

CREATOR'S CIRCLE COLLECTIVE AGREEMENT

This **Collective Agreement** (the "Agreement") is made effective as of the _____ day of _____ in the year 200____ between Stock Media Corporation with offices at 1123 Broadway, Suite 1006, New York, NY 10010 (hereafter "Creator's Circle ") and _____ located at _____ (hereafter the "Rights Holder").

WHEREAS, the Creator's Circle is providing various services to support the licensing of Photos of the Rights Holder that include web site hosting, e-commerce licensing and fulfillment, accounting and non-exclusive distribution of Photos to stock photo agencies in exchange for service fees, and the Rights Holder desires that Creator's Circle serve in this capacity; and in consideration of the mutual conditions and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1) **Good Faith.** The Rights Holder and Creator's Circle will work together in good faith and act ethically with honesty and integrity in all dealings and representations to each other.
- 2) **Payments.** Subject to the provisions herein and provided that Creator's Circle has the right to offset any monies owed to it against monies owed to the Rights Holder and that Creator's Circle has the right to suspend or terminate services provided to Rights Holder, in its sole discretion, should Rights Holder fail to pay Creator's Circle as described herein, Creator's Circle and the Rights Holder will pay each other (in U.S. dollars) as follows:
 - a) **Royalties.** Within a reasonable time of receipt of Gross Revenue or Net Revenue, Creator's Circle will pay Rights Holder (in U.S. dollars) Royalties of one hundred percent (100%) of Net Revenue for Rights-Managed Photos.
 - b) **Setup Fee.** Upon membership application, Rights Holder will pay Creator's Circle a one-time fee of \$150 to establish an account. This amount may be discounted by mutual agreement.
 - c) **Membership Fee.** Rights Holder will pay Creator's Circle, in advance, \$180 per three month period, or the then current rate for membership as published online at CreatorsCircle.org.
 - d) **Hi-Res Hosting Fee.** Rights Holder will pay Creator's Circle, in advance, \$3.50 per month per 100 images (or portion of 100 Photos), accumulated quarterly, or the then current rate for Hi-Res hosting as published online at CreatorsCircle.org., to host high-resolution Photos and make them accessible via Web Sites for client download.
 - e) **Submission Fee.** Rights Holder will pay Creator's Circle \$2.00 for each Photo submitted and accepted. For this fee, Creator's Circle will edit, keyword and upload each Photo to Web Sites, as needed and as determined at its sole discretion.
 - f) **Marketing Expense.** Rights Holder and Creator's Circle may mutually agree to conduct joint marketing efforts with each party paying half (50%) of the marketing expense on a prorata per image basis.
 - g) **Supplemental Services Fee.** Optionally, as determined by mutual agreement, Rights Holder may engage Creator's Circle to provide supplemental services for which it will pay \$50 per hour.
 - h) **Sales Commissions.** Creator's Circle will pay Rights Holder twenty percent (20%) of Gross Revenue that qualifies for Sales Commissions, derived from the sale or licensing of Photos by qualified buyers, provided that:
 - i) Gross Revenue is a direct result of a sales referral by the Rights Holder, and
 - ii) Licensee of Photos has reached Web Sites from an HTML link controlled by the Rights Holder, and
 - iii) Licensee of Photos is correctly associated with the membership ID of the Rights Holder at the time of the referral, and
 - iv) The referred membership ID is correctly captured and stored in a database of the Web Sites, and
 - v) Licensee of Photos initiates an action during the referred visit to Web Sites, such as adding Photos to their digital shopping cart, that leads to the eventual licensing of that specific image, and
 - vi) Licensee of Photos does buy or license Photos and pays for the use of said Photos.
- 3) **Grant of Authority.** Rights Holder grants Creator's Circle the non-exclusive right to host, archive, edit, resize, crop, market, distribute, display, license and/or sub license Photos, directly and indirectly through Agencies, Referring Sites, Web Sites and other resellers and to end-user licensees for use in any and all forms.

