

# 專屬授權合約書

滾石移動股份有限公司 (以下稱「甲方」)

立合約書人：

\_\_\_\_\_ (以下稱「乙方」)

甲乙雙方協議由乙方提供乙方現有及本合約有效期間內取得擁有著作權或由著作權人授權乙方代理之**錄音著作**、視聽著作、攝影著作、語文著作、美術著作、圖形著作及前述著作相關之藝人肖像、照片、宣傳著作(指與前述著作有直接關係之唱片包裝盒一切著作及其他用於行銷宣傳之相關著作,包括但不限於內含之歌詞內容、攝影著作、美術著作、語文著作及圖形著作等)(以下稱「**授權標的**」),乙方同意以**專屬授權**方式授權甲方按下列方式使用:

## 第一條 著作權之授與

- 1.1 乙方同意專屬授權甲方,由甲方負責代理乙方授權標的之數位化檔案利用相關事宜,包括但不限於行動電話、手持式裝置、電腦、網路等數位化檔案格式之發行、重製及公開傳輸等。於本合約期間內,乙方保證不得自行或將該相同權利再授權於第三人為任何之利用。
- 1.2 甲方依市場需要,得於乙方依前項提供之授權標的中選取合適者,藉由數位化檔案格式之方法將授權標的予以重製或改作成行動電話(包含但不限於3G及4G等)、平板電腦(Tablet)、網際網路(Internet)、Mobile Internet、手持式行動裝置(Handheld Device)、電腦(含PDA或行動上網裝置(MID: Mobile Internet Device))、智慧電視TV或任何其他機械裝置等之現有、將來開發之產品(以下簡稱「**本合約產品**」),以提供甲方、甲方合作之合作業者、電信業者、平台業者、網站等(甲方均得視業務所需隨時增減,以下統稱「**本合約平台**」),作為使用者選取、下載、試聽、點播、設定、瀏覽之內容加值服務。
- 1.3 授權區域:全世界地區。
- 1.4 在本合約有效期間內,乙方應定期主動或經甲方之書面請求十日內,提供授權標的予甲方依本合約規定使用。

## 第二條 權利金及付款方式

- 2.1 甲乙雙方同意依甲方於授權區域合作平台使用本合約授權標的而計算應支付予乙方之權利金(含稅,以下同)如下:
  - 2.1.1 海外地區合作平台業者- Apple Inc.、Amazon、Spotify、Google Music、YouTube等:

以甲方與合作平台業者攤分關於本合約產品之淨收入後,甲方將所得金額之百分之五十,結算予乙方作為權利金。

註：海外地區合作平台業者係指除中國大陸地區(不含港、澳)及台灣地區外之全世界地區合作平台業者。

#### 2.1.2 中國大陸地區合作平台業者-中國移動、中國聯通、中國電信、互聯網業者等：

以甲方與合作平台業者攤分關於本合約產品之淨收入後，甲方將所得金額之百分之五十，結算予乙方作為權利金。

#### 2.1.3 台灣地區合作平台業者：

以甲方與合作平台業者攤分關於本合約產品之淨收入後，甲方將所得金額之百分之五十，結算予乙方作為權利金。(惟為行銷推廣授權標的,包括甲方與ISP業者通路合作而規劃合作項目者,因甲方須負擔因此所衍生之滯銷成本、退貨成本、呆帳成本、贈品及運送成本、行銷通路成本等,故於此合作項目係以甲方與合作平台業者攤分關於本合約產品之淨收入後,甲方所得金額之百分之十,結算應支付予乙方之權利金。)

註：如於第2.1.3款平台中之本合約產品係由甲方自行上架運營者,而遇有歌曲的音樂著作與錄音著作權利非同屬於乙方享有時,則該歌曲依第2.1.3款結算之權利金,應再依乙方享有的部分乘以音樂著作版稅比率12%或錄音著作版稅比率88%,結算支付予乙方。

## 2.2 報表：

2.2.1 甲方應於每季末四個月內,提供當季本合約產品之銷售報表予乙方(如：於七月三十一日提供第一季報表),並依前項約定結算當季應支付予乙方之權利金。乙方同意本合約平台報表提供及收益分配均配合電信業者、合作平台業者結算與付款予甲方之週期,且甲方出具之報表仍以實際授權平台為準。

