

## PHOTOGRAPHER AGREEMENT

This active photographer agreement (hereinafter "Agreement") is in effect as of \_\_\_\_\_ by and between KLC fotos LLC (hereinafter "KLC fotos") and \_\_\_\_\_ (hereinafter "Photographer") constitutes the entire agreement between the parties. Whereas, KLC fotos is in the business of creating, hosting, distributing, delivering, and licensing the use of photographic and video images or footage, primarily through its website KLCfotos.com; Whereas, Photographer is in the business of creating photographic images and/or video images or footage (hereinafter "Work"); Whereas, Photographer desires to engage KLC fotos to represent Photographer with respect to certain Work owned by Photographer, and Photographer desires to photograph certain events for KLC fotos, all in accordance with the terms and conditions set forth in this Agreement. Now, therefore, in consideration of the foregoing premises and agreements contained herein, the parties hereto hereby agree:

### I. GRANT OF AUTHORITY

Photographer hereby grants to KLC fotos the exclusive worldwide right to use, copy, perform, display, market, distribute, license, sublicense and negotiate the production rights of all Work delivered to KLC fotos by Photographer, in any and all media, now known or hereafter developed, whether such Work is created by Photographer while working under credentials issued from or through KLC fotos or otherwise. Notwithstanding the foregoing, Photographer shall retain the copyright to the Work and Photographer shall have a limited right to license and publish the Work to Photographer's own editorial clients provided that:

- A. Such editorial clients do not compete with the KLC fotos or its customers;
- B. The Work does not violate the issuer's credential language or policies or infringe upon the intellectual property rights of any third party;
- C. The Work shall not be distributed on any third-party website, including but not limited to competitors, agencies, platform where any image can be made for sale or any other photo service website worldwide;
- D. Photographer has secured all intellectual property rights and clearances to the Work; and
- E. Photographer notifies KLC fotos in writing of any intent to license the Work to Photographer's own clients.

### II. WORK CREATED UNDER KLC FOTOS CREDENTIALS

Photographer hereby covenants, acknowledges and agrees that with respect to all Work created by Photographer while working under credentials issued from or through KLC fotos and while on assignment for KLC fotos, including Work taken but not delivered to KLC fotos by Photographer (hereinafter "Outtakes"):

- A. Photographer shall be prohibited from using such Work and Outtakes for any non-editorial and/or commercial purpose, exhibition, reproduction, display, performance, adaptation or publication of any kind (including, without limitation, advertising, sales, marketing, merchandising or resale purposes);
- B. Photographer shall be prohibited from selling or licensing such Work and Outtakes on any website; provided, however, Photographer may use such Work and Outtakes in accordance with the issuer's credential language or policies for self-promotion on Photographer's personal website;

### III. REPRESENTATIONS OF PHOTOGRAPHER

Photographer hereby represents, warrants, covenants, acknowledges and agrees that:

- A. Photographer is and shall at all times be the sole and exclusive owner of the Work, or if Photographer is not the owner of any Work, Photographer has the right to provide such Work to KLC fotos, and Photographer has acquired the copyright owner's permission for KLC fotos to use the Work;
- B. The Work is original;
- C. The Work does not and will not infringe upon any copyright, trademark, right of privacy, right of publicity, proprietary right, intellectual property right or any other right of any third party anywhere in the world;
- D. KLC fotos reserves the right, in its sole and absolute discretion, to refuse to accept any Work;
- E. Photographer has the right to enter in this Agreement with KLC fotos and to perform the obligations set forth herein;
- F. Photographer has the exclusive right, power and authority to make the Grant of Rights to KLC fotos in this Agreement;
- G. Photographer has obtained any and all releases necessary to allow KLC fotos to license the Work;
- H. Work created by Photographer while working under credentials issued from or through KLC fotos shall not be used by Photographer for any commercial purposes whatsoever anywhere in the world;
- I. While on assignment or working under credentials issued to Photographer through KLC fotos, Photographer will conduct themselves in a professional manner at all times in accordance with the highest industry standards and code of ethics and shall not violate the terms of the issuer's credential language or policies;

- J. Photographer shall use all reasonable means to become familiar with the rules set forth by any organization, governing body, venue, sport, team, league, security personnel, etc., while on location working an event or assignment;
- K. When Photographer accepts an event or assignment from KLC fotos, Photographer shall photograph the event or assignment and transmit the Work either during or immediately after the event or assignment as specified by KLC fotos in accordance with the policies in the guidelines or specified by KLC fotos editors, managers or personnel. Work shall be fully captioned with Photographer's name in the caption field as set forth in KLC fotos' guidelines for captioning and transmitting in the KLC fotos stylebook;
- L. Photographer shall not cancel any accepted event or assignment within 72 hours (3 days) before the start time of the event or assignment provided such cancellation is not a medical, family, or other unforeseen emergency acceptable to KLC fotos;
- M. Photographer shall not crop, modify, alter or manipulate the Work in a manner that alters the fundamental nature of the Work;

#### **IV. INDEMNIFICATION**

Photographer hereby agrees to indemnify, defend and hold KLC fotos, its affiliates, successors and assigns, and their respective officers, directors, employees, representatives and agents, harmless from and against any and all claims, demands, actions, causes of action, settlements, damages and expenses (including reasonable attorney's fees and court costs) arising directly or indirectly from: (i) the breach or alleged breach by Photographer of any representations, warranties, covenants or agreements made by Photographer hereunder; (ii) any erroneous or inaccurate information supplied to KLC fotos regarding the Work; and (iii) personal injury (including death) or property damage caused by Photographer while working under credentials issued from or through KLC fotos and while on assignment for KLC fotos.

