

Full Content License Agreement

This Content License Agreement (this “**Agreement**”) dated as of _____ (“**Effective Date**”) is made.

BETWEEN:

TOURISM CALGARY, the official destination marketing, sales and development organization for Calgary’s tourism industry having its principal place of business at Suite 200, 238 11 Avenue SE, Calgary, Alberta, Canada, T2G 0X8
(“**TC**”)

AND:

(“**Content Provider**”)

WHEREAS TC wishes to obtain a license to certain materials from Content Provider, and Content Provider wishes to grant a license to such materials to TC.

NOW THEREFORE in consideration of the mutual promises contained in this Agreement, Content Provider and TC hereby agree as follows:

ARTICLE 1 LICENSE

- 1.1 As used in this Agreement: (a) “**Affiliate**” means any entity that controls, is controlled by or is under common control with TC;
- (b) “**Enhancement**” means any excerpt, modification, adaptation or other derivative work of the Licensed Materials created by or for TC;
 - (c) “**Licensed Materials**” means the information, documents, data, text, video, images, music, media and/or other materials and content described in Schedule “A”;
 - (d) “**Pre-existing Content**” means any Licensed Materials that have already been created by the Content Provider;
 - (e) “**New Content**” means Licensed Materials that are to be created by Content Provider following the date of this Agreement; and
 - (f) “**Term**” has the meaning set forth in Section 7.1.

- 1.2 Subject to the terms and conditions of this Agreement, Content Provider hereby grants to TC and its Affiliates during the Term an exclusive (unless Schedule “A” sets forth that the license will be non-exclusive), transferable, sub-licensable worldwide license:
- (a) to create or have created Enhancements;
 - (b) to use, copy, transmit, distribute, display, perform and otherwise exploit Licensed Materials and Enhancements for the purposes described in Schedule “A” and such other purposes as may be agreed upon from time to time between TC and Content Provider.
- 1.3 Content Provider hereby grants to TC and its Affiliates a worldwide, transferable, sub-licensable, royalty-free license to use all trademarks and trade names associated with or contained in the Licensed Materials, solely in connection with the exercise of TC’s and its Affiliates’ rights under Section 1.2.
- 1.4 During the Term, Content Provider will take all necessary steps to protect TC’s rights under this Agreement. Content Provider will use commercially reasonable efforts to enforce such rights and will promptly notify TC of any violations that come to Content Provider’s attention. If Content Provider fails to take all commercially reasonable steps to enforce the rights of TC hereunder within thirty (30) days after TC requests Content Provider to do so, TC immediately may take all steps reasonably necessary to enforce the restrictions at Content Provider’s cost and expense.

ARTICLE 2 CONSIDERATION

- 2.1 As consideration for the licenses and other rights granted to TC under this Agreement, TC will pay Content Provider the license fees set forth in Schedule “A”, in the manner and at the times set forth in Schedule “A”.

ARTICLE 3 DELIVERY AND ACCESS TO LICENSED MATERIALS

- 3.1 During the Term, Content Provider shall deliver to TC the Licensed Materials, which shall be delivered in an electronic format or such other format as reasonably requested by TC from time to time. As soon as possible after the Effective Date, Content Provider shall provide TC with access to and deliver the Pre-existing Content. With respect to New Content, Content Provider shall provide TC with access to and deliver the New Content immediately upon its completion. Content Provider will replace inaccurate, incomplete or inaccessible Licensed Materials promptly upon TC’s request.
- 3.2 Content Provider shall designate one of its employees or agents as a contact person who shall be responsible for: (a) consulting with TC about the content of the Licensed Materials provided to TC pursuant to this Agreement and (b) ensuring the prompt delivery of the Licensed Materials.

ARTICLE 4 ATTRIBUTION

- 4.1 If and to the extent explicitly required by Schedule “A”, TC will credit Content Provider in connection with use of Licensed Materials and Enhancements by TC and its Affiliates.

ARTICLE 5 PROPRIETARY RIGHTS

- 5.1 Subject to the licenses granted under this Agreement, Content Provider reserves all rights, title and interest (including, without limitation, all copyrights) that it may have in the Licensed Materials. Subject to Content Provider’s rights in the Licensed Materials, TC will be the exclusive owner of all rights, title and interests in the Enhancements.

ARTICLE 6 WARRANTIES AND INDEMNIFICATION

- 6.1 Content Provider represents and warrants to TC that (a) Content Provider has and will have full authority to enter into this Agreement, to perform its obligations hereunder, to provide TC with the Licensed Materials and to grant to TC the licenses contained in this Agreement, and (b) TC’s exercise of its license rights will not violate any copyright or other intellectual property or proprietary right of any third party.
- 6.2 TC represents and warrants to Content Provider that it has and will have full authority to enter into this Agreement and to perform its obligations hereunder.
- 6.3 TC and Content Provider each will indemnify, defend and hold harmless the other party from any and all claims, judgments, damages and expenses (including reasonable legal fees) that (a) are brought or asserted by any individual or entity other than the parties, and (b) arise out of any breach or alleged breach of its representations and warranties set forth in this section.
- 6.4 The party seeking indemnification will promptly notify the indemnifying party of any such claim, will permit the indemnifying party to control the defense and settlement of such claim and will cooperate with the indemnifying party in such defense and settlement. Notwithstanding the foregoing, the indemnifying party will not settle any such claim without the prior written consent of the indemnified party (which consent will not be unreasonably withheld), and the indemnified party (at its expense) may participate in the defense and settlement of the claim.

