



PHOTOGRAPHY SERVICES AGREEMENT & GUIDE

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Dos and Don'ts Checklist

Photography Services Agreement Instructions

Sample Photography Services Agreement

1. Overview

From time to time, companies need photographers to help create lasting images, which can be used to sell products, tell stories, or record events. Alternatively, individuals may want to hire a photographer for personal use, hoping to provide lasting memories of special occasions. In any event, parties may be reluctant to sign a photographer's heavily slanted contract and may want to use a contract that protects their needs and interests.

A photography services agreement outlines each party's rights and responsibilities, and allows the parties to negotiate and determine the services to be provided. The enclosed document can provide a good starting point for your contracting arrangement. You and the photographer must continue to discuss the terms of your agreement, settling questions about work parameters, payment, and responsibilities. Once you have agreed on terms and have signed the attached form, each party can focus on its area of expertise: the company on the development of its business and the photographer on the tasks assigned.

2. Dos & Don'ts Checklist

- Before hiring a photographer, make sure you know what you want, including the style and image that you're hoping to present. Will it be a formal portrait or a casual company photo? In black and white or in color? Review the photographer's previous work to determine if it fits your company's (or personal) needs. Browse the internet to see if there are images that appeal to you and either show those to the photographer or track down the person who shot them.
- The enclosed agreement is designed to protect the parties' rights during the contract term. It does not, however, describe what tasks will be performed or the rates applicable to any such work. These issues should be resolved by the parties, drafted, and attached to the enclosed document as Exhibit A.
- Before sitting down to draft Exhibit A, decide what your goals are for the agreement. It can contain any agreed-on terms but should, at a minimum, include a description of the photographer's tasks, the amount to be paid, the terms of payment, deadlines for completion, and the end products expected (e.g., slides, photographs, CDs, etc.). Clarify the terms and conditions of your agreement before memorializing them in writing.
- Allow each party to spend time reviewing the agreement and (once drafted) Exhibit A. This will reduce the likelihood, or at least the efficacy, of a claim that a party did not understand any terms or how those might affect the agreement as a whole.
- Model releases should always be obtained if an image will be used for trade or advertising purposes, even if the pictures are of company employees. If you are using employees as models, check each one's personnel file. Has he or she signed a release? Is the release sufficient? Even if you have general releases for all of your employee-models, consider getting additional releases signed. A little extra work upfront could prevent lawsuits down the road.

- Both parties should review the document carefully to ensure that **all relevant deal points** have been included. It is better to be over-inclusive than under-inclusive. Do not assume that certain expectations or terms are agreed to if they are not stated expressly on the agreement.
- Sign two copies of the agreement, one for you and one for the other party.
- Depending on the nature of its terms, you may decide to have your agreement witnessed or notarized. This will limit later challenges to the validity of a party's signature.
- The enclosed document is drafted in a way that elevates the company's interests over those of the photographer. If you believe this agreement is too imbalanced for your purposes, or too restrictive to allow the photographer to perform his or her duties, revise or restructure the provisions to fit your organizational goals.
- If your agreement is complicated, do not use the enclosed form. Contact an attorney to help you draft a document that will meet your specific needs.

3. Photography Services Agreement Instructions

The following provision-by-provision instructions will help you understand the terms of your agreement.

The numbers below (e.g., Section 1, Section 2, etc.) correspond to the provisions in the contract. Please review the entire document before starting your step-by-step process.

- **Introduction.** Identifies the document as a photography services agreement. Write in the date on which the agreement will become effective (often the date on which it is signed). Identify the parties and, if applicable, what type of organization(s) they are. Note that each party is given a name (e.g., "Company") that will be used throughout the agreement. The hiring party is called the "Company" and the party taking the pictures is called the "Photographer."
- **Recitals:** The "whereas" clauses, referred to as recitals, define the world of the agreement and offer key background information about the parties. In this agreement, the recitals include a simple statement of your intent to enter into a photography services arrangement.
- **Section 1: Responsibilities.** Lists each party's responsibilities under the Agreement. Essentially, the Photographer is agreeing to take the pictures and perform the agreed-on services with adequate attention and care, and the Company is agreeing to help this performance by providing necessary information and guidance.
- **Section 2: Additional Services.** If the photos taken don't fit the agreed-on standards, the Company is given the right to request new, more appropriate pictures and the parties will jointly set a new due date. If the Company is asking for new pictures based on another reason (e.g., changed idea about what the pictures will be used for, or desire for a new campaign), the Company will be required to pay for the additional shots at the rates established in [Exhibit A](#).

