



Tsc Tempest Photography

from contrast to colour, exploring the interplay of light

Usage Terms and Conditions

[1] Definition: "Image(s)" means all visual representations furnished to the Client by Tsc Tempest Photography, whether captured, delivered, or stored in photographic, magnetic, optical, electronic, or any other media.

Unless otherwise specified on the front of this document, Tsc Tempest Photography may deliver, and the Client agrees to accept, Images encoded in an industry-standard data format that Tsc Tempest Photography may select, at a resolution that Tsc Tempest Photography determines will be suitable to the subject matter of each Image and the reproduction technology and uses for which the Image is licensed.

It is the Client's responsibility to verify that the digital data (including color profile, if provided) are suitable for reproduction of the expected quality and color accuracy, and that all necessary steps are taken to ensure correct reproduction. If the data are not deemed suitable, Tsc Tempest Photography's sole obligation will be to replace or repair the data, but in no event will Tsc Tempest Photography be liable for poor reproduction quality, delays, or consequential damages.

Unless otherwise specifically provided elsewhere in this document, Tsc Tempest Photography has no obligation to retain or archive any of the Images after they have been delivered to the Client.

The Client is responsible for sending an authorized representative to the assignment or for having an authorized representative review the images remotely during the assignment.

If no review is made during the assignment, the Client is obligated to accept Tsc Tempest Photography's judgment as to the acceptability of the Images.

[2] Rights: All Images and rights relating to them, including copyright and ownership rights in the media in which the Images are stored, remain the sole and exclusive property of Tsc Tempest Photography unless Copyright and/or Ownership has been reassigned in accordance with conditions outlined on the front of this document.



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Unless otherwise specifically provided elsewhere in this document, any grant of rights is limited to a term of one (1) year from the date hereof and to usage in print (conventional non-electronic and non-digital) media.

Unless otherwise specifically provided elsewhere in this document, no image licensed for use on a cover of a publication may be used for promotional or advertising purposes without the express permission of Tsc Tempest Photography and the payment of additional fees.

No rights are transferred to the Client unless and until Tsc Tempest Photography has received payment in full. The parties agree that any usage of any Image without the prior permission of Tsc Tempest Photography will be invoiced at five times Tsc Tempest Photography's customary fee for such usage.

The Client agrees to provide Tsc Tempest Photography with three copies of each published use of each Image not later than 60 days after the date of first publication of each use. If any Image is being published only in an electronic medium, the Client agrees to Provide Tsc Tempest Photography with an electronic tearsheet, such as a PDF facsimile or URL of the published use of each such photograph, within fifteen (15) days after the date of first publication of each use.

Unless otherwise specifically provided elsewhere in this document, all usage rights are limited to print media, digital usages of any kind are not permitted unless otherwise specifically stated on the front of this document. This prohibition includes any rights or privileges that may be claimed under International Copyright or any similar provision of any applicable local law.

Digital files may contain copyright and other information embedded in the header of the image file or elsewhere; removing and/or altering such information is strictly prohibited and constitutes violation of the International Intellectual property Rights.

All fees and expenses payable under this agreement are required irrespective of whether the Client makes actual use of the Images or the licenses to use them.

Unless specifically provided elsewhere in this document, no reprographic, reprint, republication or other secondary reproduction usages may be made, and usage rights are granted only for one-time, English language regional editorial print



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editions of the publication listed on the front of this document and six month searchable archive use on the website of that publication.

[3] Return and Removal of Images: The Client assumes insurer's liability,

- (a) to indemnify Tsc Tempest Photography for loss, damage, or misuse of any Images, and
- (b) to return all Images prepaid and fully insured, safe and undamaged, by bonded messenger, air freight, or registered mail.

Unless the right to archive Images has been specifically granted by Tsc Tempest Photography on the front of this document, the Client agrees to remove and return or destroy all digital copies of all Images.

