

1. **License Grant**

- a. **Content License Grant.** The Licensee hereby grants to A Fine Time a limited, [nonexclusive / exclusive], [worldwide], [transferable / nontransferable], [sublicensable / nonsublicensable], and royalty-free license to
- i. use, modify, reproduce, distribute, display, and transmit the The Licensee's Content in electronic form over the internet and third party networks in connection with [PARTY B]'s properties, and to permit users of A Fine Time's properties to download and print the The Licensee's Content, and
  - ii. modify the The Licensee's Content only for the purpose of fitting the format, look, and feel of A Fine Time's property.

**1.3 Trademark License Grant.** The Licensee hereby grants A Fine Time a limited, non-exclusive, and royalty-free license to use the The Licensee's Trademarks solely in connection with A Fine Time 's rights and obligations under this agreement.

a. **Limitations on License Use**

- i. **Trademark Usage.** [PARTY B] will use the The Licensee's Trademarks only in compliance with The Licensee's trademark use policies that [PARTY A] provides [PARTY B] in writing, and will not use the The Licensee's Trademarks in any way to suggest or imply that [PARTY B] is affiliated with, endorsed or sponsored by, or created in association with The Licensee, except as The Licensee agrees to.
- ii. **Benefit of Trademark Usage.** [PARTY B] hereby agrees that all uses their uses of the The Licensee's Trademarks will inure to the benefit of and on behalf of The Licensee.

2. **Selection, Format, Design, and Updating**

- a. **Content Selection by [PARTY B].** [PARTY B] will have discretion over what The Licensee's Content [PARTY B] selects to adapt for use with and on [PARTY B]'s property
- b. **Content Attribution by [PARTY B].** [PARTY B] shall clearly attribute all The Licensee's Content used with and on [PARTY B] properties to The Licensee.

3. **Permitted Uses.** [PARTY B] may use The Licensee's Content only for

- A. advertising and promotional projects, including printed materials, product packaging, presentations, film and video presentations, commercials, catalogues, brochures, and promotional greeting cards and promotional postcards, including prints, posters, and other reproductions for personal use or promotional purposes, but not for resale, license, or other distribution,
- B. entertainment applications, including books and book covers, magazines, newspapers, editorials, newsletters, and video, broadcast, and theatrical presentations,
- C. online or electronic publications, including web pages to a maximum of 1200x800 pixels for image or illustration content, or to a maximum of 640x480 for video Content, and
- D. any other uses [PARTY A] approves in writing.

4. **Prohibited Uses of Content.** [PARTY B] may not use the The Licensee's Content for anything other than the permitted uses under section [PERMITTED USES], including that [PARTY B] may not

- a. use The Licensee's Content in design template applications intended for resale, whether on-line or not, including website templates, Flash templates, and brochure design templates,
- b. use The Licensee's Content in any products for resale, license, or other distribution for profit,

- c. use any The Licensee's Content as part of a trademark, trade name, business name, service mark, or logo,
- d. incorporate The Licensee's Content in any product that results in a re-distribution or re-use of The Licensee's Content, or is otherwise in any way that a person can extract, access, or reproduce The Licensee's Content as an electronic file,
- e. use The Licensee's Content in a fashion that The Licensee, or any Governmental Authority or Law, reasonably considers pornographic, obscene, immoral, infringing, defamatory, or libelous, or that would be reasonably likely to bring any person or property reflected in The Licensee's Content into disrepute,
- f. to the extent source code is contained in The Licensee's Content, reverse engineer, decompile, or disassemble any part of that source code,
- g. remove any notice of copyright, trademark or other proprietary right from The Licensee's Content,
- h. sublicense, resell, rent, lend, assign, gift, or otherwise transfer or distribute The Licensee's Content or [PARTY B]'s rights granted under this agreement,
- i. install or use The Licensee's Content in more than one server location at a time, or post a copy of The Licensee's Content on a network or web server for use by other users, unless The Licensee's gives it written approval,
- j. use or display The Licensee's Content in an electronic format that enables it to be downloaded or distributed via mobile devices, or shared in any peer-to-peer or similar file sharing arrangement, or
- k. either individually or in combination with others, reproduce The Licensee's Content, or any element of The Licensee's Content, in excess of the quantity allowed under this agreement.