2.2.2 甲方於當年度所提供之本合約產品銷售報表,自提供日起皆保留半年,逾此期間,甲方得銷毀報表資料以確保商業合作資料安全。

## 2.3 請款作業：

乙方應於收到第2.2項之報表後五日內確認完畢,並開立合法請款憑證(如：發票或 INVOICE 或勞務報酬單)向甲方請款。

## 2.4 支付方式：

2.4.1 甲方於收到乙方之請款憑證並經核實後,依甲方財務作業流程以月結三十天方式匯款支付權利金予乙方,因匯款所生之費用由乙方負擔,倘若因乙方遲未向甲方完成請款,以致於超過二年期間者,則視為乙方放棄該權利,嗣後不得再向甲方為任何主張。

※ 如乙方為自然人(個人),則甲方得依當地政府法令要求扣除相關稅費後支付。

※ 如乙方非台灣廠商,則因境外付款過程所產生之稅賦、銀行手續費用(包含但不限於結匯費用、幣別轉換費用等,皆由乙方負擔,甲方應於扣除後支付。

2.4.2關於上架本合約產品之所有應結算支付予乙方之款項，均以新台幣作為支付幣別，如本合約產品之銷售所得，遇有非以新台幣計價時，以甲方實際收款之該幣別匯率為換算基準。

※ 如乙方非台灣廠商，則均以新台幣結算以美金或人民幣作為支付幣別，並以甲方實際支付時點之支付銀行匯率換算(建議權利金款項達新台幣壹萬元整後再行請款)。

2.4.3乙方提供之帳號資訊，業經其確認無誤，如有謬誤由乙方自行負責。

### 第三條 甲方之聲明及保證

3.1 除本合約書另有規定或雙方另有約定外，甲方應依本合約書規定之方法使用授權標的。

3.2 如因行銷本合約產品而有需要向著作權集體管理團體取得授權及支付使用報酬事宜，由甲方自行負責處理與負擔費用。

### 第四條 乙方之聲明及保證

4.1 乙方擁有其提供甲方使用之授權標的之合法權源，並同意簽署因授權所必要簽署之文件，如該權利係第三人所有，乙方保證其具有使用並授權他人使用、重製、公開口述、公開傳輸、公開播送、公開演出、改作、散布、發行、公開發表、公開上映本授權標的之合法權利，並保證該第三人對甲方不得有任何主張；因乙方授權所產生之任何爭議及結果皆由乙方自行負責，概與甲方無涉，且甲方有權逕行下架該爭議內容；倘第三人對甲方有任何申訴、請求或訴追時，乙方應負責排除並賠償甲方因此所受之一切損害，本約終止失效時亦同。

4.2 除前項約定者外，如授權標的之一部或全部係第三人所有，乙方保證自行負責處理該授權標的之一切事宜。乙方不得以本授權標的係第三人所有或其他事由，向甲方為任何相關費用之主張。

4.3 乙方同意於合作平台業者-YouTube，專屬授權甲方得代為行使包含但不限於以下權利：

4.3.1. 協助乙方提供之授權標的(包含但不限於錄音軌影片：錄音、專輯封面及相關中繼資料所生成的影片)上架，甲方並得依業務所需從授權標的中選取合適者製作成歌詞版MV進行上架運營。

4.3.2. 協助管理頻道中有關授權標的之營利功能。

4.3.3. 協助乙方所提供之授權標的進行維權。

4.3.4. 協助乙方所提供之授權標的之中繼資料和互動式功能(包含但不限於插入資訊卡、結尾畫面等)優化。

註：合約所稱之中繼資料為乙方所提供之影片所衍生之相關資訊(包含但不限於影片的標題、說明、標記和註解等)。

4.3.5. 前述如因乙方之授權標的所生之所有相關收益(包含但不見於廣告收益等)將由甲方收取，並依本合約第二條之約定結算支付予乙方。

- 4.3.6. 乙方同意甲方擁有於頻道中有關影片的中繼資料和互動式功能(包含但不限於插入資訊卡、結尾畫面等)之編輯權利。
- 4.4 乙方需確認並保證於「YouTube」合作平台所提供之授權標的均為乙方合法擁有完整之著作權，若有全部或一部的錄音著作及視聽著作非屬乙方擁有，則須以書面或電子郵件通知甲方，以避免甲方於行使維權時，對使用者上傳內容做出錯誤的版權聲明，如因乙方之授權或漏未通知所生之任何爭議及結果皆由乙方自行負責，概與甲方無涉，且甲方有權逕行下架該爭議內容；倘第三人對甲方有任何申訴、請求或訴追時，乙方應負責排除並賠償甲方因此所受之一切損害，本約終止失效時亦同。

