

## PHOTOGRAPHER ACCESS AND USE AGREEMENT

StudioPlus Software, LLC. ("StudioPlus") operates these Sites (StudioPlusSoftware.com and MyStudioPlus.com) "The Site", to provide online access to information about StudioPlus Software, LLC and the products, services, and opportunities we provide and to provide online proofing and ordering services for our photographers (the "Service"). By accessing and using this Site, You ("You" or "User") agree to each of the terms and conditions set forth herein ("Terms of Use"). Additional terms and conditions applicable to specific areas of this Site or to particular content or transactions are also posted in particular areas of the Site and, together with these Terms of Use, govern your use of those areas, content or transactions. These Terms of Use incorporate by reference the StudioPlus Privacy Statement ("Privacy Statement"). These Terms of Use, together with applicable additional terms and conditions, are referred to as this "Agreement." You must be at least 18 years of age to use this Web site. By using our Web site, you certify that you are at least 18 years of age and that you agree to be bound by these terms and conditions of use. and you certify that your use of this site is not in violation of any applicable Federal, State, or local law or ordinance. If you do not agree to be bound by these terms of use or if you are not at least 18 years of age, please immediately exit the site.

**In consideration of StudioPlus providing you with the site services, you agree to comply with these Terms of Use for the site services (the "TOU").** If you do not agree to the terms and conditions contained in the TOU, we do not consent to provide you with access to the site services.

You are granted a revocable license to use the Site and its affiliated services according to the terms and conditions contained herein.

StudioPlus reserves the right to modify this Agreement at any time without prior notice. Your use of the Site following any such modification constitutes your agreement to follow and be bound by the Agreement as modified. The last date these Terms of Use were revised is set forth below.

**Photographers and Users:** You may not print, republish, upload, post, transmit or distribute content available through the site to online bulletin boards, message boards, newsgroups, chat rooms, or in other any manner without our prior written permission. Except for normal use by registered photographers who are paying to use the site, modification of the content or use of the content for any purpose, other than your own personal, noncommercial use is a violation of our copyright and other proprietary rights, and can subject you to legal liability.

You may not post or obtain any content using the web site which: is threatening, obscene, pornographic or profane, or any other material that could give rise to any civil or criminal liability under applicable law. While StudioPlus Software, LLC does not and cannot review all content provided to it, and is not responsible for such content, StudioPlus Software, LLC reserves the right to delete, edit or rearrange content that it, in its sole discretion, deems abusive, defamatory, obscene or in violation of copyright or trademark laws or otherwise unacceptable, without notice or compensation or liability. You acknowledge that any content may be removed, published, copied, modified, transmitted and displayed by StudioPlus Software, LLC. for the purposes of delivering the offered services. StudioPlus Software, LLC will not be liable for any content provided to it, including the photographs and any content added by account holders.

In addition, in connection with your use of the site services, you agree not to:  
Restrict or inhibit any other visitor from using the site services, including, without limitation, by means of "hacking" or defacing any portion of any of our web sites;

- Use the site services for any unlawful purpose;
- Express or imply that any statements you make are endorsed by us, without our prior written consent;
- Modify, adapt, sublicense, translate, sell, reverse engineer, decompile or disassemble any portion of the Site services or any of our web sites;
- "Frame" or "mirror" any content available through the site services or any of our web sites without our prior written authorization;

- Use any robot, spider, site search/retrieval application, or other manual or automatic device or process to download, retrieve, index, "data mine," or in any way reproduce or circumvent the navigational structure or presentation of the content available through the site services or any of our web sites; or
- Harvest or collect information about users of the site services without their express consent.

You further agree that at no time will you, directly or indirectly, engage in, assist, abet, encourage, facilitate or approve the following:

- Upload files that contain viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software or programs that may damage the operation of another's computer or property of another.
- Download any file posted by any photographer that you know, or reasonably should know, cannot be legally reproduced, displayed, performed, and/or distributed in such manner.
- Falsify or delete any copyright management information, such as author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is uploaded.
- Restrict or inhibit any other user from using and enjoying the site services.
- Violate any code of conduct or other guidelines or applicable laws or regulations.
- Create a false identity for the purpose of misleading others.
- Use, download or otherwise copy, or provide (whether or not for a fee) to a person or entity any directory of users of the Services or other user or usage information or any portion thereof.

