

**ZIVITY, LLC
MASTER MODEL RELEASE**

Model's legal name: _____

Model's Zivity alias: _____

Any other names or aliases ever used: _____

Address: _____ **Email:** _____
_____ **Phone:** _____

Initial Photo Shoot Date*: Month/Day/Year _____ **Location:** City, State _____

Photographer's legal name: _____

Photographer's Zivity alias: _____

You, as the Model identified above, and Zivity, LLC ("Zivity"), agree as to the following terms and conditions regarding the photographs taken during the Initial Photo Shoot referenced above.

Photographs Covered: Photographs taken by Photographer during this Initial Photo Shoot and approved by You. These photographs are referred to as the "Zivity Photographs."

Additional Zivity Photographs: Additional photographs featuring You may be submitted to Zivity in the future. In this event, You may approve additional photographs pursuant to Zivity's online approval process. If you so approve, then each photograph approved by you through such online process that is published or publicly displayed by Zivity shall be deemed a Zivity Photograph under the terms and conditions of our Agreement.

Term: The term of the approval for each Zivity Photograph shall be for an initial two-year term from the date of publication of such Zivity Photograph, and will be extended for additional, successive two-year terms unless you elect to terminate such approval as to an upcoming two-year term as provided in Exhibit A.

Compensation: Sixty percent (60%) of the value of the "User Votes" allocated to the Zivity Photographs through zivity.com (or any successor website) during the two-year term of this Agreement. "User Votes" are defined in the Additional Terms and Conditions.

Payment: Payments shall be made within two-hundred-thirty (230) calendar days after the end of the calendar quarter in which the value of the User Votes is allocated to a Zivity Photograph. For example, if the value of the User Votes is allocated in June 2008, You will receive Your payment no later than February 15, 2009. This waiting period reduces the risk of credit card fraud.

Additional Terms and Conditions: The Additional Terms and Conditions attached as Exhibit A are part of our Agreement and go into more detail. You should therefore review them carefully.

Model	ZIVITY, LLC
Sign legal name: _____	By: _____
Print legal name: _____	Name: _____
	Title: _____

Zivity Agreement Tracking No. _____

***In the event that the Initial Photo Shoot takes place at a different date and/or location than listed above, You shall promptly notify Zivity of the actual date and location at Zivity's email address listed below.**

Zivity, LLC
660 4th St. #473
San Francisco, CA 94107
photography@zivity.com
Fax: 415-541-7859

EXHIBIT A
ADDITIONAL TERMS AND CONDITIONS

1. **Release.** Subject to the terms and conditions of this Agreement, You hereby give to Zivity and Zivity's legal representatives, licensees and assigns, and those acting with their authority and permission, the unrestricted right and permission to copyright and use, re-use, publish, and republish the Zivity Photographs in which You may be included intact or in part, and in which You may be nude or semi-nude, composite or distorted in character or form, without restriction as to changes or transformations in conjunction with my own or a fictitious name, or reproduction thereof in color or otherwise, made through any and all media now or hereafter known for illustration, art, promotion, advertising, trade, or any other purpose whatsoever, including, without limitation, merchandising. You specifically are not granting any right or permission pursuant to this Agreement to photographic portraits or pictures taken by the Photographer other than the Zivity Photographs, whether or not taken during the Photo Shoot. Any such right or permission must be the subject of a separate release or written approval. At the end of each two-year term during which you have granted the rights to a Zivity Photograph (whether the initial term or any subsequent term), You may elect to not renew the grant of such rights for a subsequent two-year term through Zivity's then-current non-renewal process between 10 and 90 days prior to the expiration of such term. If You do not so provide notice, then the grant of rights to such Zivity Photograph pursuant to this Agreement shall automatically be renewed for another two-year term. Regardless of whether the term during which You have granted the rights to a Zivity Photograph has expired, if a user has given a User Vote for a Zivity Photograph, such user can continue to view such Zivity Photograph in perpetuity after the expiration of the term. Expiration of the term of during which You have granted rights to a particular Zivity Photograph shall not affect the term of any other Zivity Photograph.

You understand that the decision by Zivity as to whether to use or display a photograph after Your approval is within Zivity's sole discretion, and after approval by You, You hereby relinquish any right that You may have with respect to Zivity's use of the Zivity Photographs pursuant to the terms of this Release, including any written copy, images or other content that may be used in conjunction therewith. Under no circumstances will You be entitled to seek to enjoin the reproduction, distribution or exploitation of any Zivity Photograph that has previously been approved by You, for any reason.

You hereby release, discharge and agree to save harmless Zivity and Zivity's legal representatives, licensees and assigns, and all persons functioning under their permission or authority, from any liability by virtue of any blurring, distortion, alteration, optical illusion, or use in composite form whether intentional or otherwise, that may occur or be produced in the taking of said pictures or in any subsequent processing thereof, as well as any publication thereof, including without limitation any claims for libel or invasion of privacy.

2. **Use of Name.** You also permit the use by Zivity and Zivity's legal representatives, licensees and assigns, and those acting with their authority and permission, at these parties' discretion, of the following: Your name, the Zivity alias You provided above, Your likeness, and Your biographical information, for use in connection with the Zivity Photographs, and any printed material and merchandising related to the Zivity Photographs. Notwithstanding the foregoing, Zivity (i) shall not use Your real name in connection with its use of the Zivity Photographs, and (b) shall prohibit its licensees from using Your real name, unless in either case You have given Your prior written consent.

