payment Date when Royalty amount is over HK\$500 and the Contributor has requested the release of payment through the Website;
- iv. Where Royalty in a calendar year has not accumulated to HK\$500, such Royalty shall be automatically transferred to 1st January of the following calendar year without interest.

The parties further agree that EastPro shall not be required to pay Royalty to you if it is restrained or otherwise prevented from using the rights granted by you under this Agreement relating to the Contents whether or not because those rights are found to be an infringement or contravention of any Intellectual Property Rights of any third party.

6. Contributor Account

You acknowledge and agree that you will be responsible for each and every access or use of your account or any tool or application that occurs in conjunction with your account and your passwords, and that EastPro is authorized to accept your login and password as conclusive evidence that you wish to upload Contents pursuant to these Terms and Conditions. EastPro shall have no liability or responsibility to monitor the submission or uploading of Contents under your login and password.

7. Managing Content

Although Contributors are obliged to comply with policies and processes prior to posting Contents onto the Website or otherwise offering them for license, EastPro does not and cannot review all Contents uploaded onto the Website and has no complete knowledge and is not responsible for the content, quality, Intellectual Property Rights (including copyright) or consequences of your uploading such Contents.

Notwithstanding the foregoing, EastPro has the sole right and discretion not to accept any Content submitted by you at any time if EastPro determines that it is not suitable for posting onto the Website or other means of direct or indirect distribution and reserves the right to delete, move, refuse to accept or edit any communication or Content that it may determine, in its sole discretion, violates or may violate any of these Terms and Conditions, the Intellectual Property Rights of any third party, any of its policies or processes or is otherwise unacceptable in its sole discretion, and you hereby agree to forfeit any Royalty payable in respect of such Content to EastPro or as it may direct.

EastPro has the right but not the obligation to correct any errors or omissions in any Content as it may determine in its sole discretion. You acknowledge that any screening of Content is only done on a courtesy basis.

8. Confidential Information

You acknowledge that the Confidential Information (defined below) that you obtain through entering into this Agreement with EastPro and the submission of Contents constitutes valuable, confidential, proprietary information of EastPro, its licensors, members, Users and other contributors, and agrees that during the term of this Agreement and thereafter you shall not, without the express written consent of EastPro, use or disclose to any other person any such Confidential Information, except as specifically authorized under this Agreement.

For the purposes of this Agreement, "**Confidential Information**" means any and all data, information, documents, software or materials relating to the business and management of EastPro, its licensors, members, affiliates, Users, that is designated as confidential or ought reasonably to be considered confidential, including but not limited to business models and operations, processes, products, designs, artworks, pricing, Promotions, business plans, business opportunities, Contents, documentation, finances, research, development, know-how, trade-secrets, training materials, personnel, identities or personal information of any kind pertaining to licensors, members, Users, contributors, the Website or other contents or information belonging to others and any Intellectual Property.

Confidential Information does not include any information that is made available in the public domain not through the fault of any Contributor.

9. Representations and Warranties

In addition to the representations and warranties as set out in Clause 4, you hereby further represent and warrant as follows:

- a) You have the legal capacity and authority to enter into this Agreement and comply with these Terms and Conditions;
- b) You will comply with all applicable laws, including those affecting the Contents;
- c) You have not granted any rights or licenses to any Content or any other Intellectual Property Rights to any third party that would conflict with this Agreement or affect the rights granted to EastPro under these Terms and Conditions;
- d) No portion of the Content submitted from time to time contains any disabling mechanism or protection feature designed to prevent its use, copying or enjoyment in the manner contemplated in this

Agreement, and all Contents will be free of any virus, worm, lock, or other mechanism or device that may be used to modify, delete, damage or disable the Website or the Content or any other hardware or computer system, or which would otherwise render inaccessible or impair the use of the Content or the Website in any way;

- e) The Content will include all necessary descriptions and information necessary to enable its effective marketing on the Website, which descriptions and information will be complete and accurate in all material respects, and will not include any false, misleading or inapplicable metadata intended to or which has the effect of keyword “doping” or improperly altering search results that would otherwise be applicable to such Content;
- f) The Content has not been obtained in any unlawful manner, whether civil or criminal, and is not subject to any applicable accreditation terms or access condition that might be breached by the Content being used by EastPro, its Users or other agents or business partners as contemplated under this Agreement; and
- g) You will not collude with another Contributor, Member or User to contravene any provision of these Terms and Conditions.

