

NIMIA PRODUCER AGREEMENT

This Agreement (“**Agreement**”) is between **Ninu, Inc. (“Nimia”)** and the individual or entity (“**Producer**”) (collectively, the “**Parties**”) creating an account on <http://www.app.nimia.com> (the “**Site**”) and includes the following Standard Terms and Conditions and the Commercial Terms as set forth in **Exhibit “A”**. By selecting the “I agree” box when creating a Nimia account, Producer is agreeing to be bound by the terms of this Agreement. Capitalized or underlined words represent defined terms. If Producer is using the Services on behalf of an organization, Producer is agreeing to these Terms for that organization and promises that Producer has the authority to bind that organization to these terms. In that case, “Producer”, “you” and “your” will refer to that organization. This Agreement applies to all Content (as the term is defined in Section 1.1) that Producer has previously submitted and, in the future, will submit via the Site.

1. ASSET MANAGEMENT, CLOUD STORAGE AND LICENSING

- 1.1. Provision of Content:** The Parties acknowledge that Producer may, from time to time, provide video files, digital assets, animations, information, photographs, illustrations, audio files, flash files, data files and other material (collectively, “**Content**”) together with other information, documents (such as model or property releases) or software relating to such Content (“**Descriptive Information**”) to the Nimia Asset Manager and Licensing Platform (the “**Platform**”) using the upload procedures as specified on the Site or such other procedures as the parties may mutually agree. Producer hereby grants Nimia permission to use Content files to perform services related to content management and storage (Services). The Services include but is not limited to archiving, copying, playing back, displaying, and transferring Content files between servers. Producer agrees to permit Nimia to extend Producer’s grant of authority to trusted third parties, such as but not limited to Amazon Web Services, to provide Services.
- 1.2. Published Files:** Producer in their sole discretion may designate certain Content to publish to the Nimia Marketplace (“**Published Files**”). Producer hereby grants Nimia permission to display Published Files to the general public.
- 1.3. Direct Sales Content:** Producer in their sole discretion may privately license certain Content through the Nimia platform (“**Direct Sales Content**”). Producer hereby grants Nimia a worldwide right to license Direct Sale Content to licensee(s). The licensee(s) may use the Direct Sale Content according to the specific license type and add-on licenses selected by the licensee. The Parties agree that all rights, including title and copyright, in and to the Direct Sale Content will be retained by the Producer, and no title or copyright is transferred or granted in any way to Nimia or any third party except as provided in this Agreement.
- 1.4. Appointed Content:** Producer in their sole discretion may designate certain Content to publicly license on the Nimia platform (“**Licensable Content**”). Nimia in their sole discretion may determine which Licensable Content, including none, to approve into the Nimia Marketplace for public license (“**Appointed Content**”). Producer shall pay storage fees for Content not approved as Appointed Content according to the commercial terms in Exhibit A. Producer hereby grants Nimia a worldwide right to sell and license Appointed Content to any prospective licensees for any and all media now in existence or that may in the future be introduced, including without limitation via the Site, print, 3rd party websites, other electronic formats, mobile devices, TV, cinema, exhibitions; and, subject to applicable laws, may be used for any purpose of any nature including without limitation for advertising, publicity, promotions, graphic design, marketing within and on products, corporate communications, press articles, press releases, brochures, reports, décor, programs and films. Nimia in their sole discretion may designate Appointed Content to collections and/or license categories including but not limited to: Boutiq, RF Premium, or RF Basic. The Parties agree that all rights, including title and copyright, in and to the uploaded Appointed Content will be retained by the Producer, and no title or copyright is transferred or granted in any way to Nimia or any third party except as provided in this Agreement. Producer in their sole discretion may determine which content is suitable for public licensing and may delete/unpublish such content at anytime.
- 1.5. Syndicated Content:** Producer in their sole discretion may designate certain Content for sub-licensing at one or more agencies via Nimia’s Syndication Program (“**Syndicated Content**”). Agencies include but are not limited to

