

PHOTOGENICA AUTHOR AGREEMENT

This Photogenica Author Agreement ("Agreement") governs the terms by which author (herein after referred to as "Author") submits and licenses his/her photographs, illustrations, video, audio and video files, animations, flash files, data files, and other media content ("Content") to Photogenica, its affiliates, affiliated companies, partners, distributing partners, contractors and licensees.

It is a binding legal Agreement between:

Photogenica Sp. z o.o., a company incorporated in the European Union, Poland, National Registry Number: KRS 0000319298, and having its principal office located at 47/10 Domaniewska St., 02-672 Warsaw, tax ID: PL7010160708 ("Photogenica"), represented by

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Postal address: 47/10 Domaniewska St. 02-672 Warszawa, Poland
hereinafter referred to as "Photogenica".

and

Mrs/Mr
hereinafter referred to as "Author".

Author's details:

First name

Last name

Nickname

Credit line

Citizenship

Country of tax residence

Personal ID No / Social security No (if applicable)

Personal ID card No

Residency address

Postal address

E-mail

Phone

Copy of Author's passport / personal ID card

In case Author's activity covered by this Agreement is registered as a sole proprietorship („Entity”), payments for the Author shall be executed on the basis of invoices issued by this Entity.

Entity name:

Entity registered address:

Entity tax ID:

Author's (or Entity's) bank account details:

Bank Name:

Bank Address:

Account no.:

Swift / BIC code:

IBAN:

All payments resulting from this Agreement will be made in (*select one*):

- | USD (United States dollars),
- | Euro,
- | Polish zlotys,
- | Russian rubles

By signing the Agreement Author represents and warrants that he/she is 18 years of age or older, is lawfully able to enter into and perform a legally binding contract, and agrees to be bound by the terms and conditions in this Agreement. It is highly recommended that Author prints a copy of this Agreement and retains it for his/her records.

For purposes of this Agreement:

“Licensees” will include any third party individual, partnership, corporation or other entity (whether end users or intermediaries) who agree to the terms of the “Photogenica Licence Agreement” and to whom a sublicense is granted by Photogenica,

“Users” will include those who register on the websites operated by Photogenica, its affiliates or its affiliated companies (hereinafter referred to as the “Site”).

1. Submission of Content

- A. Photogenica sublicenses Content via the Site, through its affiliates, affiliated companies as well as distribution partners. In uploading to the Site or otherwise delivering Content to Photogenica, Author authorizes Photogenica to grant licenses to use Content by Licensees, in accordance with the terms and conditions of the Photogenica Licence Agreement and further authorizes Photogenica to enter into agreements with other affiliated companies or third parties ("Distributing Partners") for distribution and licensing of Content in accordance with the terms and conditions of license agreements used by affiliated companies or Distributing Partners. Author may submit any Content except as prohibited under this Agreement, or otherwise prohibited by law. Author uses the Site at Author's own risk. Photogenica does not act as agent for Author, Distributors or Licensees.
- B. By uploading Content to the Site or otherwise delivering Content, Author understands and accepts that Users and Licensees who wish to use Content will pay a fee to sublicense Content, be authorized to download Content from the Site and may make broad use of Content for such fee and are under no obligation to inform Photogenica or Author of the uses made of any Content.
- C. Once Author has agreed to the terms of this Agreement and provided a signed copy of the Agreement as well as all required information, Author may upload Content to the Site or otherwise deliver Content as agreed with Photogenica.
- D. Author may request the removal of Content from the Site at any time after a three year period from the date of upload of Content to the Site, however, Content may persist in Users' shopping carts on the Site up to ninety (90) days from the date of removal request receipt. Content licenced for Licensees, before the removal request receipt or within 90 days afterwards, shall remain on the Site for indefinite period of time, however, such licenced Content shall only be made available for redownload to respective Licensees. Content may appear for longer periods on affiliated companies' or Distributing Partners' websites, however, Photogenica shall use reasonable efforts to cause Content to be removed from websites of any affiliated companies or Distributing Partners within ninety (90) days from the removal from the Site. Content licenced through affiliated companies or Distributing Partners, before their receipt of removal notification from Photogenica or within 90 days afterwards, shall remain on their respective websites for indefinite period of time, however, such licenced Content shall only be made available for redownload to respective licensees. Author acknowledges and agrees that Photogenica, and its affiliated companies and Distributing Partners may continue to license Content in accordance with this Agreement until Content is so removed. Author also acknowledges that Content which has been (sub)licensed prior to removal from the Site, affiliated companies' sites or from Distributing Partners' sites, shall continue to be used by licensees in accordance with terms of the Photogenica Licence Agreement or in accordance with terms of licence agreements concluded by affiliated companies or Distributors.
- E. Author may not submit any Content which:
- a. was not created by Author or Author is not the sole owner of;
 - b. infringes, violates or misappropriates the statutory copyright or common law rights of privacy, publicity, moral rights of any third party or any other intellectual property rights;
 - c. is pornographic, obscene, threatening, defamatory, invasive of privacy or otherwise injurious to third parties;
 - d. contains any material that denigrates or attacks any persons based on race, religion, national origin or sexual orientation;
 - e. contains any illegal materials or promotes illegal activities;
 - f. contains any software viruses or any components that may negatively influence, penetrate, or attempt to penetrate security measures of the Site or another entity's computer software or hardware, electronic communications systems, or telecommunications systems.