3. **User Votes.** "User Votes" means the system by which users or members of, or visitors to, zivity.com, specifically acknowledge a Zivity Photograph or Photo Set, with value associated with such acknowledgement. "Photo Set" shall mean a grouping of one or more Zivity Photographs taken during the Photo Shoot listed above that are thematically-related based on the aesthetic elements of the Zivity Photographs (e.g. costume, hair style, setting), as determined in the good faith judgment of Zivity. The use of the term "User Votes" shall also refer to any successor or replacement program to the user vote system defined above, regardless of the terminology employed. You agree that zivity.com contains the current description of the "user vote" system, which is hereby incorporated by reference and which the operators of zivity.com may modify at any time in their reasonable discretion.

4. **Payment Details.** Payment shall be made to the same address used for notice purposes below and shall be deemed made under the same provisions as when notice is deemed delivered. Prior to receipt of payment, You must complete, execute and return to Zivity either [IRS Form W-9](#) (for U.S. persons) or [IRS Form W-8BEN](#) (for non-U.S. persons). See the instructions to these forms to determine the applicable form. If you have any questions, please consult a tax professional. You agree that, other than as expressly set forth in this Agreement, You shall receive no compensation for use, by Zivity or its licensees, of the Zivity Photographs or of Your name as set forth above. Zivity's payment obligation under this Agreement shall also terminate prior to the expiration of the term for each Zivity Photograph upon Your death.

You understand that in addition to the percentage of the value of the User Votes allocated to You, a portion of the value of the User Votes is being allocated to the Photographer and any other model(s) ("Other Models") portrayed within a Zivity Photograph.

5. **Payment Exceptions.** You shall not engage in actions designed to improperly generate User Votes. The determination of whether actions are improper shall be as determined in the reasonable good faith judgment of Zivity. Zivity will have no obligation to pay, may deduct or withhold from any future payments, and may seek as compensation from You, any amounts determined to have resulted from actions designed to improperly generate User Votes. In addition, Zivity will have no obligation to pay, may deduct or withhold from any future payments, and may seek as compensation from You, any amounts that Zivity must refund due to credit card chargebacks or other reasons. This is in addition to any remedies that Zivity may have, including termination.

6. **Warranties.** You hereby warrant and represent that:

- (a) You have the authority and right to provide Zivity with the rights granted herein.
- (b) You were nineteen (19) years of age or older at the time the Zivity Photographs were taken.
- (c) Neither Zivity nor its licensees shall be required to make any payments to third parties in connection with exploitation of the Zivity Photographs, other than to the Photographer and Other Model(s), if any.
- (d) You are the person (or one of the persons) featured in the Zivity Photograph(s).
- (e) You agree to provide any documentation required by Zivity to document Your true identity and age at the time the Zivity Photographs were taken, including, without limitation, a government-issued photo ID and any pseudonym You ever used.

7. **Other Agreements with Photographer.** You understand that any other agreement You may have with the Photographer extends beyond the control of Zivity, and that Zivity does not have any responsibility for whatever other agreements You have with the Photographer or Other Models, whether with respect to the Zivity Photographs or otherwise.

8. ZIVITY SHALL NOT BE LIABLE FOR ANY DIRECT, INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR PUNITIVE DAMAGES ARISING OUT OF OR CONNECTED WITH THE SUBJECT MATTER OF THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, ZIVITY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR OTHERWISE WHICH WOULD EXTEND BEYOND THE EXPRESS REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS AGREEMENT. IN NO EVENT SHALL ZIVITY'S AGGREGATE LIABILITY UNDER THIS AGREEMENT FOR ANY CLAIM EXCEED THE AMOUNT OF MONEY PAID TO YOU BY ZIVITY.

9. **Miscellaneous.** Notices shall be made first to the email address listed above as to each party, and shall be deemed delivered upon delivery to the email address listed above, unless the party sending notice is unable to deliver to such email address two (2) consecutive times, in which notice must be made to the postal address listed below such party's name, which shall be deemed delivered with proof of delivery to such postal address. The provisions of this Agreement that are intended to survive pursuant to their

context shall survive termination or expiration of this Agreement for any reason. In the event that any provision of this Agreement shall be determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. Under no circumstances will You be entitled to seek to enjoin the reproduction, distribution or exploitation of any Zivity Photograph, for any reason, it being understood that Your sole remedy shall be the right to recover damages with respect to any such breach. No changes or modifications or waivers to this Agreement will be effective unless in writing and signed by both parties. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflicts of law provisions thereof. The sole jurisdiction and venue for actions related to the subject matter hereof shall be the California state and U.S. federal courts located in San Francisco County, and both parties hereby consent to such jurisdiction and venue. In any action to enforce rights or obligations under this Agreement, the prevailing party shall be entitled to recover costs and attorneys' fees. Zivity may assign this Agreement, in whole or in part, to any third party. You may not assign this Agreement to any third party without the prior written consent of Zivity. Any assignment in violation of the foregoing shall be void.