

DESIGN PICS EULA

NOTICE: This is a legal agreement made between you (“Licensee” or “you”) and Design Pics Inc. or its authorized distributors (collectively, “Licensor”) and should be read carefully.

By licensing any photograph, illustration, digital art or other form of visual content (“Images”) through your membership, CD Collections, subscription or the licensing of single or multiple Images, you agree to be bound by this End User License Agreement (“EULA” or “Agreement”). If you do not agree, do not proceed to download, license or use the Images.

If you are entering into this Agreement on behalf of your employer or your client, the license granted, and the restrictions and terms of this Agreement apply to your employer or your client and you represent and warrant that you have full legal authority to bind your employer or client to the terms of this Agreement. If you do not have that authority, your employer or client may not use the Images. The rights purchased may only belong to you or your employer/client, depending on who is named as the “Licensee”.

This Agreement applies to and encompasses all Images made available by Design Pics Inc. or any of its divisions including “AgStock,” “Alaska Stock,” “Axiom Photographic,” “Design Pics,” “First Light,” “Masterfile”, “Pacific Stock,” “The Irish Image Collection”, “Disability Images” through our websites or Apps (collectively, the “Website”) or any other method of content delivery.

- 1 **Ownership:** This Agreement grants a limited license allowing use of Images under the terms and conditions of this Agreement and not otherwise. You do not own the Images and no proprietary interest or any right or title is transferred to you. All right, title, interest and copyrights in the Images remain with Licensor or its licensors or contributing photographers. Images are protected by Canadian and international laws regarding copyrights and moral rights, as well as international treaties and other applicable laws. Licensor retains all rights not expressly granted by this license agreement, including all morale rights to the Images.
- 2 **Unauthorized Use:** Any use of Images in a manner not expressly authorized by this Agreement or in breach of a term of this Agreement constitutes copyright infringement, entitling Licensor to exercise all rights and remedies available to it under copyright laws around the world. Licensee shall be responsible for any damages resulting from any such copyright infringement, including any claims by a third party. In addition, and without prejudice to Licensor other remedies under this Agreement, Licensor reserves the right to charge and Licensee agrees to pay a fee equal to at least three times Licensor normal license fee for use of the Images.
- 3 **Credit/Attribution:** If you are using Images for editorial purposes, you must include a credit adjacent to the content or in production credits. The credit should be in the following form or as otherwise stipulated in the caption information accompanying the content on the Website: “© [Photographer Name]/[Collection Name]”. For example, “© John Doe / Masterfile”.
- 4 **Grants of rights for Budget, RF and RM Images:** Images designated as Budget, Royalty-Free (RF) or Rights-Managed (RM) Images on the Website will only be licensed to you pursuant to their applicable licensing models.

4.1 For Budget Images:

The client acknowledges and agrees that Budget Images are licensed under a limited-rights royalty-free model and that:

- 4.1.1 upon receipt of full payment, a perpetual non-exclusive, non-transferable, worldwide License to use and modify the Image, subject to the restrictions contained in this Agreement and any additional restrictions that may be specified in the Budget License, will be granted;
 - 4.1.2 unless the client acquires an extended license for “Unlimited Print Run”, use of any Budget Image in any printed product cannot, in aggregate, exceed 500,000 copies;
 - 4.1.3 unless the client acquires an extended license for “Consumer Merchandise”, use of any Budget RF Image in any printed consumer merchandise for wholesale or retail distribution;
-