- 4) **Licensing Parameters.** Licensing Parameters, such as price, usage, usage restrictions and region of use will be determined by Creator's Circle at its sole discretion, except that the Rights Holder may modify Licensing Parameters to the extent permitted by methods approved by Creator's Circle.
- 5) **Non-Exclusive.** This Agreement is mutually non-exclusive. It in no way limits the ability of the Rights Holder to use and/or otherwise license its Photos in any way that it deems appropriate, including the download of Hi-Res images for personal business of the Rights Holder.
- 6) **Marketing.** Creator's Circle may, in its sole discretion, use or include Photos and the name, contact information and logo of the Rights Holder in any advertising, marketing or promotional materials, directories and portfolios, whether in print or digital form, that directly or indirectly benefit Creator's Circle or the Rights Holder.
- 7) **Records Access.** Creator's Circle will facilitate online access to review licensing records directly relating to the Photos and permit an independent accountant representing the Rights Holder to access and review, at Rights Holders' cost, during Creator Circle's normal business hours and upon reasonable notice, accounting records that directly relate to the Photos, provided that this access does not unreasonably interfere with Creator Circle's normal operations.
- 8) **No Barter.** Creator's Circle agrees not to give away, trade or barter Photos without prior approval by the Rights Holder.
- 9) **Hosting & E-commerce Backend.** Creator's Circle will provide the necessary computer code and support to enable its Web Sites to function as an e-commerce backend system for the web site of the Rights Holder, including the ability to limit searches to and display images of the Rights Holder, and, for searches that originate at the web site of the Rights Holder, to display the brand of Rights Holder and html links from Creator Circle's Web Sites to the web site of the Rights Holder. Furthermore, Creator's Circle will host a basic web site provided by Rights Holder. Rights Holder grants Creator's Circle full authority to modify the web site of the Rights Holder.
- 10) **Submissions.** Rights Holder will convey to Creator's Circle Photos only in digital form and only as high resolution files that are suitable for print publication, accompanied by proper and accurate captions, keywords and related metadata, as well as suggested Licensing Parameters where appropriate with each of the Photos in a form acceptable to Creator's Circle, including submissions that use Keyword Compiler. The Rights Holder will clearly identify the Web Site for which submissions and Photos are intended. The Rights Holder agrees that Creator's Circle may reject any Photos for any reason. Creator's Circle is not responsible for any accidental loss or damage to Photos. The Rights Holder will only submit Photos that are not pornographic, libelous or obscene and that do not knowingly violate any laws or third party rights. All Photos and information conveyed by the Rights Holder to Creator's Circle or to licensees of the Photos are true and correct to the best knowledge of the Rights Holder.
- 11) **Editing.** The Rights Holder understands, accepts and agrees that Rights Holder is entering Photos into universally accessible databases via an automated process and that Creator's Circle might not view or edit or have specific knowledge of Photos that are submitted to or available from Creator's Circle or Web Sites. Rights Holder further represents and warrants that he/she/it accepts full responsibility for Photos and that Rights Holder has done due diligence to insure that Photos are appropriate, legal and non-infringing of third party rights.
- 12) **Return Of Photos.** Photos will be purged, deleted or destroyed if they become unmarketable by Creator's Circle for any reason in Creator Circle's sole discretion. The Rights Holder may access and duplicate captions, keywords or information of any kind that relates to Photos that is accessible via normal Internet access. Creator's Circle may charge an appropriate service fee to return Photos or keywording and caption information to the Rights Holder if so desired by Rights Holder.
- 13) **Confidential Information.** Each party will remain the owner of all rights, title and interest in and to information about its marketing, business and technical processes ("Confidential Information") and will not distribute or share with others the Confidential Information of the other party in any form while this agreement is in effect. Creator's Circle owns all statistical data gained, acquired and/or derived from the process of licensing Photos via Web Sites.
- 14) **Trademarks.** "Creator's Circle", "Stock Media", "StockHeadshots", "StockEditorial", "StockPanoramics", "StockRM", "Digital Licensing Platform", "Empower Creators", "Preferred Partner Program", "Keyword Compiler", "Keyword Creator", "Ideamaze", "Click On", "Click On Catalogs" and "the one-stop creative toolbox" are trademarks of Creator's Circle. Creator's Circle owns all rights to its trademarks.

