

2022 EMPIRE STATE BUILDING PHOTO CONTEST OFFICIAL RULES (“Rules”)

THERE IS NO PURCHASE NECESSARY TO ENTER OR WIN. A PURCHASE OR PAYMENT WILL NOT IMPROVE ONE’S CHANCES OF WINNING.

1. SPONSOR: ESRT Empire State Building, L.L.C. (“**Sponsor**”), with an address at 111 West 33rd Street, New York City, New York, 10120, USA, is the sponsor and coordinator of this skill-based contest (“**Contest**”).

2. ELIGIBILITY: The Contest is open to legal residents who are, as of date of entry, 18 years of age or older (except Alabama and Nebraska, 19, and Mississippi, 21), and physically located within, the United States and the District of Columbia excluding California (collectively referred to hereafter as “Contestant” or “Contestants”).

Contestants may not have any contractual relationships, such as, but not limited to working as an exclusive photographer for a specific entity, which could interfere with or prohibit them from entering and fully participating in the Contest. The Sponsor retains the right to determine in its sole discretion if an existing agreement represents a conflict.

Excluded from eligibility to participate or win a prize are: employees, officers, directors, and agents of Sponsor, and its respective parent companies, subsidiaries, affiliates, owners, tenants and advertising/promotion agencies (collectively, “**Entities**”); the immediate family members (spouse, parent, child, sibling and their respective spouses, regardless of where they reside) of employees, officers, directors and agents of the Entities, and those living in the same household of each, whether or not related, are excluded from eligibility, all other than where prohibited or restricted by law or regulation.

This Contest is subject to all applicable federal, state, and local laws and regulations. Void in California and where prohibited by law. All federal, state, provincial or local taxes and regulations apply.

Sponsor reserves the right to require any Contestant (defined below in Section 3) to provide evidence of eligibility to Sponsor’s reasonable satisfaction. By entering the Contest, Contestants agree to have their Entries published in the gallery page (“**Gallery**”) of the Contest website located at www.esbphotocontest.com (“**Contest Website**”), and if your Entry is deemed a Finalist (as defined below in Section 3), you agree that you are willing for the Entry to be shown on the Sponsor’s and its affiliate Entities’ websites (including the Contest Website and www.esbnyc.com (“**ESB Website**”), and social media pages (including without limitation Instagram and Twitter), in the windows within the Empire State Building’s Fifth Avenue lobby and in other locations within the Empire State Building as decided solely in the discretion of Sponsor, and marketing materials for promotional use during and/or

following the conclusion of the Contest or otherwise distributed, for the purpose of promoting the Contest or for promoting the goods and services offered by the Sponsor.

Instructions on how to submit your Entry are described below in Section 6. Submitting your Entry is free of charge, but normal Internet access and usage charges imposed by your on-line and/or mobile service provider will apply at your own cost.

For purposes of these Rules, all times and days are U.S. Eastern Time (“**ET**”) as recognized in the United States. Sponsor’s computer is the official time keeping device for this Contest; and the awarding of the Prize (as defined in Section 8 below) is subject to the eligibility and forfeiture provisions set forth herein.

Contestant may not have been convicted of, or currently charged with, a felony or any crime punishable by one (1) or more years in jail or a crime of moral turpitude, as determined by Sponsor in its sole discretion. By entering, each Contestant understands and agrees that, if selected as a potential Winner (as defined below in Section 6), the Contestant will be required to sign and return an affidavit of eligibility and liability release (see Section 8 for more details on the granting of rights) as well as permission to conduct a background check (see Section 6 for more details) (“**Winners Documents**”). Failure to sign such documents and/or to furnish all required information will result in disqualification. In addition to the foregoing, Sponsor reserves the right in its sole discretion to disqualify any Entry (as defined in Section 4) and/or disqualify the Grand Prize and/or Runner-Up Winners if the results of the background check reveal that such person’s conduct has been inconsistent with generally accepted norms and/or might diminish the public reputation of the Contest, all as determined by Sponsor in its sole discretion.

3. BRIEF OVERVIEW OF CONTEST, ENTRY PERIOD AND JUDGING:

Entry Period: You may enter the Contest from the period commencing at 12:00 PM (noon) ET, on September 26, 2022 and ending at 11:59 PM ET on October 31, 2022 (“**Entry Period**”). Sponsor reserves the right to extend the Contest end date by a reasonable time if, in its sole discretion, it does not receive a sufficient number of eligible and qualified submissions.