- 4.1.4 unless the client acquires an extended license for “Unlimited Seat License”, any Budget RF Image cannot be stored on more than one computer or accessible to any other person across except as may be required by your subcontractors for preparation of your Licensed Work, provided that such subcontractors agree to abide by this Agreement;
 - 4.1.5 unless the client acquires an extended license for “Electronic Template”, any Budget Image cannot be resold or distributed as part of an electronic template, such as an e-greeting card, presentation software template, or software deployment package; and
 - 4.1.6 certain Budget Images might be made available by Licensor through a subscription service where the subscription holder is entitled to a certain number of images per month depending on the subscription package purchased; and
 - 4.1.7 the terms of this Agreement apply to all subscriptions and any Images licensed through the subscription; and
 - 4.1.8 the Licensor reserves the right to discontinue its subscription service at any time without notice and is only obligated to refund or credit any fees for any unused part of a subscription if the subscription service is discontinued.
- 4.2 For Royalty-Free (RF) Images:
The client acknowledges and agrees that RF Images, subject to the payment of the applicable licensing fee:
- 4.2.1 are licensed for worldwide, unlimited, perpetual use, and pricing is generally based on the file size;
 - 4.2.2 are subject to license fees are paid once and the client does not need to pay additional royalties if the Image is reused;
 - 4.2.3 are subject to licenses that are limited, revocable, non-transferable which grant a non-exclusive right to copy, modify and use the Image(s) an unlimited number of times in personal, professional, internal, editorial, and client projects, in any and all media, subject to the restrictions set forth in this Agreement;
 - 4.2.4 do not, in general, have exclusive licensing rights available;
 - 4.2.5 may not be used in the production, distribution and/or sale of printed templates, website templates, or similar products (including but not limited to turn-key websites, pre-formatted emails or newsletters, or blog or CMS themes) which contain all or a portion of one or more Images, unless you obtain prior written consent from Licensor;
 - 4.2.6 may be used on a server, image library or network configuration to be viewed by Licensee provided that the RF Images can be accessed by no more than 10 persons (including employees or agents of Licensee); and
 - 4.2.7 require the purchase of a separate seat license for each additional individual user over the 10 persons allowed under the standard Agreement..
- 4.3 For Rights-Managed (RM) Images:
The client acknowledges and agrees that RM Images, subject to the payment of the applicable licensing and pursuant to the terms of this Agreement, are licensed for:
- 4.3.1 specific types of use; are generally priced based on factors such as size, placement, duration of use, and geographic distribution;
 - 4.3.2 are subject to licenses that grant a limited, revocable, non-transferrable and non-exclusive rights limited to the specific use, medium, period of time, print run, placement, size of content and territory selected, and any other restrictions that accompany the Images on the Website (or any other method of content delivery) or in an invoice; and
-