Getty Images, Shutterstock, Corbis, Pond5, etc. (“**Distributors**”). Distributors and Nimia in their sole discretion may determine which of Producer’s Syndicated Content, including none, will be available for license at Nimia and/or Distributors. Producer hereby grants Nimia a worldwide right to license and/or sublicense Syndicated Content to Distributors, for any and all media now in existence or that may in the future be introduced, including without limitation via the Site, print, 3rd party websites, other electronic formats, mobile devices, TV, cinema, exhibitions; and, subject to applicable laws, may be used for any purpose of any nature including without limitation for advertising, publicity, promotions, graphic design, marketing within and on products, corporate communications, press articles, press releases, brochures, reports, décor, programs and films. Nimia may sublicense or authorize any Distributors, any customer who licenses Syndicated Content from a Distributor (“**Clients**”) and their respective customers to exercise the rights described in this Section 1. Nimia and any Distributors or Clients will determine the terms and conditions of all licenses of Syndicated Content granted by them, but will not use or license Syndicated Content for uses that are defamatory, pornographic or otherwise illegal and will use commercially reasonable efforts to stop any such use by Clients brought to their attention. Nimia and Distributors may determine how Syndicated Content may be marketed and may stop marketing or licensing it at any time. If Nimia notifies Producer that it has permanently stopped marketing and licensing any particular Syndicated Content, the Agreement will be deemed to be terminated only with regards to that Syndicated Content. The Parties agree that all rights, including title and copyright, in and to Syndicated Content will be retained by the Producer, and no title or copyright is transferred or granted in any way to Nimia or any third party except as provided in this Agreement. Producer in their sole discretion may determine which content is suitable to apply for Syndicated licensing and may request removal of such content according to Section 4.1 of this Agreement. Producer understands it may take Distributors up to 90 days to remove Syndicated Content from the time Distributors are notified of the request for removal. Nimia or a Distributor or Client may offer license models through an application program interface (API) or other utility that will make Syndicated Content available for use by clients on a high-volume basis. Accordingly, where appropriate, the amount due to you will be determined according to: (a) the ratio of the number of individual items of your Syndicated Content to the total number of individual items of Content licensed together; or (b) in Nimia’s discretion, the relative value of your individual items of Syndicated Content compared to all other content licensed together with it. Nimia may include Syndicated Content within direct-to-consumer products and services (as opposed to Nimia or Distributors licensing to Clients for such uses) including, without limitation, within merchandise and on websites that primarily generate revenue from advertising. The amount due to Producer will be determined in the same way as stated in this Section.

- 1.6. Marketing Use of Content.** Nimia may use Appointed Content, Syndicated Content and/or Published Content to market Producer, Producer work, Nimia, including use in composites that include Content supplied by a third party. Distributors may use Syndicated Content to market Producer, Producer work, Nimia, or Distributors, including use in composites that include Content supplied by a third party. No royalties will be paid on these marketing uses.
- 1.7. Managing Content.** Nimia has policies and processes which must be adhered to prior to Content being posted on the Site or otherwise being offered for sale or license. Notwithstanding that some qualitative standards are required to be met, Nimia does not and cannot review all Content uploaded to the Site and is not responsible for the content, quality, or consequences of your uploading such Content. Notwithstanding the foregoing, Nimia reserves the right to delete, move, refuse to accept or edit any Content or Descriptive Information that it may determine, in its sole discretion, violates or may violate this Agreement, the intellectual or proprietary rights of others, any of its policies or is otherwise unacceptable in its discretion, and you hereby agree to forfeit any fees payable in respect of such Content to Nimia or as it may direct. Nimia shall have the right but not the obligation to correct any errors or omissions in any Content or Descriptive Information, as it may determine in its sole discretion. You acknowledge that any screening of Content performed by Nimia to determine Appointed Content is done as a courtesy only.
- 1.8. Credit and Moral Rights.** Nimia shall use commercially reasonable efforts to credit Producer as the source of Appointed Content, but shall have no liability for lack of credit. For the purposes of this Agreement, “**Moral Rights**” means all non-transferable and non-licensable rights belonging to the original creator of Appointed Content that are automatically conferred by legislation to varying degrees in different countries, which shall include the following rights and all rights of a similar nature: (a) the right to be identified as the creator; (b) the

right to object to misrepresentative modification of Appointed Content; and (c) the right to withdraw Appointed Content from the market (except pursuant to the termination provisions of this Agreement). To the extent allowed by law, Producer hereby waives all Producer's Moral Rights relating to Appointed Content. To the extent such waivers are not permitted by applicable law, Producer agrees not to enforce such moral rights against Nimia, Distributors or Clients. Where Producer are not the owner of any Moral Rights, Producer confirms that all Moral Rights have been waived to this same extent or that Producer has obtained the same commitments not to enforce Moral Rights. Further, Producer acknowledges and accepts that it is common business practice for commercial uses that the creator of Content is not credited and that Content may be modified.

1.9. Digital Millennium Copyright Act. If Producer or an agent thereof believes that any Content licensed or distributed through Nimia infringes upon its copyrights, Producer may submit a notification pursuant to the Digital Millennium Copyright Act ("**DMCA**") by providing Nimia with the following information in writing (see 17 U.S.C 512(c)(3) for further detail):

- (a) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- (b) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- (c) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled and information reasonably sufficient to permit the service provider to locate the material;
- (d) Information reasonably sufficient to permit the service provider to contact you, such as an address, telephone number, and, if available, an electronic mail;
- (e) A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- (f) A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Nimia's designated "**Copyright Agent**" to receive notifications of claimed infringement is Eric Harrison, located at 506 2nd Ave., Suite 1400, Seattle WA 98104, email: legal@nimia.com. For clarity, only DMCA notices should go to the Copyright Agent; any other feedback, comments, requests for technical support, and other communications should be directed to Nimia customer service through support@nimia.com. Producer acknowledges that if it fails to comply with all of the requirements of this Section, your DMCA notice may not be valid.