## 第五條 異常處理

如經甲方、甲方關係企業及合作之合作業者、電信業者、平台業者、網站等發現本合約授權標的於本合約平台上之利用有任何異常情形(包括但不限於終端用戶使用者或非終端用戶使用者選取、下載、試聽、點播、設定、瀏覽異常，利用平台系統程式漏洞問題、駭客入侵及其他)，甲方得採取任何行為(如：調整報表異常數據、修改異常部分結算方式、將該問題授權標的暫時下架、限制異常帳號權限或其他排除異常之方法等)以排除該異常狀況，乙方同意不向甲方提出異議。如經查可以歸責於乙方時，則甲方得提前終止本合約。

## 第六條 違約

- 6.1 如一方當事人有違反本合約或相關法令之情事(以下稱「**違約方**」)而致使他方當事人(以下稱「**未違約方**」)不能依本合約之規定行使權利義務時，再接到未違約方的違約及責成定期改正的書面通知後，逾期仍未改正或改正不完全時，未違約方得以書面通知違約方終止本合約。
- 6.2 除前項規定外，如違約方因違反本合約之規定，致未違約方受有損害者，違約方應負損害賠償責任。

## 第七條 期間及終止

- 7.1 本合約有效期間自雙方簽署日起，共計三年。期限屆滿一個月前，若任一方未以書面向他方發出不續約通知，則本合約期間自動延長一年，爾後亦同。
- 7.2 除本合約另有約定或經雙方之書面同意外，任一方當事人不得在本合約書有效期間內任意終止本合約書。
- 7.3 本合約存續期間，一方倘有解散、廢止、歇業、破產、重整或清算程序等情事發生時，應至少於一個月前以書面或電子郵件通知他方，並協議處理相關權利義務關係，他方並有權以書面提前終止本合約。
- 7.4 本合約終止前雙方基於本合約所發生之權利義務，均不因本合約之終止而受影響。

## 第八條 保密義務

- 8.1 本合約有效期間內，雙方對於因履行本合約而接受或知悉之對方機密資料（不論其為口頭、書面或其他呈現之形式，以下簡稱「營業秘密」），非經他方事前之書面同意，不得將該營業秘密洩漏、告知、交付或以任何其他方式移轉或提供任何第三人、或對外發表、或為自己或第三人使用營業秘密。任一方應以不低於處理自己之事務之注意存放或保管所收受之營業秘密，並應使其承辦本合約事務之受僱人、受任人、代理人、輔佐人及其他受指示之人負相同之注意義務。
- 8.2 收受或知悉之營業秘密之權利或利益應屬於提供方，並應於提供方請求時，將該營業秘密及其複製物全部立即返還之。不能以有形物之形式返還者，應以書面切結消滅，不得私自留存。
- 8.3 以下情形不受本條保密責任之拘束：
- 7.3.1. 揭露方於揭露前，守密方或任何第三人已知悉之資料。
  - 7.3.2. 揭露方現在或即將公開之資料。
  - 7.3.3. 守密方自無需守密之第三人合法取得之資料。
  - 7.3.4. 揭露方揭露資料予無需守密之第三人。
  - 7.3.5. 守密方獨立發展之資料。
  - 7.3.6. 經揭露方書面同意公佈之資料。
  - 7.3.7. 因法令之執行或司法檢警行政機關之要求而公佈之資料。

## 第九條 禁止讓與

- 9.1 非經甲方事前書面同意，乙方不得將其因本合約所生之權利或義務之全部或一部讓與給任何第三人。
- 9.2 除甲方之關聯企業外，甲方不得將其因本合約所生之權利或義務之全部或一部讓與給任何第三人。
- 9.3 本合約書中，凡雙方未明示授予之權利，皆屬雙方所保留，未於本合約所規定之事項均不得視為默示授權。除雙方另以書面協議者外，任何一方沒有任何權利要求他方履行本合約書約定以外之其他任何義務，亦不得向他方為任何主張。

