

## Adventure Dog Productions Video Licence Agreement

Last updated: June 2016

THIS IS A LEGAL AGREEMENT (THE "AGREEMENT") BETWEEN LICENSEE, PURCHASER (IF ANY) AND AN AFFILIATE OF ADVENTURE DOG PRODUCTIONS. THIS AGREEMENT APPLIES TO LICENCES ISSUED VIA THE WEB AND VIA LOCAL SALES REPRESENTATIVES, AND IS APPLICABLE TO ONLINE, DIGITAL AND ANALOGUE (PHYSICAL) DELIVERY OF LICENSED MATERIAL. BY ORDERING A LICENCE, LICENSEE AND, IF APPLICABLE, PURCHASER, IS CONFIRMING THAT IT HAS CAPACITY TO FORM A CONTRACT UNDER ITS LOCAL LAWS.

**1. Definitions.** In this Agreement the following definitions apply:

- 1.1** "Editorial Licensed Material" means Licensed Material relating to events that are newsworthy or of public interest.
- 1.2** "Invoice" means the computer-generated or pre-printed standard form invoice provided by Adventure Dog Productions setting out the Adventure Dog Productions terms agreed with the Licensee. The Invoice shall be incorporated into this Agreement and all references to the Agreement shall include the Invoice.
- 1.3** "Licensed Material" means any still image, film or video footage, audio product, visual representation generated optically, electronically, digitally or by any other means, including any negatives, transparencies, film imprints, prints, original digital files, or any other product protected by copyright, or other intellectual property rights, which is licensed to Licensee by Adventure Dog Productions under the terms of this Agreement.
- 1.4** "Licensee" means the entity purchasing a licence hereunder or, if there is a separate Purchaser, the entity specifically designated as Licensee during the purchase process and set forth as such in the Invoice.
- 1.5** "Licensee Work" means an end product or service that has been created by or on behalf of Licensee using independent skill and effort and that incorporates a reproduction of the Licensed Material as well as other material.
- 1.6** "Purchaser" means an entity purchasing the licence hereunder on behalf of a third-party Licensee.
- 1.7** "Reproduction" and "Reproduce" mean any form of copying or publication of the whole or a part of any Licensed Material, via any medium and by whatever means, the distortion, alteration, cropping or manipulation of the whole or any part of the Licensed Material, and the creation of any derivative work from, or that incorporates, the Licensed Material.
- 1.8** "Rights and Restrictions" means the information available to Licensee at the time of Licensed Material selection, either: (i) in a written quote issued by Adventure Dog Productions; or (ii) as reflected in the Invoice. Such restrictions may include, without limitation, the permitted scope of use, duration of licence, any territory or other use restrictions applicable to the Licensed Material selected, and the corresponding price for the licence of such Licensed Material ("Licence Fee"). The Rights and Restrictions shall be incorporated into this Agreement and all references to the Agreement shall include the Rights and Restrictions.

**2. Grant of Rights and Restrictions.** Subject to the terms of this Agreement:

- 2.1** Adventure Dog Productions grants to Licensee a non-exclusive, non-sublicensable and non-transferable right to use and reproduce the Licensed Material identified in the Invoice, solely to the extent explicitly stated in this Agreement. This right may be exercised by subcontractors of Licensee (including Purchaser) for preparation of the Licensee Work, provided that such subcontractors agree to abide by the terms of this Agreement.
- 2.2** Use of the Licensed Material is strictly limited to the use, medium, period of time, print run, placement, size of Licensed Material, territory and any other restrictions specified in the Rights and Restrictions. Licensee may utilise the Licensed Material in any production process as may be necessary for the intended use specified in the Rights and Restrictions, including as set forth in Section 2.1 above.
- 2.3** Unless additional rights are stipulated in the Rights and Restrictions or granted pursuant to a separate licence agreement, Editorial Licensed Material may not be used for any commercial, promotional, endorsement, advertising or merchandising use. For clarification, in this Agreement use of Licensed Material in an "editorial" manner means use relating to events that are newsworthy or of public interest and expressly excludes any advertorial sections (i.e. sections or supplements in relation to which Licensee receives a fee from a third-party advertiser or sponsor).
- 2.4** Editorial Licensed Material may be cropped or otherwise edited for technical quality, provided that the editorial integrity of the Licensed Material is not compromised, but shall not, under any circumstances, otherwise be altered.
- 2.5** While efforts have been made to correctly caption the subject matter of, and to provide other information (including metadata) related to, the Licensed Material, Adventure Dog Productions does not warrant the accuracy of such information.
- 2.6** Pornographic, defamatory or otherwise unlawful use of Licensed Material is strictly prohibited, whether directly or in context or juxtaposition with other material or subject matter. Licensee shall also comply with any applicable regulations and/or industry codes.
- 2.7** If any Licensed Material featuring a model or property is used in connection with a subject that would be unflattering or controversial to a reasonable person (except for Editorial Material used in an editorial manner), Licensee must accompany each such use with a statement that indicates that: (i) the Licensed Material is being used

