

IN-TCits04

## **End User Licence Agreement (EULA): downloaded software**

## Licence Agreement

These are the terms and conditions subject to which we license any of our products to you. By using any product, you agree to be bound by them.

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We are [merchant name], a company registered in [country] [ ]].

Our address is [address]

GST Registration Number: [Number]

You are: Anyone who buys a licence

**It is now agreed as follows:**

### 1. Definitions

In this agreement, the following words shall have the following meanings,

:

“Computer”	includes any work station, electronic
“Copy or Publish”	with reference to a Licensed Product, means reproducing or publishing in whole or in part, using any means, in any medium. It includes breaking up,
“Licence”	means a licence granted by us to you in the terms of this
“Licensed Product”	means any product, material or thing offered for license by us on Our Website, including the Software, and whether or not bought by you. A reference to “Product” shall be a
“Our Website”	means all of the hardware and software installation

“Software” means the software which constitutes the Licensed Product or which provides any electronic function

## 2. Interpretation

In this agreement unless the context otherwise requires:

- 2.1. a reference to a person includes a human individual, a corporate entity and any organisation
- 2.2. a reference to a person includes reference to that person's successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or pass as a
- 2.3. the headings to the paragraphs and schedules (if any) to this agreement are inserted
- 2.4. any agreement by any party not to do or omit to do something includes an obligation not to allow some
- 2.5. all money sums mentioned in this agreement are calculated net of GST, which
- 2.6. these terms and conditions prevail over any
- 2.7. this agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or translation of this agreement in any other language, the English language version shall prevail. If a version of this agreement

### 3. Warranty for our authority

#### Option One

We represent, warrant and guarantee that we have the full right, power and authority to license and distribute the Licensed Product, including all the images, photos, animations, audio and video components,

#### Option Two

- 3.1. You confirm that you have power to enter into this agreement [and have ].
- 3.2. In entering into this contract you have not relied on any representation or information
- 3.3. You accept responsibility for compliance with the laws and importation procedures of your jurisdiction which might affect your right to import, export or use the Software,

### 4. Grant of Licence

#### Option One

- 4.1. Subject to payment of the licence fee [from time to time,] and to the other terms of this agreement, we grant to you a Licence for eighty years [ ] [ ]].
- 4.2. We do not offer the Licence in all countries. We may refuse or revoke a Licence and return your
- 4.3. The Licence is non-exclusive, non-assignable, non-transferable and otherwise
- 4.4. The Licence shall be for one year, renewable annually,
- 4.5. If any renewal payment is not made before the annual renewal date, the Licensor may treat this agreement as having been terminated with

effect from the renewal date. If that

- 4.6. No express or implied licence of the Licensed Product or any other material is granted to you

**Option Two Grant of Licence (single , )**

- 4.7. Subject to payment of the licence fee and to the other terms of this agreement, we now grant to you a Licence for [one year] to use [ ] [ ] [ ] , ]].

- 4.8. We do not offer the Licence in all countries. We may refuse or revoke a Licence and return your

- 4.9. The Licence is non-exclusive, - , -

- 4.10. No express or implied licence of the Licensed

## 5. Restrictions on Use of Licensed Product

You agree that you will not:

- 5.1. use the Licensed Product for any purpose or in any way except as you selected , , ;

- 5.2. separate the component parts of the Software ; , ,

- 5.3. sub-license, rent , , ;

- 5.4. copy or Publish ;

- 5.5. represent or give the ;
- 5.6. remove any identification or reference number

## 6. Further requirements of the Licence

- 6.1. You must not allow any other person
- 6.2. [\[Every publication or appearance](#) [ ]].
- 6.3. Every publication or appearance of a Licensed Product on a website must be protected as  
,  
“
- 6.4. You must not use a Licensed Product:
  - 6.4.1 except for ;
  - 6.4.2 in part or as , ;
- 6.5. If any information you give us is ,

## 7. Copying the Licensed Product

*[\[For server software\]](#)*

- 7.1. [You may install only](#)
- 7.2. [You must not use](#)

7.3. You may install one additional copy of the Software on a

*[For developer software]*

7.4. You may install and use one copy of the Software on a single Computer. You may

7.5. The primary user of the Computer on which

7.6. You may modify the Software,

*[For end user software]*

7.7. You may install and use one copy of the Software on a single Computer. You may

7.8. The primary user of the Computer on which

7.9. You must not install the Software on more than two Computers and You

7.10. If you have bought multiple licences of the Software, you may make the number of additional copies of

OR

Despite the above

:

7.11. once for the purpose of system maintenance

;

7.12. to a contractor of yours whose contract is to work on the project or purpose for which you have bought the Licensed Product.

## 8. Freedom to transfer

8.1. You may permanently transfer

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:

8.1.1 you retain no copies;

8.1.2 you transfer all of the Licensed Product (

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);

8.1.3 within 14 days of any transfer, the

OR

8.2. You may not assign, delegate, sub-contract, mortgage, charge or otherwise transfer any of your rights and obligations under this

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,

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## 9. Renewal payments

9.1. At least [four] weeks before expiry of the period for which you have paid,

9.2. At any time before expiry of your subscription, you may

“ [ ]

9.3. At expiry of your [Our Name] subscription we shall automatically take payment from

[ ]

## 10. Security of your credit card

10.1. We take care to make Our Website safe for you to use. Card

10.2. If you have asked us to remember your credit card details in readiness for your next purchase ,

## 11. Disclaimers and limitation of liability

11.1. The law differs from one

11.2. All implied conditions, warranties and terms are excluded from this agreement. If in any jurisdiction ,

11.3. We make no

:

11.3.1 useful to you;

11.3.2 of satisfactory quality;

11.3.3 fit for a particular purpose;

11.3.4 data-secure;

11.3.5

11.4.

