

AGREEMENT

BETWEEN

(1) The Jewish Museum in Prague, a special-interest association of legal entities, with its registered office at U Staré školy 141/1, Josefov, 110 01 Prague, Czech Republic, Identification Number (IČ): 60459263, recorded in the Commercial Register maintained by the Municipal Court in Prague, under Entry No. L 59006 (hereinafter referred to as "**the Provider**");

and

(2) [*Official name and address of a person requesting visual material from the collectiones / archives of Provider*](hereinafter referred to as "**the Requester**");

(The Provider and the Requester may be collectively referred to as the "Parties" or individually as a "Party".)

PREAMBLE

- (A) The Provider is an entity owning a large database of the visual materials. For a fee and subject to terms set out in the Permission, the Provider grants licences to use the requested visual material(s) to selected Requester. If the Provider does not have intellectual property rights to the requested visual material(s) which enable the grant of licence to use, it may, in exceptional circumstances and for a separate payment, provide a service that facilitates the ascertaining and/or contacting of the person(s) authorized to grant such a licence.
- (B) The Requester is a person intending to use the requested visual material(s) in good faith, specifically in a manner and context that is in no way detrimental to the value either of the visual material(s) or the author(s), that does not diminish the significance or symbolism of the requested visual material(s), and that does not harm other values associated with the objects, persons or events depicted in the visual material(s).
- (C) This Agreement represents the general conditions regulating the process of submitting a request for a photograph or photographs from the Provider's database, evaluating the request, rejecting or accepting the request, granting the licence, paying the fee, determining how the requested visual material(s) is (are) to be provided, and determining how the actual use of the requested visual material(s) is to be scrutinized.

1. DEFINITIONS OF TERMS

1.1. The Parties agree that terms with a capitalized first letter used in this Agreement shall bear the following meanings:

"Copy (Copies)" is (are) an electronic copy of an original work administered by the Provider and found in the Provider's database.

"Permission"	is a written permission in electronic format issued by the Provider and sent by email to the Requester's designated address (as specified in the Request), which specifies the conditions regarding the permitted scope of licence to use the Requested visual material(s).
"Contractual Period"	has the meaning as specified in Section 2.1 of this Agreement. The Contractual Period commences on the day this Agreement is signed.
"Fee"	is an aggregate of all fees charged according to the Provider's current price list for any services relating in any manner to the provision of the Copy (Copies) from its database, or in connection with the Provider's activities during the Evaluation Period.
"Evaluation Period"	has the meaning as specified in Section 2.1 of this Agreement.
"Requested visual material(s)"	is (are) the Copy (Copies) that has (have) have been requested for use by the Requester from the Provider.
"Website"	is the website registered under the second-level domain name <jewishmuseum.cz>.
"Request"	is the set of information provided by the Requester to the Provider during the Evaluation Period, including: the Requester's identification, the Requester's contact address (including e-mail and telephone), specification of the Requested visual material(s), and the manner and purpose of the intended use of the Requested visual material(s).

2. THE PURPOSE OF THIS AGREEMENT

- 2.1. The purpose of this Agreement is **(i)** to regulate the legal relationship between the Provider and the Requester during the period following the submission of the Request (hereinafter referred to as the **"Evaluation Period"**), and **(ii)** to lay down the general terms and conditions that apply to the contractual relations between the Provider and the Requester from the moment of entering into an agreement for the granting of licence to use the Copy (Copies) under the terms set forth in the Permission (hereinafter referred to as the **"Contractual Period"**).
- 2.2. The Evaluation Period shall start on the day the Request is submitted to the Provider. The Contractual Period shall start on the day the agreement is concluded pursuant to Section 4.2.

3. THE REQUEST

- 3.1. The Requester may only be a legal entity or a natural person. Where the Requester is a natural person, he/she has to be a person who has reached the age of majority, or, as the case may be, a person who has not yet reached the age of majority provided that such person is clearly endowed with adequate intellectual and volitional abilities

as demonstrated by their course of action during the Evaluation Period and as such may be assumed to have appropriate legal capacity to enter into legal relations.

- 3.2. The Request is made and submitted to the Provider by way of completing a form displayed on the Website.
- 3.3. The Provider reserves the right to require additional information to be included in the Request. The Request shall be considered complete only after the Provider has received sufficient and credible information about the Requester, including the Requester's contact details and the intended manner and purpose of use of the Requested visual material(s). It shall be at the discretion of the Provider to determine whether the information provided by the Requester is sufficient.
- 3.4. The Provider reserves the right not to grant a licence to use the Requested visual material(s) without giving reasons.
- 3.5. The Provider reserves the right not to comment in any way on Requests that are manifestly unfounded, non-genuine or otherwise unserious.
- 3.6. The Evaluation Period shall end upon the issuing of the Permission, or upon a rejection of the Request, or after the expiry in vain of the period of 21 days from the date on which the Request was submitted (where the Provider acts pursuant to Section 3.5 hereof).

4. PERMISSION AND AGREEMENT

- 4.1. If, on the basis of the submitted Request, the Provider should decide that the Requester may be granted a licence to use the Requested visual material(s), the Provider will inform the Requester by email of the terms and conditions of the grant of such licence (the Permission). There is no legal claim to the granting of the Permission.
- 4.2. The Permission sent to the Requester's email address provided in the Request constitutes the Provider's proposal to conclude an agreement with the Requester. The agreement between the Requester and the Provider is deemed to have been entered into no sooner than upon payment by the Requester of the Fee to the Provider's bank account. The Contractual Period commences upon payment of the Fee.
- 4.3. If the Permission contains provisions that differ from those set out in this Agreement, the provisions of the Permission shall have priority over the provisions of this Agreement.

