This agreement is between OLIVIA RODRIGUEZ (hereafter known as “PHOTOGRAPHER” or “THE PHOTOGRAPHER” or “FIFTH ELEMENT PHOTOGRAPHY”) and **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** (hereafter to be known as “CLIENT” or “THE CLIENT.”) This contract supersedes all prior and simultaneous agreements between the parties.

1. **Scope of Work**

This contract is for services and products related to a photography shoot (hereafter “SESSION” or “THE SESSION”) to take place at the time and place as discussed between CLIENT and PHOTOGRAPHER.

1. PHOTOGRAPHER agrees to abide by the specifications of the package selected and notated on per the package description on the Fifth Element Photography website (www.fifthelementphotography.com).

1. THE PHOTOGRAPHER will perform post-processing and/or digital editing services on these photos where artistically necessary and solely at the discretion of THE PHOTOGRAPHER. There is no additional cost for this service.

1. THE PHOTOGRAPHER is not obligated to deliver every image taken during THE SESSION. The determination of images delivered to THE CLIENT is left to the discretion of THE PHOTOGRAPHER.
2. THE PHOTOGRAPHER will not, at any point, release .RAW image files to the client. The .RAW image file is not a completed image prior to post processing and is therefore ineligible for release on these grounds.

**2. Fees**

1. In consideration of the photography services provided by THE PHOTOGRAPHER, CLIENT agrees to pay THE PHOTOGRAPHER a nonrefundable initial payment in the amount shown on the invoice, due at the time of booking.

1. The initial payment will be applied to the total due for services provided. The remaining amount is due on or before the day of THE SESSION and THE CLIENT agrees to complete full payment for services by the scheduled day of THE SHOOT.

b-1. In the event that THE CLIENT fails to remit payment as specified, THE PHOTOGRAPHER shall have the right to immediately terminate this agreement with no further obligation, retain any monies already paid and not proceed with THE SESSION.

THE CLIENT may then reschedule a new booking which can be reserved with an initial payment due when THE SESSION is scheduled.

b-2. If a payment plan has been discussed and agreed upon between THE CLIENT and PHOTOGRAPHER, THE CLIENT agrees to meet the conditions specified for payment.

The final installment is due in full by the day of THE SESSION. The final installment must combine with previous payments to total the full sum of the cost of THE SESSION as outlined on Fifth Element Photography’s website. If the full sum of the cost required for THE SESSION has not been met by that time, THE CLIENT forfeits the session as well as any and all monies already paid to the photographer.

THE CLIENT may then reschedule a new booking which can be reserved with an initial payment due when THE SESSION is scheduled.

1. The initial payment reserves THE PHOTOGRAPHER’S time and is not a retainer or deposit. PHOTOGRAPHER agrees to not advertise availability of this same time slot to any other potential clients once the initial payment is made to THE PHOTOGRAPHER.

c-1. THE SESSION is not considered booked until both the initial payment and the contract have been returned to THE PHOTOGRAPHER.

1. If for any reason THE CLIENT should cancel THE SESSION the initial payment will not be returned to THE CLIENT. Any exceptions to this policy will be at the discretion of THE PHOTOGRAPHER.

1. Should there be travel involved to a distance deemed excessively far by THE PHOTOGRAPHER, a distance fee will be negotiated and annotated on the final page of this contract to be agreed upon and signed by THE CLIENT and THE PHOTOGRAPHER. This fee will be added to the final due amount.

e-1. PHOTOGRAPHER agrees to not add or demand travel compensation not previously discussed or laid out before the signing of this contract. Once both parties have signed and agreed, PHOTOGRAPHER forfeits future rights to asses travel expense and bill for it after the date of contract signing.

1. THE SESSION will start and end within the specified times agreed upon by THE CLIENT and THE PHOTOGRAPHER per their verbal or textual agreement.

f-1. THE PHOTOGRAPHER is under no obligation to continue THE SESSION past the specified time allotment and will agree to do so on a case by case basis and as scheduling allows.

THE CLIENT understands that this is at THE PHOTOGRAPHER’S discretion and may result in additional billing due before gallery will be released. If THE PHOTOGRAPHER foresees a need for additional billing is to be assessed, it will be discussed with THE CLIENT to allow THE CLIENT the option to turn down additional session time prior to incurring the charge.

**3. Work Product**

1. PHOTOGRAPHER will provide completed digital images in the parameters of the amount allotted per the package selected by THE CLIENT no later than 2 (two) weeks for a full session and 1 (one) week for an extended mini session from the completion of the SHOOT.

