



TheSpiritSource.com
1310 Pendleton/Box 32
Cincinnati, Ohio 45202-7498

TheSpiritSource.com Artist Agreement

TheSpiritSource.com Artist Agreement ("Agreement") is made this _____ day of _____, in the year 2003 ("Effective Date"), by and between TheSpiritSource.com, 1310 Pendleton, Box 32, Cincinnati, OH 45202-7498, (hereinafter referred to as "Agent"), and _____ (hereinafter referred to as "Contributor") (each referred to herein as a "Party" and, collectively, as the "Parties").

1. Definitions

- 1.1 Image(s) shall mean illustration, photograph or fine art piece created by Contributor and submitted to Agent, as a digital image file.
- 1.2 Stock Image(s) shall mean illustration, photograph or fine art piece created by Contributor and submitted to Agent, as a digital image file, and offered for purchase on TheSpiritSource.com for a specific licensed usage. A Stock Image may also be a Portfolio Image if indicated by the Artist.
- 1.3 Portfolio Image(s) shall mean Images created by Contributor and submitted to Agent, solely for the purpose of promoting assignment work. A Portfolio Image may also be a Stock Image if indicated by the Artist.
- 1.4 Qualified Communications Professional(s) shall mean third parties such as art directors, art buyers, ad buyers, publishers and ad agencies.
- 1.5 TheSpiritSource.com Stock Image Collection shall mean a compilation of Stock Images submitted by Contributors and accepted by Agent.

2. Scope

- 2.1 This Agreement sets forth the agreement of the Parties relating to the marketing by Agent on behalf of Contributor of designated Images.

3. Term and Termination

- 3.1 Once signed by both Parties, this Agreement shall become effective as of the Effective Date. Unless terminated earlier in whole or in part as provided herein, this Agreement shall continue in effect for three (3) years from the Effective Date.
- 3.2 This Agreement shall automatically renew for additional one (1) year terms unless either Party terminates this Agreement by providing written notice to the other Party of its intention to terminate at least six (6) months prior to the termination of any of the extension terms.

- 3.3 Without limitation of any rights available at law, in equity or by contract (including, without limitation, any express termination rights set forth herein), this Agreement may be terminated by any Party upon the occurrence of a material breach hereof by (i) any other Party if such breach is not cured within thirty (30) days after written notice is received by the non-breaching Party identifying the matter constituting the material breach, or (ii) mutual written consent of the Parties.

4. Agency Appointment

- 4.1 Contributor hereby appoints Agent as exclusive authorized marketing and licensing representative for the purpose of representing, marketing, negotiating and licensing Stock Images which the Contributor has submitted to TheSpiritSource.com for this purpose, and Agent accepts said appointment in accordance with the terms and conditions set forth herein.
- 4.2 Contributor authorizes Agent to use Stock Images in all materials used to promote TheSpiritSource.com Stock Image Collection.
- 4.3 Contributor authorizes Agent to use Portfolio Images solely for the purpose of promoting assignment work.
- 4.4 Stock Images submitted by Contributor shall be construed to have no limitations on use, unless Contributor submits a written notification outlining such limitations at the time such Stock Images are submitted to Agent.

5. License Grant

- 5.1 Contributor hereby grants to Agent a worldwide, exclusive, and paid-up license (with right to sublicense), to use, reproduce, display and transmit the Stock Images and Portfolio Images as provided for herein. This license shall expire on the termination or expiration of this Agreement except that sublicenses granted by Agent prior to the termination or expiration shall survive.

6. Agent Obligations

- 6.1 Agent shall endeavor to represent, market, and license TheSpiritSource.com Stock Image Collection, to Qualified Communications Professionals.
- 6.2 Agent shall maintain a file of Stock Images and Portfolio Images in electronic form.
- 6.3 Agent shall conduct its business in a professional service-oriented manner, delivering required electronic scans of Stock Images to Qualified Communications Professionals for use in accordance with this Agreement.

- 6.4 Agent shall be entitled to reject any Stock Images or Portfolio Images for reasons of content unsuitability, unreasonable usage limitations, and/or substandard digital quality.
- 6.5 Agent shall be entitled to grant a limited royalty-free right to use or non-fee use of low resolution or watermarked (electronically or visibly) Stock Images for the creation of comprehensive layouts for evaluation purposes.
- 6.6 Except as otherwise provided in Section 6.5, Agent shall not grant a royalty-free or non-fee use for any Image provided by Contributor without Agent first obtaining approval from Contributor. Agent shall have sole right to determine what fees Agent charges for licensed use of Stock Images.
- 6.7 Agent shall retain all materials provided by Contributor that are subject to this Agreement, for the term of this Agreement.

