

AGREEMENT WITH CONTRIBUTOR

This Agreement (The "Agreement") is effective as of _____ by and between:

Mahatta Multimedia Pvt Ltd. , a company incorporated under the provisions of Companies Act, 1956 and having its registered office at 8/17 Sarvapriya Vihar, New Delhi-110016 (hereinafter referred to as '**Agency**' which term shall unless repugnant to the context or meaning thereof be deemed to include its legal representatives, successors & assigns).

AND

_____, (hereinafter referred to as the '**Contributor**', which term shall unless repugnant to the context or meaning thereof be deemed to include the heirs, legal representatives, successors & assigns of the Contributor).

Agency and the Contributor are hereinafter collectively referred to as the "**Parties**" and individually as a "**Party**".

RECITAL:

- A. WHEREAS, Agency is an online image bank, which is engaged in the business of selling prints of licensed art images of paintings, photography or any other form of art on different printing surfaces and further provides services of framing , packaging and delivery if needed as per order. (herein after referred to as the "Business")
- B. AND WHEREAS, Agency can display Art images on any Indian/International online portal on contractual terms whereas order fulfillment is done by the Agency itself.
- C. AND WHEREAS, Contributor is a person who is in the profession of creating or collecting Art like paintings, photography or any other form of art.
- D. AND WHEREAS, Contributor intends to get certain art owned by him, ("Art") displayed on the Art Agency's Website or any other website in alliance with the Agency for the purpose of the sale of the art in accordance with the terms and conditions of this Agreement.
- E. NOW THERFORE, in consideration of the mutual discussions herein, the Parties intend to put the terms and conditions as follows.

THIS AGREEMENT WITNESSETH AS UNDER:

• 1. Definitions

1. "Art" shall have the meaning as ascribed to it in Recital D.
2. "Business" shall have the meaning as ascribed to it in Recital A.
3. "Client" shall mean the end user of the Content.
4. "Consideration" shall mean Contributor's share of exploitation of the Content pursuant to this Agreement.
5. "Content" shall have the meaning as ascribed to it in Clause 2.1 of this Agreement.
6. "Custom pricing" shall mean pricing agreements entered into with Client where Content are licensed for set amounts, dependent upon usage or dependent upon volumes of Content purchased.
7. "Net Sale Price" in respect of each Content is defined as the amount received by Agency for Selling of Print of each content, after deduction of all intermediate costs, fees and commissions by the third party / paying party.
8. "Term" shall have the meaning as ascribed to it in Clause 8.1 of this Agreement.
9. "Territory" shall mean the entire world.

10. "Website" shall have the meaning as assigned to it in Recital A.

• **2. Grant of Rights & Obligations of the Contributor:**

2.1: **License:-** The Contributor hereby grants exclusive right and license in Art and all transparencies, negatives, prints on demand, electronic storage media, text information, and any other artistic materials in relation to the Art (hereinafter collectively referred to as "Content") within "Territory" to Agency to reproduce, prepare derivative works incorporating, publicly display, market and sell in accordance with following:

2.1.1. Downloads:-

- Subscriptions
- Standard License
- Enhance License

2.1.2. Royalty

2.2. **Print on Demand:-** The Contributor hereby grants right for, prints on demand, other artistic materials in relation to the Art (hereinafter collectively referred to as "Content") to Agency to reproduce, prepare derivative works incorporating, publicly display, market, and further sell.

2.3.1. Contributor grants right in Content in accordance with Annexure "A".

2.3.2. Contributor shall submit all details as required to be filled in Annexure "B".

2.4. Agency, regard being had to its marketing acumen, has the option, but not the obligation to advise the Contributor as to the categorization of Content. However, the final determination of the categorization vests exclusively with the Contributor. In case the Contributor does not submit the details as required under this Agreement along with submission of Content and fails to do so within seven (7) days of such submission, the Agency has the right to use in its absolute discretion to create a caption and categorize the Content in the best interest of both parties.

This categorization once applied to the Content will be applicable until the Agency decides to change it based on the market feedback and mutual interest.