While StudioPlus Software, LLC uses reasonable efforts to ensure compliance with applicable laws relating to rights of privacy or publicity, including the use of subject releases when necessary and requiring the photographers to screen the photographs posted on the web site, it makes no representations or warranties as to the accuracy, correctness or reliability of the photographs, nor can StudioPlus Software, LLC ensure that all persons depicted in the photographs have consented to the display of their image on this web site. If your photograph appears on this web site without your consent and you wish to have it removed, please copy the thumbnail image and e-mail it to [Info@StudioPlusSoftware.com](mailto:Info@StudioPlusSoftware.com) with your reason why you would like it removed.

You also agree to comply with all applicable laws, rules and regulations in connection with your use of the Site services and the content made available therein.

1. The User may use the Service, the Site, and the information, writings, images and/or other works that you see, hear or otherwise experience on the Site (singly or collectively, the "Content") solely for your non-commercial, personal purposes and/or to learn about StudioPlus products and services. No right, title or interest in any Content is transferred to you, whether as a result of downloading such Content or otherwise. StudioPlus reserves complete title and full intellectual property rights in all Content. Except as expressly authorized by this Agreement, you may not use, alter, copy, distribute, transmit, or derive another work from any Content obtained from the Site or the Service, except as expressly permitted by the Terms of Use.

You are solely responsible for all content you post on or submit to any forums or message board contained on the site. You are aware and acknowledge that StudioPlus Software, LLC has no obligation to monitor any forum or message board and you are not relying upon StudioPlus Software, LLC to monitor the forums or message board. Furthermore, neither StudioPlus Software, LLC nor the photographers are responsible or liable to any person or entity whatsoever (including, without limitation, persons who may use or rely on such data or materials or to whom such data or materials may be furnished) for any loss, damage (whether actual, consequential, punitive or otherwise), injury, claim, liability or other cause of any kind or character whatsoever based upon or resulting from any information or opinions provided in or through StudioPlus Software, LLC. Any forum or message board shall be used only in a noncommercial manner.

2. StudioPlus hereby claims all right, title and interest in the Content and this Site and its affiliated Trademark, Tradename, Domain Name and the Content herein as protected by U.S. and/or Foreign copyright, trademark, and other intellectual property laws, and belong to StudioPlus or its partners, affiliates, contributors or third parties. The copyrights in the Content are owned by StudioPlus or other copyright owners who have authorized their use on the Site. You acknowledge that you do not acquire any ownership rights by using the site services.

You may not manipulate or alter in any way images or other Content on the Site without specific permission from StudioPlus or the copyright owner. You are specifically prohibited from using any of the marks or logos appearing throughout the Site without permission from the trademark owner, except as permitted by applicable law. You are not permitted to print any images or content from the site.

"StudioPlusSoftware.com", "MyStudioPlus.com", the StudioPlus Logo the MyStudioPlus.com Logo, and other marks are trademarks and/or service marks of StudioPlus Software, LLC. All other trademarks, service marks, and logos used on our web sites are the trademarks, service marks, or logos of their respective owners.

3. Links on the Site to third party web sites or information are provided solely as a convenience to you. If you use these links, you will leave the Site. Such links do not constitute or imply an endorsement, sponsorship, or recommendation by StudioPlus of the third party, the third-party web site, or the information contained therein. StudioPlus is not responsible for the availability of any such web sites. StudioPlus is not responsible or liable for any such web site or the content thereon. If you use the links to the web sites of StudioPlus affiliates or service providers, you will leave the Site, and will be subject to the terms of use and privacy policy applicable to those web sites.

4. Any software available for download via the Site is the copyrighted work of StudioPlus and/or its licensors. Use of such software is governed by the terms of the end user license agreement that accompanies or is included with the software. Downloading, installing, and/or using any such software indicates your acceptance of the terms of the end user license agreement. StudioPlus is not responsible nor liable for any use or installation of such software.

