

## Reflex Stock Contributor Agreement

(1) REFLEX STOCK LIMITED

and

(2)

CONTRIBUTOR AGREEMENT

Date: 2010

Ref: Standard Version - Exclusive  
DON/2010/JM

## Reflex Stock Limited Contributor Agreement

AGREEMENT made as of the \_\_\_ day of \_\_\_\_\_ 20\_\_\_, by and among \_\_\_\_\_ located at \_\_\_\_\_

\_\_\_\_\_ (hereinafter referred to as the "Contributor"), and Reflex Stock Limited, The Loft Business Centre, 6a Derrycaw Road, Moy, Armagh, BT71 6SX. (hereinafter referred to as the "Company").

WHEREAS, the contributor is engaged in the business of creating Images (as defined in Section 1 below) and the Company is in the business of Royalty Free Licensing of Images (as defined in Section 1 below), and

WHEREAS, the Contributor and the Company have determined that it is their mutual interest to enter into this Agreement, whereby the Company shall distribute licensed Images owned by the Contributor to Distributors, Affiliates and Third Parties on a Royalty Free Licensing basis.

NOW THEREFORE, in consideration of the mutual covenants, representations and warranties described below, and the mutual benefit derived herefrom, the parties agree as follows:

**1. DEFINITIONS:** In this agreement, the following terms shall have the meaning set forth below:

- (a) **"Affiliates"** mean at any time any person or legal entity then directly or indirectly controlled by, controlling, or under common control of the Company.
- (b) **"Composite"** means any Image that is composed of two or more Images, or parts of Images, or other material.
- (c) **"Distributor"** means an entity authorized to license Images via Products, Promotional Materials and/or Online Delivery Systems by the Company.
- (d) **"Duplicate Images"** mean any copy or reproduction of an Image, or a Composite of one or more images in any media, now known or which may become known in the future, whether created by the Contributor, Affiliates, Distributors or Third Parties.
- (e) **"Images"** mean photographs or visual representations obtained by camera or computer, or any other means, and recorded on a transparency, negative, print, any other photographic material, or on digital or electronic media, which, in each case, is now known or which may become known in the future, which are provided to the Company by the Contributor and accepted by the Company as defined in Section 5(a) herein Such Images will be subject to this Agreement until returned to the Contributor as provided for in the Agreement.
- (f) **"Net Amount"** means the revenue actually received by the Company for sublicensing Images either through Products and/or Online Delivery Systems to Third Parties, Affiliates or Distributor and shall include any sales tax, value-added tax, freight charges, collection agency fees and similar items.
- (g) **"Net Receipts"** means actually received by the Company for sublicensing Images either through Products and/or Online Delivery Systems to Third Parties, Affiliates or Distributor. Net receipts shall not include any sales tax, value-added tax, freight charges, collection agency fee and similar items.

(h) **“Online Delivery System”** means any system for distribution and/or delivery of Images by any means of transmission, broadcast or public display, now known or which may become known in the future.

(i) **“Products”** means any compilation of images and Composites used to promote the business of the Company, the licensing of images or the exploitation of images, in any media, which is now known or may become known in the future.

(j) **“Promotional Material”** means promotional or advertising materials produced or published by the Company, its Affiliates or Distributors to promote the Company, its Affiliates or Distributors, or any images.

(k) **“Royalty Free License”** means the licensing of Images for use on a substantially unlimited basis for unlimited period of time for a fee not based on usage. “Royalty Free and Royalty Free Licensing” means no royalties will be attributed to the user of Images based on a Royalty Free License.

(l) **“Similar”** means any Image of the same subject, in substantially the same mood, lighting or content, whether in colour or black and white.

(m) **“Stock Agency”** means any stock picture agency, stock film library, picture library, on-line image service, royalty free or clip art provider, or any similar entity that is in the business of licensing, distributing, providing, selling or otherwise exploiting Images anywhere in the world.

