

Terms and Conditions for Licensing Images from Take Stock

1. Definition

“Image(s)” means all visual representations furnished hereunder by Take Stock, a photographic stock agency, whether captured, delivered, or stored in photographic, magnetic, optical, electronic, or any other media.

2. Rights

All images and rights related to them, including copyright and ownership rights in the media in which the images are stored, remain the sole and exclusive property of Take Stock and the photographer(s) who made them. Unless specifically provided, any grant of rights is limited to a term of one (1) year and to usage in print (conventional non-electronic and nondigital) media in the territory of the United States. Unless otherwise specifically provided, no image licensed for use on a cover of a publication may be used for promotional or advertising purposes without the express permission of Take Stock and the payment of additional fees. No rights are transferred to Client unless and until Take Stock has received payment in full. The parties agree that any usage of any image without prior permission from Take Stock will be invoiced at three times Take Stock’s normal fee for such usage.

3 Return of Images

Client assumes all risk for items delivered by Take Stock from the time of receipt by Client to time of return receipt by Take Stock. Client assumes insurer’s liability (a) to indemnify Take Stock for loss, damage, or misuse of any image(s) and (b) to return all images prepaid and fully insured, safe and undamaged, by bonded messenger, air freight, or registered mail. Client assumes full liability for its principals, employees, agents, affiliates, successors, and assigns (including without limitation messengers and freelance researchers) for any loss, damage, or misuse of the images.

4. Loss or Damage

Reimbursement by Client for loss or damage of each original photographic transparency shall be in the amount of One Thousand Five Hundred Dollars (\$1500), or such other amount set forth next to said item on the stock delivery memo. Reimbursement by Client for loss or damage of each other item shall be in the amount set forth next to said item on the stock delivery memo. Take Stock and Client agree that said amount represents the fair and reasonable value of each item, and that Take Stock would not sell all rights to such item for less than said amount. At any time after the agreed return date, in the event of failure to return images, Take Stock shall have the right to demand immediate payment in full of this amount.

5. Credit Line

Unless otherwise stipulated, Take Stock’s copyright notice “(C) [YEAR OF FIRST PUBLICATION] [PHOTOGRAPHER’S NAME] /TAKE STOCK” must accompany each use as an adjacent credit line. Invoice amount will be tripled if said credit is not provided.

6. Alteration and Storage of Images

Client will not make or permit any alterations, additions, or subtractions in respect of the images, including without limitation any digitalization or synthesization of the images, alone or with any other material, by use of computer or other electronic means, or any other method or means now or hereafter known, without the express written permission of Take Stock. Should written consent be granted, and unless otherwise provided, all copyrights in any altered version of the images shall remain with Take Stock, or the photographers it represents. Client agrees that any scans of images made for the purpose of reproduction, or for any other purpose, will be destroyed or returned to Take Stock subsequent to use. CLIENT WILL NOT ELECTRONICALLY STORE, archive, or otherwise copy, or permit the electronic storage, archiving, or copying of such images in electronic or digital form, or by any other method or means subsequent to publication.

7. Indemnification

Client will indemnify and defend Take Stock against all claims, liability, damages, costs and expenses, including reasonable legal fees and expenses, arising out of any use of any images for which no release was furnished by Take Stock, or any images which are altered by Client. Unless so furnished, no release exists. Take Stock’s liability for all claims shall not exceed in any event the total amount paid under the licensing agreement.

8. Copies

Client will supply Take Stock with two free copies of uses appearing in print immediately after publication.

9. Transfer and Assignment

Client may not assign or transfer the licensing agreement or any rights granted thereunder. The agreement binds and inures to the benefit of Take Stock, Client, Client's principals, employees, agents and affiliates, and their respective 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 thereunder. No amendment or waiver of any terms is binding unless set forth in writing and signed by the parties. The agreement incorporates by reference Article 2 of the Uniform Commercial Code, and the Copyright Act of 1976, as amended.

10. Arbitration

Except as provided in (11) below any dispute regarding the licensing agreement shall be arbitrated in San Rafael, California, under rules of the Arts Arbitration and Mediation Service of the California Lawyers for the Arts, and the laws of California. Judgment on the arbitration award may be entered in any court having jurisdiction. Any dispute involving \$5000 or less may be submitted without arbitration to any court having jurisdiction thereof. Client shall pay all arbitration and court costs, reasonable legal fees, and expenses, and legal interest on any award or judgment in favor of Take Stock.

11. Federal Courts

Client hereby expressly consents to the jurisdiction of the Federal courts with respect to claims by Take Stock under the Copyright Act of 1976, as amended.