## 第十條 智慧財產權歸屬

乙方同意甲方得因本合約目的使用乙方之公司名稱、商標等。甲方及乙方各自享有之著作權、商標權或其他智慧財產權，仍應各自享有。

## 第十一條 準據法及管轄法院

11.1 本合約之簽署、效力及解釋應以中華民國法律為準據法。

11.2 雙方同意因本合約而發生的訴訟，以台灣台北地方法院為第一審管轄法院。

## 第十二條 其他

12.1 本合約構成雙方之全部合意並取代雙方先前就本合約所為之任何口頭或書面之承諾或協議。

12.2 本合約任何條款倘因法律或判決認定為無效、可撤銷、不合法或不可執行之情況者，並不影響其他條款之效力，本合約之其他條款，均繼續有效。

12.3 本合約之修改，須經雙方同意後並以書面為之。

(以下無合約正文，僅用印簽署欄)

立合約書人：

甲 方：滾石移動股份有限公司

代 表 人：段鍾潭

地 址：臺北市內湖區堤頂大道2段407巷20弄39號7樓

統一編號：80339829

乙 方：

代 表 人：

地 址：

統一編號：

西 元 年 月 日

## EXCLUSIVE LICENSE AGREEMENT FOR DIGITAL RIGHTS

This EXCLUSIVE LICENSE AGREEMENT FOR DIGITAL RIGHTS (this “**Agreement**”) is **between**

**Rock Mobile Corporation**, a company incorporated in Taiwan with its registered office at 7F., No.39, Aly. 20, Ln. 407, Sec. 2, Tiding Blvd., Neihu Dist., Taipei City 114, Taiwan(R.O.C.) (“**ROCK MOBILE**”)

**AND**

\_\_\_\_\_, an individual with nationality of \_\_\_\_\_ (Passport No. \_\_\_\_\_), residing at \_\_\_\_\_. (“**LICENSOR**”)/  
\_\_\_\_\_, a company incorporated in \_\_\_\_\_ with its registered office at \_\_\_\_\_. (“**LICENSOR**”)

### WHEREAS

The LICENSOR, who owns and/or obtains through license from the copyright owner(s), the contents of **sound recordings, audiovisual recordings, photograph works, literary works, artistic works and graphical works** as defined in the Copyright Law in Taiwan which are related to artist images, photos, audio and visual publicity works associated with the record packaging designs and promotion materials which are provided to ROCK MOBILE by the LICENSOR, including but not limited to lyrics, album cover art, 30-second audio clips, music videos and related music files (hereinafter collectively as the “**Licensed Contents**”).

The LICENSOR wishes to exclusively license ROCK MOBILE to use and sublicense the Licensed Contents in the specified Territories, in the following manners:

#### 1 Grant of Digital Right

1.1 LICENSOR agrees to exclusively license ROCK MOBILE the right to use and sublicense the Licensed Contents so that ROCK MOBILE will act as the sole agent to publicly display, distribute, upload, perform, reproduce and transmit the Licensed Contents digitally through electronic means or devices, including but not limited to internet, mobile internet, handheld mobile devices, personal computer, tablet computer, Smart TV etc. (the “**Digital Medium**”). Throughout the Term of this Agreement, LICENSOR guarantees not to sublicense the Licensed Contents to or through a third party via Digital Medium in the specified Territories.

1.2 ROCK MOBILE shall, in response to the needs in the market, select the appropriate ones among the Licensed Contents and formulate through reproduction or modification into digital products, as existed now or to be developed in the future (“**Subject Products**”), to be used by ROCK MOBILE and/or its affiliates, subsidiaries, cooperating telecom partners, music services, websites, value-added services, and such other service platforms (the “**Platforms**”). The Subject Products are provided to end user via electronic means or Digital Medium for their individual use to play, select, download, stream, playback, webcast, or browse through such Platforms.

- 1.3 Subject to the rights granted to ROCK MOBILE hereunder, ROCK MOBILE reserves the right to use and promote, in its sole discretion, the Subject Products in the manner of product placement for the purpose of marketing at the value-added services operated by ROCK MOBILE's telecom partners in Greater China region.
- 1.4 LICENSOR shall provide the Licensed Contents mutually agreed by the parties to ROCK MOBILE for use in accordance with the requirements set forth under the Agreement within thirty (30) days upon the receipt of written notice by ROCK MOBILE.
- 1.5 “**Territories**” means worldwide.