5. **Authority and Enforceability**

- a. **Authority.** Each party has the requisite [corporate] power and authority to enter into this agreement.
- b. **Capacity.** Each party has the capacity to enter into the agreement.
- c. **Executed.** Each party has executed and delivered this agreement.
- d. **Enforceable.** This agreement constitutes a legal, valid, and binding obligation, enforceable against each party.

6. **No Other Warranty**

- a. **"As-Is".** The Licensee's Content is provided "as is," with all faults, defects, bugs, and errors.
- b. **No Warranty.** Unless otherwise listed in this agreement,
  - a. The Licensee does not make any warranty regarding the The Licensee's Content, which includes that
  - b. *The Licensee disclaims to the [fullest] extent authorized by Law any and all [other] warranties, whether express or implied, including any implied warranties of [title, non-infringement, quiet enjoyment, integration,] merchantability or fitness for a particular purpose.*

7. **Publicity**

- a. **Consent.** Neither party will use the other party's name, logo, or trademarks, or issue any press release or public announcement regarding this agreement, without the other party's written consent, unless specifically permitted under this agreement or required by Law.
- b. **Cooperation.** The parties will cooperate to draft all appropriate press releases and other public announcements relating to the subject matter of this agreement and the relationship between the parties.

c. **No Unreasonable Delay.** The parties will not unreasonably withhold or delay their consent to press releases or public announcements.

## 8. Termination

a. **Termination on Notice.** Either party may terminate this agreement for any reason on A Fine Time's Business Days' notice to the other party.

b. **Termination for Material Breach.** Each party may terminate this agreement with immediate effect by delivering notice of the termination to the other party, if

I. the other party fails to perform, has made or makes any inaccuracy in, or otherwise materially breaches, any of its obligations, covenants, or representations, and

II. the failure, inaccuracy, or breach continues for a period of A Fine Time's Business Days' after the injured party delivers notice to the breaching party reasonably detailing the breach.

III. **Termination for Insolvency.** If either party becomes insolvent, bankrupt, or enters receivership, dissolution, or liquidation, the other party may terminate this agreement with immediate effect.

## 9. Effect of Termination

a. **Termination of Obligations.** Subject to any relevant paragraphs, on the expiration or termination of this agreement, each party's rights and obligations under this agreement will cease immediately.

b. **Payment Obligations.** On the expiration or termination of this agreement, each party will

I. pay any amounts it owes to the other party, including payment obligations for services already rendered, work already performed, goods already delivered, or expenses already incurred, and

II. refund any payments received but not yet earned, including payments for services not rendered, work not performed, or goods not delivered, expenses forwarded.

## 13. Indemnification

a. **Mutual Indemnification.** Each party (as an indemnifying party) will indemnify the other (as an indemnified party) against all losses arising out of any proceeding

b. brought by either a third party or an indemnified party, and

c. arising out of the indemnifying party's willful misconduct or gross negligence.

### 13.1 Notice and Failure to Notify

a. **Notice Requirement.** Before bringing a claim for indemnification, the indemnified party will

i. notify the indemnifying party of the indemnifiable proceeding, and

ii. deliver to the indemnifying party all legal pleadings and other documents reasonably necessary to indemnify or defend the indemnifiable proceeding.

b. **Failure to Notify.** If the indemnified party fails to notify the indemnifying party of the indemnifiable proceeding, the indemnifying will be relieved of its indemnification obligations to the extent it was prejudiced by the indemnified party's failure.

**13.2 Exclusive Remedy.** The parties' right to indemnification is the exclusive remedy available in connection with the indemnifiable proceedings described in this section [INDEMNIFICATION].