(n) **“Territory”** means the entire world.

(o) **“Third Party”** means any third party other than the Contributor, the Company, its Affiliates or Distributors.

(p) **“Image Exclusive”** means that an image and its related similars are to be distributed by the Company, and no other licensing entity nor the copyright holder during the term of the agreement with the Company

## **2. GRANT OF LICENSE:**

(a) **Grant:** The Contributor hereby grants the Company for the period set forth in Section 3, a worldwide, Image Exclusive right and license to:

(i) copy (by means, now known or which may be known in the future), reproduce, publish, adapt, distribute, transmit, broadcast, display, modify, enhance, and make derivative works of any image from the contributor, alone or in combination with any other material in any media now known or which may become known in the future and

(ii) sublicense any right to any Affiliate, Distributor and/or Third Parties.

(b) **Licensing Discretion:** The Company shall have complete and sole discretion regarding the terms, conditions and pricing of Images licensed or sublicensed to Affiliates, Distributors and Third Parties. The Company shall have complete and sole discretion as to delivery methods and distribution of the Images.

(c) **Discretion As to Lawsuits:** The Contributor hereby grants the Company for itself, its Affiliates and Distributors, the exclusive right, *at its expense*, to determine in its sole and reasonable discretion, without obligation, if, and when, any legal action shall be pursued with regard to Images, and to defend claims and counterclaims related to Images. The Company shall have complete discretion regarding its choice of attorney. Settlements shall not be subject to the Contributor's prior approval. The Contributor agrees to cooperate with the Company, providing, if requested, all reasonable assistance to the Company. The Contributor agrees to be named in and be joined as a party to any proceedings in connection with the prosecution or defense of any legal claim with regard to the Contributor's Images

(d) **Ownership of Images:** All Images submitted to the Company pursuant to the terms of this Agreement shall be, and remain, the Contributor's exclusive property.

(e) **Waiver of Moral Rights:** The Contributor waives all moral rights relating to any Image, including but not limited to (1) the right to be identified as the author of any Image, (2) the right to object to any modification of any Image, and (3) the right to withdraw any Image from the market. No casual or inadvertent failure by the Company, its Affiliates or Distributors to provide a credit, nor failure of any third party to provide a credit, shall be a breach of this Agreement.

### **3. TERMS OF AGREEMENT:**

(a) **Original Term:** This Agreement shall be for a period of Five (5) years (the "Initial Term").

(b) **Renewal Term:** This Agreement shall automatically renew itself for consecutive One (1) year periods (the "Renewal Term") after the Initial Term.

(c) **Termination:** Any party shall have the right to terminate this Agreement by written notification to the other party sixty (60) days prior to the expiration of the Initial Term or any Renewal Term.

(d) **Survival:** Regardless of the termination of this Agreement, the Company shall be entitled to continue to license any Contributor Image for a period of five (5) years from the date a high resolution scan / digital capture created of the Image for any Online Delivery System. The Company shall be entitled to license Images placed into Products or Promotional Material in perpetuity. Termination will not affect any Royalty Free License granted to any Third Party, Distributor or Affiliate, such license will continue in full force and effect according to its terms.

(e) **Obligation to Make Payments:** Regardless of the expiration or termination of this Agreement, the Company will continue, in accordance with this Agreement, to pay compensation due to the Contributor for all Royalty Free Licenses granted pursuant to Section 2 under this Agreement for the relevant period referred to in Paragraph 3(d).

(f) **Return of Originals:** All Images shall remain on file with the Company during the term of this Agreement. The Company shall return Images within sixty (60) days after termination of this Agreement. The Company shall not be liable for the non-return of any Image as set forth in Paragraph 5(b) herein.

(g) **Withdrawal of Images:** Notwithstanding the entitlement of the Company to indemnification from the Contributor, in the event that the Company is required to withdraw an Image that has been incorporated into a Product due to a breach of any part of this Agreement

by the Contributor, the Contributor will be subject to a charge of £250 per Image; such charge will be deducted from the compensation due the Contributor hereunder.

