

## AGREEMENT FOR STOCK PHOTOGRAPHY

Agreement dated the \_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year).

<p>Darrell Noakes ("Photographer")</p> <p>8B-305, 3110 - 8<sup>th</sup> Street East Saskatoon, SK S7H 0W2 Canada</p> <p>Telephone: (306) 343-6399 Facsimile: (306) 343-6199 E-mail:</p>	<p>Name: _____ ("Client")</p> <p>Organization: _____</p> <p>Address: _____</p> <p>Address: _____</p> <p>Telephone: _____</p> <p>Facsimile: _____</p> <p>E-mail: _____</p>
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You have requested original photographic material from Darrell Noakes. Prior to fulfilling your request we require you to sign, date, and return this contract to us acknowledging our terms and conditions in advance. This procedure alleviates any surprises when the material arrives. When we receive the proper signatures, the necessary research will be completed promptly and the material will be sent to you via Priority Post, Purolator, Federal Express or \_\_\_\_\_.

1. SUBJECT:
  
2. USE REQUESTED: solely for English language use in \_\_\_\_\_. The use granted is for a
  - \_\_\_\_ one time \_\_\_\_ multiple time (reprints);
  - non-exclusive;
  - \_\_\_\_ print, \_\_\_\_ web, \_\_\_\_ promotion right(s) in \_\_\_\_ one \_\_\_\_ multiple issue(s) or webpage(s) of the Client.No rights herein may be transferred, or assigned in whole or in part. No other use rights are granted herein. All use is billed against a minimum space rate.
  
3. FEES:
  
4. IMAGE SIZE:
  
5. VALUE: In event of loss or damage, Client and Photographer agree that each Photograph has an agreed value of no less than \$2,000.00.
  
6. Copyright in all photographs and other materials or media created by Photographer shall belong to Photographer as first and sole owner and Photographer shall remain the sole owner of any and all Photographs or any and all materials used or to be used in relation to production or reproduction of said Photographs including all digital reproduction(s) as well as all copyright therein. A copyright protection credit must appear adjacent to the images or the fee is tripled.  
"© <<year>> Darrell Noakes, All Rights Reserved"

\_\_\_\_\_  
Photographer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Client

\_\_\_\_\_  
Date

## TERMS AND CONDITIONS

- A. Definitions: "Photographer" refers to Darrell Noakes. "Client" refers to the commissioning party or company named above, its representatives, successors, assigns, agents and affiliates.
- B. Payment: FULL PAYMENT MUST BE RECEIVED BY PHOTOGRAPHER PRIOR TO PUBLICATION. ANY USE PRIOR TO PAYMENT SHALL BE CONSIDERED AN UNAUTHORIZED USE. If unauthorized use occurs, the Client agrees that a reasonable and stipulated amount shall be paid by Client to photographer for such unauthorized use and such amount shall be three (3) times Photographer's customary fee for such usage.
- C. Grant of Rights: Grant of reproduction rights hereunder is conditioned upon Client's written acceptance of each term set forth in this agreement, including but not limited to, receipt of payment in full by Photographer and the placing of the required copyright notice on each use of Photographer's work. All rights not expressly licensed to Client in writing remain the exclusive property of Photographer. Unless otherwise stated above, duration of license is six times the periodicity of the publication or ninety (90) days which ever occurs first.
- D. Space Rates: All usage is quoted as a minimum against space. Any additional space rate will be billed as such upon publication.
- E. Return of Photographs, Destruction of Digital files & Return of Media: Client assumes all risk for all photographic material supplied by Photographer from time of receipt by Client to time of actual receipt of photographs by Photographer. Client agrees to return all such material in undamaged, unaltered and un-retouched condition within thirty (30) days of receipt, or if a License is granted, within three (3) months of receipt by client or by first publication date, whichever is sooner, or such other period as is stated in writing herein. Client agrees to destroy all digital files within one week of reproduction. If the files were sent on digital media, all such material must be returned in undamaged condition within thirty (30) days of receipt.
- F. Film and Digital Media Holding Fees: A holding fee of five dollars and fifty cents (\$5.50) per item per day shall be payable from the return date until time of receipt by Photographer unless otherwise indicated.
- G. Copyright Protection/Credit Line: For Editorial use, credit line in the form Copyright "©<<Year – date-of job>> Darrell Noakes, All Rights Reserved" in type no smaller than that of related text must appear adjacent to or within the photograph(s) or fee is tripled; Client acknowledges that such a triple fee is fair and reasonable for photographer's loss of recognition and lack of copyright protection resulting from lack of, or improper, copyright notice/credit line. For Non-Editorial use, Client will provide copyright protection by placing proper copyright notice on any use. Proper notice may be either "© <<Client Name, Year-date of first publication>>", or "© <<Year –date-of-job>> Darrell Noakes" adjacent to or within the photograph(s). Notwithstanding the foregoing, Photographer reserves all rights and remedies at law and in equity for damages resulting from breach of its copyright in Photographs by Client.
- H. Indemnity: Client hereby indemnifies and holds Photographer harmless against any and all liabilities, claims, and expenses, including reasonable legal fees, arising from Client's use of Photographer's work. Client assumes insurer's liability (a) to indemnify Photographer for all loss, damage, or misuse of any photographs; and (b) to return all photographs prepaid, fully insured, undamaged, by bonded messenger or overnight delivery service.
- I. Loss or Damage: The parties acknowledge that it is difficult if not impossible to determine the exact value of each photograph subject to this agreement because of the duration of copyright protection and its present and potential value. Therefore, the parties have agreed that the reasonable value for loss or damage of each photograph is a sum no less than the amount indicated on the first page of this agreement. Client further acknowledges that its acceptance of this liquidated damage amount is a material consideration for photographer agreeing to deliver to Client the photographs subject to this agreement. In the event that Client infringes on Photographer's copyright in and to the works delivered herewith, then Photographer shall be entitled to obtain immediate injunctive relief to prevent further infringement and that Photographer shall not be required to post a bond to obtain injunctive relief, or if a bond is not waiveable, such bond shall not exceed one hundred dollars (\$100.00). Photographer shall be entitled to recover the greater of Photographer's actual damages, or statutory damages in a sum not to exceed twenty thousand dollars (\$20,000.00), in cases of non-willful infringement. In each instance, Photographer shall be entitled to recover reasonable legal fees incurred and related costs in enforcing Photographer's rights under the Canadian Copyright Act, and under each federal or ancillary provincial law under which Photographer is awarded or granted damages.
- J. Alterations: Client will not make or permit any alterations, additions, or subtractions in respect of the photographs, including without limitation any digitalization or synthesizing of the photographs, alone or with any other material, by use of computer or other electronic means or any other method or means now or hereafter known.
- K. Default: In the event of non-payment or other breach of this Agreement by Client, Client shall pay all of Photographer's costs and expenses incurred in connection with enforcement of the terms of this agreement, including Photographer's reasonable legal fees.
- L. Releases: Photographer is not responsible for obtaining model, property, or other releases in connection with any of the photographs licensed herein unless specifically stated herein.
- M. Copies: Client shall provide to Photographer five (5) copies of each use of the photographs no later than the date of first publication.

