

[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.

[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 and exclusive property of Photographer. Unless otherwise specifically provided elsewhere in this document, any grant of rights is limited to a term of one (1) year from the date hereof. 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.

[3] Use of Images: Client’s physical or electronic possession of Images does not confer any rights without specific written permission. Client assumes insurer’s liability (a) to indemnify Photographer for loss, damage, or misuse of any Images. The client shall no longer use any Images after the final licensed use as provided in this document. Client assumes responsibility for its principals, employees, agents, affiliates, successors and assigns (including without limitation independent contractors, messengers, freelance researchers, printers and web site hosts) for any loss, damage, use, or misuse of the Images.

[4] Photo Credit: All published usages of Images in print format will be accompanied by printed credit to Photographer as either “© David Leifer” or “Photography by David Leifer”.

[5] Alterations: Client may not make or permit any alterations, including but not limited to additions, subtractions, or adaptations in respect of the Images, alone or with any other material, except that cropping and alterations of contrast, brightness, and color balance, consistent with reproduction needs may be made. Any and all such alterations are subject to the provisions as stated in [6] below.

[6] 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. Photographer’s liability for all claims shall not exceed in any event the total amount paid under this invoice.

[7] 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. Client shall indemnify Photographer against all claims, liability, damages, and expenses incurred by Photographer in connection with any claim arising out of use of said material hereunder.

[8] Transfer and Assignment: Client may not assign or transfer this agreement or any rights granted under it. This agreement binds Client and inures to the benefit of 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 fees or expenses that could not be confirmed in writing because of insufficient time. This agreement incorporates by reference Article 2 of the Uniform Commercial Code, and the Copyright Act of 1976, as amended. 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.

[9] Disputes: Except as provided in [10] below, any dispute regarding this agreement shall, at Photographer's sole discretion, either:

(1) be arbitrated in Brookline, Massachusetts, under rules of the American Arbitration Association and the laws of Massachusetts; provided, however, that 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 \$2,000.00 or less may be submitted without arbitration to any court having jurisdiction thereof.

OR

(2) be adjudicated in Brookline, Massachusetts, under the laws of Massachusetts. (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.

[10] 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.

Client hereby expressly consents to the jurisdiction of the Federal courts even if the client is a municipal or state government or is governed by a municipal or state government.

[11] Overtime: In the event a shoot extends beyond eight (8) consecutive hours, Photographer may charge for such excess time of assistants and freelance staff at the rate of 1-1/2 their hourly rates.

[12] Reshoots: Client will be charged 100 percent fee and expenses for any reshoot required by Client. For any reshoot required because of an act of God or the fault of a third party, Photographer will charge no additional fee, and Client will pay all expenses.

[13] Cancellations and postponements: Client is responsible for payment of all expenses incurred up to the time Photographer receives actual notice of cancellation. If notice of cancellation is given less than one (1) business day before the shoot date, Client will be charged 35 percent fee. Weather postponements: Unless otherwise agreed, Client will be charged 50 percent fee if postponement is due to weather conditions on location and 25 percent fee if postponement occurs before departure to location.