10. Indemnity

You shall indemnify, defend and hold EastPro and its affiliates, and their respective directors, officers, employees, shareholders, agents and Users of Contents (collectively “**Indemnified Parties**”) harmless from and against any and all claims, liabilities, damages, awards, losses, costs and expenses (including reasonable legal fees) incurred by any Indemnified Party as a result of or in connection with:

- a) any use or alleged use of the Website or upload application or process or submission of Contents under your account by any person, whether or not authorized by you;
- b) any communication made or Contents uploaded under your account;
- c) any breach by you of any of these Terms and Conditions; or
- d) any claim threatened or asserted against any Indemnified Party to the extent such claim is based upon a contention that any of the Contents used within the scope of this Agreement infringes any Intellectual Property Rights of any third party.

EastPro has the right, at your expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with EastPro in the defense of any such claim or threat.

EastPro shall have the right to determine whether and to what extent to proceed against a User or a third party for any violation of the Licence Terms or other alleged infringement of any of your Intellectual Property Rights (“**Infringer**”).

You hereby release the Indemnified Parties from any and all claims that you might have against any of the Indemnified Parties, either directly or indirectly, arising out of or in connection with a determination by EastPro whether to proceed or not to proceed against any Infringer in any instance.

EastPro agrees that any monetary recovery it receives as a result of any legal or enforcement action taken against any such Infringer, to the extent such monies are intended to compensate EastPro for lost licensing fees or statutory damages, shall, after deduction of all costs and expenses incurred in gaining such recovery (including, without limitation, legal costs, counsel and experts' fees and disbursements) incurred by or on behalf of EastPro in connection with such action, be divided between you and EastPro in equal shares.

In the event EastPro elects not to proceed against an Infringer, you shall have the right to proceed against such Infringer for such license violation or infringing action. You hereby agree that any monetary recovery you receive as a result of any legal action taken against any such Infringer, to the extent such monies are intended to compensate you for lost licensing fees or statutory damages, shall, after deduction of all costs and expenses incurred in gaining such recovery (including, without limitation, legal costs, counsel and experts' fees and disbursements), be divided between you and EastPro in equal shares.

11. Term and Termination

- a) This Agreement is effective until terminated. You may terminate this Agreement with respect to the whole (but not part of) one or more of the Contents at any time by giving thirty (30) days prior written notice to EastPro at info@eastprophoto.com, specifying the category or categories of Content to which termination applies. EastPro is entitled to request such information to enable it to confirm your identity and your intention to terminate. You may also close your account completely by accessing the relevant feature in "My Account" on the Website and stop using this Website.
- b) EastPro may also terminate this Agreement:
 - i. with respect to one or more of the Contents for any reason by giving you thirty (30) days prior written notice by e-mail to the last address contained in your account profile;
 - ii. and may off-set any fees or credits contained in such account against its costs of administration if there has been, in EastPro's reasonable opinion, any material misrepresentation made by you as to the capacity, identity or copyright ownership of Content or you have not logged-in or conduct any activity under your account for more than twelve (12) months despite reasonable commercial efforts made to contact you based on the information provided in your account profile.
- c) Either party may terminate this Agreement immediately upon written notice sent to the other party's email address set forth in (a) and (b) above if the other party:
 - i. liquidates all or substantially all of its assets, dissolves as a corporation other than through inadvertence, or otherwise ceases to do business in any material way;
 - ii. makes an assignment for the benefit of creditors;
 - iii. files a petition in bankruptcy, petitions or applies for a receiver or trustee for all or any substantial part of its property and such receiver or trustee is appointed, or commences, or has commenced against it, a proceeding under any bankruptcy, reorganization, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, any of which shall remain in force for a period of thirty (30) days or more;
 - iv. is adjudicated insolvent or bankrupt; or
 - v. is in breach of any of these Terms and Conditions.

12. Effect of Termination

Any termination of this Agreement shall automatically terminate your membership under the Membership Programme and all your rights under this Agreement shall forthwith cease.

