

# Design and Distribution Agreement

This Agreement is entered into and effective as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between StoryRock, Inc. (*The Company* in this Agreement), a Utah corporation, with its principal place of business located 474 Bearcat Drive, Salt Lake City, UT 84115 and \_\_\_\_\_ (*The Designer* in this Agreement) an individual or corporation with its principal place of business at \_\_\_\_\_.

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## SECTION 1: DEFINITIONS

- A. **“The Company”** (or *“The Company’s”*) is a term used herewith, and for the purposes of this Agreement, to refer to StoryRock, Inc., a party to this Agreement, and is a technology and publishing business that develops and designs scrapbook software and other related products and services, including—but not limited to—creating digital design content and maintaining an online store to sale and distribute product.
- B. **“The Designer”** (or *“The Designer’s”*) is a term used herewith, and for the purposes of this Agreement, to refer to other individual or corporation that is also a party to this Agreement, and is in the business of manufacturing (or creating) and/distributing custom made design products, including—but not limited to—digital scrapbook design.
- C. **“The Store”** is a term used herewith, and for the purposes of this Agreement, to refer to online retail space (or spaces) hosted by *The Company* to sell and distribute design products created by *The Designer*.
- D. **“Pack Kit”** or **“Pack”** is a term used herewith, and for the purposes of this Agreement, to refer to a design product that includes a collection of digital graphic files for download. A *Pack* may include just digital paper files (a.k.a., backgrounds), individual design elements (a.k.a., embellishments, clip art, or monograms), or a combination of both. *Pack* can be any size—small, medium or large—depending upon the number of files included in the collection. A *Pack* must contain a minimum of 5 files.
- E. **“Template Kit”** or **“Template”** is a term used herewith, and for the purposes of this Agreement, to refer to a *Pack Kit* that also includes page layouts that are created using the software technology developed and designed by *The Company*. *Templates* can take the form of scrapbook or photobook “Album Templates,” “Greetings Card Templates,” or other kinds of page templates.
- F. **“Kit”** is term used herewith to refer to both Packs and Templates.
- G. **“Product”** is a term used herewith, and for the purposes of this Agreement, to refer to *Pack Kits* and/or *Templates Kits*.
- H. **“Annual Donation Product”** is a term used herewith, and for the purposes of this Agreement, to refer to 2(two) *Product* submissions, pre site, provided by *The Designer* each year to *The Company* without monetary compensation. Distribution rights of this *Product* are exclusive to *The Company* for the 1st year, and shared thereafter by both *The Designer* and *The Company* (See Section 3 for details).
- H. **“Monthly Report”** is a term used herewith, and for the purposes of this Agreement, to refer to an account report provided by *The Company* to *The Designer*. The term “monthly” is approximate to a 30-day period and associated with a calendar month, but may not exactly align to calendar dates. Each *Monthly Report* will be a contiguous accounting for all days and times a *Product* is available for sale.
- I. **“The Club”** is a term used herewith, and for the purposes of this Agreement, to refer to *The Company’s* subscription-based program that distributes *Product* or other digital media to an exclusive group of subscribers.
- J. **“Effective Date”** is the term used here to refer to the date this Agreement was signed by both parties. This date is located at the top of this Agreement.

## SECTION 2: OBLIGATIONS:

NOW, THEREFORE, the parties will hereby agree to do the following:

### 1. Copyright

*The Designer* represents to *The Company* that the *Products* they submit, in whole or in part, are not a willful violation of any copyright. *The*

*Designer retains sole ownership of any and all Products they submit. No implied ownership or exclusivity is granted to The Company or to any third party utilized by The Company for production or marketing purposes. The Designer retains the sole right to license others to use their Products. Further, The Designer represents to The Company that they have sole authority to submit these Products to The Company, and assumes all responsibility for any violation of trademark or copyrights associated with their submitted Product.*

## **2. Product Submission**

*The Designer will submit a minimum of 2 (two) design Products to The Company within every calendar month. In lieu of 2 (two) Products, The Designer may submit just 1 (one) Template Kit using The Company's software technology. This Template submission must be either 1 (one) Album Template with at least 4 (four) designed pages, or 3 (three) Greeting Card Templates with at least 2 (two) designed pages. The Designer may submit as many Products—Pack Kit or Template Kit—as they see fit. All Product submissions from The Designer must meet submission specifications provided by The Company or be subject to fees to fix the Product (see the following “3. Adjustment Fees”).*