If you believe that your Content that was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to post and use the material in your Appointed Content, you may send a counter-notice containing the following information to the Copyright Agent ("**Counter-Notice**"):

- (a) Your physical or electronic signature;
- (b) Identification of the Content that has been removed or to which access has been disabled and the location at which the Content appeared before it was removed or disabled;
- (c) A statement that you have a good faith belief that the Content was removed or disabled as a result of mistake or a misidentification of the Content; and
- (d) Your name, address, telephone number, and e-mail address, a statement that you consent to the jurisdiction of the federal court in San Francisco, California, and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by the Copyright Agent, Nimia may send a copy of the counter-notice to the original complaining party informing that person that it may replace the removed Content or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the Content provider, member or user, the removed Content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at Nimia's sole discretion.

2. ROYALTIES AND PAYMENTS

2.1. Royalties. Producer royalties shall be calculated according to Exhibit “A”, royalties are paid on Gross License Fees and are based on the type of license model and/or Collection through which Appointed Content, Syndicated Content and/or Direct Sales is actually licensed as specified in Exhibit “A”. “**Gross License Fees**” means (a) the amount Nimia receives from a Client or Distributor minus Deductions; (b) the amount recovered from a third party infringer in connection with a Claim; or (c) the amount of revenue received from consumer products/services that is allocated to the Appointed Content. Deductions may include any (i) applicable VAT, sales tax, duty, levy or impost of any nature required to be withheld, deducted or paid by Nimia from any current or future sums due to Producer by any law, regulation, or treaty; and (b) any withholding taxes imposed on remittances to Nimia from countries outside of the United States); (ii) unauthorized use detection/enforcement fees and expenses, if any; and (iii) shipping charges, insurance charges and service fees such as, for example, special formatting requests, printing/framing costs and technology delivery/access services, in all cases arising out of or resulting from any license of the same Appointed Content (“**License Fee Deductions**”).

Nimia may deduct the following amounts from the Royalties payable to Producer (together the “**Royalty Deductions**”): (a) advances on earnings or royalties under any agreement with Nimia; (b) cancellations of a license where the original sale has been reported in a current or past sales report (“**Sales Report**”) including where due to a fraudulent transaction; (c) overpayment of Royalties in a prior Royalty period; and (d) amounts that may be deducted or withheld. Nimia will notify Producer of any Royalty Deductions in a Sales Report before deducting amounts from payments to Producer. Other than Royalties for Content that is improperly credited to Producer or any cancellations under (b), if Nimia has not notified Producer of any Royalty Deduction within 1 year after it has been incurred, Nimia waives the right to recoup it.

2.2. Reporting and Payments. Nimia will make available to Producer an Earnings Summary for transactions completed on the Platform. The Earnings Summary will include the following information: (a) the license sale amount; (b) date of transaction; (c) Content ID number; and (d) royalty rate. Producer will receive payments automatically through direct deposits (Producer must submit bank name, account name, bank routing number and bank account number in account settings). For international Producers not served by Nimia’s third party payment processor, Nimia will make Payments to international Producer manually via paypal upon request by Producer. No payment will be made unless a minimum of US\$100.00 (or local currency alternative), after Royalty Deductions, is due to Producer. Information on royalties earned through the Syndication Program will be made available to Producer and will generally include information provided by the sub-licensing partner and made available in ninety (90) days.

THE PARTIES FURTHER AGREE THAT NIMIA SHALL NOT BE REQUIRED TO PAY ROYALTIES TO THE PRODUCER IF NIMIA IS RESTRAINED OR OTHERWISE PREVENTED FROM USING RIGHTS GRANTED UNDER THIS AGREEMENT RELATING TO CONTENT BECAUSE THOSE RIGHTS ARE FOUND TO BE AN INFRINGEMENT OR CONTRAVENTION OF THE INTELLECTUAL OR OTHER PROPERTY RIGHTS OF A THIRD PARTY.

Without limiting the generality of the foregoing, Nimia is entitled to set-off against any amount owing to Producer, all amounts to which Nimia 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 which is the subject of a representation, warranty or indemnity of Producer under this Agreement.