for illustrative purposes only; and (ii) any person depicted in the Licensed Material, if any, is a model.

**2.8** Licensed Material shall not be incorporated into a logo, corporate ID, trademark or service mark, without obtaining the prior written consent of Adventure Dog Productions.

**2.9** Licensee may not make the Licensed Material available in a manner intended to allow or invite a third party to download, extract, redistribute or access the Licensed Material as a standalone file.

**2.10** Editorial Licensed Material may not be modified, reconfigured or repurposed for use in any mobile-directed web sites or mobile applications that are specifically created for viewing of Licensed Material and/or the Licensee Work on mobile devices, without obtaining the prior written consent of Adventure Dog Productions, which consent might require payment of an additional Licence Fee. For clarification, this restriction on mobile use is not breached if Licensed Material that is licensed for website use can be viewed via mobile devices in a "pull" (as opposed to "push") fashion, provided it is not so specifically modified, reconfigured or repurposed for this purpose.

**2.11** Unless otherwise specified in the Rights and Restrictions, Licensee may not, directly or indirectly, Reproduce the Licensee Work in any secondary Reproductions, such as compilations, screen shots, in-context promotions or on file-sharing or social networking websites such as YouTube, Facebook, MySpace, Bebo etc.

**2.12** Licensed Material shall not be used contrary to the Rights and Restrictions.

**2.13** Where Purchaser is licensing Licensed Material on behalf of a Licensee, Purchaser hereby represents and warrants that: (i) Purchaser is authorised to act as an agent on behalf of Licensee and has full power and authority to bind Licensee to this Agreement; and (ii) if Licensee subsequently disputes such power or authority, Purchaser shall be liable for any failure of Licensee to comply with the terms of this Agreement. Nothing in this Section 2.13 shall excuse Purchaser's obligation to make payment to Adventure Dog Productions of the Licence Fee.

**2.14** Licensee may not falsely represent, expressly or impliedly, that Licensee is the original creator of a visual work that derives a substantial part of its artistic components from the Licensed Material.

**2.15** If the Rights and Restrictions allow Reproduction of the Licensee Work on a website, Licensee shall post terms and conditions on its permitted websites that prohibit downloading, republication, retransmission, reproduction or other use of the Licensed Material as a stand-alone file.

**2.16** If the Rights and Restrictions include use on any social media platform or other third party website; (i) such rights shall automatically be revoked in the event that the platform or website seeks to exploit purported rights to the Licensed Material contrary to the terms of this Agreement and (ii) in such event, upon Adventure Dog Productions' request, Licensee shall remove any Licensed Material from such platform or website.

### **3. Credits and Intellectual Property.**

**3.1 Copyright.** No ownership or copyright in any Licensed Material shall pass to Licensee by the issuance of the licence contained in this Agreement. Except as expressly stated in this Agreement, Adventure Dog Productions grants Licensee no right or licence, express or implied, to the Licensed Material. As no rights of ownership or copyright in the Licensed Material are transferred to Licensee, Licensee may not assert any right to revenue from a collecting society in respect of photocopying, digital copying or other secondary uses of the Licensed Material contained in a Licensee Work.