7. Contributor Obligations

- 7.1 Contributor shall email low resolution digital files or mail printed samples of works to be considered for Images. Contributor shall inform Agent at this time which Images are being submitted for use as Stock Images, which are Portfolio Images only and which shall be used as both.
- 7.2 For each color Image selected by Agent, Contributor shall provide Agent with a high quality digital scan at 300 dpi, RGB color, 8 X 10. For each black and white linework Image selected by Agent, Contributor shall provide Agent with a high quality Bitmap scan at 1200 dpi, 8 X 10. Contributor shall refer to, and comply with, detailed specifications in the Artists Requirements for Submission of Artwork document provided by Agent and available on TheSpiritSource.com web site.
- 7.3 All Images supplied by Contributor must be free of any watermarks, visible or digital, so that Agent may embed its own digital watermark to protect Images against possible unlicensed usage.
- 7.4 In the event there are any restrictions on the use of an Image submitted by Contributor to Agent, such restrictions shall be submitted to Agent in writing upon the initial submission of the Image for review.
- 7.5 Contributor agrees that during the term of this Agreement, it will not, without the Agent's express written consent, engage in any other employment or business activity with existing clients of TheSpiritSource.com. If Contributor has had previous employment or business activity with said client(s), Agent agrees not to unreasonably withhold such written consent.

7.6 Contributor shall be responsible for any and all expenses it incurs in connection with its performance of this Agreement.

8. Fee for Service

8.1 Agent shall pay to Contributor **fifty percent (50%)** of all licensing fees that Agent collected for Stock Images. Agent shall pay fees accruing to Contributor under the terms of this Agreement, within thirty (30) days following the end of each quarter in which fees have accrued. If this Agreement is for any reason terminated before all of the payments herein provided for have been made Agent shall immediately pay to Contributor any remaining unpaid balance even though the due date as above provided has not been reached.

9. Additional Agent Services and Referrals

9.1 Agent may provide certain additional and related services to Qualified Communications Professionals, such as consultation and referral, which may result in assignments or custom projects for Contributor.

9.2 Should Contributor accept and contract a project with a Qualified Communications Professional during the term of this Agreement, based on an Agent referral, Agent agrees to pay Contributor **seventy percent (70%)** of the fee received for such services. Agent shall pay fees accruing to Contributor under the terms of this Agreement, within thirty (30) days following the end of each quarter in which fees have accrued. If this Agreement is for any reason terminated before all of the payments herein provided for have been made Agent shall immediately pay to Contributor any remaining unpaid balance even though the due date as above provided has not been reached.

9.3 Should Contributor accept and contract a project with a Qualified Communications Professional, based on an Agent referral, Contributor agrees that during the term of this Agreement, it will not, without the Agent's express written consent, engage in any other employment or business activity with said Qualified Communications Professional. Agent agrees not to unreasonably withhold such written consent, if Contributor has had previous employment or business activity with said Qualified Communications Professional.

10. Contributor Representations, Warranties and Indemnities

Contributor represents and warrants to Agent as follows:

10.1 Contributor has the full power and authority to enter into this Agreement and to grant the rights granted under this Agreement.

- 10.2 Contributor guarantees that he/she is the author, proprietor, and sole owner of Images and all rights therein, and that Images shall be original and not infringe or violate any copyrights or other proprietary or contract rights.
- 10.3 Contributor guarantees that he/she has obtained any necessary photo, model, and/or multi-media releases, as required by law.
- 10.4 Contributor shall comply with all applicable laws and regulations applicable to Contributor's activities in furtherance of this Agreement.
- 10.5 Contributor assumes all responsibility from any and all claims against Agent arising out of the use of the Stock Images or Portfolio Images, and shall indemnify and hold Agent harmless from and against all costs and expenses (including reasonable attorney's fees) arising out of use of Stock Images or Portfolio Images or Contributor's breach of any, guarantee, representation, warranties or covenants, express or implied, contained herein.

11. Agent Representations and Warranties

Agent represents and warrants to Contributor as follows:

- 11.1 Agent has the full power and authority to enter into this Agreement.
- 11.2 Agent shall comply with all applicable laws and regulations applicable to Agent's activities in furtherance of this Agreement.