**4. THE CONTRIBUTOR'S WARRANTIES:** The Contributor represents and warrants that:

- (a) The Contributor is the sole and exclusive copyright holder of all Images and has not assigned the copyrights in any Image to any Third Party.
- (b) The Contributor has the sole and exclusive right to license all Images submitted to the Company and has obtained all permissions necessary for the Company to lawfully distribute, publish, market, license and sublicense the Images for the purpose of Royalty Free Licenses.
- (c) All Images are the Contributor's original expressions of the subject matter and were not based upon any pre-existing images.
- (d) Any Image submitted to the Company shall not (i) infringe on any copyright or trademark right or any right of privacy or publicity; (ii) defame any Third Party, nor (iii) give rise to any existing or potential claim by any Third Party in respect of any such Image.
- (e) The Contributor has not licensed or assigned any of his or her rights in any Similar of an Image.
- (f) The Contributor has read and understands this Agreement, and has the legal right to enter into this Agreement and perform his or her obligations hereunder.
- (g) The Contributor will accurately caption and affix the proper copyright notice to each Image sent to the Company. The caption shall include an identifying number, which is also indicated on the Images and the releases referred to below.
- (h) A release, either model and/or property, in the form attached in Schedule A, has been obtained where necessary and is appropriate for each Image and the Contributor will provide the Company with digital PDF copies of all relevant releases at the time of delivery of Images. A note indicating the existence of a release(s) shall be placed on an accompanying transmittal sheet in the form requested by the Company and shall indicate "MR" for a model release and "PR" for a property release.
- (i) The Contributor shall organize submissions of Images in the manner requested by the Company and shall submit all Similar together in one submission.

**5. SELECTION AND RETENTION OF IMAGES:** The Company shall:

- (a) Review all images submitted by the Contributor to enable it to retain and license those Images acceptable to the Company for Royalty Free Licenses. The Company may in its sole discretion discontinue marketing or licensing a Contributor's Image at any time during the period of this Agreement.
- (b) Provide a reasonably appropriate environment for the storage and retrieval of the Contributor's Images, make all reasonable efforts to protect and preserve the Images, and exercise reasonable care in the handling of the Images; notwithstanding the foregoing, the Contributor agrees that the Company, nor any of its Affiliates, shall not be liable for any loss, theft, damage or deterioration of any of the Contributor's Images, for any reason save for gross

negligence and the Contributor acknowledges that the Company does not carry insurance covering the Contributor's Images.

(c) In agreements with Third Parties, Affiliates and Distributors, require that no Images may be used in a defamatory or illegal manner.

## **6. COMPENSATION:**

- (a) **Contributor Payment:** The Contributor shall be paid:
- (i) Single Image Sales: thirty percent (30%) of all Net Receipts on all Royalty Free Licensing of the Contributor's Images;
  - (ii) Product Sales: A pro rata share of thirty percent (30%) of all Net Receipts with respect to Images selected for Products where Contributor's Images are included with other contributor's images; and
  - (iii) Composite Images: A pro rata share of thirty percent (30%) of all Net Receipts with respect to any license of a Composite Image incorporating the Contributor's Image, depending on the amount of the Image used.
  - (iv) Method of payment will be PayPal. – No Fees.
  - (v) Alternative method of royalty payments: Bank electronic transfer; a \$5 (USD) initial set up fee is charged and is deducted from the initial royalty payment. Distributor reserve the right to recoup bank/wire transfer fees charged to distributor from the amount payable.

The pro rata share as set forth in (ii) and (iii) herein is determined by multiplying thirty percent (30%) of all Net Receipts by a multiplier where the number of the Contributor's Images is the numerator, and the total number of Images contained in the Product or Composite Image is the denominator.