- 15) **Releases.** Creator's Circle will make no claims to end-users as to the existence or quality of proprietary rights unless such claim is made by or provided by the Rights Holder, and endeavor to inform end-users that no model releases or other releases exist for any Photos unless the existence of such release is specified in writing by the Rights Holder, and that Creator's Circle is not the Rights Holder. Rights Holder will provide copies of existing releases upon request by Creator's Circle or end-users.
- 16) **Term and Termination.** This Agreement will commence on the date indicated herein and will remain in full force for three (3) months from that date and will renew automatically for consecutive quarterly terms thereafter This Agreement may be terminated at any time and for any reason by either Creator's Circle or the Rights Holder, provided that:
- a) The terminating party delivers written notice of termination to the terminated party and receives confirmation of receipt of the termination notice by the terminated party; and
 - b) Royalties due from Creator's Circle to the Rights Holder continue to be due, and
 - c) Monies due from Rights Holder to Creator's Circle continue to be due; and
 - d) Creator's Circle will not be held responsible should Agencies not delete or purge Photos, and
 - e) Creator's Circle has the right, in its sole discretion to:
 - i) continue to directly and indirectly license Photos and maintain Photos in Web Sites and databases for up to six (6) months from the date of termination, and
 - ii) purge, delete and/or destroy all Photos in its possession or control within a reasonable time following termination.
- 17) **Limitation of Liability.** Creator's Circle will not be liable for any loss, injury, claim, liability or damage of any kind resulting in any way from the unavailability of Web Sites or any features thereof or any Photos included therein.
- 18) **DISCLAIMER. NEITHER CREATOR'S CIRCLE NOR ANY ENTITY AFFILIATED WITH CREATOR'S CIRCLE SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH CREATOR CIRCLE'S FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, CREATOR'S CIRCLE SHALL HAVE NO LIABILITY ARISING OUT OF OR IN ANY WAY RELATED TO (A) ANY FAILURE OR MALFUNCTION OF THE WEB SITES, (B) ANY FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY OR TERMINATION, OR ANY OTHER CAUSE, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF THE WEB SITES, OR ANY INACCURACY THEREIN. LIABILITY UNDER THIS AGREEMENT OR IN CONNECTION WITH ANY OTHER CLAIM ARISING OUT OF OR RELATING TO THE RELATIONSHIP BETWEEN CREATOR'S CIRCLE AND THE END USER OR CREATOR'S CIRCLE AND THE RIGHTS HOLDER SHALL NOT EXCEED THE AMOUNT PAID TO RIGHTS HOLDER BY CREATOR'S CIRCLE UNDER THIS AGREEMENT IN THE PRECEDING TWELVE (12) MONTHS.**
- 19) **Indemnification.**
- a) The Rights Holder agrees to defend, indemnify and hold harmless Creator's Circle against any and all claims, suits, actions, or other proceedings brought against Creator's Circle based on or arising from any claim:
 - i) that Creator Circle's use of any Photos infringes on any copyright, patent, trademark, trade secret or any other intellectual property right of any third party, or
 - ii) that results from any act alleged to be defamatory or libelous or a violation of privacy by the Rights Holder, or
 - iii) that results from breach of this Agreement by the Rights Holder,
 - iv) and further agrees to pay any and all costs, damages and expenses, including reasonable attorneys' fees for an attorney of Creator Circle's own choosing, incurred by Creator's Circle in connection with or arising from any such claim, suit, action or proceeding.
- 20) **Link.** The Rights Holder will display an HTML link from his or her web site to <http://www.StockRM.com> or whatever unique URL that Creator's Circle assigns to the Rights Holder. Creator's Circle will provide an online process to facilitate the creation of links that enable searching of Photos by the Rights Holders.