Upon termination with respect to one or more files of the Contents only, the grant of rights given to EastPro shall cease with respect to the said files of Contents subject to the following conditions:

- a) EastPro shall remove the relevant file of Content from the Website and other channels of distribution within ninety (90) days of such termination;
- b) Notwithstanding termination, EastPro and its distribution partners shall have the right to continue

licensing the Licensed Contents until they are removed from the Website or other channels where such Contents are distributed and for up to one (1) year following termination, provided that EastPro shall continue to pay you Royalty in accordance with these Terms and Conditions subject to any rights of EastPro to set-off under this Agreement or at law;

- c) Upon termination, EastPro will be entitled to retain all amounts owing to you for a period of thirty (30) days to determine any applicable rights of set-off, and shall be entitled to deduct from such amounts, a reasonable administrative fee for establishing, managing and terminating your account;
- d) Notwithstanding any other provision in this Agreement, the termination of this Agreement with respect to one category of Contents shall not alter or reduce your obligations under these Terms and Conditions with respect to any remaining categories of Contents, and in any event, shall not alter or affect the rights granted to Users by EastPro under these Terms and Conditions. For the avoidance of doubt, termination of this Agreement shall not affect Users to continuously use the Licensed Contents licensed before the date of termination in accordance with the Licence Terms.
- e) Termination of this Agreement shall not affect any rights and obligations that have accrued before the effective date of termination. Clauses 4, 8, 9, 10, 12, 13, 14 and 15 and any other provision which by its nature shall survive termination shall all remain effective and survive termination of this Agreement.

13. Disclaimers and Limitations of Liabilities

- a) You understand and acknowledge that the Contents submitted by you may be licensed by Users with the intention that they will adhere to the Licence Terms. Notwithstanding the foregoing, EastPro does not warrant and cannot take responsibility for the compliance of the Licence Terms by Users and EastPro shall have no liability to you or any person claiming through you for any breach by any Licence Terms or any other agreement in relation to the Contents. Upon your request, EastPro will use commercially reasonable efforts to assist in the protection of your Intellectual Property Rights, at your costs and expense.
- b) THE WEBSITE, INCLUDING ANY CONTENTS CONTAINED THEREIN, OR CONTENTS FOR DOWNLOADING THROUGH THE WEBSITE, ARE PROVIDED BY EASTPRO "AS IS" AND "AS AVAILABLE", WITHOUT REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. EASTPRO DOES NOT REPRESENT OR WARRANT THAT THE WEBSITE OR THE CONTENTS WILL BE MADE AVAILABLE FOR SALE OR LICENSE OR THAT THEIR USE WILL BE UNINTERRUPTED, FREE OF VIRUSES OR SIMILAR CONTAMINATION OR DESTRUCTIVE FEATURES OR ERROR FREE.
- c) YOU ASSUME ALL RESPONSIBILITY AND RISK FOR USE OF THE WEBSITE INCLUDING WITHOUT LIMITATION ANY OF THE CONTENTS OR INFORMATION CONTAINED THEREIN.
- d) IN NO EVENT SHALL EASTPRO OR ANY OF ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS, AGENTS OR LICENSEES BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF PROFITS, INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) IN CONNECTION WITH ANY CLAIM, LOSS, DAMAGE, LIABILITY, ACTION, SUIT OR OTHER PROCEEDING ARISING OUT OF OR IN RELATION TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE USE OF, RELIANCE UPON, ACCESS TO, OR EXPLOITATION OF THE WEBSITE, THE CONTENTS OR ANY PART THEREOF, OR ANY RIGHTS GRANTED TO YOU HEREUNDER, EVEN IF ISTOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER THE ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE.
- e) IN ANY EVENT AND NOTWITHSTANDING ANYTHING TO THE CONTRARY PROVIDED, EASTPRO'S TOTAL MAXIMUM AGGREGATE LIABILITY UNDER THIS AGREEMENT OR IN RESPECT OF THE USE OR EXPLOITATION OF ANY OR ALL PART OF THE CONTENTS IN ANY MANNER WHATSOEVER SHALL BE LIMITED TO THE FEES COLLECTED BY EASTPRO FOR SUCH CONTENT THAT IS THE SUBJECT MATTER OF

THE CLAIM, BUT IN ANY EVENT WILL NOT EXCEED HONG KONG DOLLARS TEN THOUSANDS (HK\$10,000.00).