If, due to a high client volume, more time is necessary to ensure quality images for all clients, THE PHOTOGRAPHER will inform THE CLIENT at the time of booking or as soon as possible of the potential for delays.

1. CLIENT agrees and understands that any and all photos are the exclusive property of THE PHOTOGRAPHER.

After successful payment and release of digital images, THE PHOTOGRAPHER will transfer *limited copyright ownership* of the resulting images to THE CLIENT.

Limited copyright ownership in this instance means that THE PHOTOGRAPHER will grant THE CLIENT the rights to print and share all purchased and post processed images to social media sites, with family and friends and on vendor websites (where applicable) as long as images remain unaltered and textual credit is explicitly given to THE PHOTOGRAPHER.

b-1. “unaltered” is defined as being shared/posted online exactly as received from THE PHOTOGRAPHER. The addition of filters, texts, stickers, etc by THE CLIENT or anyone hired or associated with THE CLIENT that obscure the original look of the image as released by THE PHOTOGRAPHER is expressly prohibited.

THE CLIENT acknowledges that these images represent THE PHOTOGRAPHER’S skill and creative editing style and the altering of these images misrepresents THE PHOTOGRAPHER’S work to prospective future clients.

b-2. THE CLIENT will not attempt to alter their physical features in any way, including but not limited to facial alterations, waist slimming, removal of freckles, etc. without discussing this with THE PHOTOGRAPHER. THE PHOTOGRAPHER is trained in the appropriate software and techniques in order to carry through such a request correctly and with the least amount of image distortion.

Should THE CLIENT decide that they are interested in modifying their body in an image, a small fee of $5 will be assessed in order to carry out the requested alterations on the specified images, which will be agreed upon before hand.

THE PHOTOGRAPHER retains the right to refuse to carry out these alterations at any time and for any reason deemed appropriate. THE PHOTOGRAPHER will discuss the refusal with THE CLIENT in order to inform them of this reasoning.

Once editing is completed and limited copyright released, all of the above continues to apply under the limitations of the copyright.

b-2. Should THE PHOTOGRAPHER find a finished product has been altered from its completed state as delivered to THE CLIENT and published publicly THE PHOTOGRAPHER has the right to ask for the removal of the altered photo(s) immediately and permanently with THE CLIENT agreeing to do so per this agreement.

Should the client ignore and/or refuse this request, THE PHOTOGRAPHER retains all legal rights to pursue corrective action by contacting the administrators of the website/company hosting the image with proof of ownership and requesting removal if applicable. If the scope of use falls outside of the above, or if contacting the website/company administrator fails, THE PHOTOGRAPHER can and will pursue legal action for copyright infringement under the terms of this contract.

Additionally, any lack of cooperation on THE CLIENT’s part, be it by ignoring the request to remove the image or by refusing to do so will constitute a permanent forfeiture of the usage of Fifth Element Photography’s services both current and in the future including access to THE CLIENT’s gallery as well as an ineligibility to book future sessions. THE PHOTOGRAPHER acknowledges that this is not a complete list of potential consequences.

1. All photos delivered to THE CLIENT are licensed for THE CLIENT’S personal use only and may not be sold to third parties without written consent from THE PHOTOGRAPHER.

**4. Time and Consideration**

1. Both PHOTOGRAPHER and CLIENT agree to meet at the agreed upon time and place for the SESSION. If CLIENT is more than thirty (30) minutes late with no notice for the prescribed time, THE CLIENT forfeits THE SESSION and must re-book for a later time and date. THE CLIENT will then be obligated to pay an additional initial payment for reservation of the new date and time.

1. If THE CLIENT provides THE PHOTOGRAPHER notice of tardiness to THE SESSION no later than an hour prior to the scheduled SHOOT start time, concessions to this policy may be made at THE PHOTOGRAPHER’S discretion and in consideration of any other clients who may be booked during the same day.

b-1. THE PHOTOGRAPHER is not obligated to perform THE SESSION after failure to appear at the appointed time if doing so infringes upon another client’s booking or any other obligations both personal and professional.

**5. Indemnification**

1. PHOTOGRAPHER and CLIENT agree that PHOTOGRAPHER is under no obligation to capture any specific moment, pose or person(s) during the SESSION.

All attempts will be made to accommodate CLIENT requests, however, nothing can be absolutely guaranteed due to variations in weather, location, and the cooperation of the people involved.

