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## Terms and Conditions for participating in the "ACIAN contest"

### Article 1. Organizing Company

ACIAN Technologies Pte Ltd, a company registered under number 200600176H, is organizing a contest without any purchase obligation (hereinafter referred to as the "Contest" ) on the [www.eyeka.asia](http://www.eyeka.asia) website, owned by Eyeka Asia Pacific (hereinafter the "Eyeka Website").

ACIAN is hereinafter referred to as the Company.

### Article 2. Participation in the Contest

#### 2.1

The Contest consists of uploading photographs onto the Eyeka Website in order for the works to be submitted to a final Jury that will select 1(one) final winner.

The dates for participating in the Contest are from **14 October 2008 through 14 March 2009 (GMT+8)**.

#### 2.2

To be eligible for the Contest, minors must imperatively be provided with written authorization from their parents / guardians who must give this written authorization to the Company. The Company is entitled, however, to require the contestant to provide such authorization, at any time which includes prior to supplying the winner with the award. This authorization should read as follows:

*"I undersigned Mr/Mrs. xxx, parent or guardian of (child's name), hereby authorize (child's name) to participate in the Contest that shall occur from **14 October 2008 through 14 March 2009** and to be provided with the award offered in the Contest without any responsibility of the Company.*

*I authorize my child to grant his/her right upon the participating work as mentioned in the Article 6 of the Terms and Conditions of the Contest.*

*Place and date of signatory*

*Signatory"*

The Company shall be entitled to disqualify the contestant in case the latter could not provide such signed authorization.

#### 2.3

Participation in the Contest is subject to having first created a user account on the Eyeka Website. When the personal account is created, the user consents to Eyeka Website's Site Usage Agreement and adds the information requested: full name, address, telephone number, and valid e-mail address. This information should be current and allow the Company to identify the winner quickly and correctly.

#### 2.4

The employees of the Company and of Eyeka, as well as their relatives (parents, children, and spouse) can not participate in the Contest.

#### 2.5

The number of photographs submitted to the Contest shall not be limited.

#### 2.6

To participate, the contestants must:

- Remotely transfer/upload their works to the Eyeka Website from their personal web page,

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- Select the work to be submitted,
  - On the page view, click on “Submit to a Group”,
  - Select the group “ACIAN Call for Entries”.

## **2.7**

Before participation in the Contest, contestants must read these Terms and Conditions carefully and accept these rules in their entirety.

### **Article 3. Details of the videos / photographs**

Specifications for uploaded files are as follows:

Photographs:

- JPEG files (to be uploaded on the Eyeka’s website
- TGA, TIF, Hi resolution format for the Winner after closing competition.

Furthermore, the contestants undertake to abide by all the terms and provisions related to the Contest available on Eyeka’s Website and more precisely on the page of the Contest.

The Company may at any time and without notice withdraw all works that breach the details required.

### **Article 4. Selection of the winner**

#### **4.1**

One unique winner will be selected for the Contest by a Jury.

The Jury will consist of employees of the Company to appoint the winner among the contestants.

The works will be rated on the basis of aesthetics, originality, composition, framing and consistency with the Contest. In the event that a work would not meet the required quality criteria, the work would be purely and simply rejected.

The winner will be selected and notified by the Company no later than one month after the CFE ends.

#### **4.2**

Winner of the Contest shall only be selected if at least 20 photographs meeting the artistic expectations and respecting the details described in these rules and on the Eyeka Website have been uploaded during the Contest.

The Contest shall end up with no selected winner in case there would be fewer than 20 of such videos/photographs at the end of the Contest.

The amount of at least 20 videos/photographs is justified by the need for the Jury to have enough works to select winner(s) on a fair basis.

### **Article 5. Prizes**

#### **5.1**

No later than one month after the Call For Entries ends, the winner gets the net amount of USD 3,000 for granting his/her rights upon the photograph to the Company.

Prizes are non-transferable and cannot be redeemed for cash or credit, in whole or in part.

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If the prizes as described in these Terms and Conditions are not available, the Company reserves the right, at its sole discretion, to substitute the prize awarded with a prize of equivalent value for any reason.