You may enter the Contest by visiting the Contest Website (www.esbphotocontest.com) and following all onscreen instructions to submit your Entry, including selecting the category to which you want to submit your photo (or video, if applicable) to compete in from the drop-down menu. Please see Rule #6 for additional entry details.

Categories are as follows:

(1) General Entry

- (2) Smart Phone Shot
- (3) Beginner
- (4) Photoshop/Edit
- (5) Sunrise & Sunset
- (6) Visitors with the Views
- (7) Observatory Views
- (8) ESB x Citywide Shot
- (9) Nighttime
- (10) Video submission

Submit your one photo or video taken from or taken of the Empire State Building in New York City, NY as a .jpeg, or .png file format (collectively referred to hereafter as “Entry” or “Entries”). See Section 5 for details on file formats.

YOU MAY NOT INCLUDE ANY RECOGNIZABLE PERSON OR PERSONS OTHER THAN YOURSELF AND/OR A MEMBER OF YOUR IMMEDIATE FAMILY WHO IS 18 (EXCEPT ALABAMA AND NEBRASKA, 19, AND MISSISSIPPI, 21) YEARS OF AGE OR OLDER OR PETS IN YOUR ENTRY. INCLUDING YOUR PET(S) IN YOUR ENTRY IS ENTIRELY OPTIONAL.

Sponsor shall make all eligibility determinations regarding the Entries and the individuals included in an Entry. See Section 8[q] for more details on the use of Sponsor Intellectual Property (“Sponsor IP”). **NO PURCHASE OF ADMISSION TICKETS TO VISIT THE EMPIRE STATE BUILDING OBSERVATORY IS NECESSARY TO PARTICIPATE IN THIS CONTEST**, nor will it increase your chances of winning this Contest.

There is a limit of one (1) Entry per Contestant during the Entry Period, regardless of whether a person has more than one (1) email address (in which case the Contestant is still only permitted one (1) Entry). If the Sponsor concludes in its sole discretion that a Contestant has tried to circumvent this limitation by any means, including but not limited to establishing multiple email or social media accounts, such Contestant will be disqualified from the Contest.

Each Contestant acknowledges and agrees that Sponsor may receive many Entries in this Contest and that such other Entries may be similar or identical in theme, idea, format or other respects to Contestant’s Entry and Contestant waives any and all claims Contestant may have had, may have, and/or may have in the future that any composition, other Entries, and/or ideas accepted, reviewed and/or used by the Sponsor and its affiliates, or their respective officers, directors, employees and agents may be similar to or the same as his/her Entry.

If there is a dispute concerning the identity of a Contestant, the Sponsor will deem the authorized account holder of the listed email address at the time of submission to be the Contestant.

Judging Phase: The Judges (as defined below) will review and score all eligible Entries received based on the Criteria (as defined below) in order to select up to ninety (90) top scoring Entries (each a “**Semi-Finalist Entry**”) and the top two (2) scored Entries will advance to the Winner Voting Phase where a grand prize winner (“**Grand Prize Winner**”) and runner-up winner (“**Runner-Up Winner**”) will be determined, subject to verification and compliance with these Rules. Plus, the top three (3) scored Semi-Finalist Entries from each category originating from the remaining top scoring entries will each be deemed a finalist (“**Finalist Entry**”), from which a top voted Finalist Entry (each a “**Category Winner**”) will be determined during the Finalist Voting Phase, subject to verification and compliance with these Rules. The Sponsor reserves the right to select fewer than ninety (90) Semi-Finalists if it does not receive a sufficient number of eligible and qualified Entries. Finalists may be notified of their selection via email.

The Judges will determine the two (2) highest scoring Entries and Semi-Finalist Entries on or about November 23, 2022.

JUDGING CRITERIA: What the Judges are looking for: Sponsor’s appointed panel of judges, consisting of employees of Sponsor and an independent judge (collectively, “**Judges**”), will score the eligible Entries based on the following criteria (“**Criteria**”): Originality (40%), Creativity (30%), Depiction (meaning that the photo or video is sharp/in focus) (10%), and Uniqueness (20%) using a 0 -100-point scale.

TIED ENTRIES: In the event of a tie, the tie will be broken by the Judges based on the first judging criterion – Originality. In the event of a further tie, the tie will be broken by the Judges based on the second judging criterion – Creativity. In the event of still a further tie, the tie will be broken by the Judges based on the third judging criterion – Depiction. In the case of a further tie, the tied Entries will be re-judged by another panel of Judges (which will also include an independent judge) and the judging process will follow the same tie-breaker procedure stated herein.