3. REPRESENTATIONS AND WARRANTIES, INDEMNIFICATION & LIMITS ON LIABILITY

3.1. Representations and Warranties. Producer hereby represents and warrants as follows:

- (a) Producer has the legal capacity and authority to enter into this Agreement, has the right to grant all of the license rights contemplated to be provided under this Agreement, and has not granted any rights or licenses to any Content or any other intellectual property or technology that would conflict with this Agreement;
- (b) If the Content consists in whole or in part of design elements that are included in design program software, the end user license agreement, terms of service or the equivalent license held by Producer for such design program software allows the Producer to incorporate such elements in Content created by the Producer, and

- to license such Content to Nimia for the purposes set forth herein;
- (c) No portion of the Content as delivered to Nimia from time to time, contains any disabling mechanism or protection feature designed to prevent its use, copying or enjoyment in the manner contemplated in this Agreement, and all Content will be free of any virus, worm, lock, or other mechanism or device that may be used to modify, delete, damage or disable the Site or the Content or any other hardware or computer system, or which would otherwise render inaccessible or impair the use of the Content or the Site in any way;
 - (d) The Content will include all necessary Descriptive Information to enable its effective marketing on the Site, which Descriptive Information will be complete and accurate in all material respects and will not include false, misleading or inapplicable metadata intended to or which has the effect of keyword “doping” or improperly altering search results that would otherwise be applicable to such Content;
 - (e) The Content delivered to Nimia hereunder represents original creations and expressions of subject matter, and no Content or Descriptive Information infringes any copyright, trademark, right of privacy or right of publicity or other proprietary right of any third party, or defames or casts into disrepute in any manner any third party and Content designated as Exclusive will remain exclusive to the Nimia Marketplace;
 - (f) The Content has not been obtained in any unlawful manner, whether civil or criminal, and is not subject to any applicable accreditation terms or access condition that might be breached by the Content being used by Nimia, its customers or distributors as contemplated under this Agreement. In addition to any other available remedies, if you breach this paragraph Nimia may immediately terminate this Agreement. You further agree to forfeit any royalties earned by you in connection with your misconduct;
 - (g) You have obtained valid model and property releases where necessary in accordance with Nimia’s submission requirements applicable at the time of submission and you will keep the original release and provide a copy to Nimia.

3.2. Indemnification. You agree to indemnify, defend and hold Nimia and its affiliates, and their respective directors, officers, employees, shareholders, agents and licensees of Content (singularly a “**Nimia Party**” and collectively, the “**Nimia Parties**”) harmless from and against any and all claims, liability, losses, costs and expenses (including reasonable legal fees on a solicitor and client basis) incurred by any Nimia Party as a result of or in connection with: (i) any use or alleged use of the Site or provision of Content under your Member Name by any person, whether or not authorized by you; (ii) or resulting from any communication made or Content uploaded under your Member Name; (iii) any breach by you of this Agreement; or (iv) any claim threatened or asserted against any Nimia Party to the extent such claim is based upon a contention that any of the Content used within the scope of this Agreement infringes any copyrights, trade secrets, trademarks, right of privacy or publicity, or other intellectual property rights of any third party.

Nimia reserves the right, at your expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with Nimia's defense of such claim.

Producer agrees that Nimia shall have the right to determine whether and to what extent to proceed against a licensee or other third party (an “**Infringer**”) for any violation of a license agreement or alleged infringement of other rights of the Producer. Producer hereby releases Nimia from any and all claims Producer might have, either directly or indirectly, arising out of or in connection with a determination by Nimia to proceed or not to proceed against any Infringer in any instance. Nimia hereby agrees that any monetary recovery it receives as a result of any legal or enforcement action taken against any such Infringer, to the extent such monies are intended to compensate Nimia for lost licensing fees or statutory damages, shall, after deduction of all costs and expenses incurred in gaining such recovery (including, without limitation, reasonable counsel and experts' fees and disbursements on a solicitor and client basis) incurred by or on behalf of Nimia in connection with such action, be divided between the Producer and Nimia pursuant to the provisions contained herein. In the event Nimia elects not to proceed against an Infringer, Producer shall have the right to proceed against such Infringer for such license violation or infringing action. Producer hereby agrees that any monetary recovery it receives as a result of any legal action taken against any such Infringer, to the extent such monies are intended to compensate the Producer for lost licensing fees or include statutory damages, shall, after deduction of all costs and expenses incurred in gaining such recovery (including, without limitation, reasonable counsel and experts' fees and disbursements on a solicitor and client basis), be divided between the Producer and Nimia pursuant to the provisions contained herein.

3.3. Limitation of Liability. THE SITE AND PLATFORM, INCLUDING ALL SOFTWARE, SERVICES AND/OR OTHER RELEVANT TECHNOLOGIES OR METHODOLOGIES REQUIRED TO SUPPORT THE SITE AND THE PLATFORM ARE PROVIDED “AS IS”, AND PRODUCER AGREES THAT THE USE OF THE SITE AND/OR THE PLATFORM WILL BE AT ITS OWN RISK, WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OR CONDITION OF ANY KIND BY NIMIA, INCLUDING WITHOUT LIMITATION ANY OF THE CONTENT OR INFORMATION CONTAINED THEREIN. NIMIA FURTHER DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.