2. Responsibility for Content

Photogenica reserves the right but not the obligation to refuse to accept any Content, or take down from the Site any Content at its discretion, including any Content that is or may be illegal, obscene, lewd, lascivious,

filthy, pornographic, excessively violent, harassing, or otherwise objectionable, or that violates or may violate this Agreement, its policies, or violate or infringe upon third party rights, as determined by Photogenica in its sole discretion, with or without notice to Author.

3. Grant of Rights

A. Author shall retain copyright ownership of all Content that Author submits to Photogenica. Photogenica, its affiliated companies and other authors retain ownership of any materials provided by other content partners.

B. With respect to Content, Author hereby grants Photogenica, during the term of this Agreement, a non-exclusive, royalty-free, worldwide, transferable license to:

- a. use, store, reproduce by any technique in any and all formats or media;
- b. distribute, publish, place in, make available and transmit through computer and telecommunication networks including the Internet, publicly exhibit, publicly perform, publicly display, publicly playback, broadcast, transmit, incorporate into other content or collective work, modify, use (create, use and disseminate) derivative works of, and also sell, lease and otherwise - paid or free of charge - make available materials including Content,

with rights to further sublicense in any manner and medium now existing or hereinafter created, for the following purposes:

- a. to use Content in promotional print, digital, and online materials and promotional products that promote Content and/or the services of Photogenica and its affiliated companies or distributing partners in any and all formats or media (including without limitation online) that exist or are hereafter devised;
- b. to rate, comment upon, and evaluate Content,
- c. to add or amend keywords, titles, descriptions and metadata to Content to enhance the User's search experience, and
- d. to digitally watermark Content in both a visible and invisible manner.

Author further acknowledges and agrees, that Photogenica and Users may add tags and keywords to Content, and add comments to Content in accordance with the Photogenica User Agreement.

C. With respect to Content, Photogenica shall have the right, but not the obligation, to grant Users and Licensees a perpetual, non-exclusive, worldwide, non-transferable, non-revocable sublicense to:

- a. use, store, reproduce by any technique in any and all formats or media;
- b. distribute, publish, place in, make available and transmit through computer and telecommunication networks including the Internet, publicly exhibit, publicly perform, publicly display, publicly playback, broadcast, transmit, incorporate into other content or collective work, modify, use (create, use and disseminate) derivative works of, and also sell, lease and otherwise - paid or free of charge - make available materials including Content,

with rights to further sublicense in accordance with the terms and conditions of the Photogenica Licence Agreement. Users and Licensees may exercise all the foregoing rights in any and all formats or media (including without limitation online use), whether now known or hereafter devised, throughout the universe, subject to their agreement with the terms of the Photogenica Licence Agreement. In addition, Photogenica has the right to make each individual Content unit available for a bundled offering as part of a subscription offering. Any license granted to Users or Licensees prior to removal of Content from the Site shall remain in full force and effect and shall survive any expiration or termination of this Photogenica Author Agreement.