CONSUMER VOTING: During the period commencing at 10:00 AM ET on November 28, 2022 and ending at 10:00 PM ET on December 5, 2022 (“**Finalist Voting Phase**”), the public will be able to vote for their favorite Finalist Entry per category at [@empirestatebldg](https://twitter.com/empirestatebldg) Twitter account (<https://twitter.com/empirestatebldg>) and follow instructions to vote for their favorite Entry per category. Consumers must use the Criteria in these Rules to aid them in determining their favorite Entries. Limit: one (1) vote per day, per category per IP address.

At the conclusion of the Finalist Voting Phase, the top voted Finalist Entry in each category will be declared the “**Category Winner**” subject to verification and compliance with these Rules.

Commencing at 10:00 AM ET on December 9, 2022 and ending at 10:00 PM ET on December 18, 2022 (“**Winner Voting Phase**”), the public will be able to vote for their favorite Entry from among the two (2) top scored Entries as previously determined by the judging panel on Instagram and Twitter. The public can visit @empirestatebldg Twitter account (<https://twitter.com/empirestatebldg>) or at: @empirestatebldg Instagram (<https://instagram.com/empirestatebldg>) and follow instructions to vote for their favorite Entry. Consumers must use the Criteria in these Rules to aid them in determining their favorite Entry. Limit: one (1) vote per day, per IP address per Twitter or Instagram.

At the conclusion of the Winner Voting Phase, the top voted Entry will be declared the Grand Prize Winner and the remaining Entry will be declared the Runner-up Winner, subject to verification and compliance with these Rules.

Disqualification of a Finalist and/or votes can result if Sponsor (in its sole discretion) suspects any fraud or voter/voting misconduct. This includes (but is not limited to) if any Votes violate Vote limits or involve the purchasing of bulk votes. Determination of violations are at Sponsor’s sole discretion and include but are not limited to: (a) unusual patterns in votes for an individual Finalist originating from the same IP address during the same day; (b) unusual username patterns originating from the same IP address; and (c) unusual time-of-day patterns originating from the same IP address. Sponsor reserves the right to disqualify any votes that are cast in violation of these Rules to achieve an unfair advantage or by robotic means of any sort.

Contestants are prohibited from obtaining votes by any fraudulent or inappropriate means, including, without limitation, offering prizes or other inducements to members of the Judges, as determined by Sponsor in its sole discretion. Neither Sponsor, nor anyone acting on its behalf, will engage in communications with any Contestant regarding Contest and/or Entry other than to notify potential Finalists, including Winners. The decision of the Judges shall be final and binding.

During the Entry Period you must disclose your relationship with Sponsor in any online posts you make which reference ESRT Empire State Building, L.L.C. or any of their products or services by including the statement “I entered the #ESBPhotoContest22” in any such online posts. If you are selected as a Winner (see definition below) you will continue to disclose your relationship with ESRT Empire State Building, L.L.C. in all online posts you make that reference these companies or any of their products or service by including “#paid” or the statement “I received a prize from the #ESBPhotoContest22 from #ESB” in any such online posts.

4. ENTRY REQUIREMENTS, LIMITATIONS & GUIDELINES: Follow the instructions below in these Rules to create your Entry. Entries should adhere to all specifications included in these Rules. Any Entry that fails to meet the specifications in these Rules may be disqualified. All Entries must be received

during the Entry Period. Proof of submitting an Entry does not constitute proof of receipt or entry into the Contest.

DO's & DON'Ts

Do's...

- **Do be creative with your Entry, but make sure the information you include is true and accurate.**
- **Have fun!**

Don'ts...