EXCEPT AS EXPRESSLY SET FORTH IN THE HEREIN, NIMIA DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH REGARD TO THE SITE AND/OR THE PLATFORM OR ANY OTHER ITEMS PROVIDED BY, THROUGH OR ON BEHALF OF NIMIA, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL NIMIA OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS, AGENTS OR LICENSEES BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL USE, DATA OR OTHER INTANGIBLE LOSSES, IN CONNECTION WITH ANY CLAIM, LOSS, DAMAGE, ACTION, SUIT OR OTHER PROCEEDING ARISING UNDER OR OUT OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE USE OF, RELIANCE UPON, ACCESS TO, OR EXPLOITATION OF THE SITE, THE PLATFORM, THE CONTENT OR ANY PART THEREOF, OR ANY RIGHTS GRANTED TO YOU HEREUNDER, EVEN IF NIMIA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER THE ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NIMIA ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM PRODUCER’S OR AUTHORIZED USERS’ ACCESS TO AND USE OF THE SITE AND/OR PLATFORM; (II) ANY ERRORS OR OMISSIONS IN, OR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF, ANY MATERIALS POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SITE AND/OR PLATFORM; (III) DAMAGE CAUSED BY THE POSTING, TRANSMISSION OR STORAGE OF PRODUCER OR PRODUCER’S CUSTOMER DATA SUBMITTED VIA AUTHORIZED USER ACCOUNTS ON THE PLATFORM AND/OR SITE, OR (IV) THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY AUTHORIZED USER OR THIRD PARTY. IN NO EVENT WILL NIMIA, ITS DIRECTORS, OR EMPLOYEES, BE LIABLE TO SUBSCRIBER AND/OR ITS AUTHORIZED USERS FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE LESSER OF (A) THE AGGREGATE AMOUNT PRODUCER PAID TO NIMIA UNDER THIS AGREEMENT DURING THE 12 MONTHS PRECEDING THE CLAIM; OR (B) ONE THOUSAND DOLLARS USD (\$1,000.00).

SOME JURISDICTIONS DO NOT ALLOW FOR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN SUCH JURISDICTIONS, THE LIABILITY OF NIMIA OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS, AGENTS OR LICENSEES SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

3.4. Nimia IP and Marks. Nimia reserves all rights, title and interest to the Site, the Platform and any other software, technology, methodology or knowhow not otherwise expressly granted to Producer in this Agreement. No title to or ownership of the Site, the Platform and any other software, technology, methodology or knowhow, or any other IPR of Nimia associated therewith is transferred to Producer or any third party under this Agreement. For the purposes of this Agreement, “IPR” means all rights of a person or business entity in, to, or arising out of: (i) any U.S., international or foreign patent or any application therefore and any and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof; (ii) inventions (whether patentable or not in any country), invention disclosures, improvements, trade secrets, proprietary information, know-how, technology and technical data; (iii) copyrights, copyright registrations, mask works, mask works registrations, applications, moral rights, patents, trademarks, trade secrets, and rights of personality, privacy and likeness, whether arising by operation of law, contract, license or otherwise; and (iv) any other similar or equivalent proprietary rights anywhere in the world.

4. TERMINATION & SURVIVAL

4.1. Termination and Effect. This Agreement is effective until terminated. You may terminate this Agreement at any time by giving thirty (30) days written notice to Nimia at legal@Nimiamedia.com or such other means of written notice acceptable to Nimia, which enables confirmation of your identity and your intention to terminate. Nimia may also terminate this Agreement for any reason by giving you thirty (30) days notice by e-mail at the last address contained in your membership information. If Nimia terminates your membership pursuant to the terms of the Membership Agreement, such termination shall be deemed to be notice of termination of this Agreement, as well.

Either party may terminate this Agreement upon written notice effective immediately upon being sent to the last address included on the Site if the other party (i) liquidates all or substantially all of its assets, dissolves as a corporation other than through inadvertence, or otherwise ceases to do business in a material way, or (ii) makes an assignment for the benefit of creditors, or (iii) files a petition in bankruptcy, petitions or applies for a receiver or trustee for all or any substantial part of its property and such receiver or trustee is appointed, or commences, or has commenced against it, a proceeding under any bankruptcy, reorganization, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, any of which shall remain in force for a period of thirty (30) days or more, or (iv) is adjudicated insolvent or bankrupt, or (v) is in breach of this Agreement.

In addition, Nimia may deem an account to be terminated and may off-set any fees or credits contained in such account against its costs of administration if there has been: (i) in the reasonable opinion of Nimia, any material misrepresentation made as to the capacity, identity or copyright ownership of Content or Producer provided hereunder; or (ii) no log-in or other activity in the account for 24 months despite reasonable commercial efforts to contact Producer based on the information provided through the Site as part of the account profile of such Producer.