All Images shall be returned, and all digital files created by or on behalf of the Client containing any Images shall be delivered to Tsc Tempest Photography, deleted or destroyed, within thirty (30) days after the later of:

- (1) the final licensed use as provided in this document, and
- (2) if not used, within thirty (30) days after the date of the expiration of the license. Failure to return Images on time will result in loss to Tsc Tempest Photography due to his resulting inability to license such Images.

The Client therefore agrees to pay a holding fee of five euros and fifty cents (EUR 5.50) per day for each image from the return date until the day on which the Images are actually received by Tsc Tempest Photography.

The Client assumes full liability for its principals, employees, agents, affiliates, successors, and assigns (including without limitation independent contractors, messengers, and freelance researchers) for any loss, damage, delay in returning or deleting, failure to return, or misuse of the Images.

[4] Loss or Damage: Reimbursement by the Client for loss or damage of each original photographic transparency or film negative ("Original[s]") shall be in the amount of One Thousand Five Hundred Euros (EUR 1,500.00), or such other amount if a different amount is set forth next to the lost or damaged item on the reverse side or attached schedule.

Reimbursement for loss or damage of each non-digital duplicate image shall be in the amount of Two Hundred Euros (EUR 200.00).



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Reimbursement for loss or damage of each digital file shall be in the amount of Two Hundred Euros (EUR 200.00).

Reimbursement by the Client for loss or damage of each item other than as specified above shall be in the amount set forth next to the item on the reverse side or attached schedule.

Tsc Tempest Photography and the Client agree that said amount represents the fair and reasonable value of each item, and that Tsc Tempest Photography would not normally sell all rights to such items for less than said amount.

The Client understands that each Original is unique and does not have an exact duplicate, and may be impossible to replace or re-create.

The Client also understands that its acceptance of the stipulated value of the Images is a material consideration in Tsc Tempest Photography's acceptance of the terms and prices in this agreement.

[5] Photo Credit: All published usages of Images will be accompanied by written credit to Tsc Tempest Photography or copyright notice as specified on the reverse side.

If no placement of a credit or copyright notice is specified on the reverse side, no credit or notice is required.

If a credit is required but not actually provided, the Client agrees that the amount of the invoiced fee will be subject to a five-times multiple as reasonable compensation to Tsc Tempest Photography for the lost value of the credit line.

[6] Alterations: The Client will not make or permit any alterations, including but not limited to additions, subtractions, or adaptations in respect of the Images, alone or with any other material, including making digital scans unless specifically permitted on the reverse side.

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reverse side, except that cropping and alterations of contrast, brightness, and color balance, consistent with reproduction needs may be made.

The Client may make or permit any alterations, including but not limited to additions, subtractions, or adaptations in respect of the Images alone or with any other material, including making digital scans, subject to the provisions as stated in [7] below.

[7] Indemnification: the Client will indemnify and defend Tsc Tempest Photography against all claims, liability, damages, costs, and expenses, including reasonable legal fees and expenses, arising out of the creation or any use of any Images or arising out of use of or relating to any materials furnished by the Client.

Unless delivered to the Client by Tsc Tempest Photography, no model or property release exists, and it is the Client's responsibility to obtain the necessary permissions for usages that require any model or property releases not delivered by Tsc Tempest Photography.

It is the Client's sole responsibility to determine whether any model or property releases delivered by Tsc Tempest Photography are suitable for the Client's purposes.

Tsc Tempest Photography's liability for all claims shall not exceed in any event the total amount outlined in the invoice.

[8] Assumption of Risk: the Client assumes full risk of loss or damage to or arising from materials furnished by the Client and warrants that said materials are adequately insured against such loss, damage, or liability.

[9] Transfer and Assignment: The Client may not assign or transfer this agreement or any rights granted under it.

This agreement binds the Client and inures to the benefit of Tsc Tempest Photography, as well as their respective principals, employees, agents, and affiliates, heirs, legal representatives, successors, and assigns.



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The Client and its principals, employees, agents, and affiliates are jointly and severally liable for the performance of all payments and other obligations hereunder.