## **2 Royalty and Terms of Payment**

2.1 In consideration of the rights granted to ROCK MOBILE under this Agreement, both parties agree to calculate the royalty payable to LICENSOR based on the “**Net Revenue**”. The Net Revenue shall mean all sums received by ROCK MOBILE wholly identifiable as being derived from the exploitation of the Licensed Contents through the Platforms selected by LICENSOR after the deduction of any direct costs (e.g. tax, approved marketing expenses, etc.)

2.1.1 *The International Platforms in Cooperation- iTunes, Amazon, Spotify, Google Music, etc.:*

ROCK MOBILE shall pay 50% (Fifty percent) of the Net Revenue as the royalty payable to LICENSOR.

2.1.2 *The cooperating Platforms in Greater China region - China Mobile, China Telecom, Taiwan & China online music streaming services, etc.:*

**(1) TAIWAN Platforms-**

ROCK MOBILE shall pay 50% (Fifty percent) of the Net Revenue as the royalty payable to LICENSOR.

For avoidance of doubt, the Subject Products on TAIWAN Platforms controlled by ROCK MOBILE under this Agreement, in the event the LICENSOR only owned or controlled either right of the musical works or sound recording, ROCK MOBILE will calculate the sum of the royalty as set forth in Clause 2.1.2(1) and multiply by 12% of the royalty for the musical works OR 88% of the royalty for the sound recording rights as the royalty payable to the LICENSOR.

**(2) CHINA 、 HONG KONG & MACAU Platforms-**

ROCK MOBILE shall pay 50% (Fifty percent) of the Net Revenue as the royalty payable to LICENSOR.

2.2 Any monies, income or other sums received by ROCK MOBILE identifiable as being derived from the exploitation of the Subject Product through product placement as set forth in Clause 1.3 of this Agreement (“**Placement Revenue**”) shall be included in the amount of royalty payable to LICENSOR.

Both parties agree to calculate the Placement Revenue payable to LICENSOR by ROCK MOBILE base on the “**Per-Play Rate**” (i.e. the aggregated number of times that the Subject Product licensed by LICENSOR is played, selected, downloaded, streamed, playback or browsed by end users for individual use during the applicable calendar month, multiplied by NTD\$0.7)

## 2.3 Reporting

The royalty payable to LICENSOR is calculated in accordance with Clause 2.1 on a quarterly basis. ROCK MOBILE shall provide royalty and sales reports to LICENSOR within four month from the end of quarter (e.g. royalty and sales report for the first quarter will be provided no later than July 31).

## 2.4 Billing Process

LICENSOR shall complete confirmation process within seven (7) days upon the receipt of the royalty and sales report provided by ROCK MOBILE (the “Confirmation Period”). Upon the expiration of the Confirmation Period, the LICENSOR shall issue the invoice for the request of payment to ROCK MOBILE. In the event the LICENSOR is an individual request for payment, he or she shall complete the bill of Service Remuneration instead of invoice as required by Taiwan laws (invoice and bill of Service Remuneration collectively as the “Invoice”). In the event that LICENSOR fails to request such payment for more than 2 years, LICENSOR is deemed to have waived its right to request payment.

## 2.5 Terms of Payment

2.5.1 ROCK MOBILE shall remit the royalty payment to LICENSOR’s designated account in the amount set forth in such Invoice within sixty(60) days after the receipt of the Invoice.

2.5.2 All sums payable to LICENSOR shall be converted from the currency ROCK MOBILE received to U.S Dollars (USD) or Chinese Yuan (CNY) at the currency exchange rate quoted by the bank at the time of payment. Notwithstanding the foregoing, LICENSOR agrees that when the currency ROCK MOBILE received is in Chinese Yuan (CNY), payments shall be converted to U.S Dollars at the average exchange rate of Bank of Taiwan on the last day of relevant quarter (i.e., March 31, June 30, September 30 and December 31).

2.5.3 LICENSOR agrees that any resulting currency exchange differentials or fees charged by ROCK MOBILE’s bank may be deducted from the remittance to LICENSOR. LICENSOR remains responsible for any fees (e.g. wire transfer fees) charged by ROCK MOBILE’s bank or any intermediary banks between LICENSOR’s bank and ROCK MOBILE’s bank.