D. With respect to Content, Photogenica shall also have the right, but not the obligation to grant authorized licensees, including affiliated companies and Distributing Partners, non-exclusive, worldwide, transferable license to:

- a. use, store, reproduce by any technique in any and all formats or media;
- b. distribute, publish, place in, make available and transmit through computer and telecommunication networks including the Internet, publicly exhibit, publicly perform, publicly display, publicly playback, broadcast, transmit, incorporate into other content or collective work, modify, use (create, use and disseminate) derivative works of, and also sell, lease and otherwise - paid or free

of charge - make available materials including Content, as well as to license (with rights to further sublicense) Content, within the scope defined above and in accordance with the terms and conditions of the license agreements used by Authorized Licensees, including affiliated companies and Distributing Partners. Authorized Licensees, as well as their sub-licensees, shall have the right to use and sublicense Content worldwide, in any and all formats or media (including without limitation online) that exist or are hereafter devised, in accordance with the terms of this Agreement. Photogenica shall have the right to freely determine licensing fees charged by authorized licensees to their sub-licensees, including any bundled, volume and subscription offerings. Any licence granted by authorized licensees to their sub-licensees prior to removal of Content from their websites shall remain in full force and effect and shall survive any expiration or termination of this Photogenica Author Agreement.

- E. Photogenica shall have the right, but not the obligation, to independently pursue any User or Licensee, for damages or surrender of profits including the obligation to account for such profits in the event of an infringement of copyrights by such User or Licensee.
- F. Author shall not receive compensation and no payment shall be due to Author for the use of Content for promoting the Site, Photogenica, its affiliated companies and Distributing Partners, or sub-licensees or for the indirect revenues received by Photogenica from sponsors or advertisers who may advertise, appear or participate in Photogenica's online environments. Additionally, the rights granted herein shall include the right to use Content as necessary to test or evaluate any technologies, systems, or processes that Photogenica or its affiliated companies, representatives, Distributing Partners or contractors may use to fulfill obligations and exercise any rights granted under this Agreement.
- G. Author expressly waives any personal/moral rights or artist authorship rights in Content that Author would otherwise have under the Copyright and Related Rights Act 2000, or similar laws of any jurisdiction. Should this provision be found invalid, illegal or unenforceable in any jurisdiction, Author shall not exercise his/her personal/moral rights or artist authorship rights in Content.
- H. Author hereby authorizes Photogenica, its licensees, affiliated companies, Distributing Partners and their sub-licensees to disseminate Content anonymously.
- I. In case new fields of exploitation come into being, Author shall extend the licence scope respectively, in order to enable Photogenica, its Users, Licensees, affiliated companies and Distributing Partners using and licensing Content for such new fields of exploitation, as agreed in this Agreement.

4. Payment and Reporting

- A. Photogenica provides payment services that facilitate licensing of Content uploaded to and listed on the Site. Photogenica exercises the sole discretion over all User service issues related to:
 - a. payment and payment processing,
 - b. use of the Site or its features,
 - c. services offered to persons other than Author on the Site, and
 - d. the Site user experience and its performance.
- B. In order to process and remit payments to Author, as part of this Agreement, Author shall be required to have a bank account or an account with an approved payment processing vendor.
- C. The license fee for each individual Content item and/or set of Content submitted as Content is determined at the sole discretion of Photogenica. Author further acknowledges that Photogenica may amend Content license fees at its discretion, at any time, for any or all Content submitted to Photogenica. Each individual Content item and/or set of Content submitted as Content may be included into subscription, pack, credit or other bundled offering at the sole discretion of Photogenica.
- D. Royalties: Photogenica shall remit to Author a royalty amounting to 50% of the net revenue received

from its Users, Licensees, affiliated companies and Distributing Partners. The net revenue shall exclude revenue collected by Photogenica as exchange rates differences, sales tax, VAT, or similar taxes, fees or other withholdings required by law. The royalty due to Author may be reduced by returns, refunds, and credits paid to Users and Licensees, withholding taxes deducted from international payments, any other taxes levied on the recipient of royalties, but required to be administered by the payer, fees payable to financial institutions for the processing of any credit card, debit card, e-check, or alternative payment method, such as PayPal. Royalties adjusted by aforementioned factors are hereinafter referred to as "Author's Payment".

