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csm photography, inc.
504 King Arthur Road
Greenville, NC 27858
252.353.5688 // www.csmfoto.com



AGREEMENT DATE _____

Commercial Photography Contract

CLIENT NAME _____ EVENT DATE _____

PHONE _____ PRIMARY LOCATION _____

ADDRESS _____ PRIMARY START TIME _____

CITY / STATE / ZIP _____ SECONDARY LOCATION _____

E-MAIL _____ SECONDARY START TIME _____

OTHER: _____ PHOTOGRAPHER _____

DESCRIPTION OF PHOTOGRAPHIC SERVICES:

DESCRIPTION OF RIGHTS LICENSED AND DURATION OF LICENSE:

FEES:

CREATIVE FEE: _____ | TRAVEL: _____ | PRE-PRODUCTION: _____
POST-PRODUCTION: _____ | CREW: _____ | IMAGE PROCESSING: _____
LOCATION / STUDIO: _____ | PROPS: _____ | WARDROBE: _____
RENTALS: _____ | MISCELLANEOUS: _____ | TALENT: _____
ADDITIONAL HOURLY RATE: _____

SUBTOTAL, {FEES, EXPENSES}: _____ SALES TAX: _____ | **TOTAL DUE:** _____

PAYMENT SCHEDULE:

AMOUNT PAID UPON SIGNING: _____

ADVANCE PAYMENT (DUE PRIOR TO COMMENCEMENT OF PHOTOGRAPHY): _____

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TERMS: This Commercial Photography Agreement ("Agreement") is entered into and is effective as of agreement date (top of page) by and between CSM Photography, inc. a North Carolina Corporation doing business as CSM Photography, inc. ("Studio") and the person(s) identified as the Client(s) (top of page) to photograph (Assignment) client(s) wedding ceremony, reception, and any pre or post ceremony events as outlined in the description of services. Client(s) agree to pay the applicable fees for photography, all negatives, all developing and proofing costs, shipping expenses, and whatever travel expenses may be applicable (such as lodging and fuel), as is laid out in this agreement.

1. DEFINITIONS:

1.1 "ASSIGNMENT" refers to the photography and any related photography services (described above) of the Agreement that Client(s) is specially commissioning Photographer to perform.

1.2 "CANCELLATION" means that the Assignment is canceled by the Client(s) and not rescheduled. In the event of cancellation, Client(s) will be responsible for those fees, costs and charges set forth below.

1.3 "PHOTOGRAPHER" means the photographer (identified above) and the Studio.

1.4 "POSTPONEMENT" is the rescheduling of the Assignment by the Client(s) at least 10 days prior to the Assignment to a mutually agreeable date, and no more than 30 calendar days after the original Assignment date.

1.5 "WORK" means all photographic images, negatives, digital files, prints, or other materials created by Photographer while performing Assignment.

2. ADDITIONAL PAYMENT TERMS AND CONDITIONS:

2.1 Client shall make all payments under this agreement by cash or personal/corporate check upon receipt of invoice. Client and Studio may agree to advance payment of the Work, in which case the client shall make the advance payment as set forth in this Agreement prior to commencement of the Work by Photographer. In the event that Client and Studio have agreed to an advance payment schedule, but Client provides payment hereunder after commencement of the Work, Client agrees to pay the Studio an additional fee of three percent (3%) of the package creative or an additional \$150, whichever is more, set forth on the first page of this Agreement.

2.2 The parties hereto agree that Studio shall not be obligated to provide any receipts for the Work provided other than the final invoice. Studio shall provide Client with receipts only for the portion of any payment for the Work that exceeds the original estimate stated in the final invoice.

2.3 Should studio agree to an audit of expenses incurred by Studio for the Work provided, client shall bear the costs of said audit and shall not withhold payment for the Work pending outcome of said audit.

2.4 If the client is an advertising or other hiring agency, the person or entity who has hired the Client to obtain the Work shall be responsible for and guaranty payment of the Work should Client ever fail to timely make a payment or payments hereunder. The person or entity who has hired the client to obtain the Work shall retain no rights of usage for the Work if the final invoice and any additional expenses related to the Work shall remain unpaid. Said work shall remain the sole and exclusive property of Studio.

2.5 Client shall not be entitled to any refund of creative fees for rights licensed hereunder but ultimately unused by client.

3. GRANT OF RIGHTS AND LIMITATIONS:

3.1 Studio shall be the sole owner of all copyrights for any Work produced under this Agreement, even though the creative idea for the Work may have originated with the Client. Client shall not remove, delete, or otherwise alter Photographer's copyright or license information contained in, on, or related to any of the data or metadata of the Work.

3.2 In the event that the parties hereto agree to an unlimited time usage license, any portion of the Work that remains unused by the client for a period of five (5) years shall automatically become the sole property of the Studio, and all rights to said work shall revert to the Studio.

3.3 The only rights that Studio shall transfer to Client hereunder are those rights specifically described on the first page of this Agreement under the paragraph entitled "Rights Licensed." These rights shall only vest in the person or entity named as the Client on the first page of this Agreement, and said rights shall not be transferable to any third parties, successors, or assigns of Client.

