



Horsephotos.com®

CONTENT LICENSE & PHOTOGRAPER REPRESENTATION AGREEMENT

This is a fairly lengthy document, and it contains many important provisions that affect your rights and obligations. By accepting this agreement, you represent and warrant that you have full legal authority and ownership of the photographs you will be providing for Horsephotos.com to license and represent on your behalf. If you do not have such authority please do not enter into this agreement. If you have questions please send e-mails to horsephotos@mindspring.com

1. GRANT OF AUTHORITY

1.1 Appointment. Photographer appoints a perpetual exclusive worldwide stock photography agent with respect to the commercial sale, licensing of photographic images created by Photographer (the "Images") which are submitted to and accepted by the Horsephotos.com (the "Accepted Images"). The term Images shall include any and all photographic images in any and all forms, whether created by digital, analog, electronic, or other means or methods, whether now known as hereinafter invented.

1.2 Limited Exclusivity. During the Term of this Agreement, Horsephotos shall be the exclusive recipient of Contractor's body of work pertaining to the equine industry. Contractor shall not supply Contractor's Works to any party, including, without limitation, any competitor of Horsephotos.

1.3 Ownership Retained. All Images submitted to Company, including copyright thereto, shall remain the property of Photographer except that all rights, including copyright, for Images created on assignment for Company pursuant to paragraph 6 herein shall remain the property of Company.

1.4 Marketing. Company may reproduce, display and distribute Accepted Images in connection with the promotion and advertising of Company's services, without additional compensation to Photographer.

2. TERM

This agreement shall be a period of five (5) years and be automatically renewed thereafter for additional periods of five (5) years unless terminated by either party upon not less than sixty (60) days written notice prior to the expiration of the term then in effect.

3. DELIVERY OF IMAGES

3.1 Method of Delivery. Photographer shall submit to Company, on a continuous periodic basis, Images created by Photographer for review and acceptance by Company. Company shall select those Images it wishes to retain, and return the others to Photographer.

3.2 Deletion of Images. Company shall have the right from time to time in its sole discretion to delete any Accepted Images from its inventory.

4. **CAPTION INFORMATION** Photographer shall deliver with each Image all the caption information required by Company, including, without limitation, Photographer's name, copyright notice, date of creation of photo, location and venue where the photo was taken, person(s) and horse(s) in the photo, keywords, and other relevant details of the Image, as well as any restrictions Photographer places on licenses to be granted. Photographer assumes all responsibility for claims resulting from insufficient, inaccurate or incorrect captioning.

5. **RELEASES** Photographer shall provide Company with copies of original model and property releases and other necessary permissions for all released Images at the time of submission of the Images. Photographer shall make available to Company original model and property releases and other necessary permissions as Company deems necessary.

6. **PHOTOGRAPHIC ASSIGNMENTS** When Company assigns Photographer to do a photography assignment on behalf of Company ("Assignment Images") in consideration for payment of a fee, such assignment shall be on a work-made-for-hire basis with all rights, including copyright, to the Assignment Images being owed by Company. To the extent any such assigned work is not considered as a work-made-for-hire, Photographer hereby sells, transfers and assigns copyright in and to such Assignment Images to Company.

7. **WARRANTIES OF PHOTOGRAPHER** Photographer warrants and represents to Company that: a) Photographer is the sole and exclusive owner of the Images (except for Assignment Images) with the unrestricted right to license such Images; b) the Images do not, and will not, infringe the copyright, trademark, right of privacy or publicity or violate the property interests of, and do not defame, any third party and do not contain any matter which violates any federal or state law or regulation; c) Photographer has the right to enter into this agreement and perform Photographer's obligations hereunder; d) Photographer has obtained all necessary permissions to create the Images and has obtained, or will obtain, model and property releases for persons and private property depicted in the Images as so indicated; and e) Photographer is not a party to any existing exclusive agreement with any stock photo agency.

8. **Non-Competition; Non-Solicitation.** Contractor, by execution of this Agreement, hereby agrees that during the term of this Agreement and for two (2) years after the date this Agreement is terminated {"Termination Date"}, irrespective of whether the cessation of the relationship shall be voluntary or involuntary, that Contractor will not, without the prior written consent of Horsephotos, directly or indirectly:

(a) solicit, divert or appropriate, or attempt to solicit, divert or appropriate, any customer of Horsephotos, or of any subsidiary thereof, even if formed after the date hereof, including current customers and those which become customers of Horsephotos on or before the Termination Date, for the purpose of providing services competitive with the business of Horsephotos; Or

(b) solicit to employ or contract with, on his own behalf or on behalf of any other Person or Entity, any person who was employed by Horsephotos or whom was an independent contractor with Horsephotos.

9. **COMPENSATION**

9.1 **License Fees.** Company shall retain sixty (60%) percent of license fees actually received by it from licensing of Accepted Images, and shall remit (40%) of such license fees to Photographer. Company shall be entitled to its share of license fees received after termination of this Agreement when the sale or license was made, or the Accepted Images submitted to the client for consideration, prior to such termination, as well as on all re-use fees when the original license was granted by Company.

9.2 **Definition.** License fees are defined as all net revenues actually received by Company from licensing of Accepted Images less currency conversion costs, bank charges, reasonable legal fees and other expenses incurred in collection of accounts receivable not to exceed the amount of the receivable, and participation fees for website, promotional costs, scanning, processing, key wording and storage. These deductions shall be charged back to Photographer's account.

10. STATEMENTS Statements shall be rendered to Photographer on a quarterly basis when activity has occurred. Such statements shall list all Accepted Images invoiced during the month, less any deductions as provided for herein.

