CONTENT LICENSE AGREEMENT

This Agreement governs the terms by which you may use stock photographic, illustrative, animatic, video, footage, and other media on iStock.com or otherwise made available by iStock (the "Site").

Last Updated: April 2014

1. Background of Agreement

(a) By selecting the correct box at the end of this Agreement and selecting "I Agree" or otherwise signify your acceptance, you accept this Agreement and agree to be bound by its provisions. If you are accepting on behalf of your employer, client or other entity that is the member account holder, you represent and warrant that you have full legal authority to bind your employer, client or such other entity. If you do not have such authority or you do not accept or agree with these terms, do not access this Agreement and do not download the Content.

(b) In this Agreement: (i) "you" means you or, if you are accepting on behalf of your employer, client or member account entity, then "you" means that employer, client or entity; (ii) "iStock" or "we" means the party identified in Section 9(h) below; and (iii) "Content" means any photographic image, illustration, animation, Flash file, film or video footage, visual representation generated optically, electronically, digitally or by any other means or in any media or other material that you are downloading from the Site, together with any accompanying material.

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3. use the Content in connection with any goods or services intended for resale or distribution where the primary value lies in the Content itself including, without limitation, cards, stationary items, paper products, calendars, apparel items, posters (printed on paper, canvas or any other media) or other items for resale, license or other distribution for profit;

4. use any of the Content as part of a trade mark, design mark, trade name, business name, service mark, or logo;

5. incorporate the Content in any product that results in a re-distribution or re-use of the Content (such as electronic greeting card web sites, web templates and the like) or in otherwise made available in a manner such that a person can extract or access or reproduce the Content as an electronic file;

6. use the Content in a fashion that is considered by iStock (acting reasonably) as or under applicable law is considered pornographic, obscene, immoral, filth monger, defamatory or libelous in nature, or that would be reasonably likely to bring any person or property reflected in the Content into disrepute;

7. if any Content featuring a model or property is used in connection with a subject that would be unflattering or unduly controversial to a reasonable person, you must accompany each such use with a statement adjacent to the Content that indicates that: (i) the Content is being used for illustrative purposes only, and (ii) any person or property reflected in the Content, if any, is a model, unless the Content itself clearly and indisputably reflects the model or person in such potentially sensitive subject matter in which case the Content may be used or displayed in a manner that portrays the model or person in the same context and to the same degree decreased in the Content itself;

8. to the extent that source code is contained within the Content, reverse engineer, decompile, or disassemble any part of such source code;

9. remove or modify any notice of copyright, trademark or other proprietary right, or any other copyright management information or metadata, from any place where it is on or embedded in the Content;

10. sub-license, re-sell, rent, lend, assign, gift or otherwise transfer or distribute the Content or the rights granted under this Agreement;

11. install and use the Content in more than one location as a time or post a copy of the Content on a network server or web server for use by other users;

12. use or display the Content in an electronic format that enables it to be downloaded or shared in any peer-to-peer or similar file sharing arrangement;

13. use Content identified as "Editorial Use Only", for any commercial, promotional, endorsement, advertising or merchandising use. For clarification, in this Agreement, "Editorial Use Only" of Content means use relating to events that are newsworthy or of general interest and expressly excludes any advertorial sections (e. g. sections or supplements featuring brand and/or product names or sections or supplements in relation to which you receive a fee from a third-party advertiser or sponsor);

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15. either individually or in combination with others, reproduce the Content, or an element of the Content, in excess of 500,000 (500,000) times in physical (hard copy) prints.

16. If the Content is reproduced on a social media platform or other third party website, (i) the rights granted herein shall automatically be revoked in the event that the platform website seeks to exploit purported rights to the Content contrary to the terms of this Agreement, and (ii) in such event, upon iStock's request, you shall remove any Content from such platform or website.

5. Term of Agreement

(a) This Agreement is effective until it is terminated. You can terminate this Agreement by destroying the Content and any Permitted Derivative Works, along with any Copies or archives of it or accompanying materials (if applicable), and ceasing to use the Content for any purpose. The Agreement also terminates without notice from iStock: (i) if you use the Content under a subscription and you fail to incorporate the Content into an end product, service, campaign or publication using independent skill and effort prior to the date which is 30 days from the end of your subscription as set out in the invoice provided to you following your purchase of your subscription; or (ii) at any time you fail to comply with any of the terms of this Agreement. Upon termination, you must immediately cease using the Content for any purpose, destroy or delelete all copies and archives of the Content or accompanying materials, and, if requested, confirm to iStock in writing that you have complied with these requirements.

(b) iStock reserves the right to elect at a later date to revoke or amend the license granted by this Agreement and replace the Content with an alternative for any reason. Upon request, here to the address or contact information provided by you for your member account, or such other address as iStock may reasonably give to you in writing, use, from time to time, of such replacement, the
license for the replaced Content immediately terminates for any products that do not already exist and this license automatically applies to the replacement Content. You agree not to use the replacement Content, any Permitted Derivative Works, for future products and to take all reasonable steps to discontinue use of the replaced Content, or any Permitted Derivative Works, in products that already exist.