## **3. Adjustment Fees**

*The Company may charge fees or financial penalties to The Designer if certain submission specifications are not met. The Company shall not assess any such fees or penalties to The Designer without first notifying The Designer and providing The Designer the opportunity to correct any problems with their Product and resubmit. A schedule of all fees is provided as a separate amendment (Amendmet #2) to this Agreement.*

## **4. Product Acceptance**

*The Company may refuse or discontinue any Product provided by The Designer for any reason and at any time.*

## **5. Finalizing and Testing**

*The Company will create installers for The Designer's Product and test the installation Product prior to distribution. The timing of any testing or other preparation done by The Company to The Designer's Product prior to distribution is at the sole discretion of The Company.*

## **6. Promotions by The Company**

*The Company shall make efforts to provide an on line sales environment to distribute and/or sell The Designer's Product. The Company shall also have the right to promote said Products using The Designer's corporate or personal name. Such promotions may include, but are not limited to email communications, online and print advertisements, direct mail, or other like communications.*

## **7. Promotions by The Designer**

*The Designer shall use any website, blog, Facebook pages, or any other online presence under the ownership or control of The Designer, to make at least 1 (one) mention of affiliation with The Store hosted by The Company, and provide a permanent and visible online link to the said store. Further, The Designer shall also make at least 1 (one) mention of their affiliation with The Store, and provide a link to The Store, in any newsletter they manage or control. The Company will provide graphics and URL information to The Designer. If The Designer has no online space or newsletter, then there is no obligation by The Designer to use such media vehicles to promote The Store.*

## **8. Product Pricing**

*The Company will finalize all pricing of Product. The Designer can provide a recommended price at submission that is based upon Pricing Schedule provided as a separate amendment (Amendment #1) to this Agreement. The Pricing Schedule amended to this Agreement is subject to change at the sole descretion of The Company as long as The Designer is notified of said changes. The Company will not reduce the price of a Product to \$0.00 (or make it free) without the first obtaining the written consent of The Designer.*

## **9. Sales and/or Promotions**

*The Company reserves the right to offer all Products submitted by The Designer available to discount offers to online visitors. This would included, but is not limited to, online promotional codes, periodic sale promotions, and gift certificates, etc.*

## **10. Product Maintenance**

*The Company will maintain an environment, such as—but not limited to—an online store, where The Designer's Products are sold and/or featured. Such maintenance will include replacement of damaged installation files provided to customers of The Store.*

## 11. Reporting and Payment Schedule

Company will keep a record of *Product* inventory and sales activity. *The Company* shall provide a *Monthly Report* of all said sales activity to *The Designer*. The *Monthly Report* will include an accounting of all of *The Designer Products* sold and the amounts owed by *The Company* to *The Designer* for the previous monthly period. *The Company* shall also provide to *The Designer* payment of earnings stated in the *Monthly Report*, less any special discounts, promotional costs, rebates, offsets, charge backs or amounts attributable to complaints and/or returns generated by *The Designer's Products* within that reported time period. *The Company* shall provide the payment and report for any particular month no less than 1 days and no more than 30 days following the end of the following calendar month.

## 10. Product Royalties

The amounts earned by *The Company* for *The Designer's Products* shall be paid to *The Designer* as follows: *The Company* shall pay to *The Designer* 80% (eighty percent) of the revenue generated by the sales of their *Product* less the costs for any shipping, handling, taxes, returned *Product*, applied fees and bad debt, etc. that may apply.

## SECTION 3: ANNUAL DONATION PRODUCT SUBMISSION

As part of entering into this agreement, *The Designer* agrees to submit 2 (two) *Annual Donation Products*. The *Annual Donation Product* submission must occur within the first 60 (sixty) days of entering into this Agreement and again every following year within the first 60 (sixty) days upon the automatic annual renewal of this Agreement.

