

Mint Photo LLC Terms and Conditions

Scope of this Agreement:

This Agreement applies to any photographs, graphics, digital assets, or digital images created or taken by Photographer and delivered to the Client. This Agreement governs the relationship between the parties and in no event shall any e-mail communication or other exchange, amend or otherwise modify the terms of this Agreement unless agreed to in writing.

Rights:

All Photos and rights relating to them, including copyright and ownership rights in the media in which the Photos are stored, remain the sole and exclusive property of the Photographer. This license provides the Client with the limited right to reproduce, publicly display, and distribute the Photos only for promotional or advertising purposes directly related to the sale of the Property. Photos used for any purpose not directly related to the sale of the Property must be with the express permission of the Photographer and the payment of additional fees, unless otherwise agreed to in writing.

Photos may be uploaded to any MLS listing service solely for promotion of the Property during the pendency of this Agreement. However, regardless of any terms and conditions of the MLS, at no time does this Agreement provide Client with the right to transfer copyright, or any other exclusive rights as provided by the Copyright Act 17 U.S.C § 106. Photos may contain copyright management information (CMI) at the discretion of the Photographer in the form of either 1) a copyright notice © and/or 2) other copyright and ownership information embedded in the metadata or elsewhere, unless otherwise agreed to by the Parties. Removing and/or altering such information is prohibited and constitutes a violation of the Digital Millennium Copyright Act (DMCA) and Client will be responsible to the Photographer for any penalties and awards available under the statute.

Unless otherwise specifically provided elsewhere in this document or other signed agreement between the parties, any grant of rights is limited to a term of either one (1) year from the date of this Agreement, or (2) at the termination of Client's representation of the Property, whichever occurs first. Further use of images beyond one (1) year requires Photographer's permission and additional fees. Rights are assigned to the Client immediately upon delivery of the Photos.

Relationship of the Parties:

The parties agree that Photographer is an independent contractor, and that neither Photographer, nor Photographer's employees or contract personnel are, or shall be deemed to be, employees of Client. No agency, partnership, joint venture, or employee-employer relationship is intended or created by this Agreement. Neither party is authorized to act as agent or bind the other party except as expressly stated in this Agreement. Photographer and the Photos or any other deliverables prepared by Photographer shall not be deemed a work for hire as defined under Copyright Law. All rights granted to Client are contractual in nature and are expressly defined by this Agreement.

Fees:

All fees and expenses payable under this agreement are required no later than ten (10) business days from the delivery of the Photos and payable irrespective of whether Client makes actual use of the Photos. If full payment has not been received within thirty (30) days all rights are revoked at Photographer's discretion. In the event rights are revoked, all images in the possession of Client will be removed from all forms of media and permanently destroyed within ten (10) days. Client shall provide Photographer with written statement that all images have been removed and destroyed.

Transfer and Assignment:

Client may not assign or transfer this agreement or any rights granted under it. No amendment or waiver of any terms is binding unless in writing and signed by the parties. However, the invoice may reflect, and Client is bound by authorizations that could not be confirmed in writing because of insufficient time or other practical considerations.

Indemnification:

Client will indemnify and defend Photographer against all claims, liability, damages, costs, and expenses, including reasonable legal fees and expenses, arising out of the creation or any use of the Photos or materials furnished by Client. It is the Client's responsibility to obtain the necessary model or property releases to ensure they are full effect and in force.

Severability:

If one or more of the provisions contained in the Agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected. Such provisions shall be revised only to the extent necessary to make them enforceable.

Waiver:

No action of either party, other than an express written waiver, may be construed to waive any provision of this Agreement and a single or partial exercise by either party of any such rights or remedies will not preclude further exercise of other rights or remedy.