

PHOTOGRAPHY LICENSING AGREEMENT

THIS Photographer Licensing Agreement (the "Agreement") is entered into effective this date upon download between Green-Fly Media LLC and ("PURCHASER") (collectively, the "parties"). All references to Client in this Agreement shall include Client's parent companies, affiliates, subsidiaries and related companies. This Agreement governs the relationship between the parties concerning certain photographic images as defined herein.

- Scope of Agreement.

- *Subject Matter of Photographs.* This Agreement applies to any photograph, image, film, prints, pictorial work, or digital files created or taken by Photographer and delivered to the Client in connection with the event/festival titled in photo gallery (collectively known as "Photos").

Non-Exclusive Use of Photographs. This license grants Client a non-exclusive right to reproduce, publicly display, and distribute the Photos for non-commercial purposes directly related to the subject matter of the Photos. Photos used for any purpose not specified herein must be with the express written permission of Photographer. Any use that is not specifically contracted for by this Agreement shall be subject to the payment of additional fees and may also expose Client to a federal claim for copyright infringement. Rights are assigned to the Client immediately upon delivery of the Photos.

- Ownership Rights. All Photos and rights relating to them, including copyright and ownership rights in the media in which the Photos are stored, remain the sole and exclusive property of the Photographer. Client acknowledges that by virtue of entering into this Agreement, Client has not acquired the right to copyright ownership, or to any other exclusive rights as provided by the Copyright Act 17 U.S.C § 106.

- Copyright Management Information. Photos may contain copyright management information ("CMI") at the discretion of the Photographer in the form of: (1) a copyright notice ©; (2) a "gutter credit" or watermark which provides attribution to the Photographer; and/or (3) other copyright and ownership information embedded in the metadata or elsewhere. Removing and/or altering such information is prohibited and constitutes violation of the Digital Millennium Copyright Act. Client shall be responsible to Photographer for any penalties and awards available under the statute.

- Term. The grant of rights contemplated by this Agreement is limited to a term of **one year**. Further use of images beyond one year of download purchase requires Photographer's express written permission and shall be subject to additional licensing fees.

- Relationship of the Parties. The parties agree that Photographer is an independent contractor, and that neither Photographer, nor Photographer's employees or contract personnel are, or shall be deemed to be, employees of Client. No agency, partnership, joint venture, or employee-employer relationship is intended or created by this Agreement. Neither party is authorized to act as agent or bind the other party except as expressly stated in this Agreement. Photographer and the Photos or any other deliverables prepared by Photographer shall not be deemed a "work for hire" or "work made for hire" as defined under Copyright Law. All rights granted to Client are contractual in nature and are expressly defined by this Agreement.

- No Exclusivity. This Agreement does not create an exclusive relationship between the parties. Client is free to engage others to perform services of the same or similar nature to those provided by Photographer, and Photographer shall be entitled to offer and provide design services to others, solicit other clients and otherwise advertise the services offered by Photographer.

- Creation / Artistic Control. The manner and method of creating any Photograph is solely within the discretion of Photographer. Client has no right to control Photographer's manner and method of performance under this Agreement. Photographer will use best efforts to: (a) ensure that the Photos conform to Client's specifications; and (b) submit all Photos to Client in publishable quality, on or before the applicable deadlines.