- 4.3.3 that Design Pics must be contacted in writing for any exclusive licensing rights for RM Images can be obtained if they have not already been included as stated in the License.
- 4.4 If you are unsure of your usage rights under this agreement, or if you wish to use an Image(s) in a manner not specified or permitted under this Agreement, please contact Licensor by email: clearances@designpics.com.
- 5 **Restrictions:** Unless otherwise agreed upon in writing by the parties, for all licenses (Budget, RF and RM), the Client acknowledges and agrees that they will not do any of the following:
- 5.1 use or incorporate Images in whole or in part in any way as to form part of a logo, trademark, or service mark;
 - 5.2 use Images in connection with "on demand" product creation (e.g., products in which a licensed Image is selected by a third party for customization of such product on a made-to-order basis), including, without limitation, postcards, mugs, t-shirts, calendars, posters, screensavers, wallpapers on mobile telephones, or similar items (this includes the sale of products through sites such as zazzle.com and cafepress.com);
 - 5.3 copy Images in whole or in part for any purpose other than for use by you as non-exclusive licensee, and may not be copied for re-sale, other than for inclusion in work generated by you;
 - 5.4 sell or distribute Images in any way that allows the Images to be extracted, accessed, or downloaded as a stand-alone file;
 - 5.5 sell, sublicense, assign, convey, share, or transfer any Images, in whole or in part, or rights thereto to any person or entity except as expressly permitted under this Agreement; or
 - 5.6 use, reproduce, distribute, or display the Images in a way that is considered by Design Pics or under applicable law, to be considered pornographic, obscene, infringing, or defamatory in nature or that would be reasonably likely to bring any person or property reflected in the Images into disrepute;
 - 5.7 use Images in association with any discriminatory content, whether with respect to age, gender, racial or ethnic origin, sexual orientation, marital status, physical or mental handicap, or similar matters, or content constituting hate literature;
 - 5.8 use Images (including any caption information, keywords or other metadata associated with content) for any machine learning and/or artificial intelligence purposes, or for any technologies designed or intended for the identification of natural persons unless you obtain our prior written consent;
 - 5.9 use the caption information, keywords, accompanying text, or other metadata associated with any Image separate and apart from the Image itself, or allow any third parties to access or use any such information associated with the Images, unless you obtain our prior written consent;
 - 5.10 deliver, transfer or export Images, in whole or in part, into any country where so doing would be illegal, or used in any manner prohibited by applicable laws, restrictions or regulations; or
 - 5.11 use Image, in whole or in part, in a manner not expressly permitted in this Agreement or as stated in the License.
- 6 **Replacing Images and Content Withdrawal:** Licensor reserves the right to revoke the license to use a specific Image for good cause and elect to replace the Image with an alternative Image determined in our reasonable discretion free of charge, subject to the terms of this Agreement. In the unlikely event that this should occur, upon notice of the revocation of a license for a particular Image, Licensee shall immediately cease using such Image and shall ensure that its clients and/or employers do likewise. Licensor may discontinue licensing any Image at any time in its sole discretion.
- 7 **Model Releases:** Model releases exist for Images containing recognizable people if it is indicated that a model release is available for the Image on the Website. Licensee shall be solely responsible for determining whether a release is sufficient for the proposed use or is required in connection with any proposed use of such Image(s) and the release may not include all of the recognizable people portrayed in the Image. Licensee acknowledges that some jurisdictions provide legal protection against a person's Image, likeness or property being used for commercial purposes without their consent. Licensor uses commercially reasonable efforts to identify whether there is a model release in the caption for each Image, but cannot be
-

held responsible for erroneous or incomplete caption information that is obtained from our suppliers. Licensor will provide a copy(s) of existing model releases upon request, however, names & contact information will be removed to protect the privacy of the model(s).

- 8** Sensitive Uses and Endorsements: Even if a model release exists, you may not use, or permit others to use, Images in connection with a subject that would be unflattering, embarrassing or controversial to a reasonable person (for example, sexually transmitted diseases or endorsements of political or religious views) without obtaining prior written consent from Licensor and including a disclaimer indicating that “any person depicted in the Image is a model and the Image is being used for illustrative purposes only.” The same disclaimer must be included if any Image featuring a model is used in a manner that would lead a reasonable person to believe that the model personally uses or endorses a product or service.
- 8.1 In the event that it is possible, for any reason, that, with respect to any works containing Images, that a use of the Image and the model(s) appearing therein may fall under the above noted conditions, please contact sales@designpics.com
- 9** Property Releases and Other Releases: Property releases exist for Images containing recognizable properties if it is indicated that a property release is available for the Image on the Website. Licensee shall be solely responsible for determining whether a release is sufficient for the proposed use or is required in connection with any proposed use of such Image(s) and the release may not include all of the recognizable property portrayed in the Image. Licensor uses commercially reasonable efforts to identify whether there is a property release in the caption for each Image, but cannot be held responsible for erroneous or incomplete caption information that is obtained from our suppliers. Licensor grants no rights and makes no warranties with regard to the use of names, trademarks, trade dress, registered, or unregistered or copyrighted designs or works of art or architecture depicted in any Image, and Licensee must satisfy itself that all the necessary rights or consents regarding any of the above, as may be required for reproduction, have been obtained.
- 10** User Accounts: You are responsible for tracking all activity for each user account, and you agree to: (a) maintain the security of all passwords and usernames; (b) notify Licensor immediately of any unauthorized use or other breach of security; and (c) accept all responsibility for activity that occurs under each user account. We reserve the right to monitor downloads and user activity to ensure compliance with the terms of this Agreement. If Licensor determines that you are in breach of this or any other term of this Agreement, we may suspend access to your account and seek further legal remedies.
- 11** Payments: Your use of the images is predicated on the prompt payment in full for the use of the Images. Should you use an Image and not make full payment in a timely manner, you are committing copyright infringement. In such a case, Licensor reserves the right, in its sole discretion, to revoke your license if payment is not made in full, and may use all legal means to collect damages. Unless you pay immediately by credit card, all invoices are payable net thirty (30) days or previous to your use of the Images, whichever comes first. If you fail to pay an invoice in full within the time specified, Licensor may add a service charge of 3% per month, or such lesser amount as permitted by law, on any unpaid balance until payment is received.
- 12** Refunds/Cancellation. All requests for refunds/cancellations must be made in writing. Provided that the request is made within 30 days and the licensed Image has not been used, Licensor may cancel the relevant order and issue a credit or full refund to your account or credit card. No credits or refunds are available for cancellation requests received more than 30 days from your receipt of the Image, or for research, lab, service or subscription fees, all of which are non-refundable. In the event of cancellation, your rights to use the Images terminate, and you must delete or destroy any copies of the Images.
- 13** Termination: Licensor may terminate this Agreement at any time if you do not comply with the terms and conditions of this Agreement, in which case you will have no further permission, license or right to possess or use the Images and you must remove all copies of Images from media in which they are contained, including, without limitation, all social media uses, and no printed copies of the Images will be permitted for publication or distribution. You must further remove all digital copies of such Images from all hard drives or digital storage devices and destroy all digital copies contained on any removable hard drives, CDs, DVDs or any other media on which the Images can be found.
- 14** Licensor Representations and Warranties: Licensor makes the following representations and warranties to you:
- 14.1 Licensor has all necessary rights and permissions from any artist, copyright holder or licensor of any Image to enter into this Agreement;
-