- **Don't show any brands or logos.**
Avoid visible/recognizable use of brands (other than Sponsor-branded items) on clothes, sneakers, in the background, or anywhere. Avoid wearing clothes with visible logos.
- **Don't be rude or profane.**
Do not include any rude gestures or other inappropriate material, or content that defames others, and for your safety, don't try any risky moves or perform any dangerous stunts.
- **Don't include anyone recognizable besides yourself, members of your immediate family (who are of eligible age) and/pets in your Entry.**
- **Don't wear revealing clothing or display suggestive movements.**

CONTEST ENTRY REQUIREMENTS/LIMITATIONS:

- a. The Entry must be authorized. This means that you must have the legal right and any permissions necessary to submit the Entry into the Contest. By submitting the Entry, you hereby represent that you have all rights necessary to submit the Entry, distribute the Entry through Instagram, and to grant to Sponsor all the rights set forth herein.
- b. You must have the explicit consent of any individual who contributed to the making of your Entry, and s/he must grant you, the Contestant

the right to include him and/or her in the Entry; must consent to the Entry and the Rules; and must consent to the use of the same in the Contest and to its use as set forth herein. If an Entry is deemed a Semi-Finalist, the Contestant that submitted Entry may be required, at any time, to provide Sponsor with evidence of all such written permission(s) and authorizations immediately upon request, and if unable to provide permission(s), Contestant's Entry may be disqualified.

- c. The Entry must be your original work and must not infringe the copyright, trademark, privacy, publicity, or any other intellectual property right of any person or entity. The Entry may not contain trademarks, logos, or trade dress (such as distinctive packaging or building exteriors/interiors) owned by others, without prior permission. The Entry may not contain any personal identification, such as license plate numbers, personal names, e-mail addresses or street addresses.
- d. The Entry must meet all specifications set forth by Sponsor in these Rules, including, without limitation, format, and any other specifications.
- e. The Entry must not, in the sole discretion of Sponsor, contain any inappropriate content, including but not limited to, material which is (or promotes activities which are) abusive, harassing, threatening, defamatory, an invasion of a right of privacy of another person, bigoted, hateful, racially offensive, discriminatory (based on race, sex, gender, religion, national origin, physical disability, sexual orientation or age), violent (e.g., relating to murder, the sales of weapons, cruelty, abuse, etc.), vulgar, obscene, pornographic or otherwise sexually explicit, harmful or can reasonably be expected to harm any person or entity, profane, offensive or otherwise objectionable as determined by Sponsor in its sole discretion. The Entry must not contain material which is (or promote activities which are) illegal or encourage or advocate illegal activity or the discussion of illegal activities with the intent to commit them (including but not limited to Entries that are, or represent an attempt to engage in, child pornography, stalking, sexual assault, fraud, trafficking in obscene or stolen material, underage drinking, drug dealing and/or drug abuse, harassment, computer hacking, theft, or conspiracy to commit any criminal activity) or otherwise unlawful. The Entry must not violate these, Rules.
- f. The Entry must not disparage or defame the Entities or the Empire State Building.

- g.** You represent and warrant that: (i) you are the sole and exclusive owner of the Entry and all rights in and to the Entry including all intellectual property rights; (ii) you have the full and exclusive right, power and authority to submit the Entry to Sponsor upon the terms and conditions set forth herein; (iii) no rights in the Entry have previously been granted to any person, firm, corporation or other entity or otherwise exercised or exploited; (iv) the Entry has not won any previous awards or Prize with the exception of submissions that were previously submitted but not selected as a winning Entry in a prior Empire State Building photo or video which may be resubmitted for consideration in this Contest, and (v) the full use of the Entry or any part thereof will not in any way violate or infringe upon any copyright (statutory or otherwise), constitute a libel or defamation of or an invasion of the rights of privacy or publicity of, or otherwise violate or infringe upon any other personal property or other rights of any person, firm, corporation or other entity, or subject Sponsor to any costs or liability of any kind or nature whatsoever.
- h.** You may be required, at any time, to provide Sponsor with evidence of all such written permission(s) and authorizations within four (4) business days upon request, or you may be disqualified and rendered ineligible to receive a Prize in this Contest. All Potential Winners must complete an Affidavit or Release relating to eligibility and publicity (see details and definitions below).

If Sponsor believes that the Entry does not comply with these Rules or that the Entry infringes upon the copyright, or other rights of any third party, Sponsor reserves the right in its sole discretion to disqualify and remove any Entry at any time. Each Sponsor decision regarding the Entries is final and binding and not subject to challenge or appeal.

In the event of a disqualification, Sponsor may, in its sole discretion, select or not select an alternate potential winner (time permitting).

5. HOW TO SUBMIT YOUR ENTRY: To submit your Entry visit the Website (www.esbphotocontest.com) and follow all onscreen instructions to enter your first and last name, and a valid email address (collected in order for the Sponsor to follow up with Finalists, including potential winners), Then click the "Select a file to upload" button or other similar button to include your photo (in .jpeg, .gif, or .png file format) or video, pick the category and then click "Submit" to submit your Entry along with two (2) check off boxes (a) "I confirm that I am 18 years (except 19+ in Alabama and Nebraska or 21+ in Mississippi) and a resident of the United states, **not including California** at the time of this submission" and (b) "I confirm that I have read and agree to the Rules".