5. StudioPlus is not responsible for any damage or inability to contact the Site or the Service. StudioPlus uses reasonable means to ensure that the Service is available 24 hours a day 7 days a week. However, there will be occasions when the Service will be interrupted for maintenance, upgrades and emergency repairs or due to failure of telecommunications links and equipment that are beyond the control of StudioPlus. You agree that StudioPlus shall not be liable to you for any modification, suspension or discontinuance of the Service.

6. Photographers give permission to StudioPlus to create personal, password protected websites ("Consumer Sites") for the clients and customers of the Photographer for the purpose of viewing, emailing, and purchasing posted photographs. StudioPlus will host and maintain said Consumer Sites containing images ("Images") from the clients' session. You understand that StudioPlus is not responsible for allowing access to your Customer Sites beyond the express written terms contained herein.

7. All of the photographs featured on our Consumer Sites were created by photographers who have allowed StudioPlus to exhibit them for sale and distribution. The copyrights in the photographs are owned by the photographers thereof who have licensed to StudioPlus the right to post them on the site and provide the services offered. While StudioPlus provides the opportunity for customers to purchase photographs ("Product") from the Photographer, StudioPlus does not make any sale to customers and is not acting as a sale agent of Photographer. NOTE THAT STUDIOPLUS IS ACTING MERELY FOR TRANSACTIONAL PURPOSES AND DOES NOT COLLECT MONEY FROM CUSTOMERS OR HANDLE ORDERS FOR PHOTOGRAPHER. StudioPlus merely forwards Customer orders to Photographer or a third-party designate of Photographer for the Photographer's benefit and convenience. At no time does StudioPlus or any of its agents or assigns ever handle, collect or process any part of the Product; and Customers agree not to hold StudioPlus liable for any faults, damages, or issues regarding the Product.

8. If you register to become a StudioPlus or MyStudioPlus member, you are responsible for maintaining the confidentiality of your member identification and password information, and for restricting access to your computer. You agree to accept responsibility for all activities that occur under your member identification and password and to hold StudioPlus harmless for any unauthorized use. In order to visit and gain access to the site services, you must use your email address to log in to any of our event or portrait sites. As a photographer, photo lab, or other partner, you need to register with MyStudioPlus.com by supplying us with true, accurate, current and complete information about yourself, as required on the registration page. If the information you provide is untrue, inaccurate, incomplete or outdated, or we have reasonable grounds to suspect it is, we reserve the right to suspend or terminate your privileges without notice to you, and to prohibit your current or future use of the site services. Our policy with respect to the collection and use of your personal information is set forth in our Privacy Policy.

As a visitor to our site, and by providing your e-mail address, you give StudioPlus permission to contact you, via email, with information you requested, with information on how to access your session to view and purchase photographs, and on specials and future promotions from StudioPlus and its partners, unless you notify us otherwise. Additionally, by providing your e-mail address, you certify that you are 18 years of age or older.

9. You, the User, and all Photographers are responsible for all of the images uploaded, shared or copied when using the Site and therefore you must have the legal right to copy and display each image that you upload. StudioPlus does not allow photographers to upload and/or post any material that is obscene, offensive, blasphemous, pornographic, threatening, menacing, abusive, harmful, an invasion of privacy or publicity rights, defamatory, libelous, vulgar, illegal or otherwise objectionable. Any image that violates child pornography laws, child sexual exploitation laws and laws prohibiting the depiction of minors engaged in sexual conduct will be removed and the proper authorities will be contacted. StudioPlus does not actively monitor the content of members' accounts, however, StudioPlus reserves the right to remove without notice any image, material or content that StudioPlus deems, in its sole discretion, to be in violation of any of the above-mentioned standards.

10. Photographers are obligated to give 30 days notice to cancel a "Plan" subscription. There are absolutely no refunds for unused months or partial months of use. In the event StudioPlus discovers that any credit card or bank account information provided is invalid, StudioPlus reserves the right to suspend access to admin area and remove any consumer sites or images connected with the invalid credit card.

