

EXPLANIMATION.NET LICENCE AGREEMENT

ARCHIPELAGO UK LTD (TRADING AS EXPLANIMATION.NET) (Company Number 004467947) is a company incorporated in England and Wales and limited by guarantee whose registered office is at 25 George Street, Hertford SG14 3AD, UK ("Explanimation.net").

OFFERS to you, the Licensee, permission to access the Licensed Material and use such material only on the terms and conditions as set out in this Licence.

Acceptance of this Licence will be by receipt of the Order Confirmation Email (Explanimation.net) (as hereafter defined) by Explanimation.net as part of the Online Ordering Service (as hereafter defined). Acceptance shall be acceptance of all terms and conditions of this Licence and no variation or counter offer will be accepted by Explanimation.net. In the event that no or partial compliance is made as to the manner or form described for acceptance, no licence will be granted and this offer is deemed withdrawn.

BACKGROUND

1. Explanimation.net has created a series of animated video explanations.
2. The Explanimations and all intellectual property rights therein are owned by or duly licensed to Explanimation.net.
3. Explanimation.net is a company limited by guarantee which is a UK based animation studio offering an animation service of short explanatory animations that show how a product, process or service works.
4. The parties are desirous of reaching agreement to make access to the Explanimation available to you, the Licensee and your Authorised Users (as hereafter defined).

IT IS AGREED AS FOLLOWS

1. DEFINITIONS

- 1.1 In this Licence, the following terms shall have the following meanings:

"Authorised User" means a person directly employed by the Licensee (unless otherwise agreed by Explanimation.net) who is permitted to access and use the Licensed Material in accordance with Clause 4. There are specific types of Authorised User included in this agreement:

"Authorised Websites" Website domains where the Licensed Materials may be displayed as listed in the Order Confirmation Email (Explanimation.net) and Order Confirmation Email (Licensee).

"Commercial Use"	means use for the purpose of monetary reward (whether by or for the Licensee or an Authorised User) by means of the sale, resale, loan, transfer, hire or other form of exploitation of the Licensed Material.
"Licence Fee"	means the fee for the Licence for access and use of the Licensed Material as set out in Order Confirmation Email (Licensee).
"Licensed Material"	means the material listed in the Order Confirmation Email (Licensee).
"Offline Use"	means the presentation of the Licensed Material by Authorised Users to End Users directly from their devices as further defined in the Licence Agreement
Online Ordering Service"	means the online ordering service used to purchase a licence.
"Online Use"	means the presentation of the Licensed Materials on the Licensee's Authorised Website(s) as listed in the Order Confirmation Email (Explanation.net) and Order Confirmation Email (Licensee).
"Order Confirmation Email (Licensee)"	means the email to the Licensee, automatically generated by the Online Ordering Service after the Licensee has completed the Order Form, confirming that the Licensee has placed the order and that the Licensee has agreed to the terms and conditions of the Licence.
"Order Confirmation Email (Explanation.net)"	means the email to Explanation.net, automatically generated by the Online Ordering Service after the Licensee has completed the Order Form, confirming that the Licensee has placed the order and that the Licensee has agreed to the terms and conditions of the Licence.
"Order Form"	means the form used by Explanation.net as part of the Online Ordering Service. Once the completed form has been received by the Online Ordering Service, the system automatically generates an Order Confirmation Email (Licensee) to the Licensee and an Order Confirmation Email (Explanation.net) to Explanation.net repeating the information on the form regarding the name of the Licensee, the options selected, the Licence Fee and confirming the date on which the Licensee accepted the terms and conditions of the Licence.

“Licensee Materials” means visual elements such as logos supplied by the Licensee for the purposes of creating branded video material. Licensee Materials must be supplied in accordance with Clause 7.1.5.

1.2 Headings in this Licence are for reference purposes only and shall not be deemed to be an indication of the meaning of the clause to which they relate.

1.3 Where the context so implies, words importing the singular number shall include the plural and vice versa and words importing the masculine shall include the feminine and vice versa.

2. LICENCE GRANT

2.1 Explanimation.net hereby grants to the Licensee, subject to and in accordance with the terms of this Licence, a non-exclusive non-transferable licence to access and use the Licensed Material and to allow Authorised Users where applicable to access and use the Licensed Material.

2.2 In consideration for Explanimation.net’s licensing of the Licensed Material pursuant to Clause 2.1, the Licensee undertakes to pay to Explanimation.net the Licence Fee in accordance with the provisions of Order Form.

2.3 The Licensee grants to Explanimation.net a non-exclusive, non-transferrable licence to use and adapt Licensee Materials for the purpose of visually branding video files for the exclusive use of Explanimation.net and the Licensee

2.4 The Licensee grants to Explanimation.net a non-exclusive, non-transferrable licence to use and adapt Licensee Materials for the purpose of publicly displaying a list of Explanimation.net customers

3. PERMITTED USES:

3.1 This Licence permits the Licensee to:

3.1.1 publicly display the Licensed Material through the web site(s) listed in the Order Confirmation Email (Explanimation.net).

