

THE RIGHT TO REPRODUCE OR USE ANY IMAGE IS SUBJECT TO EACH AND EVERY ONE OF THE FOLLOWING TERMS AND CONDITIONS.

1. **DEFINITIONS:** This Agreement is by and between PETER L KRESAN PHOTOGRAPHY ("Licensor") and the "Client" named on the front of this Agreement. "Image(s)" means the visual and/or other forms of film, prints, slides, chromes and any other visual materials in any format including digital information supplied by Licensor to Client. Licensor is the sole creator of the Image(s). "Service(s)" means the photography and/or related digital or other related services described on the front of this Agreement that Client is specifically commissioning Licensor to perform pursuant to this Agreement. "Transmit" or "Transmission" means distribution by any device or process whereby an Image or copy of same, is fixed beyond the place from which it was sent. "Copyright Management Information" or "Metadata" means the name and other image identifying information of Licensor and/or terms and conditions for uses of the Images, and such other information that Licensor may provide.

2. **FEES, CHARGES AND ADVANCES:** Client and Client's representatives are jointly and severally responsible for full payment of all fees, charges, expenses and advances. The rights licensed, fees, charges and advances set forth in this Agreement apply only to the original specification of the Services. Additional fees and charges shall be paid by Client for any subsequent changes, additions or variations requested by Client. All advance payments are due in full prior to production.

3. **POSTPONEMENTS AND CANCELLATIONS:** If Client postpones or cancels any photography "shoot date" or other Service, in whole or in part, without first obtaining Licensor's written consent, Client shall pay Licensor 50% of Licensor's quoted fees. If Client postpones or cancels with less than two business days' prior written notice to Licensor, Client shall pay 100% of Licensor's quoted fees. Client shall in any event pay all expenses and charges incurred in connection with any postponed or cancelled shoot date or other Service. A client who decides at the last minute to "go in another direction" such as hiring someone cheaper than you, would thus still be on the hook to pay for your inconvenience and time. Also see "4" below.

4. **FORCE MAJEURE:** Licensor shall not be in default of this Agreement by reason of its delay in the performance of or failure to perform, in whole or in part, any of its obligations hereunder, if such delay or failure results from occurrences beyond its reasonable control and without its fault or negligence. Client will pay 100% of Licensor's daily weather delay fee (as set forth on the front of this Agreement) for any delays due to weather conditions or any acts or occurrences beyond Licensor's reasonable control, plus all charges incurred.

5. **CLIENT APPROVAL:** Client is responsible for having its authorized representative present during all "shooting" and other appropriate phases of the Service(s) to approve Licensor's interpretation of the Service(s). If no representative is present, Licensor's interpretation shall be deemed as "accepted." Client shall be bound by all approvals and job changes made by Client's representatives.

6. **OVERTIME:** In the event any Services extend beyond eight consecutive hours in one day, Client agrees to and shall timely pay overtime for crew members and assistants at the rate of 1-1/2 times their hourly rates or fees, and if the Services extend beyond 12 hours in one day, Client agrees to and shall pay overtime for crew members and assistants at the rate of double their regularly hourly rates or fees.

7. **LIMITATION OF LIABILITY AND INDEMNITY:** Even if Client's exclusive remedy fails of its essential purpose, Licensor's entire liability shall in no event exceed the license fee paid to Licensor. **UNDER NO CIRCUMSTANCES SHALL LICENSOR BE LIABLE FOR GENERAL, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES ARISING FROM THIS AGREEMENT, THE IMAGE(S) OR ANY ACTS OR OMISSIONS OF LICENSOR.** Client shall indemnify, defend and hold Licensor and Licensor's representatives harmless from any and all claims, liabilities, damages, and expenses of any nature whatsoever, including actual attorneys' fees, costs of investigation, and court costs arising from or relating to Client's direct or indirect distribution, display or other use of any Image.

8. **RIGHTS LICENSED:** The licensed rights are transferred only upon: (a) Client's acceptance of all terms contained in this Agreement, (b) Licensor's **actual receipt of full payment**, and (c) the use of proper copyright notice and other Copyright Management Information requested or used by Licensor in connection with the Image(s). Licensor is willing to license the Image(s) to Client only upon the condition that Client accepts **all** of the terms of this Agreement. Unless otherwise specifically stated on the front of this Agreement, all licenses are non-exclusive; the duration of any license is one year from the date of Licensor's invoice and is for English language use in the United States of America only. Licensor reserves all rights in the Image(s) of every kind and nature, including, without limitation, copyright, electronic publishing and use rights, in any and all media, throughout the world, now existing and yet unknown, that are not specifically licensed or transferred by this Agreement. No license is valid unless signed by Licensor. This Agreement may not be assigned or transferred without the prior written consent of Licensor and provided that the assignee or transferee agrees in writing to be bound by all of the terms, conditions, and obligations of this Agreement. Any voluntary assignment or assignments by operation of law of any rights or obligations of Client shall be deemed a default under this Agreement allowing Licensor to exercise all remedies including, without limitation, terminating this Agreement, the right to all net worth or financial information of any assignee and the fullest extent of adequate assurances of future performance. Upon request by Licensor, Client shall provide Licensor with a full and complete disclosure of any and all uses of each Image and provide Licensor with three (3) copies, without charge, of each and every use of each Image.

9. **DELETION OF DIGITAL IMAGE(S):** For all images supplied in digital format, Client agrees to delete all such images from its internal files, FTP servers/sites and backup or storage media within 90 days after their delivery date unless a longer retention period is agreed to in writing. In the event client loses, fails to timely locate, or renders a digital image unusable, Client agrees to pay Licensor all fees and expenses charged by Licensor to re-transmit or otherwise redeliver such image(s).

10. **PAYMENT AND COLLECTION TERMS:** Invoices from Licensor are payable upon receipt by Client. Client agrees to pay a late payment fee equal to 1.5% per month on any unpaid amount or balance. Such late fees shall commence to run thirty (30) days after the issuance of this invoice. Such late fee(s) shall in no event exceed the lawful maximum permitted in the State of Arizona with respect to commercial transactions of this type. In any action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover their actual attorneys' fees, court costs and all other non-reimbursable litigation expenses such as expert witness fees and investigation expenses. The parties hereto consent to the jurisdiction of the courts of the State of Arizona, County of Pima. The parties agree that any dispute arising out of this agreement shall be governed by the laws of the State of Arizona.

11. **TAX:** Client shall pay and hold Licensor harmless on account of any sales, use, or other taxes or governmental charges of any kind, however denominated, imposed by any government, including any subsequent assessments, in connection with this Agreement, the Image(s), the Service(s) or any income earned or payments received by Licensor hereunder. To the extent that Licensor may be required to withhold or pay such taxes, Client shall promptly thereafter furnish Licensor with funds in the full amount of all the sums withheld or paid.

12. **RELEASES: NO MODEL, PROPERTY, TRADEMARK, OR OTHER SUCH RELEASE EXISTS FOR ANY IMAGE(S) UNLESS LICENSOR SUBMITS TO CLIENT A SEPARATE RELEASE SIGNED BY A THIRD-PARTY, MODEL, OR PROPERTY OWNER.**

13. **ELECTRONIC RIGHTS:** No electronic usage rights of any kind are licensed or granted hereunder unless as specifically set forth on the front of this Agreement. Licensor specifically reserves all rights not specifically conveyed to Client hereunder. Such rights reserved include but are not limited to all rights of publication, distribution, display or transmission in electronic and digital media of any kind, now existing and yet unknown. Usage rights for any kind of revision of a collective work, including any later collective work in the same series, are expressly reserved by the Licensor.