#### **V. USE OF WORK**

KLC fotos and its affiliates, successors and assigns shall have the right, in their sole and absolute discretion, to: (i) determine how the Work will be marketed, displayed and distributed to KLC fotos clients; (ii) edit, crop or modify the Work, including the captions and metadata that accompanies the Work; (iii) establish the terms and conditions, including the fees, for the license of the Work to KLC fotos' customers; and (iv) perform its services without Photographer's further approval.

#### **VI. COMPENSATION**

Compensation will be paid via electronic transfer using Dwolla or PayPal services. Photographers who opt out of electronic services, will receive paper checks when royalty sum reaches \$100 USD or otherwise annually, whichever comes first. Payments will be distributed as follows:

- A. Assignments. For all assignments coordinated, invoiced and paid through KLC fotos, Photographer will retain 80% of negotiated fee. For all assignments Photographer coordinates independently, Photographer may bill client directly without financially involving KLC fotos.
- B. Editorial and Commercial Licensing Fees and Royalties. Photographer shall earn 50% commission on royalties collected from the licensing of any Work by KLC fotos. KLC fotos will deliver all reports and make all payments to Photographer.

#### **VII. LIMITATION OF LIABILITY**

KLC fotos shall not be liable to Photographer for any indirect, consequential, incidental, exemplary, special or punitive damages arising out of or related to this Agreement. In any event, the liability of KLC fotos to Photographer for any reason and upon any cause of action shall be limited to the fees that KLC fotos paid Photographer in the three months prior to which the cause of action arose.

#### **VIII. UNAUTHORIZED USE OF WORK**

In case of damage, destruction, loss or unauthorized use of any Work by any customer who lawfully obtained Work from KLC fotos, Photographer hereby grants KLC fotos full and complete authority to make claims or to institute proceedings in Photographer's name to prosecute such unauthorized use. In no event, however, shall KLC fotos be liable for such unauthorized use nor shall KLC fotos be required to take any action to prosecute such unauthorized use. Any recoveries shall be divided between Photographer and KLC fotos 50/50, after deduction for the costs of any such actions incurred by KLC fotos, including, without limitation, legal fees or other expenses. All settlements shall be made in KLC fotos' sole and absolute discretion. If KLC fotos chooses not to pursue any legal action, Photographer reserves the right to do so after notification to KLC fotos.

#### **IX. TERM**

This Agreement shall commence as of the date first set forth herein above and shall continue unless terminated by KLC fotos, or otherwise terminated as provided herein.

#### **X. RETURN OF ORIGINAL WORK**

Upon written termination of this Agreement, if requested by Photographer and provided the Work has been in KLC fotos' custody for at least five (5) years, the Work may be removed by the Photographer from KLC fotos' archive.

Nothing in this Agreement will require any of KLC fotos' third-party customers that license use of the Work from KLC fotos to remove the Work, at any time, from any archived editions of the media properties through which such customers had the right to distribute the Images pursuant to a valid license from KLC fotos.

#### **XI. MISCELLANEOUS**

- A. Independent Contractor. This Agreement is not an employment agreement between KLC fotos and Photographer. Photographer is acting as an independent contractor. This Agreement does not constitute a joint venture or partnership. Neither Photographer nor KLC fotos shall hold themselves out to any third party contrary to this understanding. Photographer possesses Photographer's own medical, life and liability insurance at all times or agrees to be self-insured.
- B. Entire Agreement. This Agreement constitutes the entire understanding between KLC fotos and Photographer and supersedes any prior understandings or agreements, oral or written, including, without limitation any existing photographer agreement between KLC fotos and Photographer ("Existing Agreement"), which such Existing Agreement is hereby terminated. Notwithstanding the foregoing, any Work delivered by Photographer to KLC fotos under the Existing Agreement prior to the date hereof shall become subject to the terms and conditions of this Agreement; provided however:
- C. Amendments. This Agreement may be amended only by a written instrument duly executed by KLC fotos and Photographer. All Photographers with current active accounts will be notified if there is an amendment to the agreement.

#### **XII. EXECUTION**

The parties have executed this Agreement as of the date first set forth herein above.

##### **Photographer**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
E-Mail

##### **KLC fotos LLC**

\_\_\_\_\_  
Signature

**Kelley L Cox**  
\_\_\_\_\_

Name

**Managing Director**  
\_\_\_\_\_

Title