- E. Photogenica is entitled to deduct from or offset against amounts owing to Author, all amounts to which Photogenica is or may be entitled under this Agreement or otherwise at law, including withholding amounts as security for any pending or threatened claim relating to any matter that is the subject of a representation, warranty, covenant or indemnity by Author under this Agreement.
- F. Photogenica processes Author's Payment based on each unique download of Content, however, if a User or a Licensee downloads the same item of Content more than once, Author is paid once only.
- G. Photogenica shall use commercially reasonable efforts to pay Author the amount of Author's Payment due no later than thirty (30) days following the end of the month when the unpaid Payments equal or exceed US\$ 100.00 (say: US\$ one hundred) or its equivalent in other currency. No interest will accrue or will be paid on Payments pending or due.
- H. Author understands that it is Author's sole responsibility to maintain and update Author's registration and contact information with Photogenica. In the event that Author does not maintain this information and Photogenica is unable to contact Author or remit Author's Payment for a period of six months, Author agrees that Photogenica, in its sole discretion, may remove Content from the Photogenica website.
- I. Author's Payments will be Author's sole compensation for the licensing or use of any Content submitted by the Author. Author acknowledges and agrees that Photogenica and its affiliated companies' obligations hereunder, including, without limitation, to calculate and to make Payments to Author, are and will be general unsecured obligations only, and that Author shall have no beneficial interest in or to the whole or any part of fees charged to and received from Users or Licensees. Author understands that Author and Photogenica stand in an ordinary contract relationship only, and not in any agency, confidential, fiduciary, or quasifiduciary relationship. Neither Photogenica nor its affiliated companies shall collect or hold any part of such fees in trust for Author's benefit, and do not undertake to act on Author's behalf or for Author's benefit in any agency, fiduciary or quasifiduciary capacity, whatsoever.

5. Representations, Warranties and Covenants

- A. Author represents, warrants and covenants to Photogenica that:
 - a. Author created Content personally and is the sole owner of Content and its copyright and has the right to grant Photogenica the licenses in Content set forth and referenced in this Agreement;
 - b. Content is original and does not infringe on, violate or misappropriate the statutory copyright or common law rights of privacy, publicity, or moral rights of any third party;
 - c. Content is not pornographic or obscene, nor does Content defame any third party;
 - d. Content does not contain any illegal material or promote illegal activities;
 - e. Content does not contain material which denigrates or attacks any person based on race, religion, national origin, or sexual orientation;
 - f. Author has the full legal capacity, authority and power to enter into this Agreement and perform Author's obligations hereunder;
 - g. Author does not hold membership in any trade group or collective society that would otherwise impair Author's obligations or impose additional requirements on Photogenica;
 - h. any caption information that Author may submit for Content is relevant, accurate and complete, and does not contain false or misleading information;
 - i. Photogenica, its affiliates, affiliated companies and Distributors may use Content as provided herein without obtaining any additional consents or permissions, or making payments of any

additional fees to third parties;

- j. Content contains no viruses, spyware, Trojan horses, time bombs, or other similar harmful or deleterious programming routines or code.