2.5.4 LICENSOR agrees that the allocation of the gain through the Platforms shall comply with the payment schedules set by the Platforms.

2.5.5 ROCK MOBILE may withhold any taxes, duties, charges or levies on payments by

ROCK MOBILE to LICENSOR pursuant to this Agreement as may be required by applicable law, rule or regulation. ROCK MOBILE shall remit any such withheld taxes, duties, charges or levies to the appropriate tax authority.

2.5.6 Despite the foregoing, provided LICENSOR has fully satisfied all requirements to document its eligibility for a lower or zero rate of withholding tax, including, without limitation, providing ROCK MOBILE with a valid Certificate of Residency, ROCK MOBILE shall withhold based on the lower withholding tax rate, or, if applicable, shall not withhold.

2.5.7 Payments made by ROCK MOBILE to LICENSOR hereunder shall be by electronic funds transfer, and LICENSOR shall be responsible for any of LICENSOR's bank transaction costs or fees arising from such payment. LICENSOR shall provide ROCK MOBILE with banking information reasonably necessary to effect payment as follow:

SWIFT CODE of the Payee Bank:

Name and Branch of the Payee Bank:

Address of the Payee Bank:

Country of the Payee Bank:

A/C# of the Payee:

Name of account holder of the Payee:

Address and telephone of the Payee:

Country of the Payee:

### **3 Representations and Warranties**

3.1 ROCK MOBILE hereby represents and warrants to LICENSOR that:

3.1.1 Unless otherwise mutually agreed by the parties, ROCK MOBILE shall not license, sell or distribute Licensed Contents except in accordance with the terms of this Agreement.

3.1.2 ROCK MOBILE shall be responsible for obtaining right from local copyright management authorities, and for making and making arrangements for payments that may be required under collective bargaining agreements applicable to marketing of the Licensed Contents. LICENSOR grants the exclusive right to ROCK MOBILE as the sole agent for the clearance of musical reproduction and distribution, public performance and transmission through local Performing Right Organization (i.e. MÚST) during the term of this agreement. ROCK MOBILE shall pay such performance royalties to the LICENSOR in accordance with Clause 2.1.2.

3.2 The LICENSOR hereby represents and warrants to ROCK MOBILE that:

3.2.1 LICENSOR is free and fully empowered to enter into this Agreement and to grant the Licensed Contents to ROCK MOBILE.

3.2.2 During the Term of this Agreement, LICENSOR has not entered into, and, will not enter into, any agreement or arrangement which would conflict with this Agreement.

- 3.2.3 LICENSOR has the rights to license the Licensed Contents to ROCK MOBILE throughout the Term of this Agreement and LICENSOR further represents and warrants that the Licensed Contents do not infringe or violate the rights of any third parties. The LICENSOR agrees to sign or provide all necessary documents so required for licensing.
- 3.2.4 If such grant of rights, licenses and permissions herein belong to a third party, LICENSOR hereby warrants that he or she owns the lawful right to use and to license ROCK MOBILE for use, reproduction, public display, public recitation, public release, public transmission, public broadcasting, public performance, distribution and publication.
- 3.2.5 ROCK MOBILE is free from any claim made by any third party and that exercise of such right by ROCK MOBILE will not expose ROCK MOBILE to any civil and/or criminal proceedings. Any and all dispute arising from this licensing shall be solely solved by LICENSOR who shall hold ROCK MOBILE harmless and uninvolved.
- 3.2.6 In the event any third party claims on, accuses or files litigation against ROCK MOBILE, the LICENSOR shall indemnify, defend and hold ROCK MOBILE harmless from and against any and all damages, Liabilities, costs and expenses (including legal costs and expenses of whatsoever nature or description) incurred by the LICENSOR in connection with or arising from the a breach of the rights granted or any material breach of or inaccuracy in any representations or warranties made by the LICENSOR. This clause remains valid even after this Agreement is terminated or expired.