12. Infringement

- 12.1 Should Contributor become aware of any infringement by others of Images, Contributor shall give prompt written notice thereof to Agent.
- 12.2 In case of damage, destruction, loss, or unauthorized use of Images by a client of Agent, Contributor grants to Agent the full and complete discretion and authority to make claims and/or to institute legal actions in Contributor's name. Contributor will be obligated to cooperate reasonably with the Agent, at the expense of the Agent, in connection with such defense and with the compromise or settlement of any such claim and/or legal action. Neither the Agent nor the Contributor shall settle or dispose of any claim and/or legal action in any manner which adversely affects the rights of the other, without the prior written consent of the other.
- 12.3 All recoveries made from such actions shall be apportioned fifty percent (50%) to Contributor and fifty percent (50%) to Agent after deductions have been made for legal fees, collections fees, and any other reasonable expenses incurred by Agent in litigation or otherwise resolving said claims. All settlements shall be at the sole discretion of Agent.

13. Bankruptcy

- 13.1 If a petition in bankruptcy is filed by or against Agent, which is not dismissed within thirty (30) days, or Agent is adjudicated bankrupt, or Agent makes any assignment for the benefit of creditors or becomes insolvent, is placed in the hands of a trustee or receiver, fails to satisfy any judgment against it or is unable to pay its debts as they become due, whichever is sooner, this Agreement shall automatically terminate forthwith without any notice whatsoever.
- 13.2 Upon such termination for any reason under this section, Agent, its receiver, representatives, trustees, agents, administrators, successors and assigns shall have no further rights hereunder, and neither this Agreement nor any right or interest herein shall be deemed an asset in any insolvency, receivership, and/or bankruptcy.
- 13.3 Upon such termination for any reason under this section, Contributor shall have the right to repossess all materials submitted to Agent.

14. Miscellaneous

- 14.1 **Notices.** All notices, consents, waivers, and other communications under this Agreement must be in writing and shall be deemed to have been duly given when (a) delivered by hand (with written confirmation of receipt), (b) sent by facsimile (with written confirmation of receipt), provided that a copy is mailed by registered mail, return receipt requested, or (c) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses and facsimile numbers set forth below (or to such other addresses and facsimile numbers as a Party may designate by notice to the other Party):

If to Contributor:

If to Agent:

Paula Wiggins
TheSpiritSource.com
1310 Pendleton, Box 32
Cincinnati, Ohio 45202-7498

- 14.2 **Entire Agreement.** This Agreement is intended by the Parties as a final and complete expression of their agreement, and supersedes any and all prior and contemporaneous agreements and understandings relating to it. This Agreement may not be modified and none of its terms may be waived, except in writing signed by both Parties. The failure of either Party to enforce, or the delay by either Party in enforcing, any of its rights shall not be deemed a continuing waiver or a modification of this Agreement.

- 14.3 **Severability.** If any part of this Agreement shall be declared invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity of the balance of this Agreement.
- 14.4 **Survival.** The following provisions of this Agreement shall survive the expiration or sooner termination hereof: Articles 10, 11, 12 and Section(s) 14.5, 14.6, 14.7, and 14.8 hereof.
- 14.5 **Force Majeure.** No Party hereto shall be responsible for any failure or delay in the performance of any obligation of such Party hereunder to the extent caused by acts of God, flood, fire, labor disputes, acts or omissions of the other Party, or reasonably unforeseeable non-delivery or delays in delivery by any other supplier of goods and services applicable to this Agreement.
- 14.6 **Terms Hereof Held in Confidence.** Agent and Contributor shall hold in confidence the terms of compensation and reimbursement set forth herein, and neither Party hereto shall disclose such terms to any other person or entity without the prior written consent of the other.
- 14.7 **Governing Law.** This Agreement shall be governed by the laws of the State of Ohio without regard to conflicts of law principles.
- 14.8 **Jurisdiction.** Any action or proceeding by one Party to this Agreement seeking to enforce any provision of, or based on any right arising out of, this Agreement shall be brought against any of the other Parties to this Agreement in the courts of the State of Ohio, or, if subject matter jurisdiction exists, in the United States District Court for the Southern District of Ohio, and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceedings and waives any objection to venue laid therein.

The Parties have signed this Agreement as of the day and year first above written.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as set forth below.

THESPIRITSOUCE.COM

CONTRIBUTOR

By: _____

By: _____

Print Name: _____

Print Name: _____

Date: _____

Date: _____

Title: _____

Title: _____