**3.2 Trademarks.** In connection with the use of " Adventure Dog Productions " or any other of Adventure Dog Productions' or its partners' trade names, trademarks, logos or service marks, including the names of all Licensed Material collections ("Marks"), Licensee acknowledges and agrees that (i) such Marks are and shall remain the sole property of Adventure Dog Productions or its partners; (ii) except as expressly required in order to satisfy the credit obligations under this Agreement, nothing shall confer upon Licensee any right of use in or to the Marks; and (iii) Licensee shall not now or in the future contest the validity of the Marks.

**3.3 Photo Credit.** Except as otherwise noted in Section 10, all Licensed Material used in an editorial context must include the following credit line adjacent to the Licensed Material: "[Photographer's Name]/[Collection Name]/ Adventure Dog Productions". If Licensee omits the credit, an additional fee in an amount up to one hundred percent (100%) of the Licence Fee may be payable by Licensee, at Adventure Dog Productions' sole discretion. The foregoing fee shall be in addition to any other rights or remedies that Adventure Dog Productions may have at law or in equity.

**3.4 Audio/Visual Production Credit.** If Licensed Material is used in an audio/visual production in either an editorial context or a non-editorial context but where credits are accorded to other providers of licensed material, credit shall be accorded, where technically feasible, in equal size and comparable placement to such credit(s), substantially in the following form: "[Video] [Imagery] supplied by [Collection Name]/ Adventure Dog Productions ".

**3.5 Notice of Violations.** Licensee will immediately notify Adventure Dog Productions if it becomes aware or suspects that any third party that has gained access to the Licensed Material through Licensee if wrongfully using the Licensed Material, in whole or in part, or is violating any of Adventure Dog Productions' intellectual property rights, including, but not limited to, Marks and copyrights.

### **4.Releases.**

**4.1** Adventure Dog Productions will notify Licensee in the Rights and Restrictions if it has obtained a model release

and/or a property release for Licensed Material. The warranty and indemnity set forth in Sections 5.1(iv) and 6.1 below are only provided if and when such written notification is given. If no such notification is given, then no such model or property release has been obtained. No releases are generally obtained for Editorial Licensed Material. Licensee acknowledges 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. Licensee shall be responsible for payment of any amounts that may be due under, and compliance with any other terms of, any applicable collective bargaining agreement(s) as a result of Licensee's use of the Licensed Material.

**4.2** Except where Licensee is specifically notified that a model and/or property release has been obtained, Adventure Dog Productions does not grant any right nor make any warranty with regard to the use of names, people, trademarks, trade dress, logos, registered, unregistered or copyrighted audio, designs or works of art or architecture depicted in any Licensed Material. Licensee shall be solely responsible for determining whether release(s) is/are required in connection with any proposed use of Licensed Material, and Licensee shall be solely responsible for obtaining all necessary release(s).

## **5. Warranties and Limitation of Liability.**

**5.1** Adventure Dog Productions warrants that: (i) the Licensed Material will be free from defects in material and workmanship for thirty (30) days from delivery (Licensee's sole and exclusive remedy for a breach of this warranty being the replacement of the Licensed Material); (ii) it has all necessary rights and authority to enter into and perform this Agreement; (iii) Licensee's use of the Licensed Material in accordance with this Agreement and in the form delivered by Adventure Dog Productions (i.e., excluding any modifications, overlays or re-focusing by Licensee) will not infringe on any copyrights or moral rights of any person or entity; and (iv) if a release is provided Adventure Dog Productions pursuant to Section 4.1, Licensee's use of the Licensed Material in accordance with this Agreement and in the form delivered by Adventure Dog Productions (i.e., excluding any modifications, overlays or re-focusing by Licensee) will not, where a property release is provided, infringe on any trademark or other intellectual property right and/or will not, where a model release is provided, violate any right of privacy or right of publicity.

