

Photography Terms of Service Agreement (the "AGREEMENT") is entered into effective upon submission of project between [[Sebastian Jimenez]] ("PHOTOGRAPHER") and [[Real Estate Agent]] ("CLIENT").

Scope of this Agreement. This Agreement applies to any photograph, graphics, videos, digital assets, or digital images created or taken by Photographer and delivered to the Client (collectively known as "PHOTOS") for the property [[Property Address submitted with Project]] ("PROPERTY"). This Agreement governs the relationship between the parties and in no event shall any e-mail communication or other exchange, amend or otherwise modify the terms of this Agreement.

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. This license provides the Client with the limited right to reproduce, publicly display, and distribute the Photos only for promotional or advertising purposes directly related to the sale of the Property. Photos used for any purpose not directly related to the sale of the Property must be with the express permission of Photographer and the payment of additional fees, unless otherwise agreed to in writing.

Photos may be uploaded to any MLS listing service solely for promotion of the Property during the pendency of this Agreement. However, regardless of any terms and conditions of the MLS, at no time does this Agreement provide Client with the right to transfer copyright, or any other exclusive rights as provided by the Copyright Act 17 U.S.C § 106. Photos may contain copyright management information (CMI) at the discretion of the Photographer in the form of either 1) a copyright notice © and/or 2) other copyright and ownership information embedded in the metadata or elsewhere, unless otherwise agreed to by the Parties. Removing and/or altering such information is prohibited and constitutes violation of the Digital Millennium Copyright Act (DMCA) and Client will be responsible to the Photographer for any penalties and awards available under the statute.

Unless otherwise specifically provided elsewhere in this document or other signed agreement between the parties, any grant of rights is limited to a term of either one (1) year from the date of this Agreement, or (2) at the termination of Client's representation of the Property, whichever occurs first. Rights are assigned to the Client immediately upon delivery of the Photos.

Creation: The manner and method of creating any Photographs is solely at the discretion of Photographer and the Client has no right to control Photographer's manner and method of performance under this Agreement. Photographer will use his/her 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.

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.

Transfer and Assignment: Client may not assign or transfer this agreement or any rights granted under it. No amendment or waiver of any terms is binding unless in writing and signed by the parties.

General Law/Arbitration: This Agreement sets forth the entire understanding and agreement of the parties, and supersedes any and all prior agreements between the parties. This Agreement shall be governed and interpreted and enforced in accordance with the laws of the State of California. Any claim or litigation arising out of this Agreement or its performance may be maintained only in courts physically located in Contra Costa County, California, and the parties hereby consent to the personal jurisdiction of such courts. In the event of any litigation arising out of or relating to this Agreement, the prevailing party shall be entitled to recover its attorneys' fees incurred in the litigation. If parties are unable to resolve the dispute by negotiation, either party may start mediation and/or binding arbitration in a forum mutually agreed to by the parties.

Severability: If one or more of the provisions contained in the Agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected. Such provisions shall be revised only to the extent necessary to make them enforceable.

Waiver: No action of either party, other than express written waiver, may be construed to waive any provision of this Agreement and a single or partial exercise by either party of any such rights or remedies will not preclude further exercise of other rights or remedy. IN WITNESS WHEREOF, the parties have caused this Photographer Licensing Agreement to be duly executed as of the date of project submission.