3.1.2 allow Authorised Users to publicly display the Licensed Material as part of a presentation at a seminar, conference, sales meeting, training event, workshop, or other similar event; and,

3.1.3 electronically save the whole or parts of the Licensed Material.

4. RESTRICTIONS

4.1 Except where this Licence states otherwise, the Licensee and Authorised Users may not:

4.1.1 sell or resell, re-distribute, re-transmit, re-publish, broadcast, hire or otherwise make money from or exploit the Licensed Material, unless Explanimation.net has

given prior permission in writing to do so, or as otherwise allowed under this Licence;

- 4.1.2 remove, obscure or alter copyright notices, acknowledgments or other means of identification or disclaimers;
 - 4.1.3 copy, store in any medium (including on any other website), alter or adapt the Licensed Material, except to the extent necessary to make it perceptible on a computer screen, or as otherwise allowed under this Licence;
 - 4.1.4 publicly display the Licensed Material through any other web site than those of the Licensee listed in Order Confirmation Email.
 - 4.1.5 copy, store, transcribe or reproduce wording, scripts or voiceovers from the Licensed Material in any format or medium unless Explanation.net has given prior permission in writing to do so.
- 4.2 This Clause will continue to apply after termination of this Licence for any reason.

5. RESPONSIBILITIES OF EXPLANIMATION.NET

5.1 Explanation.net agrees to:

- 5.1.1 provide the Licensed Materials in accordance with this Licence Agreement;
- 5.1.2 provide the Licensee with the video files within two working days of receipt of the Order Confirmation Email (Explanation.net)

6. RESPONSIBILITIES OF LICENSEE

6.1 The Licensee agrees to:

- 6.1.1 pay the Fee to Explanation.net in accordance with the License Agreement
- 6.1.2 notify Explanation.net immediately on becoming aware of any unauthorised use or other breach and take all reasonable steps to ensure that such activity ceases and to prevent any recurrence;
- 6.1.3 inform the Authorised Users about the conditions of use of the Licensed Material, and to convey appropriate use information to its Authorised Users;
- 6.1.4 on request provide Explanation.net a list of all and any users of the Licensed Materials;
- 6.1.5 ensure that the Licensee and its Authorised Users are able to receive communication via email from the domains *Explanation.net* and *Explani.net*
- 6.1.5 supply Explanation.net with Licensee Materials in accordance with the specifications listed here: <http://explanation.net/your-logo>

7. LICENCE FEE

- 7.1 The Licensee will pay the Licence Fee as set out in the Order Form to Explanimation.net and the Order Confirmation Email (Licensee), for the rights granted to the Licensed Material in the amount and upon terms as set out in Clause 8.2 and 8.3.
- 7.2 Upon receipt of the Order Confirmation Email (Explanimation.net), Explanimation.net will issue an invoice for the Licence Fee to the Licensee and attached to the Order Confirmation Email (Licensee) that must be paid prior to access to Licensed Materials being granted by Explanimation.net.
- 7.3 The Licence Fee is shown exclusive of VAT, which will be payable in addition by the Licensee where applicable.

8 TERM AND TERMINATION

- 8.1 The term of this Licence will commence upon the start date as set out in the Order Form (and subsequently in the Order Confirmation Email (Licensee) and Order Confirmation Email (Explanimation.net)) and will remain in full unless terminated as provided for in this Clause 9.
- 8.2 Explanimation.net may terminate The License Agreement at any time on the material breach or repeated other breaches by serving a written notice on the other identifying the nature of the breach. The termination will become effective thirty (30) days after receipt of the written notice unless during the relevant period of thirty (30) days the defaulting party remedies the breach.
- 8.3 Licence Fees cannot be refunded upon termination
- 8.4 Explanimation.net reserves the right to refuse use of our services without further explanation in the event of a breach, or suspected breach.

9. ACKNOWLEDGEMENT AND PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

- 9.1 The Licensee acknowledges that all Intellectual Property Rights in the Licensed Material are the sole and exclusive property of Explanimation.net or duly licensed to Explanimation.net and that this Licence does not assign or transfer to the Licensee any right, title or interest therein except for the right to access and use the Licensed Material in accordance with the terms and conditions of this Licence.
- 9.2 Explanimation.net acknowledges that the intellectual property rights in Your Materials are the sole and exclusive property of the Licensee or are duly licensed to the Licensee and that the License Agreement does not assign or transfer to Explanimation.net any right, title or interest therein except for the purposes of producing, displaying or delivering the Licensed Material as directed by or agreed with the Licensee.
- 9.3 Authorised Users acknowledge that all Intellectual Property Rights in the Video Management System are the sole and exclusive property of Explanimation.net or are duly licensed to Explanimation.net and that the License Agreement does not assign or transfer to You any right, title or interest therein

