



## Terms & Conditions

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**[1] Definition:** “Image(s)” means all visual representations furnished to Client by Photographer, whether captured, delivered, or stored in photographic, magnetic, optical, electronic, or any other media. Unless otherwise specified on the front of this document, Photographer may deliver, and Client agrees to accept, Images encoded in an industry-standard data format that Photographer may select, at a resolution that Photographer determines will be suitable to the subject matter of each Image and the reproduction technology and uses for which the Image is licensed. It is Client’s responsibility to verify that the digital data (including color profile, if provided) is suitable for reproduction of the expected quality and color accuracy, and that all necessary steps are taken to ensure correct reproduction. If the data are not deemed suitable, Photographer’s sole obligation will be to replace or repair the data, but in no event will Photographer be liable for poor reproduction quality, delays, or consequential damages. Unless otherwise specifically provided elsewhere in this document, Photographer has no obligation to retain or archive any of the Images after they have been delivered to Client. Client is responsible for sending an authorized representative to the assignment or for having an authorized representative review the images remotely during the assignment. If no review is made during the assignment, Client is obligated to accept Photographer’s judgment as to the acceptability of the Images.

**[2] Rights:** All images and rights relating to them, including copyright and ownership rights in the media in which the images are stored, remain the sole & exclusive property of Photographer. Unless otherwise specifically provided elsewhere in this document, any grant of rights is limited to a term of two (2) years from the date hereof and to usage in digital media only. All Event Coverage rights only are perpetual and do not fall under the 2 year term right stated above. Unless otherwise specifically provided elsewhere in this document, no image licensed for use on a cover of a publication may be used for promotional or advertising purposes without the express permission of Photographer and the payment of additional fees. No rights are transferred to Client unless and until Photographer has received payment in full. The parties agree that any usage of any Image without the prior permission of Photographer will be invoiced at three times Photographer’s customary fee for such usage. Unless otherwise specifically provided elsewhere in this document, all usage rights are limited to digital media only, and no print uses of any kind are permitted. This prohibition includes any rights or privileges that may be claimed under 201(c) of the Copyright Act of 1976 or any similar provision of any applicable law. Digital files may contain copyright and other information embedded in the header of the image file or elsewhere; removing and/or altering such information is strictly prohibited and constitutes violation of the Copyright Act. All fees & expenses payable under this agreement are required irrespective of whether Client makes actual use of the images or the licenses to use them. Unless specifically provided elsewhere in this document, no reprographic, reprint, republication or other secondary reproduction usages may be made, and usage rights are granted for non-exclusive, royalty-free commercial use for up to two years.

**[3] Photo Credit:** All published uses of Images will be accompanied by written credit to Photographer or copyright notice as specified in this section. Place credit to Photographer anywhere in publication, most preferably below the Image (s). If a credit is required but not actually provided by Client, Client agrees that the amount of the invoiced fee will be subject to a three-times multiple as reasonable compensation to Photographer for the lost value of the credit line.

**[4] Indemnification:** Client will indemnify and defend Photographer against all claims, liability, damages, costs, and expenses, including reasonable legal fees and expenses, arising out of the creation or any use of any images or arising out of use of or relating to any materials furnished by Client. Unless delivered to Client by Photographer, no model or property release exists, and it is Client's responsibility to obtain the necessary permissions for usages that require any model or property releases delivered by Photographer are suitable for Client's purposes. Photographers liability for all claims shall not exceed in any event the total amount paid under this invoice.

**[5] Assumption of Risk:** Client assumes full risk of loss or damage to or arising from materials furnished by Client and warrants that said materials are adequately insured against such loss, damage, or liability.

**[6] Transfer and Assignment:** Client may not assign or transfer this agreement or any rights granted under it. This agreement binds Client and insures to the benefit of the Photographer, as well as their respective principals, employees, agents, and affiliates, heirs, legal representatives, successors, and assigns. Client and its principals, employees, agents, and affiliates, are jointly and severally liable for the performance of all payments and other obligations hereunder. No amendment or waiver of any terms is binding unless set forth in writing and signed by the parties. However, the invoice may reflect, and Client is bound by, Client's oral authorizations for additional images, fees, and expenses that could not be confirmed in writing because of insufficient time or other practical considerations. This agreement incorporates by reference the Copyright Act of 1976, as amended. It also incorporates by reference those provisions of article 2 of the Uniform Commercial Code that do not conflict with any specific provisions of this agreement; to the extent that any provision of this agreement may be in direct, indirect, or partial conflict with any provision of the Uniform Commercial Code, the terms of this agreement shall prevail. To the maximum extent permitted by law, the parties intend that this agreement shall not be governed by or subject to the UCITA of any state. Photographer is an independent contractor and not an employee. If Photographer is deemed under any law to be an employee of Client, and if the Images are therefore considered works made for hire under the U.S. Copyright Act, Client hereby transfers the Copyright to all such Images to Photographer. Client agrees to execute any documents reasonably requested by Photographer to accomplish, expedite, or implement such transfer.

**[7] Disputes:** Except as provided Below, any dispute regarding this agreement shall, at Photographer's sole discretion, either: (1) be arbitrated in Bellingham, WA, under rules of the American Arbitration Association and the laws of Washington; provided, however, that irrespective of any specific provision in the rules of the American Arbitration Association, the parties are not required to use the services of arbitrators participating in the American Arbitration Association or to pay the arbitrators in accordance with the fee schedules specified in those rules. Judgment on the arbitration award may be entered in any court having jurisdiction. Any dispute involving \$10,000 or less may be submitted without arbitration to any court having jurisdiction thereof. Or, (2) be adjudicated in Bellingham, Washington, under the laws of the United States and/or of Washington. (3) In the event of a dispute, Client shall pay all court costs, Photographer's reasonable legal fees, and expenses, and legal interest on any award or judgment in favor of Photographer.

**[8] Federal Jurisdiction:** Client hereby expressly consents to the jurisdiction of the Federal Courts with respect to claims by Photographer under the Copyright Act of 1976, as amended, including subsidiary and related claims.

**[9] Overtime:** In the event a shoot extends beyond the agreed upon time (in hours), Photographer may bill for this excess time at her normal rate of \$150 per hour. Photographer will notify Client via telephone if such overtime is warranted and how to proceed, and will invoice Client the agreed upon price.

**[10] Reshoots:** Client will be charged 100 percent fee and expenses for any reshoot required by Client. For any reshoot required because of any reason outside the normal control of Client, specifically including but not limited to acts of God, nature, war, terrorism, civil disturbance, or the fault of a third party, Photographer will charge no additional fee, and Client will pay all expenses. If Photographer charges for special contingency insurance and is paid in full for the shoot, Client will not be charged for any expenses covered by insurance. A list of exclusions from such insurance will be provided upon request.

**[11] Assignment Cancellations and Postponements:** Cancellations: Client is responsible for payment of all expenses incurred up to the time of cancellation of the assignment, plus 50 percent of Photographer's fee; however, if notice of cancellation is given less than one (1) business day before the shoot date, Client will be charged 100 percent fee. Postponements: Unless otherwise agreed in writing, Client will be charged a 100 percent fee if postponement of the assignment occurs after Photographer has departed for location, and 50 percent fee if postponement occurs before departure to location. Fees for cancellation and postponements will apply irrespective of the reasons for them, specifically including but not limited to weather conditions, acts of God, nature, war, terrorism, civil disturbance, and the fault of a third party. For remote projects, postponement with a notice at least two days prior to shoot, by either of the two parties, due to weather will not incur any additional fees.