In the event of any discrepancy or inconsistency between the terms of these Rules and/or the Privacy Policy (defined below), the terms of these Rules shall govern. Entries will not be returned. If your Entry does not pass moderation (i.e., it does not comply with the requirements set out herein), your Entry will not be eligible to be entered into the Contest.

By entering the Contest, each Contestant consents to publication of his/her Entry understands and agrees that eligible Entries received by Sponsor may be posted, in whole or in part, on each of the Contest Website and the ESB Website, its social media pages (including facebook.com/empirestatebuilding, facebook.com/empirestaterealtytrust, twitter.com/empirestatebldg, twitter.com/esrtsocial, Instagram.com/empirestateblg, Instagram.com/esrtsocial), in the windows within the Empire State Building's Fifth Avenue lobby, and marketing materials for promotional use during and/or following the conclusion of the Contest or otherwise distributed, for the purpose of promoting the Contest or for promoting the goods and services offered by the Sponsor for public viewing at any time. Each such Contestant understands and agrees that Entries may be formatted, edited, repurposed, altered or otherwise converted in order to be viewable on the ESB Website and for promotional use on Sponsor's social media channels and/or marketing materials.

6. SEMI-FINALIST NOTIFICATION PROCESS:

For the avoidance of doubt, potential Semi-Finalists will be selected from across all eligible Entries between November 1, 2022 and November 23, 2022, and may be notified by email ("**Email Notification**") to the email address associated with their Entry to verify their identity and eligibility. Contestants must reply to the Email Notification within three (3) business days to be considered as a potential Finalist. All potential Finalists will be required to complete and return an Affidavit of Eligibility and Liability and a Publicity Release ("**Affidavit**") and, a Background Check form ("**Background Check**") which are required within three (3) business days of the date specified on the Prize notification.

A Background Check will only be conducted in the event a Finalist is declared the Grand Prize Winner or Runner-up Winner. Limit: One (1) Semi-Finalist Entry per Contestant.

On or about November 23, 2022, the Judges will determine the highest scoring Finalists who have completed and returned all required documents to be voted on by the social audience.

"**Winner(s)**" shall refer individually and/or collectively to Grand Prize Winner, Runner-up Winner and Category Winners.

After the end of the Voting Period, the Sponsor will notify via email all Winners of their final Contest status to commence awarding their respective Prizes (as defined below in Section 7).

At the sole discretion of the Sponsor, disqualification of a particular Entry may result from any of the following reasons, including, without limitation: (a) a potential Semi-Finalist and/or Winner's failure to respond to the Email Notification within (5) business days after its transmission; (b) the return of an Email Notification as undeliverable; (c) a potential Finalist's failure to execute and return an Affidavit and/or, if required, the Background Check form within five (5) business days of date of transmission; (d) a potential Finalist's failure to provide Sponsor with satisfactory proof of eligibility and/or background check results, and (e) any other non-compliance with these Rules. In the event of a disqualification or Prize (as defined below) forfeiture, Sponsor may, in its sole discretion, select or not select an alternate potential Finalist or Winner (time permitting). A potential Winner is not entitled to receive a Prize until s/he has been verified and notified as a Winner in writing by the Sponsor. If the Prize won is valued at more than \$600, Winner will be required to furnish his/her Social Security number to the Administrator and an IRS Form 1099 will be filed in the name of the Winner for the value of the Prize.

7. PRIZES/APPROXIMATE RETAIL VALUE ("ARV"):

One (1) Grand Prize Winner: (a) Grand Prize Winner will receive \$5,000.00.

One (1) Runner-up Winner: Runner-up Winner will receive \$1,500.00.

Up-to-ten (10) Category Winners: Each Category Winner will receive \$500.00.

All prizes awarded as a corporate check.

Maximum value of all prizes: \$11,500.00.

Limit one (1) Prize per Contestant per household.