## 5.2

The winner shall only get the prize if he/she actually grants his/her rights upon the video to the Company no later than April 14<sup>th</sup> 2009 by signing an exclusive licence agreement (see Appendix 1 or 2) with the Company. This licence agreement shall be granted on a worldwide basis and shall authorize the Company to use the photograph/video for 10 years on the formats indicated by the Company.

Should the winner not sign the licence agreement with the Company, the winner could not get the Prize.

## **Article 6. Intellectual property and promotional issue**

All contestants authorize the Company the use their works on a non-exclusive basis on Internet networks for promotional purposes (promotion of the Contest, promotion of the Company's activities), for internal and external communications, public relations and corporate communication.

Contestants acknowledge that the use of the licensed works by the Company within the framework of this licence helps promoting their works and shall be deemed as the compensation of the grant of rights. Thus contestants expressly agree to grant this licence on a free basis and acknowledge that the use of the works by the Company within the framework of the licence does not entitle the authors, the artists to claim any remuneration.

The Licence granted by the contestants relates to the following:

- The right to reproduce or cause the reproduction of the works, in whole or in part (including pictures, screenshots, movie sequences, dialogues, characters, illustrations) on a temporary or permanent basis, either together with or separately from other photographic works, audiovisual works or illustrations, whether of an identical or different genre, including music, by computer methods using digital methods, including hard drives, databases, internet (website, site intranet, extranet site), computer servers;
- The right to communicate or cause the communication of the works, by communication to the public, in whole or in part, either together with or separately from any other photographic works, audiovisual works or illustrations, of an identical or different genre, by showing to the public via the following media, such as online networks and websites, intranet, extranet (including sites published by the Company), Internet promotional media such as newsletters, headers, by software, digital networks, services and telecommunications, interactive or not, for communication to the public via broadcasting on demand (e.g. video on demand) and via streaming involving temporary reproduction, with no possibility for the viewer to download the work, by showing on the screens of mobile phones, fixed telephones, computers, via every communication channel (fixed telephone line (analog line, xDSL), mobile telephone line (GSM, I-mode, GPRS, UMTS, Edge, 3G, 3G +, etc..), cable, fiber optic, satellite, Wi - Fi etc.).

This Licence includes the right to use any currently existing or future methods and processes to broadcast the works on Internet networks.

This Licence is granted for a ten (10) year period from the end of the Contest and is granted on a worldwide basis.

### **Restrictions of use**

All rights not expressly granted by the contestants remain their sole property. The Company is not acquiring any right of any nature whatsoever in the submitted works except the licence granted to use the works under aforementioned clause 6. Thus, contestants shall retain all rights and property on the submitted works (including pictures, screenshots, movie sequences, dialogues, characters, illustrations).

Moreover, the licence granted to the Company does not allow the Company to commercialize, to distribute the submitted works or copies of the works. Any resale, exchanges, hiring of the files, transfer to a third or download is strictly prohibited.

### **Article 7.           Publicity**

Contestants who get to be designated as winners authorize the Company to use and publish their name, first name, age, location, for promotional purposes in any media without further payment. This authorization is granted for the duration of the aforementioned licence stipulated in article 6.

### **Article 8.           Warranties**

Contestants warrant that the Company shall peacefully enjoy and exercise all of the rights attached to the works. Each contestant must own all property rights (including copyrights) to the works submitted to the Contest. The contestants warrant that they are the sole proprietors of the intellectual property rights granted to the Company. In the event the contestants are not the sole proprietor of the aforementioned rights, they irrevocably warrant to the Company that, before making the works available, they obtained all of the authorizations and rights required for the licence in writing from all proprietors of intellectual property rights to the works or from the copyright collecting societies representing such proprietors allowing the contestants to make commitments in its own name and, where applicable, in the name and on behalf of the aforementioned individuals. In this respect, the contestants irrevocably undertake to provide the Company at any time, at its request, with written proof or a copy of all written documents confirming such authorizations.

Contestants warrant that they have obtained written permissions of all the people represented on the works, or of their contractual or legal representatives, in order to use their image, allowing the contestants to make commitments in its own name. The contestants irrevocably undertake to provide the Company at any time, at its request, with written proof or a copy of all written documents confirming such authorizations.

Contestants warrant that they will not use in the works any elements (music, photographs, brands, etc.) that are likely to violate anyone's rights.