- 14.2 your use of any Image in accordance with this Agreement will not infringe on any copyright or moral rights of the copyright owner or creator of the Image;
- 14.3 if a Model Release is provided by Licensor for any Image, your use of such Image in accordance with this Agreement will not infringe on any privacy or publicity right with respect to the illustrated Model(s); and
- 14.4 if a Property Release is provided by LICENSOR for any Image, your use of such Image in accordance with this Agreement will not infringe on any property right with respect to the illustrated property.
- 14.5 Limited Warranty: Licensor warrants the Images to be free from defects in material and workmanship for 90 days from delivery. Your sole and exclusive remedy for a breach of this warranty is the replacement of the Image or a refund of the pro-rated purchase price of that Image, at the option of Licensor. Licensor does not warrant the accuracy of any caption information or metadata provided with the Images.

15 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE IMAGES ARE PROVIDED “AS IS” WITHOUT REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION WARRANTIES OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY OR CONDITION ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE.

WITHOUT DEROGATING FROM ANY OTHER LIMITATION OF LIABILITY CONTAINED IN THIS AGREEMENT, YOU AGREE THAT THE AGGREGATE OF ALL LIABILITY ON THE PART OF LICENSOR FOR BREACH OF ANY WARRANTY CONTAINED IN THIS AGREEMENT OR OF ANY OTHER PROVISION OF THIS AGREEMENT OR OF ANY AGREEMENT CONTEMPLATED BY THIS AGREEMENT OR ANY OTHER BREACH GIVING RISE TO LIABILITY, FOR ANY AND ALL CAUSES OF ACTION WHATSOEVER AND, REGARDLESS OF THE FORM OF ACTION (INCLUDING BREACH OF CONTRACT, STRICT LIABILITY OR TORT INCLUDING NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY), SHALL BE LIMITED TO YOUR ACTUAL DIRECT PROVABLE DAMAGES IN AN AMOUNT NOT TO EXCEED THE FEES PAID BY YOU TO LICENSOR FOR THE USE OF ANY IMAGES PURSUANT TO THIS AGREEMENT.