1. If PHOTOGRAPHER is unable to perform the services in this contract due to any cause outside of THE PHOTOGRAPHER’s control, CLIENT agrees to indemnify PHOTOGRAPHER for any loss, damage or liability.

THE PHOTOGRAPHER will return, in full, all payments made by CLIENT to PHOTOGRAPHER in relation to this SESSION.

1. THE CLIENT agrees to indemnify and hold harmless THE PHOTOGRAPHER for any liability, damage, or loss related to technological failure, including data loss.

THE PHOTOGRAPHER commits to regular equipment checks and owns backup equipment where possible in order to prevent technological failure. However, THE CLIENT acknowledges that it is impossible to prevent such an incidence 100% of the time despite precautions.

1. CLIENT understands and agrees that THE PHOTOGRAPHER is not required to maintain copies of the photos from the shoot more than 60 (sixty) days after the photos have been delivered to CLIENT.

THE CLIENT is able to download their gallery an unlimited amount of times prior to this, assuming no breach of contract has taken place. Therefore, THE CLIENT is encouraged to back up their gallery to a hard drive, flash drive or comparable external storage to prevent the loss of the images once released.

1. CLIENT agrees to hold PHOTOGRAPHER harmless for any personal injury which may occur as the CLIENT and/or anyone else involved with THE SESSION poses or works with THE PHOTOGRAPHER.
2. THE PHOTOGRAPHER will strive to present photos in a workmanlike manner but is not required to cater to any specific aesthetic preferences of THE CLIENT. All parties acknowledge that THE CLIENT is hiring THE PHOTOGRAPHER based on the editing styles and techniques specific to THE PHOTOGRAPHER. Therefore, the client forfeits the right to request any alteration to this process.

**6. Duty of Client**

1. CLIENT will obtain all permissions necessary for PHOTOGRAPHER to photograph at THE SESSION.

THE PHOTOGRAPHER has no duty to obtain the permission of reception centers, churches, buildings, properties, parks, or any other location to operate thereon.

THE CLIENT understands and agrees that any failure to obtain these permissions resulting in fines to THE PHOTOGRAPHER or which prevent THE PHOTOGRAPHER from photographing THE SESSION or event(s) is not the fault, liability, or responsibility of THE PHOTOGRAPHER. THE CLIENT will be liable for any fines or fees incurred as a result.

a-1. The above statement only applies to locations selected and recommended by THE CLIENT.

For locations suggested by THE PHOTOGRAPHER that THE CLIENT chooses to act upon, THE PHOTOGRAPHER then is responsible for obtaining all necessary permissions to photograph at the location as outlined in section 6. Additionally, THE PHOTOGRAPHER becomes liable for any fees or fines, should they be incurred.

 **7. Model Release**

1. CLIENT grants permission to PHOTOGRAPHER to use CLIENT’S image or likeness in any and all forms of media for commercial purposes, advertising, trade, personal use or in any and all other ways THE PHOTOGRAPHER so chooses including print. THE PHOTOGRAPHER agrees that these uses shall all fall under the scope of business use.

THE CLIENT further acknowledges that THE PHOTOGRAPHER may use the likenesses of any additional subjects contained in the images resultant from THE SESSION. By signing this contract, THE CLIENT acknowledges that images of children, pets or additional family members who willingly participate in THE SESSION can and will be used on PHOTOGRAPHER’S website, social media, advertising or in any other way deemed appropriate by THE PHOTOGRAPHER within the confines of a business type usage.

Should a participant of THE SESSION decide they do not want their likeness used in this manner, they must relay this to THE PHOTOGRAPHER and it should be agreed upon in advance of THE SESSION. This could prevent the participant from taking part in THE SESSION depending on the circumstances and at the discretion of THE PHOTOGRAPHER.

It is the responsibility of THE CLIENT to inform additional participants of the way in which the images obtained from THE SESSION may be used as specified in section 7. THE PHOTOGRAPHER will operate under the assumption that all parties are aware of and agree to the information contained within section 7 of this contract unless otherwise informed.

**8. Weather**

1. If the weather should provide reasonable obstacle to the completion of THE SESSION, PHOTOGRAPHER agrees to reschedule THE SHOOT for THE CLIENT at no additional charge provided it is rescheduled within 30 (thirty) days of the original date in which THE SHOOT was originally scheduled.

Signatures:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Olivia Rodriguez**

Owner/Operator

Fifth Element Photography

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Client name, printed

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Client signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Client name, printed

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Client signature