Further, as part of the *Annual Donation Product* submission, *The Designer* provides to *The Company* all rights to distribute, sale and promote, any and all graphics associated with said donated products for any purposes that *The Company* deems fit. Additionally, *The Company* will have said distribution rights exclusively for a period of 1 (one) calendar year, beginning with submission date, and continuing thereafter without exclusivity for an indefinite period of time.

It is recognized as part of this Agreement that *The Designer* retains Intellectual Property (IP) copyrights to any all parts of the *Annual Donation Product* submission. *The Designer* may use the *Annual Donation Product* submission to incorporate, sell or self promote for their own purposes apart from *The Company* after the 1 (one) year exclusive distribution rights granted to *The Company* have expired. Further, the *Annual Donation Products* are provided by *The Designer* without monetary exchange or compensation from *The Company*.

In addition to the standard designs and submission specifications set forth by *The Company* for all *Products*, the *Annual Donation Products* provided by *The Designer* must meet the additional following specifications:

- 1) Product must include a minimum of 5 digital background papers
- 2) Product must include a minimum of 20 digital page elements
- 3) Product must include a complete monogram set of at least 26 digital elements or a Word Pack of at least 8 digital elements. Any monograms or word art provided as part of the *Annual Donation Product* cannot be counted as part of the said 20 page digital elements (see item 2 above).

NOTE: Total donation submission from *The Designer* must contain approximately 35 digital files. Changes in submission may altered with the approval of *the Company*.

## SECTION 4: TERMS

### 1. Renewal

The initial term of this Agreement shall be for 1 (one) year from the *Effective Date*. This agreement will automatically renew each year unless either party wish to terminate it in accordance with the following Termination provision.

### 2. Termination

Either party may terminate this Agreement at its convenience at any time with a minimum of 30 (thirty) days prior written notice to the other party. Either party may also terminate this Agreement with 30 (thirty) days prior written notice to the other party if the other party has materially breached this Agreement and failed to cure such breach within the 30 (thirty) days after receiving written notice of the breach. All orders and payments will be fulfilled within 30 days of when the termination date takes effect.

Upon the termination of this Agreement, all rights granted to *The Company* by *The Designer* shall immediately terminate. At the time

of termination, *The Company* must remove all copies of *The Designer's Products* from *The Store* and all servers associated with *The Company* within 30 (thirty) days of the date of termination.

The termination or breach of this Agreement shall not relieve *The Company* of its obligations to account for or to pay all royalties accrued prior to the time of expiration, termination or breach of contract.

### **3. Warranty**

*The Designer* shall provide replacement *Product* if necessary to comply with return policies *The Company* offers to its customers. If *The Designer* is unable to replace a *Product* or conform with return policies at the time of termination, *The Designer* will have 30 (thirty) days to refund any amounts paid by *The Company* for the *product(s)* subject to the return policy.

### **4. Independent Contractor**

In rendering services hereunder, *The Company* and *The Designer* shall be acting as independent contractors and not as an employee or agent of either party. Nothing contained in this Agreement shall be construed or applied to create a partnership between *The Company* and *The Designer*.

## **SECTION 5: LIMITATION OF LIABILITY**

Neither party will be liable to the other in connection with this Agreement for any indirect, incidental, consequential, exemplary, special, or punitive damages, including—without limitation—any loss of profit, revenue, income, or data, however arising and whether in an action in contract or tort (including strict liability and negligence), even if such party has been advised of the possibility of such damages and notwithstanding the failure of essential purpose of any limited remedy.

## **SECTION 6: GENERAL**

### **1. Governing Law**

This Agreement is governed by the laws of the State of Utah, and is without reference to any conflict of laws and/or principles that would require the application of the laws of any other jurisdiction. The United Nations Convention on Contract for the International Sale of Goods does not apply to this Agreement.

### **2. Severability**

If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will be unimpaired and the invalid or unenforceable provision will be deemed modified so that is valid and enforceable to the maximum extent permitted by law.

### **3. Successors: Assignment**

This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the parties. Neither party may assign this Agreement, or any of its right under this Agreement, or delegate any of its duties under this Agreement, to any third party without the other party's consent except (a) *The Company* may subcontract or delegate any or all of its duties under this Agreement without *The Designer's* consent so long as *The Company* remains responsible for the performance of such duties, and (b) a party may assign this Agreement in connection with a sale or merger of such party or a sale of all or substantially all of such party's assets.