(c) Upon notice from iStock, or upon your knowledge that any Content is subject to a threatened, actual, or alleged claim of infringement of another’s right for which iStock may be liable, you must immediately and at your own expense (i) stop using the Content; (ii) delete or remove the Content from your premises, computer systems and storage (electronic or physical); and (iii) ensure that the end users, clients, printers or ISPs do likewise. iStock shall provide you with replacement Content (which shall be determined by iStock in its reasonable commercial judgment) free of charge, but subject to the other terms and conditions of this Agreement.

6. iStock Representations and Warranties

(a) iStock warrants that, except in respect of Content identified as “Editorial Use Only”: (i) your use of the Content in accordance with this Agreement and in the manner delivered by iStock will not infringe on any copyright, moral right, trademark or other intellectual property right and will not violate any right of privacy or right of publicity; and (ii) all necessary model and/or property releases for use of the Content in the manner authorized under this Agreement have been obtained. You acknowledge that no releases are generally obtained for Content that is identified as “Editorial Use Only” and that some jurisdictions provide legal protection against a person’s image, likeness or property being used for commercial purposes when they have not provided a release. For Content identified as “Editorial Use Only”, iStock does not grant any right nor make any warranty with regard to the use of names, people, trademarks, trade dress, logos, registered designs or works of art or architecture depicted therein. In such cases, you shall be solely responsible for determining whether release(s) are required in connection with any proposed use of the Content identified as “Editorial Use Only”, and shall be responsible for obtaining such release(s).

(b) While we have made reasonable efforts to correctly categorize, keyword and title the Content, iStock does not warrant the accuracy of such information. Additionally, iStock does not warrant the accuracy of any metadata that may be provided with the Content.

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(d) Certain jurisdictions do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. You have specific rights under this warranty, but you may have others, which vary from jurisdiction to jurisdiction.

7. Your Indemnification

You agree to indemnify, defend and hold harmless iStock, its subsidiaries, officers, employees, shareholders, partners and agents (collectively, the “iStock Parties”) from and against any and all claims, liability, losses, damages, costs and expenses (including reasonable legal fees on a solicitor and client basis) incurred by iStock Parties as a result of or in connection with any breach or alleged breach by you or anyone acting on your behalf of any of the terms of this Agreement.

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(a) Provided that the Content is only used in accordance with this Agreement and you are not otherwise in breach of this Agreement and as your sole and exclusive remedy for breach of the representations and warranties set forth in Section 6(a) above, iStock shall, subject to the terms of Sections 6(b),(c),(d) and (e) defend, indemnify and hold harmless you, your parent, subsidiaries and affiliates and respective directors, officers and employees from all damages, liabilities and expenses (including reasonable outside legal fees), arising out of or connected with any actual or threatened lawsuit, claim or legal proceeding alleging that the possession, distribution or use of the Content by you in breach of the representations and warranties set forth in Section 6(a) above. The foregoing states iStock’s entire indemnification obligations under this Agreement.

(b) The indemnification set out in Section 8(a) above is conditioned on your prompt notification in writing to iStock of such claim and our right to assume the handling, settlement, or defense of any claim or lawsuit. You agree to cooperate with iStock in the defense of any such claim or
litigation and shall have the right to participate in such litigation at your sole expense. Stock shall not be liable for legal fees and other costs incurred prior to the notice of the claim.

(c) IN NO EVENT SHALL ISTOCK OR ANY OF ITS AFFILIATES OR CONTENT PROVIDERS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS OR AGENTS BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF PROFITS, INTERRUPTION, LOSS OF DATA OR INFORMATION, OR ANY OTHER PECuniary LOSS) IN CONNECTION WITH ANY CLAIM, LOSS, DAMAGE, ACTION, SUIT OR OTHER PROCEEDING ARISING UNDER OR OUT OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION YOUR USE OF, RELIANCE UPON, ACCESS TO, OR EXPLOITATION OF THE CONTENT, OR ANY PART THEREOF, OR ANY RIGHTS GRANTED TO YOU HEREUNDER, EVEN IF WE HAVE 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. NO ACTION, REGARDLESS OF FORM OR NATURE, ARISING OUT OF THIS AGREEMENT MAY BE BROUGHT BY OR ON BEHALF OF YOU MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION FIRST AROSE.

(d) NOTWITHSTANDING ANY OTHER TERM HEREIN, ISTOCK SHALL NOT BE LIABLE FOR ANY DAMAGES, COSTS OR LOSSES ARISING AS A RESULT OF MODIFICATIONS MADE TO THE CONTENT BY YOU OR THE CONTEXT IN WHICH THE CONTEXT IS USED BY YOU.

