

1.00 DEFINITIONS

In this Agreement:

1.1. "Agreement" means this Agreement and includes the invoice;

1.2. "Derivative Work" means any work produced by the alteration, distortion, or manipulation of Licensed Material, either manually or electronically, in whole or in part, and includes, but is not limited to, cropping and rotating.

1.3. "Invoice" means the computer-generated invoice of STD-S that includes:

- i) reference to which of the licenses for use of the Licensed Material in Section 2.00 is granted;
- ii) any limitation on the license(s) in addition to those limitations specified in this Agreement; and
- iii) the corresponding price for the license(s) of the Licensed Material.

The terms of the Invoice form part of this Agreement. All references to "the Agreement" include the Invoice.

1.4. "Licensee Work" means a work produced by Licensee pursuant to any license granted by this Agreement including, but not limited to, a work used in advertisements, books, feature films, magazines, promotional materials, television productions, website and other media.

1.5. "Licensed Material" means any image or visual representation generated optically, electronically, digitally or by any other means including, but not limited to negatives, transparencies, film imprints, prints, optical digital files or any Reproductions thereof. Any reference in this Agreement to Licensed Material refers to individual items within the Licensed Material and also to the Licensed Material as a whole.

1.6. "Parties" means the Licensee and STD-S and "Party" means either one of them.

1.7. "Person" means any legal entity other than the Licensee and STD-S.

1.8 "Permitted Use" means

- i) Advertising and promotional materials;
- ii) Broadcast and theatrical exhibitions;
- iii) Print publications and physical products;
- iv) Electronic publications, including website design, up to a maximum resolution of 72 dpi ; and
- v) Any other uses approved in advance and in writing by STD-S.

1.8 "Reproduction" and "Reproduce" mean any form of copying or publication of any Licensed Work, in whole or part, by any means and in any medium, and

includes the creation of any Derivative Work from the Licensed Material.

1.8. "Website" means all content originating from the domain name stockthatdoesntsuck.com.

2.00 GRANT OF RIGHTS TO LICENSEE

THE LICENSEE MAY REQUEST AND BE GRANTED ONE OR MORE OF THE FOLLOWING LICENSES. ANY GRANT OF RIGHTS TO THE LICENSEE WILL BE SPECIFIED BY TITLE IN AN INVOICE:

2.1 ARTIST MANAGED IMAGE LICENSE

2.1.1 STD-S grants to the Licensee a non-exclusive, non-assignable right (without any right to sublicense) to Reproduce the Licensed Material identified on the Invoice.

2.1.2 The Licensee's use of the Licensed Material is expressly limited to the use, medium, territory, period of time, placement, size of Licensed Material, print run, and any other restriction specified in the Invoice, provided the Licensee may use the Licensed Material in any production process that may be necessary for the use specified in the Invoice.

2.2 MULTIPLE USE IMAGE LICENSE

2.2.1 STD-S grants to the Licensee a non-exclusive, non-assignable right (without the right to sublicense) to use and Reproduce the Licensed Material identified in the Invoice for the Permitted Use, an unlimited number of times and in any media.

2.3 EDITORIAL USE LICENSE

2.3.1 STD-S grants to the Licensee a non-exclusive, non-assignable right (without any right to sublicense) to use and Reproduce the Licensed Material identified as Editorial Use on the Invoice, solely to the extent expressly provided in this Agreement.

2.3.2 The Licensee's use of the Licensed Material for Editorial Use will be expressly limited to the use, medium, territory, period of time, placement, size of Licensed Material, print run, and any other restriction specified in the Invoice, provided the Licensee may use the Licensed Material in any production process that may be necessary for the use specified in the Invoice.

2.3.3 Licensed Material may only be used in an editorial manner, and may not be used for any promotional, advertising or merchandising use.

2.3.4 The credit line "stockthatdoesntsuck" must appear adjacent to Licensed Material ("the Credit Line") In the event any Licensed Material Reproduced by Licensee for editorial purposes omits the Credit Line, STD-S may, in its sole discretion, charge the Licensee an additional fee equal to thirty percent (30%) of the original Invoice amount ("the Fee"). The Fee will be in addition to any other rights or remedies that STD-S may have against the Licensee, at law or in equity.

3.00 ADDITIONAL RESTRICTIONS ON USE

3.01 The Licensee agrees it will not copy any Licensed Material by any means, including, but not limited to, photographic means, scanning, digital copying, or as a reference for another image, unless the Licensee has received and paid for the applicable license from STD-S.

3.02 The Licensee will not sub-licence, sell, assign, convey or transfer this Agreement or any of its rights under this Agreement

3.03 The Licensee will not:

- i) post Licensed Material on any electronic bulletin board;
- ii) post Licensed Material on the Internet in downloadable format; and/or
- iii) use Licensed Material on/in a website at a resolution greater than 72 dpi.

3.03 The Licensee will not include the Licensed Material in an electronic template intended to be Reproduced by Persons on electronic or printed products.

3.04 The Licensee will not sell, license or distribute any Licensed Material in a way which would allow a Person to download, extract or access the Licensed Material as a standalone file.

3.05 The Licensee will not make the Licensed Material available in a downloadable format or enable it to be distributed by means of any electronic devices.

3.06 The Licensee will not incorporate any Licensed Material into a logo, trade-mark or service mark of the Licensee or any Person.

3.07 The Licensee will not incorporate any part of the Licensed Material into another image without prior written consent of STD-S.

3.08 The Licensee will not remove or obscure the copyright symbol, the name of STD-S and the image number or other identifier associated with the Licensed Material which will be included as part of the delivered electronic file.

3.09 The Licensee will not produce a Derivative Work without the prior written consent of STD-S.

3.10 The Licensee agrees it will not make any pornographic, defamatory or otherwise unlawful use of Licensed Material, including use that is directly or in context or juxtaposition with such subject matter.

3.11 The Licensee agrees to comply with any additional restriction on use by STD-S imposed prior to or at the time the Licensed Material is delivered to the Licensee. Such restrictions may be included in the information provided with the Licensed Material on the Website or in other communication by STD-S. Any such restriction provided to the Licensee will be deemed to be incorporated in this Agreement.

3.12 The Licensee agrees that any use of Licensed Material it in a manner not expressly authorized by this Agreement, or in breach of a term of this Agreement, is copyright infringement. The Licensee agrees, in that event, that STD-S may seek all rights and remedies available to it under any applicable law. The Licensee agrees that it will be solely liable for any damages, legal fees and other claims from copyright infringement committed by the Licensee, including claims by a Person.

4.00 COPYRIGHT

4.01 The Licensee acknowledges that copyright subsists in all Licensed Material.

4.02 The Licensee acknowledges that all Licensed Material is the exclusive property of STD-S or is licensed to STD-S.

4.03 The Licensee acknowledges that the grant of license to the Licensee in this Agreement confers no ownership or other proprietary right in the Licensed Material or the copyright in Licensed Material, either express or implied.

5.00 GRANT OF RIGHTS TO STD-S

5.01 The Licensee grants to STD-S an irrevocable, perpetual, royalty-free, non-exclusive license to use the Licensee's Work solely for the promotion of STD-S.

5.02 The Licensee will provide to STD-S, on written request, one (1) copy of each Licensee Work.

6.00 ELECTRONIC STORAGE OF LICENSED MATERIAL

6.01 The Licensee may, following payment of the Invoice, store Licensed Material in a digital library, network configuration, or similar arrangement on the Licensee's premises, to allow the Licensed Material to be viewed by no more than ten (10) personnel and clients of the Licensee. A separate license is required for each additional user, prior to such additional use.

6.02 The Licensee will institute and maintain appropriate procedures and software to prevent unauthorized access to Licensed Material

6.03 The Licensee may, notwithstanding the foregoing, make one (1) high-resolution back-up copy of the Licensed Material solely for use in the event the original Licensed Material becomes defective, or is irretrievably lost or destroyed.

6.04 Immediately on the expiration or earlier termination of this Agreement, the Licensee will:

- i) delete the Licensed Material from its computer or other electronic storage systems; and
- ii) delete or destroy the back-up copy referred to in section 6.03.

7.00 RIGHT OF INSPECTION

7.01 STD-S, its agents or representatives may, on five (5) days notice, inspect the records of the Licensee relating to the Reproduction of any Licensed Material to ensure that the Licensed Material is being used only in accordance with this Agreement

9.00 WARRANTY/ LIMITATION OF LIABILITY

9.01 STD-S warrants that:

- i) it has all necessary rights and authority to enter into and perform this Agreement; and
- ii) the Licensed Material is free from defects in material and workmanship for 30 days from delivery, provided the Licensee's sole and exclusive remedy for a breach of this warranty is the replacement of the Licensed Material.

9.02 STD-S grants no rights makes no representation or warranty as to any use of the Licensed Material made by the Licensee which involves the depiction of names, people, trademarks, (whether registered or unregistered) or copyright works in Licensed Material. The Licensee acknowledges that some jurisdictions provide legal remedies against the use for commercial purposes of a person's image, likeness or property without their consent, and that the Licensee is responsible for making all necessary enquiries and obtaining any necessary model, property, trade-mark or other releases, approvals and clearances (collectively "Releases") from Persons prior to using Licensed Material.

Subject to the foregoing, STD-S warrants that the Licensee's use of the Licensed Material, in its original form and in accordance with this Agreement, will not infringe copyright, moral right, trade-mark or other intellectual property right and will not violate any right of privacy or publicity.

9.03 STD-S MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED MATERIAL, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSED. STD-S WILL NOT BE LIABLE TO THE LICENSEE OR ANY OTHER PERSON FOR ANY GENERAL, PUNITIVE, SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, LOST PROFITS OR ANY OTHER LOSSES OR COSTS ARISING FROM THE LICENSEE'S USE OF THE LICENSED MATERIAL, EVEN IF STD-S HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES OR COSTS.

9.04 THE LICENSEE ACKNOWLEDGES THAT STD-S'S LIABILITY, WHETHER IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF OR IN

CONNECTION WITH THE LICENSEE'S USE OF, OR INABILITY TO USE, THE LICENSED MATERIAL WILL, TO THE EXTENT PERMITTED BY LAW, BE LIMITED TO THE AMOUNT PAID BY THE LICENSEE FOR THE LICENSED MATERIAL.

9.05 THE LICENSEE FURTHER ACKNOWLEDGES THAT THE REPRESENTATIONS AND WARRANTIES MADE BY STD-S IN THIS AGREEMENT APPLY ONLY TO THE LICENSED MATERIAL INVOICED BY STD-S AND PAID FOR, IN FULL, BY THE LICENSEE.

9.06 THE LICENSEE FURTHER ACKNOWLEDGES THAT THE REPRESENTATIONS AND WARRANTIES MADE BY STD-S IN THIS AGREEMENT WILL BE VOID IN THE EVENT THE LICENSED MATERIAL IS USED BY THE LICENSEE IN A MANNER NOT EXPRESSLY AUTHORIZED BY THIS AGREEMENT, OR IF THE LICENSEE IS OTHERWISE IN BREACH OF THIS AGREEMENT.

10.00 CANCELLATION/TERMINATION

10.01 The Licensee may terminate this Agreement within seven (7) days following the date of the Invoice, on written notice to STD-S and on payment of a cancellation fee equal to fifty percent (50%) of the amount set out in the Invoice, provided it has made no use of the Licensed Material.

10.02 STD-S may terminate this Agreement by written notice to the Licensee in the event the Licensee breaches any term or condition of this Agreement. Without limitation, in the event the Licensee fails to pay the Invoice in full within the time specified, STD-S may:

- i) add a service charge of one-and-one-half percent (1.5%) per month, or a lesser amount permitted by law, on any unpaid balance until full payment is received; or
- ii) terminate the license.

10.03 On termination by the Licensee or STD-S, all licenses granted in the Invoice and this Agreement immediately terminate and the Licensee agrees it will make no further use of Licensed Material.