### **4. Notices**

Each party must deliver all notices, consents, and approvals required or permitted under this Agreement in writing to the other party at the address listed on the signature page (top of the first page of the Agreement) by courier, by certified or registered mail (postage prepaid and return receipt requested), or by a nationally recognized overnight carrier. Notice will be effective upon receipt or refusal of delivery. Each party may change its address for receipt of notice by giving notice of such change to the other party.

### **5. Waiver**

All waivers must be in writing and signed by the party to be charged. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

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### 6. Entire Agreement; Amendments

This Agreement is the final, complete, and exclusive agreement of both the parties with respect to the subject matter hereof and supersedes and merges all prior communications and understandings between the parties. The Amendments attached to this Agreement specific only to exact figures of prices, and can be changed by *The Company* at any time and for any reason as long as *The Company* provides 30 (thirty) days notice to *The Designer*.

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## SIGNATURES OF AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Agreement as of the *Effective Date*.

### The Company (StoryRock, Inc.)

Printed Name: John Lund

Title (if any): C.E.O.

(X) Signature:  \_\_\_\_\_

### The Designer

(X) Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Designer Name (if any): \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Blog (if any) \_\_\_\_\_

Preferred Method of Payment: \_\_\_\_\_

PayPal Account: \_\_\_\_\_

Referred by: \_\_\_\_\_

STM Y/N: \_\_\_\_\_

The amounts and implementation, or other details of these amendments, may be changed by *The Company* at any time provided *The Company* notifies *The Designer* in writing a minimum of 5 (five) days prior to any changes taking effect.

## AMENDMENT #1

### *Product Pricing*

The following listed prices represent a range of retail prices from the base minimum rate up to the highest available rate for various types of *Product*. During the submission process, *The Designer* may recommend a retail price for their *Product* that fits within the price-range provided. If *The Designer* does not provide a recommended price, *The Company* will choose the price for the *Product*. *The Company* may raise or lower the price of any *Product* at anytime as long as it stays within the price range provided below. All *Products* recommendations from *The Designer* need to have the two digits right of the decimal be .99 (i.e., \$1.99, 2.99, 3.99, etc.).

#### Pricing Guide

ITEM	Regular PRICE	Product SPECS
Single Item:	Free - \$1.99	1 - 5 files
Monogram Pack:	Free - \$3.99	10 - 400 files
Word Art Pack:	Free - \$3.99	1 - 100 files
Quick Page Pack:	\$0.99 - \$6.99	1 - 100 files
Paper Pack:	\$0.99 - \$6.99	4 - 100 files
Embellishment Pack:	\$0.99 - \$6.99	10 - 100 files
Mini Pack:	Free - \$3.99	2 - 10 files
Combo Pack (regular):	\$2.99 - \$7.99	10 - 200 files
Bundled Pack:	\$6.99 - \$19.99	200 - 1000 files
Layout Template:	Free - \$3.99	4+ page layouts, 0 - 5 files
Craftable Template:	Free - \$4.99	1+ page layouts, 2 + files
Album Template:	\$2.99 - \$6.99	4+ page layouts, 10 + files
Photobook Template:	\$5.99 - \$19.99	20+ page layouts, 10 + files

## AMENDMENT #2

### *Adjustment Fees*

If a *Product* submitted by *The Designer* is damaged, incomplete, or otherwise does not meet submission specifications, *The Designer* could possibly incur fees as result of *The Company* having to remedy the problems with the *Product*. In such cases, *The Company* will first identify any problems with the *Product*, calculate the fee amount required for *The Company* to remedy the *Product*, then notify *The Designer* with all the information. *The Designer* would then have the opportunity to remedy the problems and resubmit the *Product* themselves, or allow *The Company* to make the necessary corrections and accept the resulting fee. Any fees that are charged will be reflected on the *Monthly Report* and be deducted from *The Designer's* monthly payment. *The Company* will calculate fees in \$25 increments (i.e., \$25 min., \$50, \$75, etc.).