#### **4 Termination and Effect of Termination**

- 4.1 The Term of this Agreement shall come into force on the date of execution hereof by both parties and shall continue on full force and effect for a period of three(3) years (the “**Term**”). This Agreement shall be automatically renewed and extended for another year unless either party informs the other party by written notice not to renew the Agreement one month before the expiration of the Agreement.
- 4.2 Unless the Agreement states otherwise or the parties mutually agreement in writing, neither party can terminate the Agreement unilaterally during the Term of the Agreement.
- 4.3 This Agreement may be terminated in the following manner at any time during the Term of the Agreement:
- 4.3.1 In the event any party is under the proceeding of dissolution, insolvency, suspension of business operation, bankruptcy, reorganization or liquidation, such party shall keep the other party informed by written notice or by e-mail at least one month in advance, so that both parties may negotiate and solve the rights and obligations

concerned. Notwithstanding the foregoing, the other party is entitled to terminate the Agreement in writing unilaterally; or

4.3.2 In the event that either party breaches the terms of this Agreement (hereinafter referred to as the “**Defaulting Party**”) and fails to correct such breach in full within the time limit specified by the non-defaulting party in the formal written notice, the non-defaulting-party may inform the Defaulting Party in writing to terminate this Agreement unilaterally.

4.4 Notwithstanding the foregoing, in the event the non-defaulting party suffers from damage which is attributed the breach by the Defaulting Party breaches the requirements set forth under the Agreement and, as a result, the non-defaulting-party undergoes an impairment, the defaulting party shall assume the responsibility for damage indemnity.

4.5 All rights and obligations incurred under the Agreement by and between both parties before termination shall remain unaffected by such termination.

## **5 Confidentiality**

5.1 Each party acknowledges that by reason of this Agreement it may have access to certain information and materials concerning the other party’s business plans, customers, technology and products that are confidential and of substantial value to such party, which value would be impaired if such information were disclosed to third parties or used for purposes other than as expressly permitted by this Agreement (referred to this Agreement as “**Confidential Information**”). Each party agrees to maintain any and all Confidential Information received from the other, in confidence, and agrees not to disclose or otherwise make available such Confidential Information to any third party without the prior written consent of the disclosing party.

5.2 Each party shall treat all Confidential Information of the other party with at least the same degree of care as it accords its own confidential and proprietary information and shall disclose the Confidential Information only to those of its employees and other personnel under its control and supervision for purpose of performing under this Agreement solely on a need-to-know basis in furtherance of this Agreement, and solely to those individuals who are bounded by a written non-disclosure agreement having terms no less than restrictive than the non-disclosure terms of this Clause 5.2, unless required by law, or court or governmental order.

5.3 The Confidential Information shall not be deemed to include in the following situations:

5.3.1 The information is publicly known at the time of the disclosure

5.3.2 The information has been known to the recipient party or any third party before disclosure.

5.3.3 The information becomes known to the receiving party, without restriction, from a source free of any obligation of confidentiality and without breach of Clause 5.2 and

### 5.3

5.3.4 The information is independently developed by the receiving party.

5.3.5 The information is to be made public under consent by the disclosing party in writing.

5.3.6 The information is to be made public as requested by law enforcement or governmental authorities.

## 6 Ownership of Copyright

LICENSOR agrees that, for the purposes set forth under the Agreement, ROCK MOBILE may use the company name, trademark of LICENSOR. All copyrights, trademarks or other intellectual property rights owned by ROCK MOBILE or LICENSOR shall still be owned by themselves respectively.

## 7 Governing Law and Jurisdiction

7.1 This Agreement is on the grounds of the laws of the Republic of China (Taiwan) as the governing law on execution, validity and interpretation.

7.2 On a litigious action arising herefrom, if any, both parties agree that the Taipei District Court, Taiwan should be the jurisdictional court for the first instance.

## 8 Miscellaneous

8.1 This Agreement represents the overall consent of both parties and supersedes agreements and commitments reached by both parties previously either orally or in writing, if any.

8.2 Where any single clause of this Agreement becomes invalid, revoked, unlawful or unenforceable due to law or court judgment, the validity of other terms and conditions shall remain unaffected. All other terms and conditions remain continually valid.

8.3 An amendment to the Agreement shall be made upon consent by and between both parties, only in writing.

**ROCK MOBILE**

**By:**

\_\_\_\_\_  
**Name: Sam Duann**

**Title: Chairman**

**Date:**

**LICENSOR:** \_\_\_\_\_

**By:**

\_\_\_\_\_

**Date:**