



Photography contract

Date: TBD

This agreement is dated: TBD

It is made between Jason Lee dba Jason Lee Photography

Of 152 Sansome Ave, Winnipeg, MB R3K 0P4 (the "Photographer")

And <Client Name>

Of <Client Address> (the "Client")

Background

The purpose of this contract is to record the terms agreed for a photographic assignment.

All contracts and transactions between the Photographer and the Client whether made orally or in writing are subject to these terms and conditions which shall be deemed to be incorporated into any contract between the Photographer and all or any of his Clients.

The terms of this agreement are:

1. Definitions

- "Assignment" means a piece of work to be undertaken by the Photographer under the terms of this agreement which is fully described as to terms and scope in the Instruction.
- "Confidential Information" means all information about the parties, including:
- information created or arising from this agreement;
 - information, comment or implication published on any Internet social medium.
- "Event" means the event as described in the Instruction.
- "Fee" means all money payable by the Client to the Photographer, however described, for work on the Assignment.
- "Images" means video or single photographic images recorded by the Photographer in any medium.

“Instruction”	means a written instruction for a specific Shoot, as set out in Schedule A
“Model Right”	means any right of a person to the privacy of his personal image or other feature by which he could be identified. It also means a similar right in respect of any building or thing owned by any person.
“Shoot”	means the occasion when the Photographer acts on the Instruction.

2. Entire agreement

- 2.1. This agreement contains the entire agreement between the parties and supersedes all previous agreements and understandings between the parties.
- 2.2. Each party acknowledges that, in entering into this agreement, he does not rely on any representation, warranty, information or document or other term not forming part of this agreement.
- 2.3. Nothing in this agreement shall create a partnership, agency or other relationship between the parties, other than the contractual relationship expressly provided for in this agreement.
- 2.4. Neither party shall have, nor represent that he has, any authority to make any commitment on another party's behalf, except as provided in this agreement.

3. Warranties for authority

- 3.1. Each of the parties warrants that he has power to enter into this agreement and has obtained all necessary approvals to do so.
- 3.2. The Photographer warrants and undertakes that he is not aware of anything within his reasonable control which might or will adversely affect his ability to fulfil his obligations under this agreement.

4. The contract

- 4.1. The Photographer agrees to provide the services to complete the Assignment for the Fees set out in the Instruction.
- 4.2. The Photographer is alone responsible for all taxes arising on money received from the Client and indemnifies the Client against any demand or obligation in respect of such tax.
- 4.3. The Photographer is registered for GST/HST, number 851469874.
- 4.4. This is an umbrella agreement which regulates each Instruction separately.
- 4.5. A contract to undertake each Assignment is made when the Client makes payment of the Retainer specified in the Instruction.
- 4.6. The Client agrees to provide accurate, timely and complete information and fully cooperate with the Photographer to enable him to perform his part of this contract.
- 4.7. With effect from today the Client shall nominate a key person who shall be authorized to represent him, to give instructions to the Photographer and shall fully coordinate with the Photographer at the Shoot.
- 4.8. The Photographer agrees that he will fully cooperate with the authorized representative to perform his part of this contract.
- 4.9. If the Event is cancelled, delayed or the Client makes a significant change to the venue, date or activities then the Photographer will try to perform his obligations under same terms as set out in this agreement. However if it does happen then the Photographer will not be bound and may refuse to provide his services under changed circumstances.
- 4.10. Nothing in this contract shall prevent the Photographer from entering into a similar contract with any other person provided that the date of providing services on any other contract does not overlap with the agreed time and date of the Client.

5. The Assignment

- 5.1. The work under each Assignment shall be set out in an Instruction. The Instruction will describe, among other data:
 - 5.1.1 The Event name and description.
 - 5.1.2 The Date of the Event.
 - 5.1.3 Latest time when Photographer is required to start work.
 - 5.1.4 The location or locations of the Event.
 - 5.1.5 Latest attendance time required.
 - 5.1.6 Arrangements agreed in relation to special travel, accommodation and subsistence as may be required.