11.5.

12

*OR*

11.6.

[ 0000 ].

11.7.

:

11.7.1 indirect or consequential loss; or

11.7.2

11.8.

( )

11.9.

[ ]

11.10.

## 12. [U.S. Government end users

[ ] " " . 2 . 101 .  
48 . . 12 . 212 48 . .  
. 227 . 7202 - 1 227 . 7202 - 4 ,  
[ ]  
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## 13. You Indemnify Us

13.1.

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13.2. your breach of this agreement;

13.3.

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13.4.

## 14. Copyright and other Intellectual Property

14.1.

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14.2. You agree that at all times you will:

14.2.1

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14.2.2

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14.3.

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14.4.

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14.4.1 immediately stop using the Licensed Product;

14.4.2

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14.4.3

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14.5. [

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[ 14 ]

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14.6. [

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## 15. Miscellaneous matters

15.1.

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15.2.

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15.3.

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15.4.

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15.5.

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15.6.

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15.7.

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15.8.

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15.9.

[ ]

It shall be deemed to have been delivered:

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24 ;

- : 24

15.10.

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15.11.

15.12.

15.13.

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# Explanatory Notes:

## End User Licence Agreement (EULA): downloaded software

### General notes

#### 1. Make sure it bites

It is essential that the licence terms are incorporated into the contract. If they are not drawn to the buyer's attention until after the contract has effectively been made, then they do not form part of the contract and

So far as any buyer of your services is concerned, it is therefore important that the website ordering system is such that the buyer has to take some positive step to confirm that he has read the licence terms. If the usual device of a check box is used, it is important that it is not "pre-ticked". It is essential that references made to

"I have read and understood [your name]'s licence terms, and I agree that they form the contract between us. [If I am under the age of 18 years, I confirm that I have brought the terms and conditions to the notice of

.]"

Better still; the preferred acceptance device is one which compels the buyer to go to a page containing the licence terms, and where the confirmation of acceptance is on

Unless your business model requires sales to children, it is best specifically to 18 .

#### 2. If this is a contract, why are the ?

It is not necessary for your customer to be identified by name. "You" is enough. However, you do have to be accurately identified. A website name is not enough. You must clearly state the real name of you or your company, trading address and names



## Paragraph Specific Notes:

Notes referable to specific paragraphs

### 1. Definitions

We know nothing about your business, so we cannot provide you with defined terms which precisely describe what you sell. Most people do not read your terms (even if they have to “tick the box”). The people who do take the trouble to read them are likely to be the sort of people who expect the same attention to detail from you as they themselves give to their purchase of your goods or services. It therefore helps you to obtain

**We use**                      **you decide to change to**

Licensed Product      Andrew's Images

Our Website              the Jones Site / the Site

But if you do change the defined word, **make**

You should first decide on the contents of the document, then return to check

We have provided for four categories of licence. This provides the basis to enable you to offer different terms or prices for different uses of the same image or product.

### 2. Interpretation

Leave these items in place unless there is a good reason to edit or remove. These items are not “lawyer’s blurb”. Every item has

### 3. Warranty for our authority

Option One

Covers a situation where your potential customers are aware that the software you sell is in fact

Option Two

Helps to prevent problems arising through claims that the agreement was accepted accidentally or the person who downloaded it had no authority to

#### **4. Grant of Licence**

Option One

This is the first of several paragraphs which

It is not safe to allow copyright works to

Be careful not to delete the reference

Option Two Grant of Licence ( , )

Alternative grant when licence is not renewable

#### **5. Restrictions on Use of Licensed Product**

These points are matters for your choice. You can delete what

The basis of this paragraph is that you sell multiple variations of the licensed product and/or multiple variants on the licence offered. Your licensees will have selected

We consider all the points

#### **6. Further requirements of the Licence**

We have no comment.

#### **7. Copying the Licensed Product**

For some licensed products, for use in certain circumstances, permission to copy may

You should select one of the

We have defined "Computer" very broadly to include

## 8. Freedom to transfer

Your customers may be unhappy if they are

## 9. Renewal payments

We have provided for auto renewal of the service provision. In law that provision is void

The best way to deal with this issue is to provide a warning to

## 10. Security of your credit card

Provision of this info is evidence of

## 11. Disclaimers and limitation of liability

We have given you very strong

You will see that we have also included in the provision for

**12. U.S. Government end users**

Specifically prevents offending against US law.

(

)

**13. You indemnify us**

We

**14. Copyright and other Intellectual Property**

We have placed the definition right here so

Although you cannot prevent some person from acting maliciously or unlawfully, this paragraph is drawn to give you the

“

”

**15. Miscellaneous matters**

A number of special points we have identified each of these as important

**End of notes**