- Fees. Client agrees to pay Photographer the following fees and expenses immediately upon download. No rights under this Agreement are granted until payment is received by Photographer in full. Payment is required irrespective of whether Client makes actual use of the Photos.
- Revocation for Non-Payment. If full payment has not been received within immediately upon download, then all rights granted to Client under this Agreement are revoked at Photographer's sole discretion. In the event rights are revoked, all images in the possession of Client shall be removed from all forms of media and permanently destroyed within ten (10) business days. In the event of revocation, Client shall provide Photographer with a sworn written statement that all Photos have been removed and destroyed. If Client fails to make payment and/or fails to destroy the Photos upon Photographers' request, then such failure(s) shall be deemed an act of copyright infringement under the Copyright Act. A detailed accounting of fees and production charges shall be provided in the Photographer's invoice but, unless specifically stated, no vendor receipts shall be provided.
- Delivery / Quality. Photographer may select delivery of photographs in JPEG, only, at a resolution that Photographer determines will be suitable for the Photos as licensed. It is the Client's responsibility to verify that the Photos are suitable for reproduction. If the Photos are not deemed suitable, Client agrees to notify the Photographer in writing with five (5) business days. Photographer's sole obligation shall be to replace the Photos at a suitable resolution. However, in no event shall Photographer be liable for reproduction quality, delays, or consequential damages resulting from any alleged deficiencies in photographic quality. Photographer has no obligation to retain or archive any Photos delivered to Client.
- Transfer and Assignment. Client may not assign or transfer this Agreement, in whole or in part, or any rights granted hereunder whether voluntary or by operation of law. No amendment or waiver of any terms is binding unless in writing and signed by all parties. In no event shall any e-mail communication or exchange of notes amend or otherwise modify the terms of this Agreement.
- Photographer's Warranties. Photographer warrants that the Photos were created by him/her and that Photographer has authority to license use of the Photos to Client.
- Indemnification. Client agrees to defend Photographer against any and all claims, liability, damages, and costs, including attorneys' fees and expenses, arising out of Client's use or misuse of the Photos.
- Attorneys' Fees. Client agrees to pay Photographer's costs and expenses (including reasonable attorneys' fees and related costs) incurred in connection with enforcing the terms of this Agreement, including those incurred without the commencement of a court proceeding.
- Advice of Counsel. Each party declares that the terms of this Agreement have been completely read and fully understood and voluntarily accepted by each party after having a reasonable opportunity to retain and confer with independent counsel. This Agreement is entered into after a full investigation by the parties and the parties are not relying upon any statement or representations not embodied in this Agreement.
- Entire Agreement. This Agreement contains the entire agreement between the parties relating to the Photos, and supersedes all prior or contemporaneous negotiations or agreements in respect thereto. The terms of this Agreement are contractual, and may not be modified, varied, revoked or explained except by mutual agreement of the parties in writing.
- Client's Waiver of Defenses. Client hereby waives all defenses to unauthorized use of the Photos arising under section 107 of the Copyright Act (17 U.S.C. § 107) ("Fair Use"), or any defense that Clients unauthorized use of the Photos constitutes a "*de minimus*" use. Client also waives all revision and reproduction rights or privileges under section 201 of the Copyright Act.
- No Waiver. The failure of any party to enforce at any time any provision or part of a provision of this Agreement shall in no way be construed as a waiver of such provision, nor in any way affect the validity of this Agreement or any part thereof or the right of any party to later enforce each and every such provision. Any waiver of any provision or part of a provision of this Agreement shall not be binding unless expressly made in writing and executed by the party making the

waiver. No such waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar.

- Successors. This Agreement shall be binding upon and inure to the benefit of the parties, and their respective personal representatives, successors, assigns, parents, affiliates, subsidiary companies, divisions, officers, directors, employees, attorneys, licensees and agents (as applicable).

- Severability. The various provisions of this Agreement are severable. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this Agreement shall be invalid or prohibited thereunder, such provision shall be ineffective to the extent of such prohibition without invalidating the remainder of such provision or the remaining provisions of this Agreement.

- Counterparts. This Agreement may be executed by the parties in separate counterparts with the same force and effect as if fully and simultaneously executed in a single, original document.

- Interpretation. The parties acknowledge that each party and their respective legal counsel have reviewed and participated in the drafting and negotiation of this Agreement, and the language of the Agreement shall not be construed in favor or against any particular party.

- Authority. By downloading any photos under Green-Fly Media, represents and warrants that they are duly authorized representatives of the entity, with full authority to execute and enter into this Agreement.