6. Fee and payment

- 6.1. The Client agrees to pay the Fees set out in the Instruction.
- 6.2. The Client shall pay a retainer (the “Retainer”) of half of the total Fees at the time of entering into this agreement.
- 6.3. The Retainer is non-refundable if the Client changes the Instruction significantly.
- 6.4. Payment shall be made by any of: cash, bank transfer, cheque, or credit card.
- 6.5. The Photographer reserves the right to charge the Client interest in respect of the late payment of any money due under this agreement at the rate of 5 per cent above the prime rate from time to time of the Bank of Canada from the due date until receipt of payment.

7. Project management procedure

- 7.1. After the payment of the Retainer the Photographer will communicate with the Client to make detailed arrangements for the Assignment.
- 7.2. If the Client provides a list of specific people or scenes or events of which he requires Images, the Photographer will do his best to include those within the Assignment.

- 7.3. The Client will be responsible for informing people that photographs and videos will be taken at the Event, and will indemnify the Photographer for all costs which might flow from a complaint by any person that the Photographer did not have permission to photograph that person.
- 7.4. Within seven days after the receipt of full payment, the Photographer will send proof copies of the Images in an online gallery for the Client..
- 7.5. The Photographer will keep the online gallery available for a minimum of 14 days.
- 7.6. The Client agrees to make his choices and inform the Photographer, through the online gallery within 14 days of having received the proof copies.
- 7.7. The Client is responsible for ordering and payment of any printed or digital images through The Photographer's online gallery.
- 7.8. Unless specified in The Instruction, this agreement does not include any printed or digital images.

8. Cancellation of agreement

- 8.1. If the Client cancels this contract at least 14 days before the date of the Event, the Photographer may retain the Retainer, but no further sum will be due.
- 8.2. If cancellation is within 14 days of the Event, the full amount will be due.

9. The licence of Images to Client

- 9.1. The Client acknowledges that the Photographer owns all right, title and interest in and to the Images and that the Client has no right to use any of them outside the express terms of this agreement.
- 9.2. Money paid to the Photographer includes a fee for the grant of a licence in the terms of this paragraph. The licence arises only after the Client has paid the Photographer the money due under this agreement.
- 9.3. The licence is personal, irrevocable, non-transferable and non-sub-licensable.

- 9.4. The licence is restricted so that unless the Photographer gives written authorization the Client may not copy any Image created by the photographer, nor permit any other person to do so, without his permission in writing. For the avoidance of doubt, Images may not be used for the sale of property by some person other than a party to this contract.
- 9.5. So far as any goodwill is generated by the Client's use of the Images it shall accrue to the benefit of the Photographer.
- 9.6. The Photographer reserves the right to make reproductions of Images created during assignments for marketing, promotional, competition and editorial purposes.

10. Licence of “Model Rights” to Photographer

- 10.1. The Client grants all his Model Rights to the Photographer to enable him to carry out the Assignment.
- 10.2. The Client agrees that the Photographer may use his personal Model Rights and those of any other person present in the form of Images taken in this Assignment, only:
 - 10.2.1 to market his business as a photographer;
 - 10.2.2 for sale of a licence to a third party for commercial use of the Images;
 - 10.2.3 for sale of a licence to any bona fide publisher of related material.

11. Photographer's obligations

- 11.1. In working on the Assignment and in provision or delivery of any outcome, the Photographer will comply with:
 - 11.1.1 the Instruction;

12. Use of sub-contractors

If the Photographer wishes to perform any or all of his obligations under this agreement through agents or sub-contractors, the following provisions apply:

- 12.1. the Photographer may use sub-contractors to perform some aspects of this agreement.
- 12.2. the Photographer remains liable for the performance of this contract;
- 12.3. the Photographer is not liable for any loss or damage suffered by the Client arising from any act or omission of any agent or sub-contractor.

13. Confidentiality

- 13.1. The parties are aware that in the course of the performance of the Assignment they will each have access to and be entrusted with Confidential Information of the other. Accordingly, they undertake in respect of Confidential Information of the other of them, that both during and after completion of the Assignment, they will:
 - 13.1.1 except as provided in this agreement, not divulge to any person whatever, or otherwise make use of (and will use his best endeavours to prevent the publication or disclosure of) any Confidential Information;
 - 13.1.2 not use the Confidential Information in any way for himself or any other person, except in a way that is authorized by this agreement or by the proper authority of the other of them;
 - 13.1.3 not publish Confidential Information on any social medium.