- B. Author also warrants that for any Content Author submits to Photogenica that contains recognizable persons and that was marked by Author as Model Released, Author attained and submitted copies of fully-executed, valid and legally binding documents, properly signed by all persons depicted (or their legal guardians), pursuant to which all depicted persons granted their permissions to disseminate their images / likenesses ("Model Release"). Furthermore, Author warrants that any Content submitted by Author containing recognizable persons, which is NOT accompanied with permissions of ALL depicted persons to disseminate their images / likenesses, was marked as NOT model released.
- C. Author also warrants that for any Content Author submits to Photogenica that contains recognizable objects protected on the basis of property or intellectual property laws and that was marked by Author as Property Released, Author attained and submitted copies of fully-executed, valid and legally binding documents, properly signed by rights holders (or their properly established proxies), pursuant to which all rights holders granted their permissions to disseminate images of these objects ("Property Release"). Furthermore, Author warrants that any Content submitted by Author containing such objects, which is NOT accompanied with permissions of all rights holders to disseminate images of these objects, was marked as NOT property released.
- D. Author further warrants and represents that model and/or property release information is true, accurate and complete and that Photogenica may use model and/or property released Content without obtaining any additional consents or permissions or the payment of additional fees to third parties.
- E. In addition to other remedies available to Photogenica and nothing else in this Agreement withstanding, Photogenica will not pay Author's Payment on licenses of any Content that violates the representations, warranties and covenants Author makes in this section of the Agreement.

6. Indemnification

- A. Subject to mandatory provisions of law, Photogenica agrees to indemnify and hold harmless Author from justified claims resulting from licensing Content by Photogenica in any way that would infringe provisions of this Agreement.
- B. Subject to mandatory provisions of law, Author agrees to indemnify and hold harmless Photogenica, its officers, directors, successors, affiliates, affiliated companies, partners, Distributing Partners and licensees, from justified claims resulting from any violation, infringement or breach of representations, warranties or covenants Author makes in this Agreement or associated with any of Author's representations, warranties or covenants being untrue or inaccurate.

7. Disclaimer of Warranties

No warranties. The Site and the services are provided on an "as is" basis. To the greatest extent permitted by applicable law, Photogenica makes no other representations or warranties of any kind, express or implied, including without limitation: that the Site or the payment services will meet Author's requirements, will always be available, accessible, uninterrupted, timely, secure, or operate without error; or that users will perform their obligations as promised.

8. Limitation of liability.

Author agrees that Photogenica is not liable for any loss or damage to Content or material submitted to Photogenica and Author is required to provide or maintain Author's own backup files for any Content submitted to Photogenica. Author acknowledges that Photogenica shall not be responsible for misuse of Content by Users and Licensees.

9. Modification and Notice

This Agreement shall not be modified except by a written agreement signed by duly authorized representatives of Photogenica and Author, provided that no purchase order or similar document issued by Author will modify this Agreement, even if signed by Photogenica. Photogenica may modify any policies or guidelines governing the Site as well as submission guidelines, at any time and in its sole discretion. In case of modifications of this Agreement, Photogenica will deliver Author an addendum via e-mail, and Author shall be obliged to deliver two signed copies of the addendum to the Photogenica postal address within thirty (30) days. Should the addendum be not accepted and/or not delivered by Author within thirty (30) days, Photogenica shall have the right to immediately terminate this Agreement without notice, at any time. If any modification of this Agreement is not acceptable to Author, Author's sole recourse is to terminate this Agreement with ninety (90) days notice.

10. Term and Termination

- A. After a three year period from the conclusion of the Agreement, Author may terminate this Agreement at any time, providing Photogenica with ninety (90) days written notice, by regular mail to sent the to Photogenica postal address. Content which was delivered less than three years before the termination notice delivery, may continue to be presented on the Site and licensed by Photogenica and its Authorized Licensees until the period of thee years from its delivery expires.
- B. Without limiting any other rights or remedies (including the right to seek damages and other relief) that either party may have, Photogenica may terminate the Agreement at any time and in its sole discretion with thirty (30) days notice by emailing the last email address provided by Author or by delivering a written notice by regular mail to the last postal address provided by Author, including but not limited to, if: (a) despite reasonable attempts, Photogenica is not able to contact Author for a twelve (12) month period or (b) Author has breached the terms and conditions of this Agreement.
- C. Upon termination of this Agreement:
 - a. subject to the above clause A, Photogenica shall remove Content from the Site within a ninety (90) day period, and shall use reasonable efforts to cause Content to be removed from the websites of any affiliated companies and Distributing Partners within ninety (90) days from the removal from the Site, provided, however, that Photogenica may retain a copy of Content for archival and record-keeping purposes as well as may retain all licensed Content for redownload by respective Licensees. Author acknowledges and agrees that Photogenica, its affiliated companies and Distributing Partners may continue to license Content in accordance with this Agreement until Content is so removed,
 - b. Photogenica shall continue, in accordance with this Agreement, to make Payments due to Author in respect to licenses granted prior to termination, or during the transition period (i.e. between delivery of notice and the removal of Content), subject to any setoffs Photogenica is entitled to deduct from Author's account in accordance with this Agreement.
 - c. Any license granted to Licensees with respect to Content prior to the date of removal of Content from the Site will remain in full force and effect notwithstanding termination of this Agreement.