(b) **Statements:** Activity analysis and statements are available via your account in the contributor area. The Contributor shall receive payment in US Dollar (\$) and will be subject to any applicable withholding taxes. Payments will not start until a minimum royalty amount of \$50 USD has been achieved. All statements shall be binding and not subject to objection unless specific objection is made, in writing, by the Contributor to the Company stating the basis of the objection within 1 year from the date the statement was rendered.

(c) **Deductions for Cancellation:** In the event that a refund of any part of a payment received or accrued from a Third Party is required, the Company is specifically authorized to deduct the Contributor's share of this overpayment from any subsequent amount due the Contributor.

(d) **Promotional Use:** No compensation shall be due to the Contributor for any Products distributed gratuitously for promotional purposes.

(e) **Compensation With Regard to Settlements and Lawsuits:** The Contributor shall receive twenty percent (20%) of all amounts received as a result of a settlement or lawsuit in respect of any matter relating to his or her Images pertaining to this Agreement, after payment of attorneys' fees, expert witness fees, and other costs related to such action.

(f) **Audit:** Subject to Section 6(b) the Contributor has the right, once during any 12 month period, at his or her expense, upon at least two weeks written notice and during regular business hours, to have an independent audit performed of Company's books and records solely as they pertain to the Contributor's Images within the two year period prior to the audit. If Company has underpaid the Contributor by 5% or more, the Company shall reimburse the Contributor for the cost of the audit in addition to any outstanding monies owed. This right is subject to the Company's approval of the auditor and, if satisfied, execution of a confidentiality agreement by the auditor.

(g) **Withholdings:** In the event that the Company is obliged to deduct any income taxes or duties from any payments required to be made by it to the Contributor, the Company is obliged to pay the Net Amount to the Contributor.

**7. PROMOTIONAL MATERIALS:** The Company, its Affiliates and Distributors may create Promotional Materials to promote and market the Images and the Contributor grants each of them a license to include Images in such Promotional Materials. The selection of Images for Promotional Materials is at the Company's, its Affiliates' or Distributor's sole discretion and will not require any further consent from the Contributor. The Contributor agrees that that no compensation shall be due to the Contributor for the use of any Images in Promotional Materials.

**8. DEATH OF CONTRIBUTOR:** In the event the Contributor dies, his or her executors, administrators, heirs and successors and assigns shall be bound by the terms of this Agreement and shall receive the payments which would otherwise be due to the Contributor.

**9. INABILITY TO LOCATE THE CONTRIBUTOR:**

(a) **Alternate Notice:** The Company shall use reasonable efforts to locate the Contributor in the event statements are returned unclaimed. To assist the Company in this endeavor, the Contributor shall provide an alternate address on the signature page of this Agreement.

(b) **Retention of Billings:** In the event that, notwithstanding the Company's reasonable efforts, the Contributor cannot be located for four (4) years, the Company shall have the right to retain all compensation due.

**10. INDEPENDENT CONTRACTOR:** The parties hereto acknowledge and agree that their relationship is one of contract and of distributor-independent contractor only and is not one of partnership, employment, joint venture, principal-agent or any other legal entity.

**11. LIMITATIONS ON ASSIGNMENT:** No party may assign this Agreement without the prior written consent of any other party, provided, however, that the Agreement may be assumed by any entity which succeeds the Company or which is an Affiliate.

**12. INDEMNIFICATION:**

(a) **Company Indemnification:** The Company covenants and agrees to defend, indemnify and hold harmless the Contributor from and against, and pay or reimburse the Contributor for, any and all costs resulting from or arising out of (i) any inaccuracy of any representation or warranty made by the Company, and (ii) any failure of the Company to perform any covenant or agreement hereunder.

(b) **Contributor Indemnification:** The Contributor covenants and agrees to defend, indemnify, and hold harmless the Company, its Affiliates and Distributors from and against, and

pay or reimburse the Company on its own behalf and on behalf of its Affiliates and Distributors for any and all costs resulting from or arising out of (i) any inaccuracy of any representation or warranty made by the Contributor; and (ii) any failure of the Contributor to perform any covenant or agreement hereunder.

