



## CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Confidentiality and Nondisclosure Agreement (the "Agreement") is made and entered into effective as of 5/30/2018, (the "Effective Date"), by and between the Geneva National Resort & Club, 1221 Geneva National Avenue South, Lake Geneva, WI 53147 ("Club") and **Universal Photographic Services, LLC dba EA Photography**, a business organized under the laws of the State of California with an address at 3186 E. La Palma Ave, Anaheim, CA 92806 ("EA Photography").

**WHEREAS**, Geneva National Resort & Club and EA Photography may learn certain trade secrets, confidential information, data, knowledge and know-how of and regarding each other in connection with a contemplated business relationship between the parties.

**WHEREAS**, both parties are willing to consider pursuing such business relationship, but only upon the other's agreement to the provisions set forth below, and each is willing and able to enter into this Agreement.

**NOW THEREFORE**, in consideration of the foregoing premises and based on the mutuality of the obligations incurred by each party, the parties hereto agree as follows:

### 1 CONFIDENTIALITY

The parties to this Agreement acknowledge that each may from time to time acquire information about the other, its business activities and operations, its technical information and its trade secrets, whether or not reduced to writing, all of which are proprietary and confidential (the "Confidential Information"). Each party hereby agrees that: (a) all Confidential Information remains the exclusive property of the disclosing party; (b) it shall maintain and cause its employees to maintain (and not to otherwise copy, publish, disclose or use other than as contemplated under this Agreement), the confidentiality and secrecy of the disclosing party's Confidential Information; and (c) it shall return or destroy all copies of the disclosing party's Confidential Information upon request. Confidential Information shall not include information to the extent it: (i) is or becomes a part of the public domain through no act or omission on the part of the receiving party; (ii) is disclosed to third parties by the disclosing party without restriction on such third parties; (iii) is in the receiving party's possession, without knowledge of an obligation of confidentiality; or (iv) is independently developed by the receiving party without reference to the disclosing party's Confidential Information. The party claiming any of the above exceptions has the burden of proving its applicability.

### 2 FURTHER ASSURANCE

Without limiting the generality of the foregoing, the parties shall only disclose the other's Confidential Information to those of its employees who are bound by similar confidentiality provisions as contained herein and who have a need to know of such information in order for their performance in furtherance of this Agreement and the business relationship between the parties. All Confidential Information shall not be used by the receiving party for its own benefit or purposes or for the benefit or purposes of any other third person or entity without first obtaining written consent from the disclosing party. Neither party will remove or deface any notice of copyright, trademark, logo or other proprietary notice of the disclosing party appearing on any original or copy of the disclosing party's Confidential Information.



### **3 LIMITATIONS OF USE**

Neither party may use the other party's Confidential Information for competing with the other party or for any other purpose not in furtherance of the business relationship between them. Copies of the other party's Confidential Information shall be limited to the number reasonably required in furtherance of this Agreement.

### **4 INJUNCTIVE RELIEF; HONORABLE UNDERTAKING**

Each party acknowledges that the foregoing covenants are reasonable and necessary to protect the disclosing party and its business. If either party engages in any activity in violation of the provisions hereof, it being understood that the disclosing party will be irreparably harmed and have no adequate remedy in money or damages, the disclosing party shall, in addition to any other remedies available to it, be entitled to an injunction, without bond, by any competent court of equity enjoining and restraining the violating party from continuance of such activity. Additionally, if either party engages in any activity in violation of the provisions of this Agreement, that violating party agrees to indemnify and hold harmless the other party from any and all losses, and/or expenses incurred by the other party as a result of such violation. Waiver by the other party of the breach of any provision hereof by a violating party shall not operate or be construed as a waiver of any subsequent breach by the violating party. This Agreement shall be considered an honorable undertaking by both parties and shall be construed liberally for the purpose of giving effect to each party's intention of protecting each other's Confidential Information.

### **5 OBLIGATED DISCLOSURE**

If the receiving party becomes legally obligated to disclose any of disclosing party's Confidential Information, the receiving party subject to the obligation shall promptly notify the disclosing party in writing and shall cooperate with the disclosing party at the disclosing party's expense in seeking a protective order or other appropriate remedy.

### **6 INFORMATION "AS IS"**

Each party is disclosing Confidential Information solely on an "AS IS" basis, with no warranties, under this Agreement. The disclosing party will not be liable for any damages arising out of the use of Confidential Information disclosed hereunder.

### **7 CONFIDENTIAL INFORMATION IS PROPERTY**

The disclosing party's Confidential Information shall remain its own property. No license of any trade secrets, copyrights, or any other right is granted by this Agreement or by any disclosure of Confidential Information hereunder. Upon the request of the disclosing party, the receiving party shall return all the disclosing party's Confidential Information or destroy it and provide the disclosing party with written certification of such destruction, except for archival and backup copies that are not readily available for use and business records required by law to be retained.

### **8 EA PHOTOGRAPHY DEFINED**

EA Photography shall be further defined to include all its subsidiaries, whether direct or indirect, and all other of its related or affiliated employees.

### **9 MODIFICATION OF AGREEMENT**

This Agreement shall not be modified, except in writing signed by both parties hereto.



**10 ELECTRONIC SIGNATURES**

The parties agree that transmission to the other party of this Agreement with its facsimile or other electronic signature shall suffice to bind the party transmitting this Agreement in the same manner as if such party's original signature had been delivered.

**11 GOVERNING LAW**

Any and all disputes between the parties to this Agreement, whether arising from the Agreement itself or arising from facts in any way relating to this Agreement, shall be governed by, construed under and enforced in accordance with the laws of the State of California without regard to its choice of law principles. Any action brought between the parties related to or arising from this Agreement will be resolved in the federal and state courts located in the State of California and the parties consent to the exclusive jurisdiction in these courts.

**IN WITNESS WHEREOF**, the undersigned, intending to be legally bound has duly executed this Agreement by their respective duly authorized representatives effective as of the date first written above.

**Universal Photographic Services, LLC  
dba EA Photography**

_____ Signature	_____ Signature
_____ Type or Print Name	John Harvey _____ Name
_____ Title	Business Development _____ Title 05/30/2018
_____ Date	_____ Date