2.5 Agency agrees to accord due credit to the Contributor for use of the Content in accordance with para (G) of Annexure A. Agency further agrees that in case any revenue is generated from commercial exploitation of such promotional material, Agency shall, after deducting the expenses for preparation and marketing of such promotional material, share the profits generated from such commercial exploitation with the Contributor in the same ratio as is set out in the succeeding clause 3 of this Agreement.

2.6. Territory- Contributor hereby grant to right to sale of content in whole world except "_____".

2.7 Sub Licensing- Contributor hereby grant to right to sublicensing.

• **3. Statements and Payment**

1. 3.1 Pursuant to grant of rights to Agency under this Agreement, Agency shall pay to the Contributor, the Consideration as per annexure-C enclosed
2. 3.2 License sold by Agency shall be paid as Consideration by the Agency to the Contributor at the end of every quarter in which the monies towards the Net Sale Price of the said Content are received by Agency. Contributor shall provide account details at the date of execution of

this agreement to enable the online transfer of the Consideration. In case of Exclusive submission the royalty may or may not change as per the negotiation between the Contributor and the Agency.

3. 3.3. As soon as Content is purchased by a Client paying by any applicable purchasing mechanism card, Agency shall make available online in the Contributor account. The report shall be in INR and shall:
 1. 3.3.1 Specify the type of Content sold;
 2. 3.3.2. for each Content include details of file size;
 3. 3.3.3. Record the Consideration received and any due but not yet paid.
4. 3.4. Agency may recover by deducting amount from Consideration:
 1. 3.4.1. Any sum incorrectly or inadvertently credited to the account of the Contributor;
 2. 3.4.2. Any amounts due from Contributor to Agency where Contributor is also a purchaser from Art agency;
 3. 3.4.3. All costs and handling charges incurred by Agency but properly payable by Contributor;
 4. 3.4.4. all other amounts due to Agency from Contributor including, where Agency is entitled to be indemnified by Contributor in the circumstances set out in

Clause 5.

5. 3.5. Pricing and Promotion
 1. 3.5.1 Agency offers Custom Pricing to some of its Client in relation to Contents i.e. pricing Contracts entered into with Client where Contents are licensed for set amounts, dependent upon usage or dependent upon volumes of Images purchased. These License prices may vary from those of the Agency license calculator and Contents can be licensed at these rates without prior Consultation of Contributor.

Or

2. 3.5.1 Agency will sale the content as per minimum price list as given below
3. 3.5.2. Promotion - Agency shall offer Customers promotions on Contents to promote the Agency service without any prior consultation of the Contributor.

4. Representations, Warranties and Covenants

- 4.1 The Contributor represents warrants and covenants that:
 1. 4.1.1 The Contributor is the author / owner of the Content and is therefore, entitled to enter into this agreement and perform the Contributor's obligations hereunder.
 2. 4.1.2. the Content do not and will not infringe the rights, including but not limited to intellectual property rights of any third party, including but not limited to copyright, trademark, right of privacy, or right of publicity of any third party.
 3. 4.1.3. the Content do not contain any matter, which is defamatory, and/or obscene, and/or prejudicial or injurious in any manner to the public interest or national security, and/or resulting in damages or is likely to cause injury to Art Agency.
 - 4.1.4. She is the sole and absolute owner of Content and has good and marketable title to the Content, and the Content, at the time of transfer of title, will be free and clear of any and all rights, claims, liens, mortgages, security interests, or other encumbrances held by any person.

4. 4.1.5. She has obtained a model release for all person appearing in the Content. The Contributor agrees to deliver to the Agency copies of all model releases that are specifically requested by the Art Agency.
5. 4.1.6. The Contributor hereby releases the Agency from any liability to the Contributor, his /her heirs or assign for any loss or damage to the Content, unless caused by the Art Agency's gross and willful negligence.
6. 4.1.7. The Content are not in public domain and have not been published in electronic or any other platform under any contract that would conflict with this Agreement.