11. Choice of Law / Jurisdiction

Any dispute regarding this Agreement shall be governed by the laws of Poland. The parties agree to accept the exclusive jurisdiction of the courts of Warsaw, regardless of conflicts of laws. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly disclaimed. The parties hereto confirm that it is their wish that this Agreement as well as any other documents relating hereto, including notices, has been and will be written in the English language.

12. Passwords

Author acknowledges and agrees that Author shall be responsible for each and every use of the upload pages that occur under Author's user name and passwords, and that Photogenica shall assume any transactions conducted using Author's user name and password as Author's transactions. Author agrees to take reasonable steps to prevent others from obtaining Author's access information and to notify Photogenica of any unauthorized access or need to update or remove access for any of Author's employees or agents.

13. General Provisions

- A. Notices. Unless otherwise specified, all notices and other communications which are required in this Agreement will be in writing and delivered personally, via mail or courier service, to the addresses set forth in the Agreement below, or to such other addresses as either party will have specified by notice in writing to the other party.
- B. Independent Contractor. Nothing in this Agreement creates a partnership, employer-employee relationship, or a joint venture between the parties. Author is solely responsible for obtaining and maintaining all applicable business licenses and insurance.
- C. Assignment. Author's obligations hereunder are personal and may not be assigned without Photogenica's prior written consent, not reasonably withheld if assigned to a bona-fide legal entity organized and acting solely on Author or Author's heir's behalf. This Agreement shall be binding upon and will inure to the benefit of the parties' heirs, executors, administrators, successors, and permitted assigns. Photogenica and its affiliates may sublicense or assign its or their rights and obligations and liabilities arising under this Agreement (including without limitation the Photogenica Licence Agreement) to any third party without Author's consent and without written notice, including without limitation, any assignment resulting from any corporate reorganization, merger, sale of substantially all the assets to which this Agreement relates.
- D. Severability. If any provision of this Agreement is invalid, illegal or unenforceable under any applicable statute or rule of law, such provision shall be deemed amended to achieve as nearly as possible the same economic effect as the original provision and the remaining provisions of this Agreement will be in no way affected or impaired.
- E. Entire Agreement. This Agreement incorporates the entire understanding of the parties concerning the subject matter contained herein and merges all prior and contemporaneous communications. Any and all prior agreements, oral or written, between the parties concerning the subject matter contained herein are hereby terminated, superseded, and are of no further force or effect. No action of Photogenica, other than the written waiver or amendment, may be construed as a waiver or amendment of this Agreement. The headings and numbering shall not be considered or given effect in construing this Agreement. This Agreement shall not be interpreted against the party causing this Agreement to be drafted. The parties hereto confirm that it is their wish that this Agreement, as well as any other documents relating hereto, including notices, has been and will be written in the English language. The English language version of this Agreement will be used for interpretation of this Agreement.

Author acknowledges that Author has read this Agreement, understands it and has had the opportunity to seek independent legal advice prior to agreeing to it. Author agrees that this Agreement is the complete and exclusive statement between Author and Photogenica, and that this Agreement supersedes any prior agreements, oral or written and any other communication between Author and Photogenica relating to the subject of this Agreement.

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Photogenica

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Author