

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) **Grant 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 Rights" 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 on receipt. Unpaid invoices are subject to a monthly rebilling fee of two percent (2%) of the unpaid balance. Licenses that are canceled thirty (30) days after Invoice date are payable in full whether Images will be used or not.
- (4) **Alterations.** Unless otherwise provided in writing from Photographer, Client may not make or permit alterations or manipulations of any Images 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. Any alteration, manipulation, reproduction, or production charges must be borne by Client.
- (5) **Notice.** Proper copyright notice, which reads: "© Peter L. Kresan (Year)", must be displayed alongside Image or on the same page(s) that Image(s) appear, unless provided otherwise in writing. Omission of required notice results in loss to the Photographer and will be billed at triple the invoiced fee.
- (6) **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 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. Reimbursement 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.
- (7) **Publication Samples.** Client must supply Photographer with a minimum of two (2) free copies of publication(s) in which Images appear.
- (8) **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.
- (9) **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.
- (10) **Dispute Resolution.** Except as provided in (10) (c) below, any dispute regarding this agreement shall be, at Photographer's sole discretion, either:
 - (a) arbitrated in Tucson, Arizona, under rules of the American Arbitration Association and the laws of Arizona. Judgment on the arbitration award may be entered in any court having jurisdiction. Any dispute involving \$2,500 or less may be submitted without arbitration to any court having jurisdiction, or
 - (b) adjudicated in Tucson, Arizona, under the laws of Arizona.