- 21) **Notices.** All notices under this Agreement will be deemed given when delivered personally, sent by commercial overnight courier, sent by fax or E-mail with confirmation of receipt of said fax or E-mail, or sent by U.S. certified mail, return receipt requested, to the name and address provided below, or as may otherwise be specified by either party to the other by notice given in accordance with this Section.
- 22) **Independent Contractor.** The Rights Holder is an independent contractor, responsible for all charges, fees, taxes, duties and government regulations concerning Royalties and Sales Commissions paid to it. Nothing in this Agreement will be construed as creating or constituting a partnership, joint venture, employment, fiduciary or agency relationship between the parties. Neither party will have the power to bind the other or to incur obligations on the other's behalf without the other's prior written consent.
- 23) **Entire Agreement.** This Agreement represents the entire Agreement between the parties, oral and written. No waiver of any provision of this Agreement will be valid unless in writing and signed by both parties. No course of dealing, course of performance, or the failure of either party to strictly enforce any term, right or condition hereof will be construed as a waiver of any term, right, or condition.
- 24) **Survival of Intent.** If any provision of this Agreement is held to be invalid or unenforceable, that provision will be eliminated or limited to the minimum extent necessary such that the intent of the parties is maintained, and the remainder of this Agreement will have full force and effect.
- 25) **Jurisdiction.** This Agreement will be governed by and interpreted in accordance with the laws of the State of New York, U.S.A. The parties irrevocably consent and submit to the sole and exclusive jurisdiction of any court or tribunal of the State of New York, County of New York.
- 26) **Definitions.** For the purposes of this Agreement,
- a) "Agencies" means stock photo agencies that will represent and license Photos on behalf of Creator's Circle to third parties and may handle accounting for licenses.
 - b) "Gross Revenue" means monies received by Creator's Circle for direct licensing of Photos or monies reported and paid to Creator's Circle by Agencies for the licensing of Photos, less credit card transaction fees and/or foreign currency conversion fees, if any.
 - c) "Keyword Compiler" means software created by or distributed by Creator's Circle to Rights Holder to facilitate the keywording, captioning and submission process of Photos to Creator's Circle.
 - d) "Licensing Parameters" means the necessary terms of use to execute the licensing of Photos, whether created by Creator's Circle or submitted by the Rights Holder and subsequently approved by Creator's Circle, which might include such variables as price, region of use, inclusion in Web Sites and other variables.
 - e) "Net Revenue" means Gross Revenue less any and all costs of goods sold, expenses and the like, such as delivery charges for Photos, bulk discounts, late fees, taxes, sales taxes, returns and credits, commissions for Referring Sites, and infringement expenses, such as legal fees.
 - f) "Photo" or "Photos" means any and all photographic images and visible creative works, together with metadata associated with that Photo that are delivered by Rights Holder to Creator's Circle and accepted by Creator's Circle, regardless of form or format.
 - g) "Referring Site" or "Referring Sites" means a web site, controlled by a photographer, photographer's representative, product or service provider for the stock photo industry, or other corporate entity, that refers qualified site visitors to Web Sites whose visit leads to the licensing of Photos.
 - h) "Rights-Managed" means Photos to license for uses that are paid for on a fee-per-use basis and that are limited by media type, usage, size, duration, quantity of locations or viewers or other such similar Licensing Parameters.
 - i) "Royalty" or "Royalties" means a percentage of licensing revenue due to the Rights Holder for the licensing of Photos.
 - j) "Sales Commission" or "Sales Commissions" means a percentage of Gross Revenue that directly results from the referral of clients by Referring Sites that Creator's Circle deems qualified to Web Sites and that is payable to a source of the sales referral.
 - k) "Web Site" or "Web Sites" means a world-wide network of affiliated sales agents, stock photo agencies, resellers, sales channels or ecommerce web sites accessible via the Internet, world wide web or information pages that are part of a wide area network of computers.

IN WITNESS WHEREOF, Creator's Circle and the Rights Holder agree to the terms and conditions herein.

For Creator's Circle:

For Rights Holder:

Signed: _____

Signed: _____

Randy Taylor
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