YOU AGREE THAT, EVEN IF LICENSOR HAS BEEN ADVISED BY YOU OF THE POSSIBILITY OF SUCH DAMAGES, IN NO EVENT WILL LICENSOR BE LIABLE FOR DAMAGES IN THE NATURE OF PUNITIVE, EXEMPLARY, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST BUSINESS REVENUE, LOST PROFITS, FAILURE TO REALIZE EXPECTED SAVINGS OR REVENUES, LOSS OF DATA, LOSS OF BUSINESS OPPORTUNITY, ECONOMIC LOSS, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES. SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES OR LIABILITY.

THIS AGREEMENT DOES NOT CONSTITUTE A SALE OF GOODS AND IN ANY EVENT THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE SALE OF GOODS IS EXPRESSLY DISCLAIMED AND NOT APPLICABLE TO THIS AGREEMENT.

16 Indemnification

- 16.1 Indemnification of Licensor by you: You agree to defend, indemnify, and hold harmless Licensor and its subsidiaries, affiliates, and Image suppliers, and each of their respective officers, directors, and employees from all damages, liabilities, and expenses (including reasonable legal costs including attorney fees) arising out of or in connection with (i) your use of any Image outside the scope of this Agreement; (ii) any breach or alleged breach by you (or anyone acting on your behalf) of any of the terms of this or any other agreement with Licensor; and (iii) your failure to obtain any required release for your use of Images.
 - 16.2 Indemnification of you by Licensor: Provided that you are not in breach of this or any other agreement with Licensor, and as your sole and exclusive remedy for any breach of the warranties set forth in this Agreement, Licensor shall defend, indemnify, and hold harmless you, your corporate parent, subsidiaries, and affiliates, and each of your respective officers, directors, and employees from all damages, liabilities, and expenses (including reasonable legal costs including attorney fees) arising out of or in connection with any breach or alleged breach by Licensor of its warranties set forth in this Agreement.
 - 16.3 The party seeking indemnification must promptly notify in writing the other party about the claim. The indemnifying party (the one covering the costs) has the right to assume the handling, settlement, or defence of any claim or litigation. The indemnified party (the one not covering the costs) has to cooperate in any way reasonably requested
-

by the indemnifying party. The indemnifying party will not be liable for legal costs including attorney fees and other costs incurred prior to the other party giving notice of the claim for which indemnity is sought.

- 17** Equitable Remedies and Injunctions: You agree and acknowledge that a breach of this Agreement by you will cause Licensor irreparable harm from which no adequate remedy exists at law, and for which damages will not be an adequate remedy, and that upon any such breach or threatened breach Licensor shall be entitled to injunctive relief without prejudice to any other right in law or equity and without the necessity of prior demand or proof of damage.
- 18** Governing Law and Venue: This Agreement will be governed by the laws in force in the Province of Alberta and the federal laws of Canada as applicable, without regard to conflicts of law principles. Subject to the rights of Licensor to make application for injunctive or other equitable relief in any court of competent jurisdiction, you hereby agree that the jurisdiction for enforcement of this Agreement and any disputes related to it shall be the Court of Queen's Bench, or its successor, at Edmonton, Alberta, Canada and you specifically submit to the exclusive jurisdiction of the said court.
- 19** Severability: If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of the Agreement, which shall remain valid and enforceable according to its terms.
- 20** Privacy Policy: Licensor recognizes the importance of your right to privacy and the sensitivity of personal information. Our Privacy Policy, which is incorporated into this Agreement, outlines the personal information we collect, how we manage your personal information and how we safeguard your privacy.
- 21** Enurement: This Agreement shall enure to the benefit of the parties and their respective heirs, executors and permitted assigns.
- 22** Assignment: This Agreement is personal to you and you may not assign this Agreement without obtaining prior written consent from Licensor. Licensor may assign this Agreement, without notice or consent, to any corporate affiliate or to any successor in interest, provided that such entity agrees to be bound by these terms.
- 23** Entire Agreement: No terms of conditions of this Agreement may be added or deleted unless made in writing and accepted in writing by both parties or issued electronically by Licensor and accepted by you. In the event of any inconsistency between the terms of this Agreement and the terms contained on any purchase order sent by you, the terms of this Agreement will apply.