5. Indemnity

1. 5.1. The Contributor shall indemnify, defend, and hold the Agency and its officers and employees harmless from any and all demands, claims, suits, judgments, obligations, damages, losses, or other liability including all attorney's fees and other costs, fees, and expenses, suffered or incurred by, or asserted or alleged against, the Agency arising by reason of or in connection with, the Contributor's breach, falsity, or inaccuracy in any representation or warranty contained in this Agreement.
2. 5.2. The Contributor agrees to assume all responsibility for any and all claims resulting from information supplied to the Agency that the Contributor knew or had reason to know, was erroneous and inaccurate regarding its ownership, caption information, and model releases for all Content.
3. 5.3. AGENCY CANNOT ACCEPT LIABILITY FOR LOSS OR DAMAGE OF CONTENT WHILE IN POSSESSION OF ART AGENCY.

6. Exclusivity

1. 6.1 For the Territory and Term (defined below) of this Agreement, and a period of 1 year after expiration of the Term or prior termination hereof, the Contributor undertakes to neither assign, nor otherwise dispose of the copyright in the Content and undertakes not to license, assign or dispose of any interest in the Content, which, for any reason may cause confusion or may derogate from the rights granted by this Agreement, without permission of the Art Agency.
2. 6.2 It is, however, agreed that the aforesaid prohibition does not apply to solicitation and / or execution of artistic assignment work.

7. Unauthorized use of Content

1. 7.1 The Contributor hereby permits the Agency to take such steps as may be necessary to act against any unauthorized use of the Content, including but not limited to initiation of civil and / or criminal proceedings to restrain the unauthorized use of the Content. The Contributor agrees to provide any assistance that the Agency may require in taking such steps to safeguard the rights in the Content.
2. 7.2. In the event of loss, damage, destruction, or unauthorized use of any Content by any user, the Contributor hereby grants the Agency full and complete authority to make claims or to institute suit in the Contributor's name. Any recoveries shall be divided equally between the Agency and the Contributor, after deductions, if any, for collection fees, legal fees, or other expenses incurred by the Agency in its efforts to resolve such claims. All settlements shall be made at the Agency's sole discretion and to effectuate this clause, the Contributor hereby grants the Agency power of attorney, which the Contributor acknowledges is coupled with an interest.

8. Term & Termination

1. 8.1 The Agreement, if not terminated earlier in accordance with this Agreement, is valid for 2 years from the date of execution of this Agreement ("Term"). If this Agreement is not terminated in 2 years from the date of execution, this Agreement will be automatically renewed for the period until it is not terminated in accordance with this Agreement.
2. 8.2 Either party may terminate the present Agreement by giving 6 months' notice in writing to the non-terminating party.
3. 8.3 Agency may terminate this Agreement immediately on written notice to the Contributor if:-
 1. 8.3.1 The Contributor is in material breach of this Agreement having (if the breach is capable of remedy) failed to comply with a 30 days' notice in writing requiring the Contributor to remedy such breach;
 2. 8.3.2. The Agency decides to terminate its operation of the Business by giving a notice in writing to The Contributor of 30 days.

9. Confidential Information

1. The Contributor shall not disclose to any person, or permit the disclosure, without the prior written consent of an authorized officer of the Agency, any and all nonpublic information relating to the Agency which is disclosed to the Contributor or to which the Contributor gains access, including but not limited to trade secrets owned or protected by the Agency and other proprietary information not generally known in the Art business and information otherwise imparted by Agency to the Contributor or his/her representatives in confidence ('Confidential Information').

10. Entire Understanding

1. This agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof and supersedes any understanding between the parties with respect thereto. No provision of this agreement may be changed or modified, nor may this Agreement be discharged in part or in whole except in writing, executed by both parties.

11. Assignment

1. This agreement may not be assigned by Contributor, either voluntarily or by operation of law, without the prior written consent of the Art Agency. This agreement shall be binding upon the Contributor, the Art Agency, and their respective heirs, executors, administrators, successors and assigns. In the event of The Contributor's death, his or her estate or heirs or successors shall be bound by the terms of this agreement. The Contributor's estate shall then receive the payment of Royalty, which would have accrued to the Contributor, upon providing the Agency with proper written authority, legally recognized, as to whom payments are to be made.

12. Severability

1. If any of the provisions of this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement. If, moreover, any one or more of the provisions contained in this Agreement shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it shall

be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it shall appear.

13. Miscellaneous

1. **13.1. Waiver** Any of the provisions of this Agreement may be waived by the party entitled to the benefit thereof. Neither party will be deemed, by any act or omission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the waiving party, and then only to the extent specifically set forth in such writing. A waiver with reference to one event will not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event.