Upon termination, Nimia will use commercially reasonable efforts in relation to all Appointed Content and Syndicated Content subject to termination to: (a) inactivate digital Appointed Content and inform partner agencies of inactivation of Syndicated Content within 90 days; and (b) upon Producer's written request made by within 1 year of termination, either (i) return to Producer any analog format Appointed Content within 3 years; or (ii) provide Producer with a digital copy of any analog format Appointed Content that is irretrievable or otherwise damaged (normal wear excepted). During all wind-down periods under this Section 4.1, Nimia may continue to process licenses of the Appointed Content so long as Nimia pays Royalties to Producer as required under this Agreement and Producer may not exploit the Appointed Content elsewhere during this time.

4.2. Survival of Unexpired Licenses. Following termination of the Agreement, all unexpired licenses of Appointed Content will remain in effect and Producer shall not license any Appointed Content (or derivative works) in a way that conflicts with any unexpired exclusive licenses identified in Producer's past Sales Reports. Nimia and Distributors will have a one-time only (or up to five times only in the case of licenses for educational uses) right to renew unexpired licenses on substantially the same terms, provided that there is no break in the licensing period.

4.3. Surviving Provisions. The termination of this Agreement will not affect the accrued rights and obligations of the Parties existing at the date of termination. All sections and the Commercial Terms specified in Exhibit "A" as may be appropriate, will survive termination of the Agreement, as will any matter arising under the Agreement either expressly or that by its nature is required to be performed or apply after the Term of the Agreement.

5. MISCELLANEOUS

5.1. Entire Agreement; Severability and Waiver. This Agreement supersedes and cancels any previous agreements related to the distribution of Appointed Content. Unless otherwise specified herein, this Agreement constitutes the entire agreement among the Parties relating to its subject matter and may not be amended, except (a) via the Rate Card described in the Commercial Terms contained in Exhibit "A"; (b) in writing by an authorized representative of each Party; or (c) where a court or other competent legal authority finds a provision to be invalid, illegal or unenforceable (in which event such determination shall not affect any other provision in the

Agreement all of which shall remain in full force and the Parties shall in good faith consult to agree the extent of any amendment that might be possible to make the provision valid, enforceable or legal whilst reflecting as far as possible the original intention of the Parties). If a Party waives any provision of this Agreement, the waiver in such an instance shall not be deemed to be a continuing waiver, and no waiver by either Party shall prevent such Party from enforcing any and all other provisions of this Agreement.

- 5.2. Relationship of Parties.** The Parties expressly acknowledge and agree that their relationship is not one of partnership, employment, joint venture, or any other legal identity, and that Nimia has no obligation to find or offer employment to Producer.
- 5.3. Governing Law and Arbitration.** The Site is controlled, operated and administered by Nimia from within Washington State. The Site can be accessed from all states in the United States, as well as from other countries around the world. As each of these jurisdictions has laws that may differ from those of Washington State, you acknowledge and agree that this Agreement will be governed under the laws of Washington State and the federal laws of the United States applicable therein (without reference to conflicts of laws principles). Producer hereby irrevocably submits to the exclusive jurisdiction of Washington State with respect to the subject matter of this Agreement. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

Producer hereby consents to service of any required notice or process upon you by email, registered mail or overnight courier with proof of delivery notice, addressed to the address or contact information provided by Producer at the time you are first granted access to the membership portions of the Site. Producer agrees to waive any right you may have to (i) trial by jury; and (ii) to commence or participate in any class action against Nimia related to the Site or this Agreement.

Any and all disputes arising out of, under or in connection with this Agreement, including without limitation, its validity, interpretation, performance and breach, shall be submitted to arbitration in Seattle, Washington.

If Nimia is obligated to go to court or arbitration to enforce any of its rights, or to collect any fees, Producer hereby agrees to reimburse Nimia for its legal fees, costs and disbursements if Nimia is the prevailing party in any such action.

- 5.4. Notices.** Parties shall provide all notices in writing via mail and/or email to the addresses set forth in Exhibit “A”.
- 5.5. Passwords.** Producer acknowledges and agrees that it is responsible for each and every access or use of the Upload portions of the Site that occurs in conjunction with Producer’s Member Name and such passwords, and that Nimia is authorized to accept Producer’s Member Name and password as conclusive evidence that Producer wishes to upload Content pursuant to this Agreement. Nimia shall have no liability or responsibility to monitor the provision of Content under your member name and password.
- 5.6. Confidentiality. “Confidential Information”** Producer acknowledges that the Confidential Information (defined below) which it obtains through the entering into of this Agreement, the use of the Site and the provision of Content constitutes valuable, confidential, proprietary information of Nimia and its licensors, and agrees that during the term of this Agreement and thereafter it shall not, without the express written consent of Nimia, use or disclose to any other person any such Confidential Information, except as specifically authorized under this Agreement.