14. Limitation of liability

- 14.1. All implied conditions, warranties and terms are excluded from this agreement. If in any jurisdiction an implied condition, warranty or term cannot be excluded, then this sub paragraph will be deemed to be reduced in effect, only to the extent necessary to release that specific condition, warranty or term.
- 14.2. The Photographer shall not be liable to the Client for any loss or expense which is:
 - 14.2.1 indirect or consequential loss; or
 - 14.2.2 economic loss or other loss of turnover, profits, business or goodwill; or

14.2.3 loss of amenity represented by the Client having no visual record of an Event.

14.2.4 loss or damage suffered by the Client as a result of an action brought by a third party.

The above provisions apply even if such loss was reasonably foreseeable or the Photographer had been advised of the possibility of the Client incurring it.

14.3. Except in the case of death or personal injury, the total liability of the Photographer under this agreement, however it arises, shall not exceed the Fee as set out in this agreement. This applies whether an action is based on contract, tort or any other basis in law.

15. Duration and termination

15.1. Work on the Assignment shall continue until terminated:

15.1.1 by completion of the Assignment and payment to the Photographer; or

15.1.2 by one party giving 28 days' notice of termination to the other; or

15.1.3 immediately by the Photographer if the Client fails to pay any sum due within 28 days of the date of submission of an invoice; or

15.2. Despite termination of this agreement for whatever reason, all the provisions that are intended to operate or have effect after termination or expiration shall continue to be fully valid and effective.

15.3. Without regard to the reason why this agreement ends, the Client will pay the Photographer for all work done to the time the notice of termination is received by the Photographer, calculated to the nearest one hour.

16. Uncontrollable events

16.1. Neither party shall be liable for any failure or delay in performance of this agreement which is caused by circumstances beyond his reasonable control, including any labour dispute between a party and his employees.

- 16.2. If any uncontrollable event delays or prevents the performance of the obligations of either party for a continuous period of more than one month, the other party may give notice to terminate this agreement. The notice must specify a date at least 7 days ahead, when the termination will take effect.
- 16.3. A termination notice is irrevocable unless both parties agree to reinstate this agreement.
- 16.4. If the agreement is terminated, all money due from one party to the other becomes due immediately;
- 16.5. The party claiming to be affected by an uncontrollable event will take all reasonable steps to fulfil his obligations under this agreement despite the uncontrollable event.

17. Miscellaneous matters

- 17.1. No amendment or variation to this agreement is valid unless in writing, signed by each of the parties or his authorized representative.
- 17.2. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.
- 17.3. Any obligation in this agreement intended to continue to have effect after termination or completion shall so continue.
- 17.4. No failure or delay by any party to exercise any right, power or remedy will operate as a waiver nor indicate any intention to reduce that or any other right in the future.
- 17.5. The parties agree that electronic communications satisfy any legal requirement that such communications be in writing.
- 17.6. In the event of a dispute between the parties to this agreement, then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.
- 17.7. So far as the law permits, and unless otherwise stated, this agreement does not give any right to any third party.

17.8. Any communication to be served on either of the parties by the other shall be delivered by hand or sent by express post.

It shall be deemed to have been delivered:

if delivered by hand: on the day of delivery;

if sent by post to the correct address: within 72 hours of posting;

17.9. The validity, construction and performance of this agreement shall be governed by the laws of Province of Manitoba and the parties agree that any dispute arising from it shall be litigated only in that Province.

Signed by (Client) <Client Name>

_____ Date: _____

Signed by (Photographer) Jason Lee

_____ Date: _____

Schedule A: Instruction

Event Name: <Event Name>

Event Description: <Event Description>

Fee: <fee> plus tax

Retainer: <retainer> plus tax

Event Date: <event date>

Start Time: <start time>

End Time: <end time>

The Photographer hereby grants the Client the rights to print and use the images delivered as part of this Shoot for personal purposes.

Initial (Client): _____

Initial (Photographer): _____