(e) NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, THE TOTAL MAXIMUM AGGREGATE LIABILITY OF ISTOCK UNDER THIS AGREEMENT AND ANY OTHER AGREEMENT UNDER WHICH YOU HAVE LICENSED THE SAME CONTENT, REGARDLESS OF THE FILE SIZE, OR THE USE OR EXPLOITATION OF ANY OR ALL OF THE CONTENT IN ANY MANNER WHATSOEVER AND THE OBLIGATION OF ISTOCK UNDER SECTION (b)(i) SHALL BE LIMITED TO AN AGGREGATE OF TEN THOUSAND ($10,000) US DOLLARS PER PIECE OF CONTENT. FOR GREATER CLARITY, ISTOCK’S LIABILITY TO YOU IN RESPECT OF THE PIECE OF CONTENT SHALL NOT EXCEED TEN THOUSAND ($10,000) US DOLLARS REGARDLESS OF THE NUMBER OF TIMES THAT YOU LICENSE THE SAME PIECE CONTENT FROM ISTOCK.

(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.


(a) You specifically agree and acknowledge that you have, in addition to the terms of this Agreement, reviewed the terms of the Membership Agreement and 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. In the event of any inconsistency, the terms of this Agreement shall govern.

(b) Stock’s failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right.

(c) This Agreement is personal to you and is not assignable by you without Stock’s prior written consent. Stock may assign this Agreement without your consent to any third party so long as such party agrees to be bound by its terms.

(d) No terms or conditions may be added or deleted unless made in writing and either accepted in writing by an authorized representative of both parties or issued electronically by Stock and accepted in writing by your authorized representative.

(e) Upon reasonable notice, you shall provide sample copies of uses of the Content to Stock. In addition, upon reasonable notice, Stock may, at its discretion, either through its own employees or through a third party, audit Licensee’s records directly related to this Agreement and use of Content in order to verify compliance with the terms of this Agreement. If any such audit reveals an underpayment by Licensee to Stock of five percent (5%) or more of the amount Licensee should have paid for the time period that is the subject of the audit, in addition to paying Stock the amount of such underpayment, Licensee shall also reimburse Stock for the costs of conducting such audit. Where Stock reasonably believes that Content is being used outside of the scope of the license granted under this Agreement, Licensee shall, at Stock’s request, provide a certificate of compliance signed by an officer of Licensee, in a form to be approved by Stock.

(7) Any use of Content in a manner not expressly authorized by this Agreement constitutes copyright infringement, entitling Stock to exercise all rights and remedies available to it under copyright laws around the world. You shall be responsible for any damages resulting from any such copyright infringement, including any claims by a third party. In addition to other termination rights hereunder, Stock reserves the right to terminate this Agreement in the event you enter into this Agreement after having received notice of unauthorized use from Stock relating to the Content.

(g) If all or part of any provision of this Agreement is wholly or partially unenforceable, the parties in such event the parties are unable to agree, a court of competent jurisdiction, shall put in place of such whole or part provision an enforceable provision or provisions, that as nearly as possible in substance and effect accomplishes the intent and purpose of this Agreement.
(c) You agree to pay and be responsible for any and all sales taxes, use taxes, value added taxes and duties imposed by any jurisdiction as a result of the license granted to you, or of your use of the Content, pursuant to this Agreement.

(c) The Agreement shall be governed by the laws of the State of Texas and the United States of America. The Agreement shall be construed according to the laws of the State of Texas. Any dispute arising out of or in connection with the Agreement, including any question regarding its existence, interpretation, performance, breach or validity, shall be finally and confidentially settled under the Rules of Arbitration of the International Chamber of Commerce by a single arbitrator appointed in accordance with such rules. The arbitration shall be held in English, and shall be conducted in the English language. The prevailing party shall be entitled to recover its reasonable legal costs relating to that aspect of its claim or defense on which it prevails, and any opposing costs awards shall be offset. The judgment may be entered on the arbitration award and enforced by any court of competent jurisdiction. Notwithstanding the foregoing, iStock shall have the right to commence and prosecute any legal or equitable action or proceeding before any court of competent jurisdiction to prevent, enjoin or other relief against you in the event that, in the opinion of iStock, such action is necessary or desirable. The parties agree that, notwithstanding any otherwise applicable statute(s) of limitation, any arbitration proceedings shall be commenced within two years of the facts, events or occurrences giving rise to the claim.

(c) The licensor entity under this Agreement for all Content licensed by iStock credits or 'pay as you go' payments shall be iStockphoto LP. The licensor entity under this Agreement for all Content licensed under a subscription shall be determined by your billing address, as follows:

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10. Contact
If you have concerns relating to this Agreement, please contact iStock at help@istockphoto.com or via phone at 1 866 478 4251.
11. Acknowledgement

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND HAVE AN OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE PRIOR TO AGREEING TO IT. IN CONSIDERATION OF ISOCK AGREES TO PROVIDE THE CONTENT. YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. YOU FURTHER AGREE THAT IT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN YOU AND I STOCK, WHICH SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, ORAL OR WRITTEN, AND ANY OTHER COMMUNICATION BETWEEN YOU AND I STOCK RELATING TO THE SUBJECT OF THIS AGREEMENT.

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