15. **Limitation on Liability.** Neither party will be liable for breach-of-contract damages that are remote or speculative, or that the breaching party could not reasonably have foreseen on entry into this agreement.

## 16. General Provisions

**16.1 Entire Agreement.** The parties intend that this agreement, together with all attachments, schedules, exhibits, and other documents that both are referenced in this agreement and refer to this agreement,

- a. represent the final expression of the parties' intent relating to the subject matter of this agreement,
- b. contain all the terms the parties agreed to relating to the subject matter, and
- c. replace all of the parties' previous discussions, understandings, and agreements relating to the subject matter of this agreement.

**17. Provide Assurances On Notice.** Each party, on receipt of notice from the other party, will sign or cause to be signed all further documents, do or cause to be done all further acts, and provide all assurances as may reasonably be necessary or desirable to give effect to the terms of this agreement.

**18. No Third-Party Beneficiaries.** Unless explicitly stated otherwise elsewhere in this agreement, no Person other than the parties themselves has any rights or remedies under this agreement.

## 19. Relationship of the Parties

- a. **No Relationship.** Nothing in this agreement creates any special relationship between the parties, such as a partnership, joint venture, or employee/employer relationship between the parties.
- b. **No Authority.** Neither party has the authority to, and will not, act as agent for or on behalf of the other party or represent or bind the other party in any manner.

## 20. Interpretation

### a. References to Specific Terms

- i. **Accounting Principles.** Unless otherwise specified, where the character or amount of any asset or liability, item of revenue, or expense is required to be determined, or any consolidation or other accounting computation is required to be made, that determination or calculation will be made in accordance with the generally accepted accounting principles defined by the professional accounting industry in effect in the United States ("GAAP").
- ii. **Currency.** Unless otherwise specified, all dollar amounts expressed in this agreement refer to American currency.
- iii. **"Including."** Where this agreement uses the word "including," it means "including without limitation," and where it uses the word "includes," it means "includes without limitation."
- iv. **"Knowledge."** Where any representation, warranty, or other statement in this agreement, or in any other document entered into or delivered under this agreement,] is expressed by a party to be "to its knowledge," or is otherwise expressed to be limited in scope to facts or matters known to the party or of which the party is aware, it means:
  1. the then-current, actual knowledge of the directors and officers of that party, and
  2. the knowledge that would or should have come to the attention of any of them had they investigated the facts related to that statement and made reasonable inquiries of other individuals reasonably likely to have knowledge of facts related to that statement.
- v. **Statutes, etc.** Unless specified otherwise, any reference in this agreement to a statute includes the rules, regulations, and policies made

under that statute and any provision that amends, supplements, supersedes, or replaces that statute or those rules or policies.

- b. **Number and Gender.** Unless the context requires otherwise, words importing the singular number include the plural and vice versa; words importing gender include all genders.
- c. **Headings.** The headings used in this agreement and its division into sections, schedules, exhibits, appendices, and other subdivisions do not affect its interpretation.
- d. **Internal References.** References in this agreement to sections and other subdivisions are to those parts of this agreement.
- e. **Calculation of Time.** In this agreement, a period of days begins on the first day after the event that began the period and ends at 5:00 p.m. Pacific Time on the last day of the period. If any period of time is to expire, or any action or event is to occur, on a day that is not a Business Day, the period expires, or the action or event is considered to occur, at 5:00 p.m. Pacific Time on the next Business Day.
- f. **Construction of Terms.** The parties have each participated in settling the terms of this agreement. Any rule of legal interpretation to the effect that any ambiguity is to be resolved against the drafting party will not apply in interpreting this agreement.
- g. **Conflict of Terms.** If there is any inconsistency between the terms of this agreement and those in any schedule to this agreement or in any document entered into under this agreement, the terms of this agreement will prevail. The parties shall take all necessary steps to conform the inconsistent terms to the terms of this agreement.

This agreement has been agreed to by both parties.

The Licensee

A Fine Time