- f) SOME JURISDICTIONS DO NOT ALLOW FOR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN SUCH JURISDICTIONS, THE LIABILITY OF EASTPRO OR ANY OF ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS, AGENTS OR LICENSEES SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

14. Miscellaneous

- a) Your access, downloading or use of the Contents constitutes your full and unconditional agreement to all provisions of these Terms and Conditions. From time to time, EastPro may modify any provision of these Terms and Conditions or impose additional terms. Such modifications or the additional terms shall automatically become effective and be incorporated by reference into this Agreement on the date specified at the beginning of these Terms and Conditions. Your continued use of the Contents after the effective date of any modifications or additional terms will constitute your acceptance of the relevant modified or additional terms. If you do not wish to accept any modifications to this Agreement or any additional terms proposed by EastPro, you may terminate this Agreement in accordance with Clause 6.
- b) This Agreement is personal to you and binding upon your heirs, executors and legal representatives, as the case may be. You may not assign, sub-contract, sub-license or transfer this Agreement, whether in whole or in part, and/or any of your rights or obligations hereunder to any third party without the prior written consent of EastPro. EastPro reserves the right to assign, sub-contract, sub-license or transfer this Agreement and/or any of its rights or obligations hereunder to any third party.
- c) Any notice required to be given to EastPro hereunder shall be sent by email to info@eastprophoto.com. All notices to you shall be sent by email to your email address as set out in your user account. Notices shall be deemed to have been properly given on the next working day after sending the electronic mail with no bounce back.
- d) EastPro shall not be liable to you for delays or failures in performance resulting from causes beyond EastPro's reasonable control, including, but not limited to, acts of God, labor disputes or disturbances, power shortage or disruption, Internet interruption, system malfunction, riots, acts of war, governmental regulations, communication or utility failures, or casualties.
- e) If any provision of these Terms and Conditions is held by any court or other competent authority to be void, invalid or unenforceable in whole or in part, such provision shall be valid and enforceable to the extent permitted by law or applicable rules, and the validity and enforceability of the other provisions in these Terms and Conditions shall not be affected thereby.
- f) No failure or delay on the part of any parties to exercise any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by such party of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy.
- g) This Agreement and any disputes arising hereunder or related hereto (whether for breach of contract, tortious conduct or otherwise) ("**Disputes**") shall be governed by and construed in all respects in accordance with the laws of the Hong Kong Special Administrative Region ("**Hong Kong**") without reference to its conflicts of law principles that would result in the application of the laws of another jurisdiction. Any Disputes shall first be submitted to mediation by an independent accredited mediator in accordance with the rules in effect at the time of mediation. If the Disputes cannot be resolved by mediation within three months, either party may commence legal proceedings and you hereby agree to submit to the exclusive jurisdiction of the Hong Kong courts.
- h) The parties further agree that, notwithstanding any otherwise applicable statute(s) of limitation, any proceeding under these Terms and Conditions shall be commenced within two years of the acts, events,

or occurrences giving rise to the claim.

- i) You specifically agree and acknowledge that you have, in addition to the terms of this Agreement, reviewed the terms of the Membership Programme, Licence Terms and Website Terms of Use and any other agreements which may be incorporated by reference therein, and to the extent of their incorporation in this Agreement you agree to be bound by them.
- j) You understand and agree that information relating to you or any other person such as a model that you may provide to EastPro may be retained for a reasonable period, and may be transferred to, stored, accessed and used in jurisdictions worldwide whose privacy laws may be different and less protective than those of your home country. Please refer to EastPro's Privacy Policy to understand how EastPro, as data controller and processor, may use this information in connection with the performance of this Agreement, including for contacting you, and may disclose this information to other necessary third party service providers or business partners in accordance with the EastPro Privacy Policy. Any personal information you do provide may also be disclosed as part of any merger, sale of EastPro's assets or acquisition, as well as in the unlikely event of an insolvency, bankruptcy or receivership in which event personal information would be transferred as one of the business assets of EastPro. EastPro reserves the right to disclose any information you provide in order to respond to claims or protect the rights, property or safety of itself, its affiliates, directors, officers, employees, agents, distribution partners, Users or the public.

15. Contact

If you have any questions regarding these Terms and Conditions, please contact info@eastprophoto.com.

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