

## **Licensing for Photographs from DDRL**

THE TERMS AND CONDITIONS FORM A BINDING LEGAL AGREEMENT BETWEEN THE AUTHORISED LICENSEE ("YOU") AND DARTMOOR DIGITAL RESOURCE LIBRARY ("DDRL"). PLEASE READ THIS AGREEMENT CAREFULLY.

The terms:

- (a) PHOTOGRAPH includes a photograph, transparency, digital file or any other item which may be offered for the purposes of reproduction; and
- (b) REPRODUCTION includes any form of publication or copying of the whole or part of any photograph, altered or not, whether by printing, photography, slide projection (whether or not to an audience), xerography, artist's reference, artist's illustration, layout or presentation, electronic or mechanical reproduction, transmission or storage by any other means.

### **1. Licensing structure and permitted usage**

Subject to the terms of the Agreement DDRL grants to you a personal, non-exclusive, non-transferable, right to use a Photograph or Photographs for one time only for the selected use and subject to payment of the calculated fee.

The right to use the Photograph(s) will only be granted for the use specified and for no other purpose. Any rights not granted are specifically reserved for DDRL use and future disposition without any limitations whatsoever. You do not acquire any right, title or interest in or to the Photograph(s) except as specified. Derivative work rights, as detailed in paragraph 12, are not granted unless specified. The rights granted are subject to due payment in full of the fee specified in accordance with the terms of the Agreement and no rights are otherwise granted by your possession of the Photograph(s) or this Agreement. You agree to pay the fee specified, and any other fees or charges payable to DDRL, in advance of your use of the Photograph(s). Unless otherwise specified all fees are exclusive of VAT which you must also pay to DDRL. Additional rights may be available subject to payment of an additional fee. If you are unsure of your rights under the Agreement, or if you wish to use the Photograph(s) in a manner not specified, please contact us at [info@ddrl.org](mailto:info@ddrl.org)

Use of the Photograph(s) other than in accordance with the terms of the Agreement constitutes copyright infringement and breach of contract and may result in appropriate legal action.

### **2. Copyright & Credit Line**

The Photograph(s) is/are protected by copyright. All rights to the Photograph(s) are owned by the photographers and licensed to DDRL.

Where customary, or required by law, a copyright and credit line must be included with the reproduction of the Photograph(s) in the following format: [photographer name] © [year] DDRL ([www.ddrl.org](http://www.ddrl.org)). Please refer to Attribution Requirements. Since it is difficult to quantify the loss or damage incurred due to an incorrect or missing credit, you agree that a reasonable amount of liquidated damages payable by you to DDRL if the credit is missing or incorrect is 50% of the fee specified.

### **3. Unauthorised use**

DDRL will calculate the fee by relying in good faith on the information provided by you for the use specified. Since it is difficult to quantify the loss or damage incurred if you use the Photograph(s) other than in accordance with the Agreement, including but not limited to the number of uses, the publication utilised, or the size of reproduction, DDRL shall have the option to forego its right to sue for copyright infringement and breach of contract if you pay, as liquidated damages, a sum equal to three (3) times the normal fee which DDRL would have charged for such use, within fourteen (14) days of DDRL invoicing you for such fee. If you fail to make such payment DDRL shall have the right to sue for copyright infringement and breach of contract.

### **4. Statement of use**

If the Photograph(s) is used in a print publication you agree to send, at your cost, to DDRL two (2) free tear sheets containing a reproduction of the Photograph(s) within (thirty) 30 days of publication. In other media alternative evidence of use must be provided if requested. Failure to supply tear sheets or such alternative evidence shall be considered to be a material breach of the Agreement.

### **5. Term of licence**

The term of the Agreement is for a period of twelve (12) months from the date of initiation unless

otherwise specified. The Agreement will terminate automatically without notice from DDRL once the permitted use has been completed or if you fail to pay the applicable fees or fail to comply with any other provision of the Agreement or if you are declared bankrupt, insolvent or if a resolution, petition or order or winding-up is made against you or any representation made by you proves to be false. Upon termination, you must immediately (i) stop using the Photograph(s) and (ii) delete the Photograph(s) and all copies of it from all electronic and/or magnetic media and destroy all other copies of the Photograph(s) within your possession or control, or upon request of DDRL, return all such copies to DDRL.

