

# Richmond Weddings

EST — 1989

## **AGREEMENT WITH ADVERTISER FOR PLACEMENT OF CONTENT**

This Agreement is made by and between AB Bridal, Inc. d/b/a Richmond Weddings, a Virginia corporation (“RW”), and the company listed in the previous page in the Advertiser and Exhibitor Registration (“ADVERTISER”). RW publishes Richmond Weddings Magazine (the “Magazine”), related website, RichmondWeddings.com, (the “Website”) and related social media channels including but not limited to Facebook and Instagram (the “Channels”) (henceforth, the Magazine, the Website and the Channels are defined as the “Distributions”); and if ADVERTISER is an individual, ADVERTISER wishes to promote and advertise ADVERTISER’s own website and/or personal services by having content relating to ADVERTISER displayed in the Magazine and through the Website; or if ADVERTISER is a Business, ADVERTISER operates a business and desires to submit content relating to such business for publishing in the Magazine and/or for posting on the Website and Channels; and RW is willing to include ADVERTISER’s content in the Magazine and to post it on the Website and/or Channels strictly upon the terms and conditions contained herein;

In consideration of the mutual promises herein contained and for valuable consideration, the adequacy of which is acknowledged, the parties, each intending to be legally bound hereby, do agree as follows:

**1) Posting of Content.** RW will include images, text, and contact information provided by ADVERTISER (collectively, the “Content”) in the Magazine and post same on the Website as follows:

1.1) All Content supplied by ADVERTISER shall have been produced in accordance with all applicable regulations, laws and ordinances.

1.2) In the event of RW’s errors in or omissions of any advertisement(s), RW’s liability shall be limited to a credit of the amount paid attributable to the space of the error/omission (in no event shall such credit exceed the total amount paid to RW for the advertisement), and RW shall have no liability unless the error/omission is brought to the RW’s attention promptly, not no later than thirty (30) days after the first distribution date of the relevant issue of the Magazine, or five (5) days after first posted to the Website. If a copy of the advertisement was provided to Advertiser, RW shall have no liability for any issue relating to said content. In no event will RW have any liability for losses, damage, errors or omissions caused by force majeure including but not limited to RW’s cancellation of an issue of the Magazine, technical issues related to the Website or Channels, or limitations imposed on or faced by the Distributions.

**2) Grant of License Rights.** ADVERTISER hereby grants RW a non-exclusive, transferrable, royalty-free license to use, display, copy, publish, exhibit, broadcast, transmit, modify, communicate, perform and disseminate in the Magazine, through the Website, and in any promotion related thereto, any Content, including any derivative works based on, or compilation including, said Content, for the limited purpose that ADVERTISER submitted the Content to RW. ADVERTISER hereby grants RW the right, in RW’s sole discretion, to process and/or make changes to the Content necessary for publication. ADVERTISER expressly releases RW from any and all liability arising in connection with RW’s authorized use of the Content, including liability arising from any alteration that may occur during processing of the Content.

2.1) Notwithstanding any provision herein to the contrary, RW shall have the right to institute a suit for infringement or other cause of action with respect to the use of the Content by third parties but will have no duty to initiate such suit. ADVERTISER will reasonably cooperate with RW and its counsel in any suspected infringement or suit for infringement, including, but not limited to testifying, and by making available any information or documents when reasonably requested by RW. The provisions of this paragraph shall survive the expiration or termination of this Agreement for any reason.

2.2) RW is not required to pay ADVERTISER any monetary compensation for the license rights that ADVERTISER has granted to RW herein, and ADVERTISER agrees that the publication and display of the Content in the Magazine and on Website constitute adequate and sufficient consideration for the grant of said rights.

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2.3) The duration of the license rights granted herein by ADVERTISER to RW shall be for an unlimited period, except that said license rights may be terminated, at any time, upon three (3) days' written notification of termination given to RW by ADVERTISER. After effective termination of license rights by ADVERTISER, RW can elect to remove any ADVERTISER Content from the Website and the Channels and shall have no responsibility to remove Content from any Magazine. RW shall not be required to return any Content to ADVERTISER.

2.4) All license rights granted to RW herein shall be fully assignable by RW.

**3.) Representations, Warranties & Indemnity of ADVERTISER.** ADVERTISER hereby represents and warrants to RW as follows:

3.1) ADVERTISER has the legal authority to grant to RW any license rights necessary to permit the posting of the Content on the Website, including without limitation, copyright, trademark, trade name releases, moral rights and model releases of all persons appearing in said Content sufficient to permit the legal use of their names and likeness, including waivers of all necessary rights of publicity and privacy.

3.2) ADVERTISER knows of nothing that might interfere with the rights and license ADVERTISER has granted to RW herein or that might prevent the Magazine or Website from freely using the Content as provided in this Agreement.