10. REPRESENTATION, WARRANTIES AND INDEMNIFICATION

- 10.1 Explanation.net warrants to the Licensee that the Licensed Material and all intellectual property rights therein are owned by or licensed to Explanation.net and that the Licensed Material used as contemplated in this Licence does not infringe any intellectual property rights of any natural or legal person. Explanation.net agrees that the Licensee shall have no liability and Explanation.net will indemnify, defend and hold the Licensee harmless against any and all damages, liabilities, claims, causes of action, legal fees and costs incurred by the Licensee in defending against any third party claim of intellectual property rights infringements or threats of claims thereof with respect of the Licensee's or Authorised Users use of the Licensed Material, provided that:
- i) the use of the Licensed Material has been in full compliance with the terms and conditions of this Licence;
 - ii) the Licensee provides Explanation.net with prompt notice of any such claim or threat of claim;
 - iii) the Licensee co-operates fully with Explanation.net in the defence or settlement of such claim; and
 - iv) Explanation.net has sole and complete control over the defence or settlement of such claim.
- 10.2 While Explanation.net has no reason to believe that there are any inaccuracies or defects in the information contained in the Licensed Material, Explanation.net makes no representation and gives no warranty express or implied with regard to the information contained in or any part of the Licensed Material including (without limitation) the fitness of such information or part for any purposes whatsoever and Explanation.net accepts no liability for loss suffered or incurred by the Licensee or Authorised Users as a result of their reliance on the Licensed Material.
- 10.3 The Licensee agrees to notify Explanation.net immediately and provide full particulars in the event that it becomes aware of any actual or threatened claims by any third party in connection with any works contained in the Licensed Material and do all things reasonably required to assist Explanation.net in such claims. It is expressly agreed that upon such notification, or if Explanation.net becomes aware of such a claim from other sources, Explanation.net may remove such work(s) from the Licensed Material. Failure to report knowledge of any actual or threatened claim by any third party shall be deemed a material breach of this Licence.
- 10.4 Except as provided for in Clause 11.1, neither the Licensee nor Explanation.net will be liable to the other in contract or negligence or otherwise for:
- i) any special, indirect, incidental, punitive or consequential damages;
 - ii) loss of direct or indirect profits, business, contracts, revenue or anticipated savings; or
 - iii) for any increased costs or expenses.
- 10.5 No party limits its liability for:

- i) death or personal injury to the extent it results from its negligence, or of its employees or agents in the course of their engagement; and
 - ii) its own fraud or that of its employees or agents in the course of their engagement.
- 10.6 Explanation.net's liability will be limited to the value of the License Fees paid for the Licence Agreement;

13. ASSIGNMENT

- 13.1 Except as permitted for under this Licence, neither this Licence nor any of the rights and obligations under it may be assigned by either party without obtaining the prior written consent of the other party, such consent shall not unreasonably be withheld or delayed. In any permitted assignment, the assignor shall procure and ensure that the assignee shall assume all rights and obligations of the assignor under this Licence and agrees to be bound to all the terms of this Licence.

14. GOVERNING LAW AND DISPUTE RESOLUTION

- 14.1 This Licence shall be governed by and construed in accordance with English law and the parties irrevocably agree that any dispute arising out of or in connection with this Licence will be subject to and within the jurisdiction of the English courts.
- 14.2 The parties agree to use best efforts to resolve disputes in an informal manner, by decision of the Managing Director of Explanation.net and the current Managing Director of the Licensee. Where the parties agree that a dispute arising out of or in connection with this Licence would best be resolved by the decision of an expert, they will agree upon the nature of the expert required and together appoint a suitable expert by agreement.
- 14.3 Any person to whom a reference is made under Clause 14.2 shall act as expert and not as an arbitrator and his decision (which shall be given by him in writing and shall state the reasons for his decision) shall be final and binding on the parties except in the case of manifest error or fraud.
- 14.4 Each party shall provide the expert with such information and documentation as he may reasonably require for the purposes of his decision.
- 14.5 The costs of the expert shall be borne by the parties in such proportions as the expert may determine to be fair and reasonable in all circumstances or, if no determination is made by the expert, by the parties in equal proportions.

15. NOTICES

- 15.1 All notices required to be given under this Licence shall be given in writing in English and sent by courier, or special delivery to the relevant addressee at its address set out in the Order Confirmation Emails, or to such other address as may be notified by either party to the other from time to time under this Licence, and all such notices shall be deemed to have been received three (3) days after the date of posting in the case of special delivery or despatch in the case of courier.

16. GENERAL

- 16.1 This Licence, its Schedules and Annexes constitute the entire agreement between the parties relating to the Licensed Material and supersede all prior communications, understandings and agreements (whether written or oral) relating to its subject matter and may not be amended or modified except by agreement of both parties in writing.
- 16.2 The Schedules and Annexes shall have the same force and effect as if expressly set in the body of this Licence and any reference to this Licence shall include the Schedules and Annexes.
- 16.3 The invalidity or unenforceability of any provision of this Licence shall not affect the continuation in force of the remainder of this Licence.
- 16.4 The rights of the parties arising under this Licence shall not be waived except in writing. Any waiver of any of a party's rights under this Licence or of any breach of this Licence by the other party shall not be construed as a waiver of any other rights or of any other or further breach. Failure by either party to exercise or enforce any rights conferred upon it by this Licence shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.