**5.2** Adventure Dog Productions does not make any other warranties, express or implied, regarding the licensed material of its delivery systems, including without limitation, any implied warranties of merchantability or fitness for a particular purpose. Adventure Dog productions shall not be liable to licensee or any other person or entity for any punitive, special, indirect, consequential, incidental or other similar damages, costs or losses arising out of this agreement, even if Adventure Dog Productions has been advised of the possibility of such damages, costs or losses. Adventure Dog Productions shall not be liable for any damages, costs or losses arising out of or as a result of modifications made to the licenses or the context in which licensed material is used in a licensee work.

## **6. Indemnification**

**6.1** Provided Licensed Material is only used in accordance with this Agreement and Licensee is not otherwise in breach of this Agreement and as Licensee's sole and exclusive remedy for any breach of the warranties set forth in Section 5.1(ii)-(iv) above, Adventure Dog Productions shall, subject to the terms of Section 5.2 above and Section 6.3 below, defend, indemnify and hold harmless Licensee and its parent, subsidiaries and commonly owned or controlled affiliates and their respective officers, directors and employees from all damages, liabilities and expenses (including reasonable outside solicitor fees), arising out of or as a result of claims by third parties ( "Claims") relating to any actual or alleged breach by Adventure Dog Productions of its warranties set forth in Section 5.1(ii)-(iv) above. Adventure Dog Productions shall have no obligation under this Section 6.1 for any Claims that arise out of or are a result of: (i) Licensee's modification, overlay or re-focusing of the Licensed Material, where the Claim would not have arisen but for the modification, overlay or re-focusing made by Licensee; (ii) the context in which Licensed Material is used in a Licensee Work; where the Claim would not have arisen but for such context; (iii) Licensee's failure to comply with the terms of this Agreement; or (iv) Licensee's continued use of Licensed Material following notice from Adventure Dog Productions, or upon Licensee's knowledge, that Licensed Material is subject to a claim of infringement of another's right. The foregoing states Adventure Dog Productions' entire indemnification obligation under this Agreement.

**6.2** Licensee shall, subject to the terms of Section 6.3 below, defend, indemnify and hold harmless Adventure Dog Productions and employees from all damages, liabilities and expenses (including reasonable outside solicitors' fees), arising out of or as a result of claims by third parties relating to: (i) Licensee's use of any Licensed Material outside the scope of this Agreement; (ii) any other actual or alleged breach by Licensee of this Agreement; or (iii) Licensee's failure to obtain any required release.

**6.3** The party seeking indemnification pursuant to this Section 6 shall promptly notify the other party of such claim. At indemnifying party's discretion, indemnifying party may assume the handling, settlement or defence of any claim or litigation, in which event indemnified party shall co-operate in the defence of any such claim or litigation as may be reasonably requested by indemnifying party. Indemnified party shall have the right to participate in such litigation, at its expense, through counsel selected by indemnified party. Indemnifying party will not be liable for legal fees and other costs incurred prior to the other party giving notice of the claim for which indemnity is sought.

**7 Condition of Licensed Material.** Licensee should examine all Licensed Material for possible defects (whether digital or otherwise) before sending any Licensed Material for Reproduction. Without prejudice to Section 5.1(i) above, Adventure Dog Productions shall not be liable for any loss or damage suffered by Licensee or any third party, whether directly or indirectly, arising from any alleged or actual defect in any Licensed Material or its caption or in any way from its Reproduction.

**8 Licence Cancellation Fee.** If Licensee or Purchaser requests in writing to cancel this Agreement within 30 days of the date of receipt by Licensee or Purchaser of the Licensed Material, and such Licensed Material has not been used by Licensee, Adventure Dog Productions may cancel this Agreement and issue a credit to Licensee's or Purchaser's account or credit card as follows: (i) with respect to non-video Licensed Material only, an amount up to 100% of the Licence Fee may be credited if the request is received within 7 days of receipt of the Licensed Material; or (ii) an amount up to 50% of the Licence Fee may be credited if the request is received between 8 and 30 days of receipt of the Licensed Material; in each case an administration fee of £50 will be charged. No credits are available for any cancellation request received after 30 days from receipt of Licensed Material. Nothing in this Section 8 shall apply to research, lab, service, or subscription fees which shall be payable according to the terms stated on the Invoice and shall be non-refundable.