Any depiction of a Prize is for illustrative purposes only and may not reflect the actual Prize won. Sponsor will not replace any lost or stolen Prize. Winnings may be subject to applicable withholding requirements, as determined by Sponsor. As a condition of receipt of a Prize, Sponsor may require a recipient to submit tax withholding information and other tax-related forms. No transfer (except to a surviving spouse residing in the same household), or substitution of Prize (or portion thereof) except at Sponsor's sole discretion. All federal, state, and local taxes and all other costs and expenses associated with acceptance and use of a Prize not specified herein are the recipients' sole responsibility. Any tax payable on all or any part of Prizes shall be the responsibility of the recipient. In the event that there is a discrepancy or inconsistency between disclosures or other statements contained in any Contest promotional materials and the terms and conditions of these Rules, these Rules shall prevail and govern.

8. RELEASE, WARRANTY, GRANTING OF RIGHTS, LIMITATION OF LIABILITY AND INDEMNIFICATION CONDITIONS: By entering this Contest and/or accepting any Prize you may win, you agree and represent that, to the fullest extent permitted by law: (a) you have all rights, permissions and consents necessary to grant the rights to Sponsor as expressed herein; (b) you will abide by and be bound by the Rules, the Judges' and Sponsor's decisions (which shall be final and binding in all respects) and Privacy Policy; (c) you acknowledge that the Empire State Building image depicts a famous and venerable institution, that such image and the name "Empire State Building" are registered trademarks owned by Sponsor, that Sponsor also has trademark common law rights in the Empire State Building image and name based on the goods and services for which it is registered or has been used by Sponsor or its licensees, and that all trademark rights which may arise from the use of the Empire State Building image or name in any Entry shall inure to the benefit of Sponsor; (d) you hereby release and hold harmless the Entities, Facebook, Twitter, and Instagram and their respective agents, employees, officers, directors, shareholders, insurers, servants, parents, subsidiaries, divisions, affiliates, predecessors, successors, representatives, independent contractors, advertising, promotion and fulfillment agencies and legal advisors (the "**Released Parties**") from any and all liability for claims, injuries, losses or damages of any kind (including attorney's fees) to persons, including death, and property, resulting, in whole or in part, directly or indirectly, from the awarding, delivery, acceptance, use, misuse, possession, loss or misdirection of the Prize or any Entry-related materials; participation in this Contest or any Prize-related activity; or any interaction with, or downloading of, computer information; (e) you acknowledge that the Contest is not sponsored, endorsed, administered, or associated with social media entity, including, but not limited to Twitter and Instagram; (f) when accepting a Prize, a Winner's consent will be requested for a grant to Sponsor of an unconditional right to use the Winner's name, address (city and state only), voice, likeness, photograph, biographical and Prize information and/or statements about this Contest for any programming, publicity, advertising and promotional purposes throughout the universe in any and all media now known or hereafter devised, in all languages and in all versions, without compensation; (g) in the event viruses, bugs, unauthorized human intervention, Acts of God, pandemics, endemics, acts or regulations of any governmental or supra-national authority, war, national emergency, accident, fire, riot, strikes, lock-outs, industrial disputes, acts of terrorism, other causes that corrupt, prevent or impair the administration, security, fairness or proper play of this Contest so that it cannot be conducted as originally planned, except where prohibited by law, or other matters beyond the Sponsor's reasonable control, Sponsor has the right to modify the Rules or to cancel, modify, terminate or suspend this Contest; and in such event, to select winning Entries by such method as Sponsor shall consider equitable; (h) Released Parties are not responsible for typographical or other human errors, including errors in the advertising, Rules, selection and announcement of the Winners and distribution of the Prizes, unless the error in question is based on gross negligence; lost, incomplete, late, stolen, inaccurate, delayed, garbled, or misdirected registrations, Entries, or submissions; theft, destruction, or