11. StudioPlus has a no refund policy. Once an order is placed through the MyStudioPlus site, the purchaser agrees that all sales are final.

12. StudioPlus may prepare images for display on the Internet by slightly reducing the resolution of images and digitally placing an indelible "Proof" mark on the images indicating to the viewer that the photograph is copyrighted material. StudioPlus is not responsible for any user's reverse editing of such image nor use therefrom. Users are hereinafter specifically prohibited from any such use or editing.

13. StudioPlus will display the Photographer's contact information on each consumer website for the purpose of allowing those who visit each site to contact the Photographer. If requested by photographer, StudioPlus will create a link to Photographer's email and/or website which will directly link back to the Photographer's studio website.

14. Photographer and StudioPlus acknowledge and agree that they are dealing with each other as independent contractors. This Agreement shall not constitute a partnership, joint venture or agency between Photographer and StudioPlus, nor shall either of the parties hold itself out as such contrary to the terms hereof, nor shall either of the parties be bound or become liable because of any representation, action or omission of the other.

15. Photographer is responsible for ensuring that StudioPlus has Photographer's current fee schedule for all products and services on sites. StudioPlus will give photographers the ability to create an unlimited number of price lists for various types of sessions. Photographer is responsible for maintaining these

price lists through the admin area. StudioPlus will allow those who visit these sites to purchase reprints and enlargements directly from the consumer site using their credit card.

16. StudioPlus will provide a system to Photographer whereby StudioPlus will forward orders of the Product by Customers to Photographer or its third-party designate for processing and fulfillment. StudioPlus shall collect a fee, billed in regular intervals, for its service according to your Contract for Use. At no time is StudioPlus ever acting as an agent for Photographer and is not responsible for the collection of or withholding of any tax or applicable governmental fee on behalf of Photographer. You acknowledge that You, or Your designee, are fulfilling orders forwarded to you through StudioPlus and You shall not hold StudioPlus liable for any damages caused by any order fulfillment. You further agree to indemnify StudioPlus for any expenses as a result of any Customer alleging liability against StudioPlus because of any order fulfillment issue.

17. In the event of any damages or errors that delay fulfillment of any order or request, StudioPlus' liability is limited to the fees that it is owed for that order less any costs incurred by StudioPlus in the processing of that order.

Photographer is responsible for fulfilling all orders in a professional and timely manner. In no event will StudioPlus be liable for any damages whatsoever, including, but not limited to any direct, incidental, consequential, special, exemplary or other indirect damages arising out of (i) the use of or inability to use the site, the service, or the content, (ii) any transaction conducted through or facilitated by the site; (iii) any claim attributable to errors, omissions, or other inaccuracies in the site, the service and/or the content, (iv) unauthorized access to or alteration of your transmissions or data, or (v) any other matter relating to the site, the service, or the content, even if StudioPlus has been advised of the possibility of such damages. If you are dissatisfied with the site, the service, the content, or with the terms of use, your sole and exclusive remedy is to discontinue using the site.

Because some states do not allow the exclusion or limitation of liability for consequential or incidental damages, some of the above limitations may not apply to you. **STUDIOPLUS EXPRESSLY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE GREATEST EXTENT PERMITTED BY LAW. NEITHERSTUDIOPLUSSOFTWARE LLC NOR ITS AFFILIATES, SUPPLIERS, ADVERTISERS, OR AGENTS OR SPONSORS ARE RESPONSIBLE OR LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER DAMAGES UNDER ANY CONTRACT, NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY ARISING OUT OF OR RELATING IN ANY WAY TO THE SITE SERVICES AND/OR ANY CONTENT CONTAINED THEREIN, OR ANY PRODUCT OR SERVICE USED OR PURCHASED THROUGH THE SITE. YOUR SOLE REMEDY FOR DISSATISFACTION WITH THE SITE SERVICES IS TO STOP USING IT. THE SOLE AND EXCLUSIVE MAXIMUM LIABILITY TO COMPANY FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR OTHERWISE) SHALL BE THE LESSER OF THE TOTAL AMOUNT PAID TO US BY YOU, IF ANY, FOR ACCESS TO THE SITE SERVICES, OR \$100.**