11. CREDIT Photographer acknowledges that it is not always possible to obtain photo or copyright credit on uses of Accepted Images by clients. Accordingly, Company shall have no responsibility or liability for lack of credit. Where applicable, Company shall have the right to have Company credited as the source of Accepted Images.

12. LIMITED LIABILITY Company cannot be responsible for loss of or damage to any Images unless caused by Company's gross negligence or wilful misconduct. Photographer acknowledges that this absolute limitation on company's liability is a material condition for company's accepting the images and if photographer did not accept this clause, company would not accept submission of any of photographer's images.

13. TERMINATION AGREEMENT

12.1 Extension of Term. Company shall have the continuing right to request and license any Accepted Images for five (5) years beyond the termination date of this Agreement. In addition, for any Accepted Image which is subject to an exclusive license agreement with a client when this Agreement is terminated, Company shall retain the exclusive licensing rights to such Accepted Images for such clients for an additional five (5) years .

13.2 Payments and Termination. Company shall bill for any sale or license of Accepted Images made after the termination of this Agreement which results from submission of Accepted Images prior to the effective date of Termination.

14. INDEMNIFICATION

14.1 Claim. Photographer agrees to indemnify and hold Company harmless against any loss, liability, damage, costs or expense, including reasonable attorney's fees, arising out of or in connection with any suit, proceeding, claim or demand or the settlement thereof, which may be brought or made against Company by reason of Photographer's breach or alleged breach of any warranty, representation or obligation under this Agreement. Prompt notice of any such suit, claim or demand brought or made against Photographer or Company shall be given to Photographer or Company respectively.

14.2 Defense. If any such suit, claim or demand is brought or made, Company may elect (i) to undertake the defense thereof, or (ii) to notify Photographer to undertake such defense, and, in such case Company may, at its own option, join in the defense. In all the foregoing events the cost and expense of any defense shall be borne by Photographer, unless such suit, claim or demand arises solely out of an act or omission of Company, in which case the cost and expense shall be borne by Company.

15. INDEPENDENT CONTRACTOR Photographer and Company are independent contractors as to each other and neither shall be considered as an employee of the other.

16. Duty of Confidentiality and of Non-Disclosure. Contractor recognizes and acknowledges that during the course of performing Services for Horsephotos pursuant to this Agreement, Contractor may be exposed to information relating to the products and services, product and service plans, trade secrets, customers, needs and business of Horsephotos and its clients, including, without limitation oral information, art designs, notes, documents, files, records and information in any other written form, any magnetic, electric, digital or other recording medium, and any products, equipment, technology and any other tangible object (collectively "Confidential Information"), and that said Confidential Information is a valuable, special and unique asset of Horsephotos. Contractor will not, while performing Services for Horsephotos or after the termination of such Services, disclose the contents of any such Confidential Information to any third person or entity, or use such Confidential Information for Contractor's own purposes, without the express written authorization of Horsephotos. At the termination of Contractor's Services, Contractor agrees to return to Horsephotos all tangible materials of any type embodying

Confidential Information, and all copies thereof. All Confidential Information shall remain the sole property of the Company and its affiliates. Contractor shall not acquire any proprietary interest in any Confidential Information.

17. MISCELLANEOUS

17.1 Binding Agreement. This agreement shall be binding upon and shall inure to the benefit of the respective heirs, executors, administrators, successors and assigns of the parties.

17.2 Entire Agreement. This agreement incorporates the entire understanding of the parties concerning the subject matter contained herein, supercedes any and all prior agreements and understandings, oral or written, and may not be modified, amended or otherwise changed in any respect except by a separate writing signed by the party to be charged therewith.

17.3 Prevailing Law. This agreement shall be construed in accordance with the laws of the State of Kentucky, and any controversy arising hereunder shall be litigated solely in the federal or state courts of competent jurisdiction in Kentucky. The parties each consent to the jurisdiction of the courts in Kentucky and to service of process by certified mail, return receipt requested, or overnight courier with proof of delivery.

17.4 No Assignment. The parties may not assign this Agreement except that Company may assign it to a parent, affiliate or subsidiary company, or to a purchaser of all or a substantial portion of its assets.

17.5 Partial Invalidity. If any provision of this Agreement is determined to be invalid, the remainder of this Agreement will nevertheless be deemed valid and binding.

17.6 No Waiver. No waiver of any term or condition of this Agreement, or any breach of or any part of this Agreement, shall be deemed a waiver of any other term or condition of the Agreement or of any later breach of the Agreement. No such waiver shall be valid unless in writing and duly executed by the parties.

17.7 Legal Fees. In any action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, court costs, expert witness fees, investigation expenses and other similar litigation expenses.

17.8 Additional Documents. Each party shall execute and deliver any documents and perform all acts reasonably appropriate to carry out the provisions and intent of this Agreement.

17.9 Notices. All notices to be given hereunder by either party shall be in writing and shall be hand delivered or sent by certified or registered mail, or insured courier, return receipt requested, to the other party at the respective addresses as first set forth herein, unless said addresses are changed by either party by a notice in writing to the other party. Notices are deemed given three business days following the date of mailing or upon actual receipt if hand delivered or delivered by courier.

IN WITNESS WHEREOF the parties have executed this agreement on the day and date first set forth above.

Horsephotos.com

By: _____
Harold Roth, Executive Director

Photographer's Signature

Name

Address

Alternative name and address for
notice and delivery of statements

Business Telephone

Home Telephone

Social Security or Fed ID #

C:\WPWIN\ROTH, H\Photographer Representation Agt.wpd