

Cave of the Winds - LICENSE AGREEMENT - Digital Media

Applies to images purchased on USB Flash Drive.

THIS IS A LEGAL AGREEMENT BETWEEN YOU AND CAVE OF THE WINDS (CENTENNIAL ENTERPRISES INC.) PLEASE READ THIS AGREEMENT CAREFULLY. BY USING ANY IMAGE/USB FLASH DRIVE YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT DO NOT USE ANY IMAGES CONTAINED IN THIS USB FLASH DRIVE. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF YOUR EMPLOYER AND/OR PRINCIPAL, THIS LICENSE AND ALL THE RESTRICTIONS AND LIMITATIONS RECITED HEREIN APPLY TO YOUR EMPLOYER AND/OR PRINCIPAL AS WELL AS TO YOU. ALL IMAGES ARE COPYRIGHTED AND ALL RIGHTS TO THESE IMAGES ARE OWNED BY CAVE OF THE WINDS AND ITS LICENSORS. CAVE OF THE WINDS RETAINS ALL RIGHTS NOT SPECIFICALLY GRANTED TO YOU BY THIS AGREEMENT. YOUR RIGHT TO USE ANY PRODUCT IS SUBJECT TO YOUR FULL PAYMENT OF THE LICENSE AND THE RESTRICTIONS SET FORTH IN THIS AGREEMENT.

## 1. RIGHTS GRANTED

Cave of the Winds grants you a personal, non-exclusive and non-transferable right to use and reproduce, for your own non-commercial use, on a worldwide and perpetual basis, the images (regardless of the form in or media on which the images are delivered to you, including, but not limited to electronic or online transmission and /or USB Flash Drive), in the following ways:

- Print usage: refers to any type of printed, tangible materials. Unauthorized uses include any editorial periodicals, catalogs, flyers, brochures, reports, product packaging, book covers, educational textbooks, phone cards, credit cards, board games, greeting cards, calendars, postcards, posters, stationery, t-shirts, ties, photo-mugs, mouse pads offered for sale.
- b)
  Non-print usage: refers to any digital or electronic materials including websites (but not website templates), multimedia presentations and USB Flash Drive provided that each image is incorporated into a design in such a fashion that it is clearly not intended to be separately downloaded, copied or distributed by any third party.

# 2. RESTRICTIONS ON USE

- 2.1 The rights hereby granted to you are non-transferable which means that any work that you produce using an image must be for your own use. You may not sublicense, sell, assign, convey, dispose of, loan, give or otherwise transfer to anyone any CD, DVD or USB Flash Drive alike (hereinafter the "USB Product") or any of the images or the right to use the USB Product or the images except insofar as an image has been included by you into one of the authorized uses referred to in Section 1 above and nothing you produce shall grant or purport to grant to any third party a right to use or reproduce the images. You hereby agree to take all commercially reasonable steps to prevent third parties from duplicating or distributing the images.
- 2.2 You may not license or distribute any derivative work containing any image in a way that would allow a third party to download, extract or access the image as a stand-alone file.
- 2.3 If images are licensed by a company, they may be shared by creating an image library, image storage jukebox, network configuration or similar arrangement as long as no more than ten (10) specific employees (hereinafter the "Users") within the same company and no more than one User at a time get access to the images, unless a separate seat

license is purchased for each additional User, before such additional use begins. This is not a simultaneous user agreement.

- 2.4 Except as specifically provided in the previous paragraph, the images may not be shared or copied and you may not create a network of servers, either with or without a central location to enable others to share the images.
- 2.5 The images may not be used as part of a logo, service mark or trademark or used to infringe on anyone's logo, trade name, service mark or trademark.
- 2.6 The images may not be posted online nor placed in any other electronic distribution system in a downloadable format, FTP or similar nor enabled to be distributed via mobile telephone devices.
- 2.7 The images may not be used for any pornographic, unlawful purpose or use or to defame any person or violate any person's right of privacy or publicity or to infringe upon any copyright, trade name, trademark or service mark of any person or entity. Advance written permission from Cave of the Winds is required for use of images for sensitive subjects, including without limitation, topics that may depict the subject matter of an image in a negative or unfavorable light or subject persons to ridicule, and topics regarding all sexual issues, substance abuse, physical or mental abuse, alcohol, drugs, tobacco, or the disparagement of a person or product.
- 2.8 Upon notice of discontinuance of a license for any particular image, you agree not to use such image in the future.
- 2.9 If the images are used in an editorial manner, you must include the following credit adjacent to the images: "© Cave of the Winds"

#### 3. WARRANTIES OF THE COMPANY

The Company (Centennial Enterprises Inc.) warrants, agrees and undertakes with the Licensee that:

3.1 To the best of the Company's knowledge, the photographic works of this Agreement are not defamatory, obscene or blasphemous, and do not infringe any rights of copyright or other intellectual property or proprietary rights of third parties, but no right of action shall accrue against the Company in the event of the said photographic works being deemed or found to be defamatory, obscene or blasphemous or an infringement of third party rights.