For the purposes of this Agreement, “Confidential Information” means any and all data, information, documents, software or materials relating to the business and management of Nimia, its members, affiliates, licensors or licensees, that is designated as confidential or ought reasonably to be considered confidential, including but not limited to: their business model and operations, processes, products, designs, pricing, promotions, business plans, business opportunities, alliances, Content, graphics, documentation, finances, research, development, know-how, trade-secrets, training materials, personnel, identities or personal information of any kind pertaining to members, clients, methodologies, Site content belonging to others and other intellectual property.

5.7. Personal Data Transfer. Producer understand and agree that information relating to Producer or any other person such as a model that Producer may provide to Nimia may be retained for a reasonable period, and may be transferred to, stored, accessed and used in jurisdictions worldwide whose privacy laws may be different and less protective than those of Producer's home country. Nimia, as data controller and processor, may use this information in connection with the performance of this Agreement, including for contacting Producer, and may disclose this information to necessary service providers, to provide the services they contract for. These third parties will have no right to use Producer's information for secondary purposes. Any personal information Producer do provide may also be disclosed as part of any merger, sale of the company assets or acquisition, as well as in the unlikely event of an insolvency, bankruptcy or receivership in which event personal information would be transferred as one of the business assets of the company. Nimia reserves the right to disclose any information Producer provide in order to respond to claims or protect the rights, property or safety of itself, its related companies, Distributors and their employees, customers or the public.

5.8. Other.

- (a) Nimia's failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right;
- (b) This Agreement is personal to Producer and is binding upon its heirs, executors and legal representatives, as the case may be, and is not assignable by Producer without Nimia's prior written consent. Nimia may assign this Agreement without Producer's consent to any other party so long as such party agrees to be bound by its terms;
- (c) This Agreement can be amended by the written agreement of the parties or by Nimia posting amendments to its Cloud Storage Agreement, Application License Agreement, Site User Agreement, Community Section Agreement and any other agreements, which may be incorporated by reference therein on the Upload portion of the Site. Continued provision of Content or failure to terminate this Agreement within thirty (30) days of posting of such amendment will be deemed to be acceptance of the amendment by the Producer and it will be incorporated by reference into this Agreement. The Agreement may be executed in two or more counterparts, each of which will be deemed to be an original and each of which together constitute a single instrument.

6. ACKNOWLEDGEMENT

PRODUCER ACKNOWLEDGE THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND HAS HAD AN OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE PRIOR TO AGREEING TO IT. IN CONSIDERATION OF NIMIA AGREEING TO PROVIDE A MEANS FOR THE SALE OR LICENSE OF PRODUCER'S APPOINTED CONTENT, PRODUCER AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. PRODUCER FURTHER AGREES THAT IT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN IT AND NIMIA, WHICH SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, ORAL OR WRITTEN, AND ANY OTHER COMMUNICATION BETWEEN PRODUCER AND NIMIA RELATING TO THE SUBJECT OF THIS AGREEMENT.

Exhibit “A”

NIMIA MARKETPLACE COMMERCIAL TERMS

Royalties: The following royalty rates (“**Royalty/ies**”) calculated on Gross License Fees (as defined in **Section 2.1**) shall apply to license sales on the Platform. Royalties are based on per file designation, not Producer’s Content as a whole. Syndicated royalties are listed on the following page and shall apply to license sales from Syndicated Content.

Direct Sale 90%	★ Exclusive* 50%	Non-Exclusive** 35%
Royalty: 90% Pricing: Custom	Royalty: 50% Pricing: \$100 - \$2,000	Royalty: 35% Pricing: \$100 - \$2000
Designed for custom sales negotiated by Producer with Producer’s clientele.	Designated Content, on a per file basis, is exclusive to Nimia. Content may not be licensed by other agencies. Exclusivity is on a per file basis, not on Producer being exclusive.	Designated Content, on a per file basis, is not-exclusive to Nimia. Content may be submitted to other agencies via Syndication Program. Non-Exclusivity is on a per file basis.

*Exclusive: This means that the Content, on a per file basis, is available for license only on Nimia’s Marketplace.

**Non-Exclusive: This means that the Content, on a per file basis, may be licensed to other third party agencies.

Pricing: The following average prices apply to Content based on collection category. Final prices may differ based on the buyers’ checkout options or modification by Nimia’s sales agents.