3.3) The Content is wholly original and has not been copied in whole or in part from any other work, picture or source; the visual images contained in the Content are neither fake nor "stock" photography, and any photograph of a person depicted in the Content is a true and accurate representation.

3.4) All persons depicted in the Content submitted to RW either (a) were adults (as defined in the relevant jurisdiction) at the time that said persons were photographed, or (b) were minors where the consent of each minor's guardian and/or parent is of record in writing.

3.5) No claim has been made against ADVERTISER, and ADVERTISER knows of no potential claim, that the Content infringes the copyrights or trademarks, or otherwise violates the rights, of any person or entity whatsoever; and all copyrightable Content has statutory or common law copyright protection in the U.S. and all countries adhering to the Berne and Universal Copyright Conventions.

3.6) All obligations with respect to the Content, including but not limited to, all salaries, royalties, present and future license fees, service charges and the like, if any, have heretofore been fully paid.

3.7) The Content contains no material that is libelous or otherwise contrary to law.

3.8) If ADVERTISER is conducting a business described or featured in the Content submitted to RW by ADVERTISER or on ADVERTISER's website, said business is lawful in any jurisdiction where it operates and licensed where required.

3.9) ADVERTISER acknowledges ADVERTISER has fully read and understands this Agreement and agrees to all its terms and conditions.

3.10) ADVERTISER shall defend, indemnify and hold harmless RW, its officers and directors, successors, assigns, affiliates and licensees from and against any action, suit, claim, judgments, penalties, losses, damages, costs, charges, including reasonable attorney's fees, and other losses whatsoever resulting from the breach of any warranty, covenant, agreement or a misrepresentation made by ADVERTISER herein or any claim that any of the Content infringes any rights of any third party on account of the use of the Content by RW as contemplated within the scope of this Agreement. ADVERTISER further agrees that ADVERTISER's indemnification obligations, as set forth herein, shall survive the termination of this Agreement.

**4.) Limitation of Liability for Submitted Content.** ADVERTISER agrees RW shall not be liable for the loss or damage to any Content supplied or submitted by ADVERTISER to RW. ADVERTISER expressly acknowledges that ADVERTISER is only supplying copies of the Content to RW.

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**5.) Limitation of Liability.** ADVERTISER understands and agrees that as permitted by applicable law, RW shall not be liable for any damages to ADVERTISER or any person/entity claiming rights derived from ADVERTISER's rights arising out of any services provided by RW, even if RW has been advised, had other reason to know, or in fact knew of the possibility of such damages. ADVERTISER acknowledges this as an informed, voluntary allocation of any risk that may exist in connection with this agreement, that such voluntary risk allocation was a material part of the bargain between the parties, and that the economic terms of this agreement were negotiated and agreed to by the parties in reliance on such voluntary risk allocation. RW's entire liability under any provision of this service agreement shall be limited to a total of no more than ten dollars (\$10.00). Because some states and jurisdictions do not allow the exclusion or limitation of liability, the above limitation may not apply.

**6.) RW Functioning as an Internet Service Provider ("ISP").**

6.1) ADVERTISER agrees that ADVERTISER is solely responsible for any Content submitted by them to RW for publication on the Website.

6.2) For the purposes of any enforcement of rights arising under this Agreement, RW shall be deemed to be an ISP as defined in the Digital Millennium Copyright Act ("DMCA") for all claims arising thereunder. ADVERTISER shall give notice and comply with the notification procedures of the DMCA and agrees RW will benefit from the safe harbor provisions set forth in the DMCA regarding ISPs.

**7.) Miscellaneous Provisions**

7.1) This Agreement contains the entire agreement between ADVERTISER and RW regarding the submission of Content to RW for publication in the Magazine and on the Website. This Agreement supersedes all prior agreements or otherwise and may only be amended upon notice by RW.

7.2) This Agreement shall be interpreted in accordance with the laws of the Commonwealth of Virginia, without regard to the conflict of laws rules thereof. Client consents to personal jurisdiction in the state and federal courts of Virginia.

7.3) ADVERTISER agrees that in case any of the provisions contained in this Agreement shall be held to be unenforceable in any respect, such unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such provision(s) had never been included.

7.4) Signatory for Advertiser has the right and ability to bind Advertiser to this Agreement.

7.5) ADVERTISER agrees that this Agreement shall be deemed to have been drafted by both ADVERTISER and RW. Any and all ambiguities and/or inconsistencies shall not be construed in favor of or against either party hereto.

7.6) Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled to recover, as an element of such party's costs, and not as damages, all reasonable costs and expenses incurred or sustained by such prevailing party in connections with such actions, including without limitation, legal fees and costs.

7.7) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Agreement may be executed in one or more counterpart copies. Each counterpart copy shall constitute an agreement and all of the counterpart copies shall constitute one fully executed agreement. This Agreement may be executed on facsimile counterparts. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.