3.4 The grant of any rights under this Agreement shall occur only on full payment of the final invoice and any additional expenses incurred by Studio for the Work hereunder. After full payment for the Work is received by the Studio, the license period shall be deemed to have commenced on the date of delivery of the Work or Studio's final invoice, whichever occurred first.

4. ADDITIONAL EXPENSES:

4.1 Client shall be responsible for any additional expenses and fees that result from any requests by Client for changes to the Assignment. The parties hereto understand that written approvals of modifications to the Assignment or a written estimate of fees for the Work may not be possible due to the time constraints of photography production. As such, Clients shall be bound by any oral instructions provided to the Studio or any of its representatives by Client or any of Client's representatives at the time of the Assignment or thereafter.

4.2 In the event that Client pays talent directly, Client shall be solely responsible for securing all usage rights, model releases and payment of all talent fees. For all Assignments, including those that make use of modeling agency talent, use of the Work shall remain limited to the rights licensed and rights granted as set forth on the first page of this Agreement. Client shall be solely responsible for any additional talent use fees, beyond those stated in this agreement.

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5. POSTPONEMENT, CANCELLATION & LIQUIDATED DAMAGES:

5.1 POSTPONEMENT. Client acknowledges that in the event there is a Postponement of the Assignments, the Studio will incur expenses and financial loss. Client shall provide Studio with notice of a Postponement ten (10) days prior to the scheduled Assignment. In the event that Client postpones less than ten (10) days prior to the scheduled Assignment, Client shall pay to Studio a Postponement fee in the amount of twenty percent (20%) of the creative fees plus any expenses incurred by the Studio. Client agrees to be solely responsible for all expenses incurred by the Studio as a result of Client's Postponement, to reschedule the Assignment, regardless of whether or not Client has provided ten (10) days notice.

5.2. CANCELLATION. Client acknowledges that in the event that Client cancels the Assignment, the Studio will incur expenses and financial loss. Therefore, Client agrees to notify the Studio of a Cancellation at least ten (10) days prior to the Assignment commencement date in order to minimize the Studio's costs, expenses, and loss of income. In the event that Client cancels this Agreement before ten (10) days prior to the date set for commencement of the Assignment, Client agrees to pay a Cancellation fee in the amount of fifty percent (50%) of the creative fee in addition to all other costs incurred by Studio. 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 hereunder within seventy-two (72) hours or less prior to the date scheduled for commencement of the Assignment, Client shall be responsible for 100% of the creative 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.

5.3 OTHER DELAYS. Due to the vagaries of photography production, the parties hereto may reasonably expect delays in the photographic services performed by the Studio and Photographer for the Work hereunder, due to occurrences such as, but not limited to, weather, securing or otherwise dealing with governmental permits, issues relating to on-site locations, or other unforeseen circumstances to be expected. In the event that any such foreseen or unforeseen circumstances occur and cause a delay in the commencement of the Assignment, Client agrees to pay for all expenses incurred by the Studio, in addition to Photographer's daily production fee of :_____.

6. APPROVAL OF WORK, DELIVERY, AND ARCHIVING:

6.1 Client shall be deemed to have approved of Photographer's interpretation of the Assignment if Client or Client's representative is not present during the shoot. The Client or the Client's representative must bring to Photographer's attention any issues with the Photographer's interpretation of the Assignment during the shoot. Any oral acknowledgment by Client or Client's representative that Photographer's interpretation of the Assignment is satisfactory during the shoot is binding.

6.2 Studio shall promptly deliver the Work after Studio has processed the images and provided any other services set forth under the description on the first page of this Agreement within a reasonable and timely period. In the event that the parties have agreed to any advance payment for the Work, Studio shall not be obligated to deliver the Work until Client has provided the payment to Studio, subject to the terms and conditions of this Agreement. The Work shall be delivered to Client in its "unretouched" form, unless otherwise agreed to in writing by the parties.

6.3 Studio warrants the longevity in quality of digital media and files delivered to Client for only thirty (30) days after the date of commencement of the Assignment. Client bears the sole responsibility for backing up, archiving, and maintaining the integrity of the files. If Client requests copies of any image files produced as a result of the Assignment under this Agreement after thirty (30) days have expired from the date of delivery of said images, said request shall be subject to an archive retrieval fee in the amount of Two Hundred Fifty Dollars (\$250).

7. LOSS OF WORK AND UNAUTHORIZED USE.

7.1 In the event that Client loses, destroys, damages or otherwise disposes of the original Work, Client shall pay Studio Two Thousand Five Hundred Dollars (\$2,500) for each image lost, destroyed, damaged or otherwise disposed of as liquidated damages to the Studio.

7.2 In the event that Client uses the Work or permits usage of the Work or allows its misappropriation by third parties, whether intentional or negligent, outside of the express scope of this Agreement, Client shall pay to Studio any and all actual damages, specifically including but not limited to, Studio's creative fee, lost profit, lost opportunity and a reasonable proportionate allocation of Client's profit or economic benefit, or that of third parties who have misused or misappropriated the Work, derived from said misuse or misappropriation of the Work.