RM - Boutiq’ ~\$1,000 / clip	RF - Premium ~\$299 / clip	RF - Basic ~\$79 / clip	Public Domain ~\$50 / clip
Pricing: Based on usage terms, duration, resolution, etc. selected by Buyer (Rights Managed Content).	Pricing: Based on buyers’ selected resolution and licensed as Royalty Free Content.	Pricing: Based on buyers’ selected resolution and licensed as Royalty Free Content.	Pricing: Based on buyers’ selected resolution and licensed as Royalty Free Content.
This Content has exceptional quality both in terms of objective and subjective attributes.	This Content is high quality and subjectively unique.	This Content is great for everyday projects.	This media is free from all copyright restrictions, but may have right of publicity issues if used commercially.
Can be used in either commercial or editorial productions.	Can be used in either commercial or editorial productions.	Can be used in either commercial or editorial productions.	

Nimia Marketplace Reporting: A record of License sales from Nimia’s Marketplace is made available to Producer inside Producer’s account under Platform -> Earnings.

Notice: Nimia may, upon providing you 30 (thirty) days notice by email, make amendments to this Agreement including introducing new royalty rates and methods for calculating Royalties to accommodate distribution of Appointed Content through new licensing methods/models that it introduces from time to time. It is your responsibility to keep Nimia informed of your current email address via the account management tool made available to you by Nimia. Continued submission of Content or failure to terminate this Agreement within 30 days of Nimia notifying you of any changes to the Agreement will be deemed acceptance by you of those changes and they will be incorporated by reference into this Agreement.

Term: The Term of this Agreement begins as of the Commencement Date and will continue for an initial period of One (1) Year, with automatic renewals of successive one-year periods, subject to the termination provisions provided above.

SYNDICATED PROGRAM COMMERCIAL TERMS

Disclaimer: Nimia makes no guarantee that Content will be accepted or approved by partner agencies for licensing.

Plans: Producer may choose between: (i) Freelancer Plan (royalty split); or (ii) Agency Plan (flat fee structure)

Freelance Plan → Royalty Split: Syndicated Content is uploaded or sent to selected Distributors. Producer shall receive the following royalty rates (“**Royalty/ies**”) calculated on Gross License Fees (as defined in Section 2.1). Payments and Reporting shall be accomplished according to Section 2.2 of this Agreement.

Getty Images 80% \$150 - \$5,000	Corbis 80% ~\$250 - \$7,500	Shutterstock 80% ~\$49 - \$199	Pond5 80% ~\$300
Producer receives 80% of the royalties received from partner agency.	Producer receives 80% of the royalties received from partner agency.	Producer receives 80% of the royalties received from partner agency.	Producer receives 80% of the royalties received from partner agency.

OR

Agency Plan → Flat Fee: Syndicated Content is uploaded or sent to selected Distributors. Producer shall receive 100% of the royalty received from Distributor calculated on Gross License Fees (as defined in Section 2.1). Payments and Reporting shall be accomplished according to Section 2.2 of this Agreement. Producer shall pay Nimia a flat fee of \$99/month.

Many Distributors only provide monthly accounting summary of license sales. Nimia will provide Producer license sales data as received by partner agency within 30 days of receiving it from Distributor.

Notice: Nimia may, upon providing you 30 (thirty) days notice by email, make amendments to this Agreement including introducing new royalty rates and methods for calculating Royalties to accommodate distribution of Appointed Content through new licensing methods/models that it introduces from time to time. It is your responsibility to keep Nimia informed of your current email address via the account management tool made available to you by Nimia. Continued submission of Content or failure to terminate this Agreement within 30 days of Nimia notifying you of any changes to the Agreement will be deemed acceptance by you of those changes and they will be incorporated by reference into this Agreement.

Term: The Term of this Agreement begins as of the Commencement Date and will continue for an initial period of One (1) Year, with automatic renewals of successive one-year periods, subject to the termination provisions provided above.

NIMIA PRIVATE STORAGE COMMERCIAL TERMS

Private Storage: Producer shall pay storage fees according to the rates below for Content not approved as Appointed Content or not submitted to Syndication Program. The commercial rates for private storage is provided below.

25 GB	100 GB	1 TB	10 TB
Free	\$ 9 per month	\$ 29 per month	\$ 99 per month
25 GB	100 GB	1 TB	10 TB

Notice: Nimia may, upon providing you 30 (thirty) days notice by email, make amendments to this Agreement including introducing new royalty rates and methods for calculating Royalties to accommodate distribution of Appointed Content through new licensing methods/models that it introduces from time to time. It is your responsibility to keep Nimia informed of your current email address via the account management tool made available to you by Nimia. Continued submission of Content or failure to terminate this Agreement within 30 days of Nimia notifying you of any changes to the Agreement will be deemed acceptance by you of those changes and they will be incorporated by reference into this Agreement.

Term: The Term of this Agreement begins as of the Commencement Date and will continue for an initial period of One (1) Year, with automatic renewals of successive one-year periods, subject to the termination provisions provided above.