unauthorized access to, or alteration of, Entries; failures or malfunctions of phones, phone lines, or telephone systems; interrupted or unavailable network, server, or other connections, upload errors, or otherwise; any error, omission, interruption, defect, or delay in any transmission or communication; human-processing error; traffic congestion on the Internet or any technical problem, including, but not limited to, any injury or damage to Contestant's or any other person's computer related to or resulting from Contest participation; errors or omissions in these Official Rules, in any Contest-related advertisements or other materials, in the selection or announcement of winner(s) or in prize awarding; or other problems or errors of any kind whether mechanical, human, electronic, or otherwise; (i) any portion of a Prize not accepted by a Winner will be forfeited; (j) the Released Parties are not responsible for any inability of a Winner to accept or use a Prize (or any portion thereof) for any reason; (k) the Sponsor has the right, at any time, to disqualify any Contestant if it has grounds for suspecting the Contestant of doing any of the following: (i) tampering with, influencing, or impairing or attempting to tamper with, influence, or impair the administration, security, fairness, voting, or proper play of Contest (ii) violating the Rules; (iii) violating the Privacy Policy or other terms or conditions of use, or (iv) acting in an unsportsmanlike or disruptive manner, or with intent to annoy, abuse, threaten or harass any other Contestant; (l) the Sponsor has the right to disqualify a Contestant whose eligibility is in question or is otherwise ineligible to enter the Contest; (m) since any attempt by any Contestant to damage or undermine the legitimate operation of the Contest is a violation of these Rules, as well as criminal and civil laws, and should Sponsor believe or become aware that such an attempt has been, is being, or will be made, it has the right to seek remedies and damages from any responsible Contestant(s) to the fullest extent permitted by law, including without limitation to criminal prosecution; (n) in the event of a dispute as to the identity of an email address, the Authorized Account Holder of the email address will be deemed to be the Contestant. For purposes of these Rules, "**Authorized Account Holder**" is defined as the natural person who is assigned to an email address by an internet access provider, online service provider or other organization (e.g., business, educational, institution, etc.) that is responsible for assigning accounts and/or email addresses for the domain associated with the submitted account and/or email address; (o) ESB Website contains proprietary and confidential information that is protected by applicable intellectual property and other laws, and except as expressly authorized by Sponsor in writing, each Contestant hereby agrees not to reproduce, exploit, modify, rent, lease, loan, sell, distribute or create derivative works based on the ESB Website, including its interface, in whole or in part and other logos and product and service names that are trademarks of the respective owners (the "**Website Marks**") and unless such Contestant has written permission, each Contestant hereby agrees not to display or use in any manner the Website Marks; (p) each Contestant hereby grants to Sponsor to the full extent permitted by law: (i) a non-exclusive, irrevocable, fully-paid, royalty-free, sub-licensable and transferable (in whole or part) worldwide right to use such Contestant's name, likenesses, voices and biographical information; and (ii) a non-exclusive, sub-licensable, irrevocable and royalty-free worldwide license under all copyrights (with the exception of unknown types of use),

trademarks, patents, trade secrets, privacy and publicity rights and other intellectual property rights to use, reproduce, transmit, print, publish, publicly display, exhibit, distribute, redistribute, copy, index, comment on, modify, adapt, translate, create derivative works based upon, publicly perform, make available and otherwise exploit such Entry (except where this constitutes a derogatory treatment of the Entry which is capable of prejudicing such Contestant's legitimate intellectual or personal interests), in whole or in part, in all media formats and channels now known or hereafter devised (including on Sponsor's website, the ESB Website and third-party websites and platforms such as Instagram and Twitter), in any number of copies without limit as to manner and frequency of use, without further notice to you, with or without attribution, and without the requirement of permission from or payment to such Contestant or any other person or entity; (q) if your Entry includes, uses and/or features Sponsor IP, Sponsor grants you a non-exclusive license to create the Entry using Sponsor IP for the purposes of creating an Entry for this Contest only, provided that such license shall be conditioned upon your granting to Sponsor all rights in the Entry (if such rights are not assigned to Sponsor, your license to create the Entry using Sponsor IP shall be null and void); (r) creative ideas, suggestions or other materials Contestant submits are not being made in confidence or trust and that no confidential or fiduciary relationship is intended or created between the Contestant and Sponsor in any way, and that the Contestant has no expectation of review, compensation or consideration of any type; (s) Sponsor and its third-party vendors engaged to implement this Contest are authorized to display on the Instagram pages of Sponsor and/or the Empire State Building, in connection with the Contest and thereafter, the Entries and any comments; (t) Grand Prize and Runner-up Winners will be asked, at the point of acceptance of any Prize (but this shall not be a condition of receiving a Prize) to grant an unconditional right to Sponsor and assigns to photograph, film, or otherwise capture the fulfillment of the Prize ("**Fulfillment Film**"), and Sponsor shall then (if consent is given) have the unconditional right to reproduce, distribute, display, exhibit, transmit, broadcast, stream, synchronize with visual material, modify, amend, create derivative works, and otherwise use and permit others to use the Fulfillment Film throughout the universe in any and all media now known or hereafter devised, in all languages and in all versions, in perpetuity, without compensation, except where prohibited by law; (u) Sponsor's use of the Fulfillment Film will not give rise to any claims of infringement, invasion of privacy, defamation or claims for performance or payment of any kind, including but not limited to payment of re-use fees, residuals or license fees; (**v**) Sponsor shall have the right to make such changes to the Fulfillment Film and make such uses thereof as it deems necessary or desirable, including but not limited to the right to use, edit, and reproduce and/or alter said Fulfillment Film in perpetuity, in its entirety or in part, for any commercial and promotional purposes worldwide without any consultation or additional permission, or compensation, credit or attribution; and (w) Sponsor reserves the right to remove any posted Entry at any time and for any reason, without liability of any kind. Sponsor may, but is not obligated to, post Entries on the Sponsor's social media pages and/or the Empire State Building; if Sponsor chooses to do so, such posting is for entertainment purposes only and Contestants release and agree to hold harmless

