

# Photography License Terms And Conditions

- [1] **Definitions.** Image(s) means all viewable renditions furnished by Photographer, whether captured or stored in photographic, magnetic, optical, or any other medium. The addressee of this form is known as the "Client."
- [2] **Grand Of Rights.** Usage specifications stated in this document convert to copyright license [i.e., permission to use] ["License"] only upon receipt of full payment of Invoice. All rights not specifically granted are reserved to Photographer. Usage other than that specifically described in the "Grant of Right" section of this document requires written license from Photographer and additional payment prior to use. No grant of derivative rights is made with this License, including digital or electronic rights that may involve scanning, using, transmitting, or storing Image(s) on the Internet, World Wide Web, CDs, or other electronic medium or network, unless expressly authorized in writing. Title in the copyright and physical entity of all Images created or supplied pursuant to this agreement remain the sole and exclusive property of the Photographer. There is no assignment of copyright, agreement to do work-for-hire, intention of joint copyright, or grant of rights, other than those listed in the "Rights Granted" section on the front of this form, expressed or implied in this document. The reasonable and stipulated fee for any unlicensed Image use shall be three (3) times Photographer's normal fee.
- [3] **Payment.** Invoices are payable upon receipt. Unpaid invoices are subject to a monthly rebilling fee of two (2%) of the unpaid balance.
- [4] **Alterations.** Unless otherwise provided in a writing from Photographer, Client may not make or permit alterations or manipulations of any Image(s) beyond the requirement of slight or reasonable image enhancement (i.e., alterations of contrast, brightness, and color balance, or cropping), consistent with reproduction needs, that do not materially change the integrity of any Image. Alterations or manipulations include but are not limited to additions to, subtractions from, or adaptations, alone or with any other material, produced optically, mechanically, electronically, or digitally. No alteration or change may be made to the physical entity of any photograph supplied by Photographer. Any alteration, manipulations, reproduction, or production charges must be borne by Client.
- [5] **Value, Image Return.** Client understands that each original photographic transparency and film negative is unique, does not have an exact duplicate, and it may be impossible to replace or recreate it. Client assumes insurer's liability (a) to indemnify Photographer for loss, damage, or misuse of any Images, and (b) to return all Images prepaid and fully insured, safe, and undamaged, by a secure mode of shipment within thirty (30) days after the date of final licensed use. Client assumes full liability for its employees, principals, agents, affiliates, successors, and assigns (including without limitation independent contractors, messengers, and freelance researchers) for any loss, damage, delay in returning, or misuse of Images. Reimbursements by Client for loss of or damage to each Image that is an original photographic transparency or film negative shall be in the amount of One Thousand Five Hundred Dollars (\$1,500), or other amount set forth next to each listed Image on the face of the Delivery Memo or on an attached schedule. Reimbursement by Client for loss of or damage to each other Image shall be in the amount set forth next to each Image on the face of this document or on an attached schedule. Client agrees that the amounts represent the fair and reasonable value of each Image and that Photographer would not sell all rights to any Image for less than that amount.
- [6] **Authorship Credit.** Proper copyright notice that reads: "©2008 DCB Photographic Imagery" must be displayed alongside Image or on the same page(s) that Image(s) appear whenever possible, unless provided otherwise in writing.
- [7] **Expenses.** All estimates of expenses may vary by as much as ten percent (10%) in accordance with normal trade practices. In addition, the Photographer may bill the Client in excess of the estimates for any overtime that must be paid to assistants and freelance staff for work that runs more than ten (10) consecutive hours.
- [8] **Reshoots.** If Photographer is required by the Client to reshoot the Assignment, Photographer shall charge in full for additional fees and expenses, unless (a) the reshoot is due to acts of God or is due to an error by a third party, in which case the Client shall only pay additional expenses but no fees; or (b) if the Photographer is paid in full by the Client, including payment for the expense of special contingency insurance, that covers a reshoot. The Photographer shall be given the first opportunity to perform any reshoot.
- [9] **Cancellation.** In the event of cancellation by the Client, the Client shall pay all expenses incurred by the Photographer, and in addition, shall pay the full fee unless notice of cancellation was given at least 48 hours prior to the date photography was to begin, in which case fifty percent (50%) of the fee shall be paid. For weather delays, Client shall pay the full fee if Photographer is on location and fiftypercent (50%) of the fee if Photographer has not yet left for the location.
- [10] **Publication Samples.** Client must supply Photographer with a minimum of two (2) free copies of publication(s) in which Image(s) appear.
- [11] **Releases.** Client will indemnify and defend Photographer against all claims, liability, damages, costs, and expenses, including reasonable legal fees and costs arising out of any use of Image(s) that are unlicensed, for which no release was furnished, that are altered by Client, or use that exceeds the uses allowed by a release. Unless furnished, no release exists. Photographer's liability for all claims shall not exceed in any event the total amount paid under this Invoice.
- [12] **Assignment.** Client may not assign or transfer this agreement or any of the rights granted. This agreement binds and inures to the benefit of Photographer, Client, and Client's employees, principals, agents, and affiliates, and their respective heirs, legal representatives, successors, and assigns. Client and its employees, principals, agents, and affiliates are jointly and severally liable for the performance of all payments and other obligations created in this document. No amendment or waiver of any terms of this license is binding unless set forth in writing and signed by the parties. This agreement incorporates by reference Article 2 of the Uniform Commercial Code and the Copyright Act of 1976, as amended.
- [13] **Dispute Resolution.** Except as provided in [c] below, any dispute regarding this agreement shall be, at Photographer's sole discretion, either:
- [a] Arbitrated in Boulder, Colorado, under rules of the American Arbitration Association and the laws of Colorado. Judgment on the arbitration award may be entered in any court having jurisdiction. Any dispute involving \$3000 [limit of small claims court] or less may be submitted without arbitration to any court having jurisdiction, or
- [b] adjudicated in Boulder, Colorado under the laws of Colorado.
- [c] Client hereby expressly consents to the jurisdiction of the Federal courts with respect to claims under the Copyright Act of 1976, as amended.
- Client shall pay all arbitration and court costs, and Photographer's reasonable legal fees and expenses, and legal interest, on any award or judgment if granted in favor of Photographer.