2. **13.2. Amendment.**

This Agreement may not be amended or modified by the parties in any manner, except by an instrument in writing signed on behalf of each of the parties to which such amendment or modification applies, by a duly authorized officer or representative.

3. **13.3. Notices.**

Any notice or other communication to be given hereunder will be in writing and given by facsimile, postpaid registered or certified mail return receipt requested, or electronic mail (with a copy concurrently mailed as set forth above). The date of receipt shall be deemed the date on which such notice is given. Notice hereunder will be directed to a party at the address for such party set forth in the first paragraph of this Agreement.

4. **13.4. Entire Agreement; Conflict.**

This Agreement together with its Annexures contains the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior and/or contemporaneous agreements or understandings, written or oral, between the parties with respect to the subject matter hereof. In the event of any conflict between this Agreement and any of the Exhibits attached, the terms of this Agreement shall govern.

5. **13.5. Relationship**

The Contributor understands that it operates an independent business apart from Art Agency. Nothing in this agreement creates a partnership, employer-employee relationship, or joint venture between the parties.

6. **13.6. Dispute Resolution**

1. (a) In the event that any dispute, claim or controversy (collectively "a" Dispute") arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, each party will attempt a good faith negotiation of such Dispute within 30 days after either party notified the other in writing of such Dispute.
2. (b) If such Dispute is not resolved within 30 days after such notification, the Disputes shall be referred to and finally resolved by the sole arbitrator appointed by the Art Agency. The arbitration proceedings shall be governed by the Arbitration and Conciliation Act, 1996.
3. (c) If the Parties are not able to resolve the Dispute pursuant to abovementioned section, either party may initiate litigation. This Agreement will be construed for all purposes in accordance with the laws of the India. Any litigation or other dispute resolution between the parties relating to this Agreement will take place in courts at

Delhi. The parties consent to the personal jurisdiction of and venue in Delhi with respect to this Agreement.

7. 13.7.ForceMajeure

The parties shall be relieved from liability for a failure to perform any obligation under this Agreement during such period and to the extent that the due performance thereof by either of the parties is prevented by reason of any circumstance beyond the control of the parties, such as war, warlike hostilities, mobilization or general military call-up, civil war, fire, flood or other circumstances of similar importance. The party desiring to invoke an event of force majeure shall give immediate notice to the other party of the commencement and the cessation of such event of force majeure, failing which the party shall not be discharged from liability for any non-performance caused by such event of force majeure. Both parties shall make all reasonable efforts to prevent and reduce the effect of any nonperformance of this Agreement caused by an event of force majeure.

8. 13.8.Marketing

Agency reserves the right to circulate the details of Contributor to other companies within the Agency Group and Agency and such companies may contact Contributor by email or otherwise about other services.

Signed and Delivered

Signed and Delivered

Authorised Signatory

Name of Contributor

For: Mahatta Multimedia Pvt. Ltd.

Address:

Address: 8/17 Sarvapriya Vihar

IP Address:

New Delhi

Date & Time:

Annexure A

Assignment of Rights by contributor

The Contributor also grants following rights, apart from other rights granted by Contributor in the Agreement but subject to the compliance of restrictions imposed by the Contributor, to the Agency while submitting Content:

- A. Right to display on the own Website or any other website;
- B. . Right to market and promote the Art;
- C. Right for printing and selling prints on different printing surfaces such as luster, matt, poster surface, canvas, translate etc;
- D. Right for further framing of prints;
- E. Right to sublicensing of content
- F. Right to reproduce the Content in any material form;
- G. Right to issue copy of the Content to the public;
- H. Right to make any adaptation of the Content;
- I. Right to communicate the Content to the public;
- J. Right to reproduce all or any of the Content in compilations prepared by or on behalf of the Agency and to issue copies thereof and / or to communicate the same to the public.
- K. Agency may need to make certain editorial modifications to the Content submitted by the Contributor to Agency, pursuant to this agreement. In respect of the said modifications, the Contributor hereby permits the Agency to effect the necessary modifications as may be required for the purpose of selling the same through the Website and accordingly.
- L. Agency shall produce and exhibit and distribute promotional material, which material may include the Content. The Agency has the right to use name of the Contributor and likeness for any and all promotional purposes during the term of this contract. The Contributor further acknowledges that such production and distribution of promotional material represents a substantial investment on the part of the Art Agency, and accordingly, the Contributor expressly agrees that at the expiration or termination of this agreement, the Agency shall have the irrevocable right to make reproduction grade duplicates at its own expense of any Content appearing in its sales promotion sheets, catalogs, or types of electronic storage media and distribute the same for a period of two (2) years following the termination or expiration of this agreement.