the Released Parties from any and all liability (except in cases of intentional acts or gross negligence on the part of the Released Parties) associated with possible posting (or, conversely, non-posting) of his/her Entry, including his/her express acknowledgment that if posted, posting of the Entry does not constitute any representation by Sponsor as to Contest eligibility. FOR ALL POSTED ENTRIES, THE ENTRIES REPRESENT SOLELY THE VIEWS/OPINIONS OF THE INDIVIDUAL CONTESTANT AND DO NOT REFLECT THE VIEWS/OPINIONS OF SPONSOR IN ANY MANNER.

9. DISPUTES, ARBITRATION, WAIVER OF CLASS ACTION, GOVERNING LAW:

Contestant agrees that: (1) any and all disputes, claims and causes of action arising out of or connected with this Contest or any Prize awarded shall be resolved individually, without resort to any form of class action, and exclusively by the appropriate federal or state court located in New York County, New York; (2) any and all claims, judgments and awards shall be limited to actual out-of-pocket costs incurred, including costs associated with entering this Contest, but in no event attorneys' and/or legal fees; and (3) **under no circumstances will Contestant be permitted to obtain awards for, and Contestant hereby waives all rights to claim, indirect, punitive, incidental and consequential damages and any other damages, other than for actual out-of-pocket expenses, and any and all rights to have damages multiplied or otherwise increased.** All issues and questions concerning the construction, validity, interpretation and enforceability of these Rules, or the rights and obligations of the Contestant and Sponsor in connection with the Contest, shall be governed by, and construed in accordance with, the laws of the State of New York, U.S.A. without giving effect to any choice of law or conflict of law rules (whether of the State of New York, U.S.A. or any other jurisdiction), which would cause the application of the laws of any jurisdiction other than the State of New York, U.S.A.

This choice of law does not deprive you of the protection afforded to you under your own laws and such provisions that cannot be derogated from by agreement by virtue of the law of your jurisdiction.

10. WINNER'S LIST: For a Winners' list (available after December 20, 2022) send an email with the subject line "ESB 2022 Photo Contest Winner's List Request" to esb@renegade.com.

All trademarks referenced herein are the property of their respective trademark owners, who are not sponsors of this Contest, nor do they have any responsibilities regarding its conduct or administration.

PRIVACY POLICY ESB PHOTO CONTEST

PERSONAL INFORMATION & PRIVACY: Information collected from Contestants is subject to Sponsor's privacy policy ("**Privacy Policy**") at

<http://www.esbnyc.com/privacy-policy> and applicable data protection laws. Any entry information provided/collected is stored and processed on servers in the United States. Participation in the Contest implies acknowledgement directly from the Contestant to collect, process and use the data provided concerning the Contestant. To opt-out of the Contest, visit Sponsor's privacy policy at: <http://www.esbnyc.com/privacy-policy>. A Contestant can be removed from the mailing list for this Contest by contacting the Sponsor at social@empirestaterealtytrust.com.

For more information about our privacy policies and procedures, please review Empire State Realty Trust's privacy policy here: <http://www.empirestaterealtytrust.com/privacy-policy>. If there is a discrepancy between the terms of this privacy policy and those in these Official Rules, the terms of the Official Rules shall govern.

11. NOTICE: The Sponsor reserves the right to prosecute and seek damages against any individual who attempts deliberately to undermine the proper administration of the Contest in violation of these Official Rules and/or criminal and/or civil law.

Empire State Realty Trust and the associated name and image trademarks and logos of each cannot be used without written permission. Any trademarks in these Official Rules are used for prize identification purposes only and are the properties of their respective owners. All rights reserved.