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 Photographer

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 Date

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 Client

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 Date

- N. Miscellaneous: Client may not assign or transfer this license. No alterations may be made in any of these provisions without the express written consent of the Photographer.
- O. Reshoots: Client will be charged 100% fee and expenses for any reshoot required by Client. For any reshoot required because of an act of God, (other than inclement weather which is addressed below) 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 expense covered by insurance. A list of exclusions from such insurance will be provided on request.
- P. Cancellations: Cancellations and postponements: Client is responsible for payment of all expenses incurred up to the time of cancellation, plus 50% of Photographer's fee. If notice of cancellation is given less than two (2) business days before the shoot date, Client will be charged 100% fee. Weather postponements: Unless otherwise agreed, Client will be charged 100% fee if postponement is due to weather conditions on location and 50% fee if postponement occurs before departure to location.
- Q. Governing Law: This agreement shall be interpreted and governed by the laws of Canada, all applicable provincial legislation and international conventions including the World Trade Organization's Agreement on Trade Related Aspects of Intellectual Property Rights. This agreement shall be deemed to be a contract made under the laws of Canada and the Province of Saskatchewan and for all purposes shall be interpreted in its entirety in accordance with these laws. Client specifically and irrevocably confers personal jurisdiction over it by the courts of the Province of Saskatchewan. Client specifically waives all rights to contest each court proceeding on the grounds of personal jurisdiction, venue and forum non-convenience or other rules of conflict. In the event of any award or judgment in favour of Photographer, or any settlement between Photographer and Client, arising from effecting and protecting Photographer's rights and benefits hereunder and/or any aspect of this agreement, Client shall pay all costs and expenses incurred by Photographer and/or Photographer's legal counsel related thereto, including, but not limited to, reasonable legal fees, arbitration and court costs, associated expenses, and legal interest on such award, judgment, or settlement.

THIS CONTRACT MUST BE SIGNED BY CLIENT WITH A COPY RETURNED TO THE PHOTOGRAPHER PRIOR TO ANY FINAL ARRANGEMENTS & OR BOOKINGS.

PLEASE SIGN ALL PAGES AND FAX BACK TO PHOTOGRAPHER. FULL PAYMENT DUE WITHIN THIRTY (30) DAYS or PRIOR TO PUBLICATION WHICH EVER OCCURS FIRST. Make cheque or money order payable to "Darrell Noakes, Photographer".

\_\_\_\_\_  
Photographer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Client

\_\_\_\_\_  
Date