Accordingly Contestants agree to indemnify and hold harmless the Company and Eyeka Asia Pacific against any claims or legal action for breach of copyright by third parties in relation to his or her entries. Contestants shall hold the Company and Eyeka Asia Pacific harmless against any disturbance, legal action, complaint, opposition, claim and eviction instigated by a third party claiming that one of the video breaches his rights, as well as against any loss or liability incurred in connection with the exercise of the rights attaching to the works.

The Company may at any time and without notice withdraw from the Contest all contestants that breach the stipulations regarding warranties.

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**Article 9. Responsibility and Liability**

Eyeka Asia Pacific makes no guarantee regarding the protection of any digital content published on its platform as no online digital content can be fully secured against piracy.

The Company and Eyeka Asia Pacific may not be held personally liable for any damages of any kind without limitation direct, indirect, incidental, punitive and consequential damage arising out of or in connection with participation in the Contest, uploading any works.

The Company and Eyeka Asia Pacific may not be held liable for any difficulties related to the broadcasting or remote transmission of the works.

In no event the Company and Eyeka Asia Pacific may be liable for indirect damages such as revenue loss, data loss, customer loss, financial or commercial damages, commercial troubles, loss of earnings, or immaterial damage of any kind. Contestants are responsible for saving a backup copy of all files and data they wish to retain

In the event of force majeure, the Company reserves the right to cancel, shorter or suspend the Contest before the end of the participation period. If so, the Company undertakes to warn the contestants at least 24 hours in advance by publishing flash news on the Eyeka Website.

Under this clause, contestants will not claim any compensation for any direct or indirect damages of any nature whatsoever, suffered during the organization of this Contest.

**Indemnity**

By participating in this Contest, all contestants (including the prize winners) agree to release and hold harmless the Company and Eyeka Asia Pacific from any and all liability whatsoever for any injuries, losses or damages of any kind to any person or property arising from or in connection with, either directly or indirectly, (i) the awarding, acceptance, receipt, possession, use and/or misuse of any of the prizes or parts thereof awarded pursuant to the Contest, or (ii) the participation in the Contest or any prize-related activities, (iii) the broadcasting of the Works by the Company and Eyeka Asia Pacific.

**Article 10. Applicable Law and Jurisdiction**

For this website, any interpretation of its content, claims or disputes (of whatever nature and not limited to contractual issues) shall governed by the laws of the Republic of Singapore and all contestants agree to submit to the exclusive jurisdiction of the Singapore Courts.

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**APPENDIX 1****Winner(s) Exclusive Licence Agreement**

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**ACIAN CALL FOR ENTRIES**

Between,

ACIAN Technologies Pte Ltd, a company registered under number 200600176H  
Hereinafter referred to as the "the Company"

And

The Winner

Hereinafter referred to as the "the Creator"

**Forewords**

The Company organized the "ACIAN Call for Entries" on Eyeka Asia website (www.eyeka.asia) the purpose of which was to submit works in order to designate winners.

After being selected by a jury, the Creator was appointed as winner of the Contest for a work hereinafter referred to as the "the Work".

The Company contacted the Creator so that the latter can grant his/her rights upon the Work to the Company.

**Scope of this Agreement**

The Creator hereby grants to the Company a worldwide, irrevocable, exclusive, sublicenseable and transferable license to use, reproduce, publicly perform, publicly display, transmit and publish the Work in any and all media, according to the provisions of Article 3.

**Remuneration**

The Company shall pay the Creator a lump-sum remuneration of USD 3,000

**Intellectual property*****Rights granted***

The Licence granted by the Creator relates to the following:

- the right to reproduce or cause the reproduction of the Work, in whole or in part, on a temporary or permanent basis, either together with or separately from any other type of work, whether of an identical or different genre, including music, free of charge or for valuable consideration, by any currently existing or future method, on any media, including but not limited to those derived from synthetic or composite materials including paper and related products (daily publications, weekly publications, magazines, reviews, catalogues, brochures, leaflets, prospectuses, notices, mailings, point-of-sale advertisements, advertising or promotional files including press and instructional files, posters, advertisements, cards, boards, signs, packaging and packing materials for products, publications