### 4. LIMITED WARRANTY AND LIMITATION OF LIABILITY

- 4.1. Subject to the restrictions and limitations regarding your use of an image contained in this Agreement, Cave of the Winds Warrants that it owns or has obtained sufficient rights to the copyright for the image/s to grant you the limited license under this Agreement, nevertheless if are unsure whether additional rights are required, it is Your sole responsibility to obtain appropriate legal counsel. CAVE OF THE WINDS identifies the caption for each image to the best of its ability, but cannot be held responsible for erroneous or incomplete caption information.
- 4.2. DIGITAL FILES ARE PROVIDED "AS IS". CAVE OF THE WINDS MAKES NO REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDED BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE, QUALITY OF IMAGE, OR COMPATIBILITY WITH ANY COMPUTER HARDWARE OR OTHER EQUIPMENT, OPERATING SYSTEM OR SOFTWARE PROGRAM.
- 4.3. CAVE OF THE WINDS AND/OR THE DISTRIBUTOR WILL NOT BE HELD RESPONSIBLE FOR THE CONFLICTS THAT COULD ARISE AS A RESULT OF DIGITAL OR ANALOGICAL MANIPULATION OF THE LICENSED IMAGE, FOR THE WRONG, INADEQUATE OR NON-AUTHORIZED USAGE OF THE IMAGES AND/OR ATTACHED TEXTS, THAT COULD DAMAGE RIGHTS OR INTERESTS OF PHYSICAL PERSONS, CORPORATE BODIES, INSTITUTIONS, ETC.

4.4 THE REPRESENTATIONS AND WARRANTIES MADE BY CAVE OF THE WINDS IN THIS AGREEMENT APPLY ONLY TO THE IMAGES AND USB PRODUCTS AS DELIVERED BY CAVE OF THE WINDS AND WILL BE INVALID IF THE IMAGES ARE USED IN ANY MANNER NOT SPECIFICALLY AUTHORIZED IN THIS AGREEMENT.

#### 5. REMUNERATION

- 5.1 The Licensee agrees to pay in advance for the licensed use of the photographic images and data as agreed under the terms of this Agreement in advance of any use of such images or data.
- 5.2 The Licensee warrants, undertakes and accepts that permission to use said photographic works (the subject matter of this Agreement) will only be deemed to have been given after receipt by the Company of the agreed remuneration, and the Licensee fully accepts that the Licensee has no right to use the said photographic works in any manner until the said remuneration has been paid.

#### 6. UNAUTHORIZED USES AND IMDEMNITY

- 6.1 Any use of any image and/or USB Product in a manner not expressly authorized by this Agreement or in breach of a term of this Agreement constitutes copyright infringement, entitling Cave of the Winds to exercise all rights and remedies available to it under copyright laws.
- 6.2 You shall be responsible for any damages resulting from any such copyright infringement, including without limitation any claims by a third party and you hereby agree to indemnify and hold harmless Cave of the Winds and its subsidiaries, successors, affiliates, parent, officers, directors, employees, contractors, content providers, licensors, distributors or agents, against all claims (including without limitation, claims by third parties), liability, damages, judgments, settlements, costs and expenses, including reasonable legal fees and expenses, arising out of or related to any use of the USB Products or images other than the uses specifically permitted by this Agreement.

### 7. SEVERABILITY

Should any provision of this Agreement be found invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected and shall remain in full force and effect. Such provisions shall be revised only to the extent necessary to make them enforceable.

# 8. ENTIRE AGREEMENT

This Agreement contains all the terms of the license agreement for the products and no terms or conditions may be added or deleted unless made in writing and signed by an authorized representative of both parties. In the event of any inconsistency between the terms contained herein and the terms contained on any purchase order or other communication sent by you, the terms of this Agreement shall govern.

## 9. LAW AND VENUE

9.1 This Agreement, and all matters collateral thereto, shall be governed by the laws of State of Colorado. Notwithstanding the foregoing, this provision shall not prevent Cave of the Winds from addressing any competent court, tribunal or venue to which it might be entitled, in order to seek interim measures or any other legal remedies.

If you are unsure of your rights under this License Agreement or would like to acquire additional information, please send us an email at info@caveofthewinds.com