#### **6. Non-transferable**

"Non-transferable," as used in paragraph 1, means that the work you produce using the Photograph(s) must be for your own use, or for the use of your direct employer, client, or customer, who must be the end-user of your work. You may not sell, rent, loan, give, sublicense, or otherwise transfer to anyone the Photograph(s) or the right to use the Photograph(s) (except insofar as it has been incorporated by you into the permitted use specified by you, and nothing you produce shall grant or purport to grant to any third party a right to use or reproduce the Photograph(s)). You agree to take all commercially reasonable steps to prevent third parties from reproducing or distributing the Photograph(s), including affixing the credit line as detailed in paragraph 2 and implementing appropriate security protection and compliance procedures.

#### **7. Storing the Photograph(s)**

The Photograph(s) may not be reproduced or stored by computer or transmitted by a computer network other than is immediately necessary for the permitted use specified.

Where the Photograph(s) is/are provided on CD by DDRL you may not:

- a. copy or reproduce the CD, the Photograph(s) it contains, or the materials that accompany it, except as specified in the Agreement;
- b. remove any copyright or trade mark material or notice from any place where it appears on the CD, or its accompanying materials; or
- c. reverse engineer, decompile, or disassemble any part of the CD, its software or any part of it, subject to applicable law.

#### **8. Indemnification**

You agree that you will not use or permit the use of the Photograph(s) to infringe any copyright, trade mark rights or any other intellectual property rights, moral rights or similar rights, to defame any person or violate any person's right of privacy or publicity, for any obscene, indecent or blasphemous purpose, or in any other way which is illegal or unlawful. You agree not to use or permit the use of the Photograph(s) as a trade or service mark, or claim any proprietary rights of any sort in the Photograph(s) or any part. You agree to indemnify and hold DDRL harmless against any claim, loss, damage or liability of any kind (including reasonable legal fees and expenses) arising from any use of the Photograph(s) other than in accordance with the terms of the Agreement.

#### **9. Warranties**

DDRL provides its on-line image system, the Photograph(s), the accompanying data (including captions) and any media on which the Photograph(s) (the "Materials") are supplied "as is" and on an "is available" basis without any representation or endorsement and without warranty of any kind whether express or implied, including, but not limited to, warranties of satisfactory quality, fitness for a particular purpose, non-infringement, compatibility, security and accuracy. DDRL does not warrant that use of the Materials will be uninterrupted, error free or free of viruses or bugs or that defects will be corrected, or give any warranty otherwise as to their functionality, accuracy, or reliability.

#### **10. Limitations of liability**

In no event will DDRL be liable for any damages including, without limitation, indirect or consequential damages, or any damages whatsoever arising from use or loss of use, data, or profits, whether in action of contract, negligence or other tortious action, arising out of or in connection with the Agreement including without limitation (a) the use of or inability to use the Photograph(s) or (b) the inability to obtain additional rights to the Photograph(s) (including making additional copies), even if DDRL has been advised of the possibility of such damages. In any event, the limit of liability of DDRL, the copyright owner of the Photograph(s) and their representative shall be the fee paid for the Photograph(s) to DDRL.

#### **11. Interpretation and Governing Law**

The Agreement contains the entire agreement and understanding between the parties relating to the

Photograph(s). If any provision of the Agreement should be determined to be illegal, invalid or otherwise unenforceable by reason of the laws of any state or country in which the Agreement is intended to be effective, then to the extent and within the jurisdiction which that provision is illegal, invalid or unenforceable, it shall be severed and deleted from this Agreement and the remaining terms and conditions shall survive, remain in full force and effect and continue to be binding and enforceable. The Agreement shall be governed by and construed in accordance with the laws of England and Wales. Disputes arising under the Agreement shall be exclusively subject to the jurisdiction of the courts of England and Wales.

### **12. Derivative work**

If you intend to create or have created any derivative work, you must contact DDRL to purchase reproduction rights. A derivative work is anything sourced from or referenced from the Photograph(s). If you manipulate, clone, copy, trace, or include the Photograph(s) or any part in a montage or use the Photograph(s) as the basis for an artist's reference, or change the Photograph(s) in any other way you create a derivative work. Such derivative work may be used only as permitted in accordance with the Agreement, and you hereby assign any and all copyright in respect of such derivative work to DDRL. If requested by DDRL, you agree to execute such further documents or perform such acts as DDRL may request to give affect to such assignment and you agree that DDRL may execute such documents or perform such acts as your agent if you fail to do so within fourteen (14) days of a request to do so.

I agree to the above Licensing for Photographs from DDRL Terms and Conditions

Signed

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