

ERIK R. SOTO PHOTOGRAPHY LICENSE TERMS AND CONDITIONS

- [1] **Definitions.** *Image(s)* means all viewable renditions furnished by Photographer, whether captured or stored in photographic, magnetic, optical, or any other medium. The addressee of this form is known as the "Client."
- [2] **Grant of Rights.** Usage specifications stated in this document convert to copyright license [i.e., permission to use] [*"License"*] only upon receipt of full payment of Invoice. All rights not specifically granted are reserved to Photographer. Usage other than that specifically described in the "Grant of Rights" section of this document requires written license from Photographer and additional payment prior to use. No grant of derivative rights is made with this License, including digital or electronic rights that may involve scanning, distributing, using, transmitting, or storing Image(s) on the Internet, World Wide Web, CDs, or other electronic medium or network, unless expressly authorized in writing. Title in the copyright and physical entity of all Images created or supplied pursuant to this agreement remain the sole and exclusive property of the Photographer. There is no assignment of copyright, agreement to do work-for-hire, intention of joint copyright, or grant of rights, other than those listed in the "Rights Granted" section on the front of this form, expressed or implied in this document. The reasonable and stipulated fee for any unlicensed Image use shall \$5000k per instance or three (3) times Photographer's chosen fee. If any client violations of this contract occurs Photographer reserves the right to revoke all Licensing Rights from Client.
- [3] **Payment.** Invoices are payable on receipt and non-refundable. Unpaid invoices are subject to a monthly rebilling fee of ten percent (10%) of the unpaid balance. Licenses that are canceled thirty (30) days after Invoice date are payable in full whether Images will be used or not. Client acknowledges that in the event that Client cancels the Assignment, the Studio will incur expenses and financial loss. Due to the custom nature of the Assignment and inability of Studio to perform other photography services during time reserved for Client, if Studio receives notification of Client's Cancellation of the Assignment or the client misses their scheduled appointment, hereunder Client shall be responsible for one hundred percent (100%) of the creative fee, Client's fees will not be refunded and client will forfeit all fees paid to Studio as a cancellation fee. Said Cancellation fees are designed to cover the loss that the Studio would not otherwise have incurred had the Assignment been commenced as scheduled. Client also agrees to bear sole responsibility for any expenses incurred by the Studio as a result of Client's Cancellation of this Agreement at any time. Rush fees: 3 Business days = normal rate + \$100, Next Business Day = Normal Rate + \$200, Same Business Day = Normal Rate + \$300 if possible. All deposits and fees are nonrefundable. Client must select any and all images for package on day of session. There shall be no archiving of photographs. If client requests or needs any archiving of image services or any services related to archiving or image retrieval a \$350 fee shall be applied.
- [4] **Alterations.** Unless otherwise provided in writing from Photographer, Client may not make or permit alterations or manipulations of any Images. No digital scanning or other digital means of copying, editing, alterations or other digital work of any form is allowed. Alterations or manipulations include but are not limited to additions to, subtractions from, or adaptations, alone or with any other material, produced optically, mechanically, electronically, or digitally.
- [5] **Notice.** Client shall request and obtain permission from Photographer prior to any publication and provide release information to where publication where photographs shall occur. Proper copyright notice which reads: "© Erik R. Soto Photography" must be displayed alongside any used Image, on the same page(s) that Image(s) appear, or reference page, unless provided otherwise in writing. Omission of required notice results in loss to the Photographer and will be billed at \$5000.00 (Five Thousand Dollars and no cents) per offense. ©Erik R. Soto Photography All images are Illegal to copy or scan without written permission. PPA ID #5141975 1-800-786-6277. Images being provided for personal use shall contain studio logo on print or electronic files including School Logo.
- [6] **Value, Image Return.** Client assumes insurer's liability (a) to indemnify Photographer for loss, damage, or misuse of any Images, Client assumes full liability for its employees, principals, agents, affiliates, successors, and assigns (including without limitation independent contractors, messengers, and freelance researchers) for any loss, damage, delay in returning, or misuse of Images.
- [7] **Publication Samples.** If Client obtains written permission from photographer, Client must supply Photographer with a minimum of two (2) free physical copies of each publication(s) in which Images appear and one (1) Electronic copy. Also client and its assigns will provide a minimum of one (1) full resolution electronic copy for any and all work performed on Images that were not conducted by Erik R. Soto Photography.
- [8] **Releases.** Client releases photographer and his legal representatives and assigns from any and all claims or liability relating to said photographs and/or services. Client will indemnify and defend Photographer against all claims, liability, damages, costs, and expenses, including reasonable legal fees and costs arising out of services or any use of Image(s) that are unlicensed, for which no release was furnished, that are altered by Client, or use that exceeds the uses allowed by a release. Unless furnished, no release exists. Photographer's liability for all claims shall not exceed in any event the total amount paid under this Invoice. Photographer is released from all liability, damages, costs, and expenses arising out of any services performed. Client assumes full liability for its employees, principals, agents, affiliates, successors, and assigns (including without limitation independent contractors, messengers, and freelance researchers) for all claims or liabilities relating to services.
- [9] **Assignment.** Client may not assign or transfer this agreement or any of the rights granted. This agreement binds and inures to the benefit of Photographer, Client, and Client's employees, principals, agents, and affiliates, and their respective heirs, legal representatives, successors, and assigns. Client and its employees, principals, agents, and affiliates are jointly and severally liable for the performance of all payments and other obligations created in this document. No amendment or waiver of any terms of this License is binding unless set forth in writing and signed by the parties. This agreement incorporates by reference Article 2 of the Uniform Commercial Code and the Copyright Act of 1976, as amended. Client agrees to defend and hold harmless the Studio and/or Photographer and the Studio's and assigns from and against any and all third party claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses as a result of this Work, including copyright violations. Client acknowledges and understands that Photographer uses a highly stylized approach to the Assignment. Any failure by the Photographer to deliver any specific image shall not be a breach of this Agreement, shall not result in a refund of any money paid by Client to the Studio, and Studio shall not provide any other remedy to Client. Furthermore, if Photographer and/or his representatives encounter any unsafe or threatening circumstances of any means (as discretioned by Photographer), Photographer and representatives shall leave the assignment and shall not refund any money paid by Client to the Studio, and Studio shall not provide any other remedy to Client.
- [10] **Non-Disparagement.** Client agrees that from the beginning of this contract or communications, the Client (or any other associated, related parties in their behalf) will not make disparaging, degrading, or otherwise negative remarks about Studio, its officers, or assigns or pay \$5000 damages fee.
- [11] **Dispute Resolution.** Except as provided in [10][c] below, any dispute regarding this agreement shall be, at Photographer's sole discretion, either:
- [a] arbitrated in *Torrance, CA* under rules of the American Arbitration Association and the laws of *California*. Judgment on the arbitration award may be entered in any court having jurisdiction. dispute involving \$7500 [*or the limit of small claims court*] or less may be submitted without arbitration to any court having jurisdiction, or
 - [b] adjudicated in *Torrance, CA*, under the laws of *California*.
 - [c] Client hereby expressly consents to the jurisdiction of the Federal courts with respect to claims under the Copyright Act of 1976, as amended. Client shall pay all arbitration and court costs. Client shall also pay Photographer's reasonable legal fees and expenses, and legal interest on any award or judgment if granted in favor of Photographer.