Annexure B

Guidelines for Submitting Content by the contributor

1. Specifications of the format for submissions:

We Need:

1. Image from at least 10 or above megapixel DSLR camera.
2. JPEG's saved at the highest quality setting (i.e Photoshop level 12). Please ensure that these are fresh JPG's converted from the Raw images. JPG's that are upgraded from a lower quality will be rejected.
3. We only accept RGB (Above RGB 1998 colour Profile) files, single channel greyscale or CMYK will not be accepted.
4. We will accept uncompressed file sizes of 32 MB (Minimum 4100 Pixels) for editorial use only.
5. For images to be sold for commercial purpose (like advertising agencies), we accept a minimum uncompressed file size of 60 MB. (Approx. 5100*3400).
6. Please ensure that you provide Model and Property release for all the images meant for commercial sales. Images that do not have any models or property will not require any release.
7. At the time of submitting each image, the Contributor shall also submit a detailed, complete and accurate caption encompassing the:
 - A. Subject matter of the image ("Who");
 - B. Action in the image ("What");
 - C. Location of the image ("Where") and
 - D. Time of the image ("When")
8. The Contributor shall also submit the following details:
 - A. Credit name of the Contributor;
 - B. The Name that will reflect on the Cheque;
 - C. The Contributor's code.
9. The Contributor shall submit truly rare and irreplaceable "one of kind" Content to the Photo Agency in the form of appropriately labeled, reproduction quality duplicates.

We do not want:

1. Images from compact/unsuitable cameras
2. Images that contain a watermark, contain glamour or pornography, or images which infringe the rights of any third party.
3. A series of similar images with almost identical compositions or only slightly different exposures.

We reject images for:

1. Camera shake
2. Chromatic aberration
3. Colour cast
4. Compression artifacts
5. Data loss or corruption
6. Blemishes-Dust, scratches or sensor dust
7. Excessive sharpening
8. Excessive similar
9. High contrast
10. Interpolation artifacts
11. Newton's rings or interference patterns
12. Noticeable retouching
13. Out of focus
14. Over manipulated
15. Poor exposure
16. Size
17. Soft or lacking definition
18. Unsuitable material

Annexure C

Payment to Contributor

1. License: Agency shall pay to the Contributor as following:-

1.1. **Downloads:**

Your Lifetime Earnings as a Contributor*	Monthly Subscriber Image**	On Demand Image** (Sml/Med)	On Demand Image** (Any Size)	Custom Image /	Footage Clip
				Enhanced License Image**	
0 - 10000	18.00	57.00	133.00	25% (up to INR 5677)	32%
10000-20000	23.00	76.00	176.00	30% (up to INR 7096)	32%
20000-50000	26.00	83.00	192.00	35% (up to INR 7948)	32%
Above 50000	27.00	88.00	202.00	38% (up to INR 8515)	32%

1.2. **Royalty:** 40% of net sale price for every sold by Agency shall be paid as Consideration by the Agency to the contributor at the end of every quarter in which the monies towards the Net Sale Price of the said Content are received by Agency. Contributor shall provide account details at the date of execution of this agreement to enable the online transfer of the Consideration. In case of Exclusive submission the royalty may or may not change as per the negotiation between the Contributor and the Agency.

2. **Print on Demand:** 30% (percentage of print size) of net sale price for every print sold by Agency shall be paid as Consideration by the Agency to the contributor at the end of every quarter in which the monies towards the Net Sale Price of the said Content are received by Agency. Contributor shall provide account details at the date of execution of this agreement to enable the online transfer of the Consideration. In case of Exclusive submission the royalty may or may not change as per the negotiation between the Contributor and the Agency.