**10 Miscellaneous Terms.**

**10.1 Unauthorised Use and Termination.** Any use of Licensed Material in a manner not expressly authorised by this Agreement constitutes copyright infringement, entitling Adventure Dog Productions to exercise all rights and remedies available to it under copyright laws around the world. Licensee shall be responsible for any damages resulting from any such copyright infringement, including any claims by a third party. In addition and without prejudice to Adventure Dog Productions' other remedies under this Agreement, Adventure Dog Productions reserves the right to charge and Licensee agrees to pay a fee equal to up to five (5) times Adventure Dog Productions' standard Licence fee for the unauthorised use of the Licensed Material. Adventure Dog Productions reserves the right to terminate this Agreement in the event Licensee: (i) enters the Agreement after having received notice of unauthorised use from Adventure Dog Productions relating to the Licensed Material; (ii) provides inaccurate information regarding its proposed use of the Licensed Material at the time of entering the Agreement; (iii) fails to pay the Licence Fee on the due date; or (iv) otherwise breaches the terms of this Agreement. Upon termination, Licensee must immediately (I) stop using the Licensed Material; and (II) destroy or, upon the request of Adventure Dog Productions, return to Adventure Dog Productions the Licensed Material and, in the case of termination by Adventure Dog Productions for cause, the Licensee Work in the possession or control of Licensee.

**10.2 Audit/Certificate of Compliance.** Upon reasonable notice, Licensee shall provide sample copies of Reproductions containing Licensed Material to Adventure Dog Productions, including by providing Adventure Dog Productions with free of charge access to any pay-walled or otherwise restricted access website or platform where the Licensed Material is Reproduced. In addition, upon reasonable notice, Adventure Dog Productions 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 Licensed Material in order to verify compliance with the terms of this Agreement. If any such audit reveals an underpayment by Licensee to Adventure Dog Productions 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 Adventure Dog Productions the amount of such underpayment, Licensee shall also reimburse Adventure Dog Productions for the costs of conducting such audit. Where Adventure Dog Productions reasonably believes that Licensed Material is being used outside of the scope of the licence granted under this Agreement, Licensee shall, at Adventure Dog Productions' request, provide a certificate of compliance signed by an officer of Licensee, in a form to be approved by Adventure Dog Productions.

**10.3 Electronic Storage.** For all Licensed Material that is delivered to Licensee in electronic form, Licensee must retain the copyright symbol, the name of Adventure Dog Productions, the Licensed Material's identification number and any other information as may be embedded in the electronic file containing the original Licensed Material. Licensee may not make additional high-resolution copies of the Licensed Material and Licensee shall maintain a robust firewall to safeguard against unauthorised third-party access to the Licensed Material. Notwithstanding the foregoing, Licensee may make one (1) high-resolution backup copy of the Licensed Material for security purposes only.

**10.5 Severability.** If one or more of the provisions contained in the Agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected. Such provisions shall be revised only to the extent necessary to make them enforceable.

**10.6 Waiver.** No action of either party, other than express written waiver, may be construed as a waiver of any provision of this Agreement. A delay on the part of either party in the exercise of its rights or remedies will not operate as a waiver of such rights or remedies, and a single or partial exercise by either party of any such rights or remedies will not preclude other or further exercise of that right or remedy. A waiver of a right or remedy on any one occasion will not be construed as a bar to or waiver of rights or remedies on any other occasion.

**10.7 Entire Agreement.** This Agreement is intended for business customers of Adventure Dog Productions and contains all the terms of the licence agreement. No terms or conditions may be added or deleted unless made in writing and either accepted in writing by an authorised representative of both parties or issued electronically by Adventure Dog Productions and accepted in writing by an authorised representative of Licensee. In the event of any inconsistency between the terms contained herein and the terms contained on any purchase order sent by Licensee, the terms of this Agreement shall govern.

**10.8 Taxes.** All Licence Fees are exclusive of any applicable sales, use, withholding or other transactional taxes, which are the sole responsibility of Licensee or Purchaser (if any).

**Licensee**

Company:

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Licensor**

Company: Adventure Dog Productions

Name: Ed Paterson

Position: Owner

Signature:



Date: