

## DEALER AGREEMENT

This Dealer Agreement (“Agreement”) is entered into as of \_\_\_\_\_, 20\_\_ (the “Effective Date”), between \_\_\_\_\_ (Dealer), with its principal place of business at \_\_\_\_\_, and Western Images Ltd., with its principal place of business at P.O. Box 497, Rochester, Illinois 62563 – each individually a “Party,” and collectively the “Parties.”

1. **Scope.** This Agreement applies to all images obtained from Western Images (“Western Images Products”) by Dealer. Subject to the terms and conditions set forth below, Western Images appoints Dealer as a non-exclusive distributor of Western Images Products.

2. **License.** For as long as this Agreement is in effect, except as set forth in section 3.a below Western Images grants Dealer a non-exclusive, royalty free, worldwide license to distribute and publicly display information regarding Western Images Products, including photographs and/or other depictions, in Dealer’s show booth(s), show room(s), store(s) and via the internet on Dealer’s website (“Website”) for the limited purpose of marketing and selling Western Images Products pursuant to this Agreement. Title to and ownership of all intellectual property rights of Western Images Products and any other information shall remain at all times with Western Images or its third party licensors. In order to protect and preserve the value and goodwill of Western Images Products, and to ensure that Western Images Products are displayed in a high quality manner, the following conditions shall apply.

a. Dealer shall engage in no sale, offer of sale, distribution, advertisement, bidding or marketing of Western Images Products via the Internet website known as “e-Bay” or any other internet “auction” or “bidding” site.

b. Dealer shall not sell Western Images Products to any other dealer who sells, offers for sale, or engages in distribution, advertisement, bidding or marketing of Western Images Products via the Internet website known as “e-Bay” or any other internet “auction” or “bidding” site.

c. Dealer shall not sell Western Images Products to discount retail chain merchandising stores such as Wal-Mart, Sam’s Club, K-Mart, Target, etc., or to anyone who will sell Western Images Products to such discount retail chain merchandising stores.

d. Except with the advance written permission of Western Images, which shall be granted only for good cause shown by Dealer to Western Image’s satisfaction, Dealer shall not sell Western Images products for less than the minimum retail price established by Western Images.

### 3. **Prohibitions:**

a. Dealer shall not transfer Western Images products to canvas without express written permission, in advance from Western Images or the individual artist whose image(s) is/are involved.

b. Dealer shall not frame or sell calendar, book or catalog pages.

c. In accordance with Federal Copyright laws, reproduction of any image is prohibited.

4. **Products and Production Information.** At its discretion, Western Images will notify Dealer of additional offerings of Western Images Products available for distribution by Dealer. Also at its discretion, Western Images will generate information relating to Western Images Products and, prior to delivering that information to Dealer, will use best its efforts to assure that accuracy of that information.

5. **Presentation on Website.** Western Images reserves the right, in its discretion, to prohibit the display of any particular Western Images Product(s) on Dealer’s Website. Western Images also reserves the right, in its discretion, to require Dealer to modify the way in which any particular Western Images Product(s) is/are displayed or described on Dealer’s Website. If Western Images provides Dealer with Western Images Products containing watermarks, Dealer shall display those Western Images Products in low resolution with the watermarks whenever they are displayed on Dealer’s

Website. Dealer shall not post lower than “minimum retail” prices on any images of Western Images Products on Dealer’s Website.

6. **Indemnification.** Dealer shall defend and indemnify Western Images against any and all claims, liabilities, losses, damages, costs and expenses, including reasonable attorney's fees, which Western Images may incur as a result of claims in any form by third parties arising from:

- a. Dealer's breach of any covenants set forth in this Agreement or regarding Western Images Products;
- b. Dealer's noncompliance with the Confidentiality provisions of this Agreement; or
- c. infringement of proprietary rights, misrepresentation or defamation in whole or in part caused by or attributable to Dealer.

7. **Limitation of Liability.** EXCEPT WITH RESPECT TO THE INDEMNIFICATION OBLIGATIONS SET FORTH IN THE SECTION OF THIS AGREEMENT IMMEDIATELY ABOVE.

A. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR LOST PROFITS, HOWEVER ARISING (INCLUDING NEGLIGENCE) OUT OF OR IN CONNECTION WITH THIS AGREEMENT; AND

B. WESTERN IMAGES SHALL NOT BE LIABLE TO DEALER IN AN AMOUNT GREATER THAN ANY AMOUNT ACTUALLY PAID BY DEALER TO WESTERN IMAGES UNDER THIS AGREEMENT.

8. **Confidentiality.** Dealer shall not disclose to any third party any information regarding its purchases or sale of Western Images Products in terms of quantities, dollar volumes, revenues, returns, or similar information.

9. **Terms, Termination of Agreement and Effect.** This Agreement shall remain in effect until terminated by either Party by means of written notice to the other Party as its address set forth above.

10. **Upon Termination of Agreement.** Western Images will at its option either (a) fulfill all pending orders, in which case the provisions of this Agreement shall survive to the limited extent applicable to such orders, or (b) cancel all pending orders and, after subtracting any amounts owed by Dealer to Western Images, refund to Dealer any payments already made for such pending orders and any credit due to Dealer. Further, the Parties shall promptly reconcile accounts payable and receivable and bring the balance owed, if any, current. Dealer shall no longer include Western Images Products in its advertising and, within five days of termination, shall remove all Western Images Products from its Website.

11. **Independent Contractors.** The Parties are independent contractors, and no agency, partnership, joint venture, employer-employee or franchiser-franchisee relationship is intended or created by this Agreement. Neither Party shall make any warranties or representations on behalf of the other party.

12. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Illinois without giving effect to conflict of law principles. Both Parties submit to jurisdiction in Illinois, and any cause of action arising under this Agreement shall be brought in a court in Sangamon County, Illinois. In the event legal proceedings are brought to enforce this Agreement, the prevailing Party shall be entitled to an award of reasonable attorney's fees and costs.

13. **Entire Agreement; Waiver.** This Agreement sets forth the entire understanding and agreement of the Parties and it supersedes any and all oral or written agreements or understandings between the Parties, regarding its subject matter. This Agreement may be changed only by a writing signed by both Parties. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach of this Agreement.

14. **Assignment.** This agreement shall not be assigned by either Party without the prior written consent of the other Party.

**DEALER'S SIGNATURE** \_\_\_\_\_

**Please Print: Name** \_\_\_\_\_ **Title** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Sales Tax Identification #** \_\_\_\_\_ **State** \_\_\_\_\_

**WESTERN IMAGES LTD.**

**By** \_\_\_\_\_ **Title** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Please complete the following, or simply attach a business card:**

**Company Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **City** \_\_\_\_\_ **State** \_\_\_\_\_

**Phone #** \_\_\_\_\_ **Fax #** \_\_\_\_\_

**EMAIL ADDRESS:** \_\_\_\_\_

**Please check here if you would like to receive our email newsletter.**