and works of any kind, including those intended for educational, scientific, promotional or commercial purposes, record sleeves or music books, CDs, DVDs or tapes), photographs or demo-photo albums, made of metal or a similar product, plastic or a similar product, fabric or natural fibres, synthetics or mixtures, leather or a similar product, photographic film (negatives, slides, duplicates, internegatives, prints), analogue and digital devices (phonograms, videograms, tapes, microfiches, microfilms, films, including those used for corporate or promotional clips and adverts, video-clips, advertisements etc.), electronic, digital or opto-digital devices (including but not limited to floppy disks, tapes, computer servers, hard drives, databases, Internet sites, Intranet sites, extranet sites, CDs, CD-Rs, CD-RWs, CD-ROMs, CD-WORMs, DVDs, DVD-Rs, DVD+Rs, DVD-RWs, DVD+RWs, DVD-ROMs, DVD-RAMs, DVD-R DLs, DVD-RW DLs, DVD+R DLs, DVD+RW DLs, SACDs, Blu-Ray discs, HD-DVDs, FVDs, HVDs, EDVs, RAMs, DRAMs, SDRAMs, DDR-SDRAMs, XDR DRAMs, ROMs, USB keys, Flash memories (including but not limited to CFs, SMs, MMCs, SDs, MemorySticks, Duo MemorySticks, Pro Memorysticks, Micro M2 Memorysticks, xDs, Micro SDs, Transflashes), MDs, Hi-MDs, WORMs, UDOs, UDO true WORMs, etc.); all of the foregoing by any technical process, including but not limited to printing, reprography, mastering, photography, holography, heliography, scanography and all other processes involving graphic design, plastics and applied methods, machine-made, tape, digital, computer or cinematographic recordings; and more generally on all support and media and by all process known or unknown to this day;

- the right to communicate or cause the communication of the Work,

by communicating same to the public, in whole or in part, either together with or separately from any other type of work, of an identical or different genre, including music, free of charge or for valuable consideration, by showing same to the public by any broadcasting method existing now or in the future, in particular by showing, exhibiting, projecting, transmitting or broadcasting same to the public by any method of electronic communication, via the Internet networks (such as online networks and websites, Internet, intranet, extranet, networks and mobile sites (including sites published by the Company), via mobile phone networks, via satellite networks, via analog networks, via paying or non-paying television services, encoded or not, via radio services, or by means of broadcasting, linear broadcasting (e.g. linear schemes and channels, slideshows), broadcasting on demand (e.g. video on demand), broadcasting via streaming involving temporary reproduction, by downloading, showing on the screens of mobile phones, fixed telephones, computers or mobile phones, via every communication channel (fixed telephone line (analog line, xDSL), telephone line mobile (GSM, I-mode, GPRS, UMTS, Edge, 3G, 3G +, etc.), cable, fiber optic, satellite, Wi - Fi etc.); and more generally on all support and media and by all process known or unknown to this day, using any reports of framing;

- the right to reproduce and represent the Work by all processes, including digital and computer processes, strictly necessary to achieve the purpose of the license;

- the right to create or cause the creation of adaptations, modifications which the Company deems necessary, due *inter alia* to technical constraints, in particular with regard to the format and size of the Work, the compression of files containing the Work and the display of the Work on screens of any kind. This right includes the right for the Company to convert the format of the file containing the Work, to adapt the format and resolution of the file, to crop, resize, provide with a caption and comment freely on the Work.

### ***Use of the Work***

The Creator authorizes the Company to use the Work for all purposes including for promotion and advertising purposes (promotion of the Company, of the Company's products and services); for internal and external communications, for marketing purposes, for public relations and corporate communication; the Creator authorizes the Company to create derivative works of the Work, to distribute the Work.

### ***Term of the licence***

The Licence is granted for 10 years.

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## Warranty

The Creator affirms, represents and warrants that the Work does not infringe any proprietary right of another, such as but not limited to copyright, trademark or patent, or any confidentiality obligation.

The Creator acknowledges and agrees that any of his/her ideas, submissions or discussions or any other element of the Work is not the subject of intellectual property right protection may be used by the Company without compensation or attribution.

The Creator warrants that the Company shall peacefully enjoy and exercise all of the rights attaching to the Work.