No amendment or waiver of any terms is binding unless set forth in writing and signed by the parties.

However, the invoice may reflect, and the Client is bound by, the Client's oral authorizations for additional Images, fees and expenses that could not be confirmed in writing because of insufficient time or other practical considerations.

This agreement incorporates by reference International Copyright as afforded under International agreements on Intellectual Property Rights, as amended.

Tsc Tempest Photography is an Independent Contractor and NOT an employee.

If Tsc Tempest Photography is deemed under any law to be an employee of the Client, and if the Images therefore may be considered works made for hire, the Client hereby transfers the copyright to all such Images to Tsc Tempest Photography or to compensate Tsc Tempest Photography no less than 25% of the contract value for relinquishment of Copyright Ownership. The Client agrees to execute any documents reasonably requested by Tsc Tempest Photography to accomplish, expedite or implement such transfer.

[10] Disputes: Except as provided in [11] below, any dispute regarding this agreement shall, at Tsc Tempest Photography's sole discretion, either:

(1) be arbitrated in Tsc Tempest Photography's City, Tsc Tempest Photography's State, under rules of the Local Arbitration Assembly and International Law; provided, however, that irrespective of any specific provision in the rules of the Local Arbitration Assembly, the parties are not required to use the services of arbitrators participating in the Local Arbitration Assembly or to pay the arbitrators in accordance with the fee schedules specified in those rules.

Judgment on the arbitration award may be entered in any court having jurisdiction. Any dispute involving EUR 5,000.00 or less may be submitted without arbitration to any court having jurisdiction thereof.

OR



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(2) be adjudicated in Tsc Tempest Photography's City of residence, under the International and/or the laws of Tsc Tempest Photography's locale.

(3) In the event of a dispute, regardless of outcome, the Client shall pay all court costs, Tsc Tempest Photography's reasonable legal fees, expenses, AND any legal interest on any award or judgment that may occur in favor of Tsc Tempest Photography.

[11] Jurisdiction: the Client hereby expressly consents to the jurisdiction of the local courts with respect to claims by Tsc Tempest Photography under International Copyright, as amended, including subsidiary and related claims.

[12] Overtime: In the event a shoot extends beyond six (6) consecutive hours, Tsc Tempest Photography may charge for such excess time of assistants and freelance staff at the rate of 175% of their hourly rates.

[13] Reshoots: the Client will be charged 110 percent fee and expenses for any reshoot required by the Client. For any reshoot required because of any reason outside the control of the Client, specifically including but not limited to acts of God, nature, war, terrorism, civil disturbance or the fault of a third party, Tsc Tempest Photography will charge no additional fee, and the Client will pay all expenses.

If Tsc Tempest Photography charges for special contingency insurance and is paid in full for the shoot, the Client will not be charged for any expenses covered by insurance. A list of exclusions from such insurance will be provided on request.

[14] Assignment Cancellations, Postponements, Late Fees: Cancellations: the Client is responsible for payment of all expenses incurred up to the time of cancellation of the assignment, plus 75 percent of Tsc Tempest Photography's fee; however, if notice of cancellation is given less than two (2) business days before the shoot date, the Client will be charged 100 percent fee.

Postponements: Unless otherwise agreed in writing, the Client will be charged a 100 percent fee if postponement of the assignment occurs after Tsc Tempest Photography has departed for location, and 75 percent fee if postponement occurs before departure to location.



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Lateness: Unless otherwise agreed in writing, the Client will be charged 150% of: Tsc Tempest Photography's normal hourly rate and Studio Fees; for every half hour, or part thereof, for any delay in commencing shooting caused by the Client, by either being late in arrival, or otherwise unprepared or unable to commence at the agreed starting time.

Fees for cancellations, postponements or Lateness will apply irrespective of the reasons for them, specifically including but not limited to weather conditions, acts of God, nature, war, terrorism, civil disturbance, force majeure, or fault of a third party.