By proceeding with the purchase and or use of any Images from Licensor, you have fully agreed to the above terms and conditions as set out in this Agreement.

Copyright © 2021, Design Pics Inc. All rights reserved.

SENSITIVE ISSUES & SENSITIVE ISSUES EXAMPLES

With reference to Section 13.2.2 of the Agreement, the following is a list of issues for which prior written consent and/or an extended Sensitive Issue Release must be obtained from COMPANY before licensing an Image depicting a recognizable person. DISTRIBUTOR is encouraged to use discretion whenever licensing Images for purposes that could be deemed controversial by others and to check with COMPANY when in doubt.

This Schedule B does not represent an opinion or judgment by COMPANY on any issue and this Schedule B is not complete or comprehensive, but rather, is provided for the purposes of examples of what COMPANY would consider to be a "Sensitive Issue." COMPANY reserves the right to update this list at any time without prior notice to DISTRIBUTOR. It is the responsibility of DISTRIBUTOR to check regularly with COMPANY regarding any changes to this list. Subject matter which is similar in nature to the examples on the list below should also be considered a sensitive issue, which requires prior written consent and/or an additional sensitive issue extended model release.

Certain selected Images may be able to be cleared for sensitive issues subject to the payment of a fee and COMPANY may charge DISTRIBUTOR or END USER at agreed rates for these additional services.

The following is a non-exhaustive list of examples of sensitive issues:

1. Abortion / Pro-Life
 2. Adoption or foster care
 3. Sexually transmitted diseases (STDs) and genital conditions, including HIV and related diseases
 4. Addictions (including but not limited to illicit drug use (or drug use that may be legal in certain jurisdictions), alcoholism, pornography and gambling)
 5. Mental health disorders of all types (including but not limited to eating disorders, anxiety, depression, bipolar, OCD, panic disorders and/or PTSD etc. (unless messaging in the usage is preventative)
 6. Congenital abnormalities (unless depicted in the image)
 7. Developmental or neurodevelopmental disorders, or other hidden disabilities
 8. Criminal acts of any kind (including impaired driving)
 9. Erectile dysfunction products or infertility,
 10. Euthanasia or assisted suicide
 11. Suicide or suicidal related activity
 12. Hepatitis (unless messaging is preventative or related to vaccines)
 13. Dating or interactive relationship sites
 14. Homelessness / Houselessness
 15. Incontinence, overactive bladder, chronic constipation, conditions like IBS or chronic diarrhea or any disease or condition that, when used in messaging, may be embarrassing or disparaging to the model(s)
 16. Abuse of any kind, whether physical, mental or emotional, including spousal and/or child abuse.
 17. Pornography, obscene or sexual exploitation subject matter of any form.
 18. Hate speech of any kind, including racist or discriminatory content, whether with respect to age, gender, racial or ethnic origin, sexual orientation, marital status, physical or mental handicap, or similar matters or content constituting hate literature.
 19. Endorsements of political or religious views, political parties or organizations
 20. Fringe or extremist groups, including but not limited to cults, terrorist organizations and extreme ideologies.
 21. Sexual harassment or sexual abuse of any form
 22. Sexual or gender orientation
 23. Teenage pregnancy
 24. Verbal or physical abuse, including bullying or social media abuse
 25. Smoking/vaping/ingesting tobacco or marijuana, including cigarettes, e-cigarettes, vaporizers and edible products
-

26. Prostitution/escort services and adult entertainment
27. Conspiracy theories
28. Anti-vaccination viewpoints
29. Any use of an Image that considered by a reasonable person or applicable laws to be infringing, defamatory in nature or would be reasonably likely to bring any person or property reflected in the Images into disrepute.

In each of the above examples, if the image has been keyworded by COMPANY to explicitly allow such sensitive usage and the use is consistent with the spirit of the keyworded use, then clearance for that purpose would not be required.