Accordingly, the Creator shall hold the Company harmless against any disturbance, legal action, complaint, opposition, claim and eviction instigated by a third party claiming that one of the Work breaches his rights, as well as against any loss or liability incurred in connection with the exercise of the rights attaching to the Work.

In this respect, the Creator warrants that he has obtained written permissions of all the people represented on the Work, or of their contractual or legal representatives, in order to use their image, allowing the Creator to make commitments under this Licence in its own name. The Creator irrevocably undertakes to provide the Company at any time, at its request, with written proof or a copy of all written documents confirming such authorizations.

The Creator warrants that he is the sole proprietor of the intellectual property rights granted to the Company. In the event the Creator is not the sole proprietor of the aforementioned rights, it irrevocably warrants to the Company that, before making its Work available, it obtained all of the authorizations and rights required for the licence in writing from all proprietors of intellectual property rights to the Work or from the copyright collecting societies representing such proprietors allowing the Creator to make commitments under the Licence in its own name and, where applicable, in the name and on behalf of the aforementioned individuals. In this respect, the Creator irrevocably undertakes to provide the Company at any time, at its request, with written proof or a copy of all written documents confirming such authorizations.

As a result, the Creator shall pay all amounts owing to the said proprietors of intellectual property rights and said copyright collecting agencies in respect of the reproduction, representation and exploitation, free of charge or for valuable consideration, of the Work. The Creator undertakes to fully reimburse to the Company, at its first request, any fees, damages or legal costs which the Company may be compelled to incur on account of the reproduction, representation or exploitation of the Work pursuant to the Licence.

The Creator warrants that he has not assigned, licensed or transferred to a third party, by any means, some or all of the rights to the Work, including any right of first refusal, preferential right or option under conditions that would prevent it from entering into the Licence.

By granting this licence, the Creator agrees that the material will be proper, constructive and relevant and will not contain any item that may be unlawful or otherwise unfit for publication, including but not limited to items that (1) may be defamatory or injurious to another person or entity, (2) may cause harm to any person or property or otherwise defame or harass any person or organization, (3) may violate any legal rights of any person (including right to privacy or publicity), (4) are pornographic, obscene, profane, vulgar, indecent, or threatening, (5) are culturally, ethnically, or otherwise objectionable, or (6) suggest or encourage any illegal activity.

The Creator is hereby informed that it may incur liability should any of its representations be inaccurate.

The Company shall be entitled to demand that the Creator reimburse any amount payable, on any ground whatsoever, by the Company to a beneficiary on account of the reproduction and/or the representation and/or the making available or communication to the public of the Work by the Company.

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As a result, the Creator shall pay all of the costs incurred by the Company to defend itself, including lawyer's fees, damages, costs and expenses not included in the costs which the Company may be ordered to pay by virtue of a final or enforceable court decision which witnesses and records the violation of a copyright, trade mark, patent, commercial or manufacturing secret or any other right of title or exclusive right.

## **General**

### ***Assignment of this licence***

The Company may assign its rights and obligations arising hereunder, in whole or in part, to any legal entity of its choice without the prior consent of the Creator.

### ***Validity***

Should a provision of the licence be declared null and void, the remainder of the licence will remain entirely enforceable.

### ***Tolerance***

Should either party choose not to exercise a provision of the licence, this shall under no circumstances be construed as waiving of the benefit of the aforementioned provision.

### ***Amendment***

The Licence may only be amended by a covenant executed by both parties. Subsequent covenants shall constitute integral parts of the licence and will be subject to all provisions governing said.

### ***Independent contractors***

This Licence shall not be deemed to create a partnership, joint enterprise, agency agreement between the parties.

### ***Governing Law and jurisdiction***

This licence shall be interpreted, construed and governed by the substantive laws of Singapore.

In the event parties fail to amicably settle any dispute which arises in connection with the preparation, interpretation or performance of this Agreement, the parties agree that the commercial Courts of Singapore shall have exclusive jurisdiction, notwithstanding multiple defendants or third party proceedings, including for urgent proceedings.

### ***Third party rights***

A person not party to this Agreement shall have no right under the Contract (Rights of Third Parties) Act (Cap. 53B)(and as the same may be modified, adapted or supplemented from time to time) to enforce any term of this Agreement, the application of which legislation is hereby expressly excluded.