5. RIGHTS AND OBLIGATIONS DURING THE CONTRACTUAL PERIOD

- 5.1. The Parties have agreed on the following contractual rights and obligations:
 - a) The Provider shall be required to make the Copy (Copies) of the Requested visual material(s) available to the Requester by providing a link that will enable the respective Copy (Copies) to be downloaded from a directory on the FTP server within 14 days of the Fee being paid (henceforth "Copy (Copies)". The Requester is not entitled to request amendments or alterations to the Copy (Copies) or to carry out such amendments or alterations himself/herself/itself.
 - b) The Requester is entitled to use the Copy (Copies) only in the specific manner and for the specific purpose set out in the Permission.
 - c) If permission is granted for use of the Copy (Copies) on the Internet, it will not be subject to any territorial scope limitations. If permission is granted for other

uses of the Copy (Copies) than on the Internet, it shall be limited to use in the Czech Republic, unless otherwise stipulated in the Permission.

- d) The timescale for use of the Copy (Copies): according to the Permission.
 - e) The number of permissible uses: according to the Permission.
 - f) The Permission shall be provided in consideration for the Fee.
 - g) The licence to use the Copy (Copies) granted to the Requester is non-exclusive.
 - h) The Requester is not entitled to transfer, assign or sub-license the licence to use the Copy (Copies).
- 5.2. The Requester shall be required to use the Copy (Copies) exclusively within the limits of the licence granted in the Permission and in compliance with this Agreement. All provisions contained in the Permission and this Agreement shall be interpreted restrictively – not extensively – with regard to in what manner, for what purpose, and under what conditions the Copy (Copies) is (are) to be used.
- 5.3. Unless stipulated otherwise in the Permission and/or unless the following actions arise from the permitted modes of use, the Requester shall be required to refrain from:
- a) making any copies of the Copy (Copies) whatsoever;
 - b) disseminating, leasing or lending the Copy (Copies);
 - c) exhibiting the Copy (Copies) or otherwise displaying the Copy (Copies) in any other way in public;
 - d) storing or archiving the Copy (Copies) after exhaustion of the Requester's right to use the Copy (Copies).
- 5.4. The Requester shall be required to use the Copy (Copies) in a way that most definitely does not at all diminish, deny, alter or damage the value or significance of the events, phenomena, persons, places or symbols that are depicted in the Copy (Copies).
- 5.5. When using the Copy (Copies), the Requester is obliged at all times to state the catalogue number or to provide a description that clearly identifies the Requested visual material(s), as well as to state the following information:
- a) "The owner and copyright holder of the visual material is the Jewish Museum in Prague (www.jewishmuseum.cz)"; or
 - b) "The owner and copyright holder of the visual material is the Jewish Museum in Prague"; or
 - c) "The visual material is from the collections of the Jewish Museum in Prague".
- The content of any additional or other supplementary texts relating to the Copy (Copies) shall be subject to the express approval of the Provider.
- 5.6. In order to check the manner and purpose of the actual use of the Copy (Copies), the Parties agree that the Requester is required to provide the Provider with two copies of the resultant item or work in which the Copy (Copies) is (are) used – such as, without limitation, a book, publication, research work or study. If the Copy (Copies) is (are) used on the Internet, the Requester is required to send to the Provider a link to the website on which the Copy (Copies) is (are) posted.
- 5.7. Unless otherwise stipulated in the Permission, the Requester is required to fulfil the obligation set out in the previous section of this Agreement no later than within 12 months of the conclusion of this Agreement.

- 5.8. In order to strengthen the Requester's obligations under this Agreement, the Parties agree that the Requester shall be required to pay the Provider a contractual penalty of CZK 50,000 for each individual breach of the Requester's obligations under the Permission or under sections 5.2, 5.3, 5.4, 5.5, 5.6 and 5.7 of this Agreement. The Requester shall be required to pay this penalty to the Provider within 14 days of the day on which a written call for payment of the penalty, along with evidence proving the Provider's entitlement to payment of the penalty, has demonstrably been sent to the email or postal address provided by the Requester to the Provider during the Evaluation Period.

6. OTHER PROVISIONS

- 6.1. If any of the provisions of this Agreement or the Permission become invalid or unenforceable, or if they are found to be so by a competent court of law or another body authorised to issue binding decisions, this shall have no influence on the validity or enforceability of the other provisions of this Agreement or the Permission. In such a case, however, the Requester undertakes to negotiate a new agreement with the Provider without undue delay (no later than within five days of receiving a call to do so by the Provider) which will be valid and enforceable and, where possible, will correspond in terms of purpose with the original contractual provisions and with the Permission, or will at least pursue a purpose that is as near in substance as possible to the original contractual provisions and to the Permission.
- 6.2. This Agreement may be translated into several languages. In the event of any inconsistency between the different language versions of this Agreement, the Czech language version shall prevail. This Agreement shall be governed by and interpreted in accordance with the laws of the Czech Republic. Any claim or dispute in connection herewith will be resolved before the District Court of Prague 1 (Czech Republic).
- 6.3. The Requester agrees that failure by the Provider to exercise, enforce or insist on any of its rights ensuing from this Agreement, the Permission or any applicable legal regulations shall not constitute a waiver of such rights by the Provider.

7. CONSENT TO THE AGREEMENT

- 7.1. The Provider shall manifest its will to be bound by the provisions of this Agreement by posting it on the Website.
- 7.2. The Requester shall manifest his/her/its will to be bound by the provisions of this Agreement by clicking on an 'accept and agree to the terms' button, or, as the case may be, by checking the appropriate box on the Website, to which the implications of the Requester's consent is unquestionably ascribed.

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