- **Section 3: Term.** Indicates that the agreement will last until termination or until the listed services are completed. The bracketed sentence is optional, and allows the parties to set a deadline by which all services must be finished. Delete this provision if you do not want to set an expiration date for your agreement.
- **Section 4: Results and Proceeds.** Grants ownership of all of the photos created by the Photographer under the Agreement to the Company. This includes the right to alter the pictures and the right to make money from them. The Photographer expressly waives all of these rights under this section.
- **Section 5: Publicity.** Permits the Company to control how the photographs will be used and how the Photographer can provide information about the agreement. Essentially, the only thing that the Photographer can do without the Company's permission is use examples of the photographs as part of his or her portfolio.
- **Section 6: Use of Photographer's Name.** Allows the Company, during the term of the agreement, to use the Photographer's name in connection with the pictures.
- **Section 7: No Obligation to Use.** A notation that although the Company has rights to use the Photographer's pictures, it does not have to do so: it is obtaining the ability to do it without the obligation of having to.
- **Section 8: Photographer's Representations and Warranties.** Details the Photographer's promises under the agreement. Essentially, he or she is agreeing to enter into the arrangement based on the conditions listed in this section (e.g., that he or she is capable of entering the agreement and satisfying its terms).
- **Section 9: Company's Rights.** Gives the Company the ability to use the photographs in any way it pleases throughout the world and specifically waives any other party's right to demand payment for that use.
- **Section 10: Third Parties; Taxes.** Provides that the Photographer can't bind the Company into any agreements with any third parties. This section also reaffirms that the Photographer is an independent contractor (i.e., not an employee) and is therefore responsible for paying its own employment-related taxes.
- **Section 11: Termination.** Explains that certain actions or events, including written notice or material breach, will cause the agreement to end out of time (i.e., before the services are completed or the end of the term, if any). Write in the amount of notice a party must give of its intent to terminate or to notify the other of a breach.
- **Section 12: Default by Photographer.** Explains the consequences of the Photographer's failure to produce adequate pictures and allows the Company to choose one of the two following options: (1) declare a default and terminate the agreement or (2) set a new delivery date for pictures.
- **Section 13: Indemnification.** Allocates responsibilities between the parties if problems arise in the future, and protects the Company from the financial consequences of the Photographer's negligent or intentional conduct.

- **Section 14: Entire Agreement.** The parties' agreement that the document they're signing is "the agreement" about the issues involved. Unfortunately, the inclusion of this provision will not prevent a party from arguing that other enforceable promises exist, but it will provide you some protection from these claims.
- **Section 15: Assignment.** Explains that the Company may assign its obligations and interests without obtaining the Photographer's permission. However, the Photographer is not entitled to assign its own interests under the agreement.
- **Section 16: Modification.** Indicates that any changes to the document are ineffective unless they are made in writing and signed by both parties.
- **Section 17: Notice.** Lists the addresses to which all official or legal correspondence should be delivered. Write in a mailing address for both the Company and the Photographer.
- **Section 18: Governing Law.** Allows the parties to choose the state laws that will be used to interpret the document. Note that this is not a venue provision. The included language will not impact where a potential claim can be brought. Write in the applicable state law in the blanks provided.
- **Section 19: Severability.** Protects the terms of the agreement as a whole, even if one part is later invalidated. For example, if a state law is passed prohibiting choice-of-law clauses, it will not undo the entire agreement. Instead, only the section dealing with choice of law would be invalidated, leaving the remainder of the agreement enforceable.
- **Section 20: Counterparts/Electronic Signatures.** The title of this provision sounds complicated, but it is simple to explain: it says that even if the parties sign the agreement in different locations, or use electronic devices to transmit signatures (e.g., fax machines or computers), all of the separate pieces will be considered part of the same agreement. In a modern world where signing parties are often not in the same city - much less the same room - this provision ensures that business can be transacted efficiently, without sacrificing the validity of the agreement as a whole.
- **Section 21: Headings.** Notes that the headings at the beginning of each section are meant to organize the document, and should not be considered operational parts of the agreement.
- **Exhibit A: Duties, Specifications, and Compensation.** The form of [Exhibit A](#) provided is meant as an example only. You and the other party should restructure and revise this exhibit to fit your situation and individual needs. There are three types of compensation arrangements outlined in the form. You can choose any of those, or come up with a separate structure better suited to your agreement.

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PHOTOGRAPHY SERVICES AGREEMENT

This Photography Services Agreement (the "Agreement") is entered into as of _____, 20____ (the "Effective Date"), by _____, a _____ (the "Photographer") and _____, a _____ (the "Company," and together with the Photographer, the "Parties").

RECITALS

WHEREAS, the Company wishes to engage the Photographer as an independent contractor for the Company for the purpose of taking photographs (the "Photographs") on the terms and conditions set forth below; and

WHEREAS, the Photographer wishes to take the Photographs in accordance with the terms of this Agreement; and

WHEREAS, each Party is duly authorized and capable of entering into this Agreement.

NOW THEREFORE, in consideration of the above recitals and the mutual promises and benefits contained herein, the Parties hereby agree as follows:

1. RESPONSIBILITIES.

(a) Of the Photographer. The Photographer agrees to d

A. Take the Ph