ARTICLE 7 TERM AND TERMINATION

- 7.1 The term of this Agreement will begin on the Effective Date and, unless earlier terminated in accordance with this Article 7, will continue for the term specified in Schedule “A” (the “Term”). After the Term, Content Provider and TC agree to negotiate in good faith the terms of an extension of the license granted herein. While those negotiations are continuing in good-faith, TC shall have the right to continue using Licensed Materials as outlined herein. If either party is in breach of this agreement, the non-breaching party must provide the breaching party with written notice of the breach and if the breaching party does not cure the breach within 14 days after receiving such notice, the non-breaching party may terminate the agreement at its sole

discretion. This Section, Article 6, Article 8 and Article 9 (and all other provisions of this Agreement that reasonably may be interpreted as surviving the termination or expiration of this Agreement), will survive the termination or expiration of this Agreement.

ARTICLE 8

CONFIDENTIAL INFORMATION

- 8.1 Confidential Information. In connection with this Agreement each party (as the “Disclosing Party”) may disclose or make available to the other party (as the “Receiving Party”) Confidential Information. Subject to Section 8.2, “Confidential Information” means information in any form or medium (whether oral, written, electronic or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party’s technology, trade secrets, know-how, business operations, plans, strategies, customers and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, whether or not marked, designated or otherwise identified as “confidential”. “Representatives” means, with respect to a party, that party’s employees, officers, directors, consultants, agents, legal advisors and other personnel.
- 8.2 Exclusions and Exceptions. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information’s being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party’s or any of its Representatives’ noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that, to the Receiving Party’s knowledge, was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.
- 8.3 Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall both during the Term and after any termination of this Agreement: (a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement; (b) except as may be permitted under the terms and conditions of Section 8.4, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party’s exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party’s obligations under this Section 6; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Article 8; (c) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care; (d) promptly notify the Disclosing Party of any unauthorized use or disclosure of

Confidential Information and take all reasonable steps/use its best efforts/cooperate with Disclosing Party to prevent further unauthorized use or disclosure; and (e) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Article 8.

- 8.4 **Compelled Disclosures.** If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 8.3; and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 8.4, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that, on the advice of the Receiving Party's outside legal counsel, the Receiving Party is legally required to disclose and, on the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

ARTICLE 9

MISCELLANEOUS

- 9.1 Nothing contained in this Agreement will create a partnership, joint venture, or agency relationship between the parties. The parties will act as independent contractors hereunder, and neither will have the authority to bind the other with respect to any third party.
- 9.2 NEITHER CONTENT PROVIDER NOR TC (OR ITS AFFILIATES) WILL BE LIABLE TO THE OTHER PARTY FOR LOST PROFITS OR ANY OTHER CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY.
- 9.3 NOTHING IN THIS AGREEMENT WILL BE CONSTRUED AS A WARRANTY OR COMMITMENT BY TC THAT ANY FACILITY, PRODUCT, SERVICE OR COMMUNICATIONS OPERATED, OFFERED OR DISTRIBUTED BY TC, WHETHER OR NOT CONTAINING THE LICENSED MATERIALS OR ENHANCEMENTS OR ANY PART THEREOF, WILL BE ERROR FREE, UNINTERRUPTED OR OF A PARTICULAR NATURE OR QUALITY.
- 9.4 Content Provider will not use any trade name, trademark, service mark or logo of TC in any advertising, promotions or otherwise, without TC's prior written consent.
- 9.5 Neither Content Provider nor TC may assign any of its rights or obligations under this Agreement without the prior written consent of the other party, except that TC may assign any of its rights and obligations under this Agreement without consent to any of its Affiliates. Subject to the foregoing limitation, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors, heirs and assigns.
- 9.6 Any notice required under this Agreement will be in writing and sent to the appropriate address set forth on the signature page of this Agreement, or to such other address as may be provided

by either party from time to time. Notices will be sent by personal delivery or by overnight courier, certified or registered mail, return receipt requested, or electronically receipted facsimile or email.

- 9.7 The failure of either party to enforce any provision of this Agreement will not constitute a waiver of the party's rights to subsequently enforce the provision. The remedies specified in this Agreement are in addition to any other remedies that may be available at law or in equity.
- 9.8 If any provision of this Agreement is held to be invalid, such invalidity will not affect the remaining provisions. This Agreement represents the entire agreement between the parties with respect to the subject matter hereof and supersedes any previous or contemporaneous oral or written agreements regarding such subject matter. Any modification of this Agreement must be in writing and signed by a duly authorized agent of each party.
- 9.9 This Agreement will be governed by the laws of the Province of Alberta, without reference to rules governing choice of law. Each party hereby attorns to the jurisdiction of the courts of the Province of Alberta with respect to any and all disputes arising hereunder.

The parties have executed this Agreement by their authorized representatives as of the date first written above.

TOURISM CALGARY

Signature:

Printed Name:

Title:

Date:

Address:

Phone:

CONTENT PROVIDER

Signature:

Company:

Printed Name:

Title:

Date:

Address:

Phone:

SCHEDULE “A”

Licensed Materials

Purpose of Use

Term

License Fees and Payment

Attribution Requirements

Title (Title of the image):

Author (Name of the creator):

Source (Where the asset came from):

Location:

Special credit requirements:

License information:

- Content license agreement
- Location’s agreement
- Consent to use of image
- Drone license agreement

Special license considerations: (if any)