7.3 In the event that the original Work is damaged or altered by an act of God, client shall pay one hundred percent (100%) of the fees and expenses incurred by Studio and fifty percent (50%) of fees associated with a reshoot for the damaged Work.

8. MISCELLANEOUS PROVISIONS.

8.1 The terms of this Agreement, whether signed by the parties or not, shall supersede any conflicting statements or terms contained in any accompanying purchase order or other document, and Studio shall initial the paragraph appearing on the first page of the purchase order setting forth language substantially similar to the following: *"The terms and conditions of that certain Commercial Photography Agreement between Client and Studio regarding the services that are the subject of this purchase order shall, whether executed or not by Client and Studio, be binding on this transaction and shall supersede any conflicting terms contained herein unless otherwise agreed in writing by the parties."*

8.2 FURTHER ASSURANCES. All parties to this Agreement shall perform any and all acts as well as execute any and all documents that may be reasonably necessary to fully carry-out the provision and intent of this Agreement.

8.3 AMENDMENTS. Except as to the authorization to modify this Agreement by oral agreement as expressly provide herein, this Agreement may be amended only by written consent of the parties.

8.4 ASSIGNABILITY. This Agreement is not assignable without the express written consent of Studio.

8.5 NOTICES. Any and all notices, demands, requests, or other communication required or permitted by this Agreement or by law to be served on, given to, or delivered to any party hereto by another party to this Agreement shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the party or to an officer of the party or in lieu of such personal delivery when deposited in the United States mail, first class postage pre-paid, addressed to the party at the address listed above. Provided, however, any requirement in this Agreement that an act be done within a specified time after "re-

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cept” of any notice or other communication means of the act must be done within the specified time after the notice or other communication has actually arrived at the address of the receiving party. Any party to this Agreement may change his, her, or its address for purposes of this section by giving notice of the change, in the manner required by this section, to the other parties to this Agreement.

8.6 HOLD HARMLESS. Client agrees to defend and hold harmless the Studio and/or Photographer and the Studio’s officers, directors, shareholders, employees, accountants, attorneys, agents, affiliates, subsidiaries, successors and assigns from and against any and all third party claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or related to any breach of any warranty, representation, covenant or agreement made by Client in this Agreement, or any violation of law as a result of the Work, including copyright violations. In the event that the Studio or Photographer provides Client notice of any such third party claim, the Studio may, in its discretion, assume complete control of its defense (without relieving client of his, her or its obligations stated in this section), but will cooperate with Client regarding Client’s defense.

8.7 ATTORNEY FEES. Should any litigation be commenced between the parties to this Agreement concerning any provision of this Agreement of the rights and obligations of any party hereto, the party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for his, her, or its attorney’s fees in such litigation which shall be determined by the court in such litigation or in a separate action brought for that purpose.

8.8 ARBITRATION. If any dispute, controversy or claim arises between the parties with respect to this Agreement or any future amendment in any respect, that they are unable to negotiate an acceptable solution, the parties agree that they will submit the matter to binding arbitration before a single arbitrator with the American Arbitration Association in Pitt County, in accordance with the applicable rules promulgated by the American Arbitration Association as permitted by the laws of the State of North Carolina,. The prevailing party in such arbitration shall be awarded, in addition to costs, reasonable attorney’s fees as fixed by the arbitrator(s). Full rights of discovery, including the right to depose, shall be allowed in the course of such arbitration. The decision of the arbitrator will be final and nonappealable and may be enforced according to the laws of the State of North Carolina.

8.9 BINDING ON HEIRS. This Agreement shall be binding on the parties hereto and on each of their heirs, executors, administrators, successors, and assigns.

8.10 SEVERABILITY. Should any provision or portion of this Agreement be held unenforceable or invalid for any reason, the remaining provisions and portions of this Agreement shall be unaffected by such holding.

8.11 GOVERNING LAW AND VENUE. This Agreement shall be construed and governed by the laws of the State of North Carolina. Client acknowledges that this Agreement was entered into in Greenville, North Carolina and that at least a substantial portion of this Agreement will be performed in North Carolina, and that the proper venue for any legal action related to this Agreement is in a Court of competent jurisdiction within the County of Pitt, and the State of North Carolina.

8.12 ARTICLE HEADINGS. All article headings set forth in the Agreement are intended for convenience only and shall not control or affect the meaning, construction or effect of this Agreement or any of the provisions thereof.

8.13 SOLE AND ONLY AGREEMENT. This instrument constitutes the sole and only Agreement of the parties hereto respecting the Work to be provided by the Photographer and correctly sets forth the rights, duties, and obligation of each to the other in relation thereto as of its date. Any prior agreements, promises, negotiations, or representations concerning its subject matter not expressly set forth in this Agreement are of no force or effect.

8.14 TIME IS OF THE ESSENCE. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

I HAVE READ THIS ENTIRE AGREEMENT (4 pages) AND I UNDERSTAND ITS TERMS. I AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

_____/_____/20____ _____/_____/20____
AUTHORIZED SIGNATURE (PHOTOGRAPHER) AUTHORIZED SIGNATURE (CLIENT)

PRINT NAME (PHOTOGRAPHER) _____
PRINT NAME (CLIENT)