**13. SEVERABILITY:** If any provision of this Agreement is inoperative or unenforceable for any reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses, sections or subsections of this Agreement shall not affect the remaining portions of this Agreement.

**14. MISCELLANEOUS PROVISIONS:**

- (a) **Headings:** The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.
- (b) **Entire Agreement:** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements and understandings, whether written or oral.
- (c) **Counterparts:** The Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall together constitute one and the same instrument.
- (d) **Governing Law:** This Agreement shall be governed by and construed in accordance with English law and the parties submit to the non-exclusive jurisdiction of the English courts to resolve any disputes, provided that the Company shall have the right as plaintiff to initiate proceedings against Contributor in any other court of competent jurisdiction.
- (e) **Binding Effect:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns. If the Contributor consists of two or more entities or individuals, all of Contributor's duties are jointly and severally those of such entities or individuals.
- (f) **No Third Party Beneficiaries:** Nothing in this Agreement shall confer any rights upon any person or entity other than the parties hereto and their respective heirs, successors and permitted assigns.
- (g) **Confidentiality:** During the term of this Agreement and for as long after expiration or termination of this Agreement as Contributor possesses any confidential information, the Contributor agrees not to disclose any confidential information belonging to the Company, except as is necessary to perform the Contributor's obligation under this Agreement and to obtain professional advice in connection with this Agreement or as is required to be disclosed by law. The Contributor agrees that the terms of this Agreement are confidential, as well as financial information with respect to Company and the Contributor, and any other information deemed confidential by the Company.
- (h) **Amendment: Waivers:** No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of the amendment, modification, discharge or waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the party granting such waiver

in any other respect or at any other time. Neither the waiver by any of the parties hereto of a breach or of a default under any of the provisions of this Agreement, nor the failure by any of the parties, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder, shall be construed as a waiver of any other such breach or default of a similar nature, or as a waiver of any such provisions, rights or privileges hereunder.

(i) All notices under this Agreement shall be in writing and delivered by hand, registered post or facsimile to the intended recipient's address as set out above or such other address as may be notified to the other from time to time, and shall take effect upon delivery if sent by hand, three (3) days after posting if sent by mail, and immediately if sent by facsimile.

(j) This Agreement contains all of the terms agreed by the parties regarding its subject matter and supersedes any prior agreements, understandings or arrangements between them, whether oral or in writing. No representation undertaking or promise shall be taken to have been given or be implied from anything said or written in prior negotiations between the parties except as set out in this Agreement.

(k) No variation of this Agreement shall be effective unless in writing signed by the parties.

(l) Failure to enforce or to exercise, at any time or for any period, any term of this Agreement does not constitute, and shall not be construed as, a waiver of such term and shall not affect the right later to enforce it.

**IN WITNESS WHEREOF**, The parties have executed this Agreement on the day and the date first set forth above.

For **Reflex Stock Limited**

\_\_\_\_\_ Date \_\_\_\_\_  
Dwyer O'Neill  
CEO

For \_\_\_\_\_

Sign \_\_\_\_\_ Date \_\_\_\_\_

Print name \_\_\_\_\_

Title \_\_\_\_\_

**CONTRIBUTOR INFORMATION**

Credit Line \_\_\_\_\_

Phone \_\_\_\_\_ Mob \_\_\_\_\_

Fax \_\_\_\_\_

Email \_\_\_\_\_

Tax ID # \_\_\_\_\_

**PayPal Address:** \_\_\_\_\_

***Alternate Method:***

**BANK DETAILS**

Beneficiary bank \_\_\_\_\_

Bank address \_\_\_\_\_

Account name \_\_\_\_\_

Sort code \_\_\_\_\_

IBAN number \_\_\_\_\_

Swift code \_\_\_\_\_