11.00 INDEMNIFICATION

11.01 STD-S will defend, indemnify and hold the Licensee harmless from all damages (except punitive damages), liabilities and expenses (including reasonable attorneys' fees) arising from any claim or legal proceeding resulting from a breach by STD-S of any warranty provided in Section 9 of this Agreement, provided:

- i) the Licensed Material used in accordance with this Agreement; and
- ii) the Licensee is not otherwise in breach of this Agreement.

11.02 The Licensee will defend, indemnify and hold STD-S and its officers, directors and employees harmless from all damages, liabilities and expenses (including attorneys' fees), arising directly or indirectly from

any claim or legal proceeding resulting from the Licensee's use of Licensed Material, where such claim or lawsuit relates to the absence of a Release or the Licensee's illegal or unauthorized use of the Licensed Material.

11.03 The Party seeking indemnification pursuant to this section will promptly notify the other Party of the claim or legal proceeding. The indemnifying Party will not be liable for any damages or losses paid or costs incurred prior to notice of the claim being given by the party seeking indemnification. Following notice, the indemnifying Party will assume the defence of the claim or legal proceeding and control of settlement.

11.04 The Licensee will, on receiving notice of a claim or legal proceeding alleging that the Licensed Material infringes or violates the intellectual property or other proprietary right of a Person, immediately cease use of the Licensed Material, at its own expense and redeliver the Licensed Material from its computer and storage systems (whether electronic, internet or physical) to STD-S. In that event STD-S agrees provide the Licensee with alternative material determined by STD-S, in its reasonable commercial judgment, to be comparable to the Licensed Material, without charge to the Licensee. Such material will be subject to the terms and conditions of this Agreement.

12.00 GENERAL

12.01 Entire Agreement

12.01.1 This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes any and all prior negotiations, representations and agreements, whether written or oral.

12.01.2 The Parties acknowledge that no representations, obligations, undertakings, inducements, commitments or warranties, either express or implied and whether direct, indirect or collateral has been made by either Party referable to the subject matter of this Agreement, other than those contained in this Agreement.

12.02 Amendment

12.02.1 No amendment of this Agreement will be valid or enforceable except where the amendment is made in writing and executed by the Parties.

12.03 SURVIVAL

12.03.1 Sections 1, 4, 5, 6.04, 7, 10.03, 11 and 12 of this Agreement will survive any termination or expiration of this Agreement.

12.04 GOVERNING LAW

12.04.1 This Agreement will be governed by and interpreted and enforced in accordance with the laws of the province of Ontario, Canada, and the applicable laws of Canada and the Parties irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario in relation to all claims,

disputes and other matters arising from or in relation to this Agreement.

12.05 SEVERABILITY

12.05.1 In the event any term, or any part of any term of this Agreement is determined to be void or unenforceable, such term or part of a term shall be considered separate and severable from this Agreement and the remaining terms shall continue in full force and effect. Where possible, any part of this Agreement held to be invalid or unenforceable will be read down only as necessary to make it valid or enforceable.

12.06 WAIVER

12.06.1 The waiver by the Licensee or STD-S of any breach or default of any term of this Agreement will not constitute, nor be deemed to be, a waiver of any prior or subsequent breach or default of the same or any other term or condition of this Agreement. No action or inaction of STD-S, other than express written waiver, may be construed as a waiver of any provision of this Agreement.

12.07 BINDING EFFECT

12.07.1 This Agreement will inure to the benefit of, and be binding upon and enforceable by and against the Parties and their respective successors and permitted assigns.

12.07.2 Nothing in this Agreement is intended to confer any rights, remedies, obligations or liabilities on any Person other than the Parties and their respective successors and permitted assigns.

NOTICE OF ACCEPTANCE

NAME: _____

ADDRESS: _____

CITY: _____

STATE/PROV.: _____

COUNTRY: _____

POSTAL CODE _____

TEL: _____

EMAIL: _____

I hereby accept the terms of the above
LICENSE AGREEMENT relating to **CONTRACT**
No. _____

SIGNED: _____

DATE: _____