18. You understand and agree that you are personally responsible for your behavior on the Site. You agree to indemnify, defend and hold harmless StudioPlus, its parent companies, subsidiaries, affiliated companies, joint ventures, business partners, licensors, employees, agents, and any third-party information providers to the Service from and against all claims, losses, expenses, damages and costs (including, but not limited to, direct, incidental, consequential, exemplary and indirect damages), and reasonable attorneys' fees, resulting from or arising out of your use, misuse, or inability to use the Site, the Service, or the Content, or any violation by you of this Agreement.

19. Completing the signup or login process obligates photographer to the terms and conditions of this agreement. Access to continued posting services with StudioPlus assumes continued compliance with this agreement.

20. StudioPlus and Photographer further agree that, after a customer places an order via the Internet, StudioPlus will forward the Order to Photographer or its approved third-party designate and Customer will

directly purchase "The "Product" (photographs featured on our Consumer Sites in the form of photographic prints or other goods) from Photographer and direct the Photographer to ship the product, via common carrier, to the customer..

21. Entire Agreement/No Waiver. These Terms of Use constitute the entire agreement of the parties with respect to the subject matter hereof. No waiver by StudioPlus of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default.

22. Enforcement/ Choice of Law/ Choice of Forum. If any part of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, it will not impact any other provision of this Agreement, all of which will remain in full force and effect. Any and all disputes relating to this Agreement, your use of the Site, any other StudioPlus web site, the Service, or the Content are governed by, and will be interpreted in accordance with, the laws of the State of Minnesota, without regard to any conflict of laws provisions.

23. Changes to Services. StudioPlus Software LLC may at any time, and with no notice or with reasonable notice, change the site services, including eliminating or discontinuing any content or feature of the site services; or impose fees, charges or other conditions for use of the site services. User acknowledges that such may change and shall not rely on StudioPlus Software, LLC for any service or feature or price. User acknowledges that such may change and shall not rely on StudioPlus Software, LLC for any service or feature or price. If any of the terms contained in the TOU become unacceptable to you in the future, you may cancel your photographer membership by notifying our Customer Service Department by email at [info@StudioPlusSoftware.com](mailto:info@StudioPlusSoftware.com).

24. Inaccuracies. A possibility exists that content available through the Site services could include inaccuracies or errors, or materials that violate the TOU. Additionally, a possibility exists that unauthorized alterations could be made to the content available through the Site services by third parties. Although we attempt to ensure the integrity of our web sites and other products and services, we make no guarantees as to the completeness or correctness of any content available through the Site services. In the event that such a situation arises, please contact us at [info@StudioPlusSoftware.com](mailto:info@StudioPlusSoftware.com) with, if possible, a description of the material to be checked and the location (URL) where such material can be found on our web sites, if applicable, as well as information sufficient to enable us to contact you. We will try to address your concerns as soon as reasonably practicable.

25. You understand and agree that StudioPlus may, under certain circumstances and without prior notice to you, terminate your access to and use of the site services. Cause for such termination may include, but not be limited to, (i) breaches or violations of the TOU or other agreements or guidelines, (ii) requests by law enforcement or other government or regulatory authorities, or (iii) technical difficulties.

26. The Service is directed solely to individuals residing in the United States or the United Kingdom or applicable U.K. Commonwealth member. We make no representation that materials provided through the Service are appropriate or available for use in other locations. Those who choose to access the Service from other locations do so on their own initiative and at their own risk, and are responsible for compliance with local laws, if and to the extent applicable. We reserve the right to limit the availability of the Service to any person, geographic area, or jurisdiction we so desire, at any time and in our sole discretion, and to limit the quantities of any such service or product that we provide.

27. By Your use of this site and its affiliated services, You agree to be bound by the Client Access and Use agreement to the extent it does not conflict with this Agreement.

Last Revised: Aug 3, 2009