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This agreement (this "Agreement") shall be binding upon Purebudget.com ("Purebudget") and any member (the "Non-Exclusive Downloading Member") who downloads a photograph, illustration, image or other pictorial or graphic work (the "Work") from the [Purebudget.com](http://Purebudget.com) website. The Non-Exclusive Downloading Member acknowledges and agrees that he or she shall be bound by the terms and conditions of this Agreement and that this Agreement applies to each Work that the Non-Exclusive Downloading Member downloads.

## 1. No Sale

The Non-Exclusive Downloading Member acknowledges and agrees that this Agreement does not effectuate any sale of the Work. Except for the rights specifically sublicensed under this Agreement, the Non-Exclusive Downloading Member shall not have any right, title or interest in or to, and in any event shall have no ownership of, the Work, including any copyright and other intellectual property rights.

## 2. Sublicense

Subject to the terms and conditions of this Agreement, Purebudget.com hereby grants to the Non-Exclusive Downloading Member a non-exclusive, perpetual, worldwide, non-transferable sublicense to use, reproduce or display the Work an unlimited number of times in the authorized media solely for (a) personal or educational purposes and (b) in connection with the operation of a business. However, the Non-Exclusive Downloading Member shall have no right to sell or distribute for sale the Work or any reproductions thereof, whether alone or incorporated or together with or onto any item of merchandise or other work of authorship, in any media or format now or hereafter known which primary value lies in the Work itself. The Non-Exclusive Downloading Member shall have no right to grant further sublicenses. The Non-Exclusive Downloading Member shall have the right to transfer files containing the Work or permitted derivative works to direct clients, customers, and employees, or have the Work reproduced by subcontractors, provided that such subcontractors agree to abide by the restrictions of this agreement. In the normal course of workflow, the Non-Exclusive Downloading Member may also convey to a third party (such as a printer) temporary copies of the Work that are integral to the work product and without which the work product could not be completed. Third parties and subcontractors shall have no further or additional rights to use the Work and cannot access or extract it from any other file provided. The Non-Exclusive Downloading Member may create a digital library, network configuration or similar arrangement to allow the Work to be viewed by their employees, partners and clients. The Non-Exclusive Downloading Member shall pay to Purebudget.com a sublicense fee in accordance with Purebudget.com's Standard pricing and payment policies . Notwithstanding anything to the contrary contained in this Agreement, with respect to electronic formats, the Non-Exclusive Downloading Member's reproduction, distribution or display of the Work shall be limited to a resolution of 640 x 480 pixels in website uses (regardless of the resolution

of the Work available for downloading from the [Purebudget.com](http://Purebudget.com) website), and shall be limited to the resolution available for downloading from the [Purebudget.com](http://Purebudget.com) website in other electronic uses. For clarification purposes but subject to the foregoing restrictions, it is intended that this sublicense shall permit use, reproduction and display of the Work in or for a business or commercial setting or circumstances, as a logo for a business (including on a website), display in an office or other place of business, on advertising and promotion materials, and the like.

In addition, the Non-Exclusive Downloading Member shall have the right to create modified and derivative works based upon the original Work (derivative works within the meaning of the USA Copyright Act which incorporates but is not substantially similar to the original Work) . The permitted use of the modified and derivative works includes all the uses permitted to the Non-Exclusive Downloading Member with respect to the original work as well as for the derivative works in items for re-sale including t-shirts, mugs, calendars, posters mouse pads and alike

### 3. Restrictions

Notwithstanding anything to the contrary contained in this Agreement, and without limitation to any aforementioned restrictions, the Non-Exclusive Downloading Member acknowledges, agrees and warrants that he or she shall not:

(a) sublicense, sell, assign, convey or transfer any of it's rights under this agreement. Sell, license or distribute the Work or any modified Work as stand-alone files or as part of an online database or any other database, or any derivative product containing the Work in such way that would allow a third party to download, extract or access the Image as a stand-alone file;

(b) share the Work with any other person or entity except as expressly permitted under this Agreement;

(c) post the Work online in downloadable format, post the Work on an electronic bulletin board, or enable the Work to be distributed via mobile telephone devices. Include the Work in any electronic template or application, including those that are web based, where the purpose is to create multiple impressions of an electronic or printed product, including but not limited to website design, presentation templates, electronic greeting cards, business cards or any other electronic or printed matter;

(d) download or store the Work on more than one computer at the same time, except that the Non-Exclusive Downloading Member may make a single backup copy to be stored on media separate from the single permitted computer;

(e) use, reproduce, distribute or display the Work in connection with design template applications intended for resale;

(f) use, reproduce, distribute or display the Work in connection with any goods or services intended for resale or distribution which primary value lies in the work itself, including, without limitation, mugs, t-shirts, posters, greeting cards, posters or other merchandise, and any of the foregoing in "print on demand" or tangible or electronic formats, as applicable;

(g) use, reproduce, distribute or display the Work (including, without limitation, by itself or in combination with any other work of authorship) in any manner that is libellous or slanderous or otherwise defamatory, obscene or indecent;

(h) remove any notice of copyright, trademark or other intellectual property right, or other information that may appear on, embedded in, or in connection with the Work in its original downloaded form, it being understood that the Non-Exclusive Downloading Member shall reproduce any and all such notices in any backup copy of the file comprising the Work that the Downloading Member makes;

(i) incorporate the Work into a trademark or service mark;

(j) take any action in connection with the Work that violates any law, regulation or statute in an applicable jurisdiction;

(k) Use the Work in an editorial manner, without the following credit adjacent to the Image: "© [Photographer's name] / [Name of the agency providing the Image].";

(l) take any action in connection with the Work that violates or infringes the intellectual property or other rights of any person or entity, including, without limitation, the moral rights of the creator of the Work and the rights of any person who, or any person whose property, appears in the Work; or

(m) take any action in connection with the Work that associates it or the creator of the Work, or the persons or property appearing in the Work (if any), with any political, religious, economic or other opinion-based movements or parties.

(n) use the Work in a way that places any person in the photo in a bad light or depicts them in a way that they may find offensive - this includes, but is not limited to:

(1) the use of Images in pornography;

(2) tobacco ads;

(3) ads for adult entertainment clubs or similar venues, or for escort, dating or similar services;

(4) political endorsements;

(5) advertisements for pharmaceutical products, including, but not limited to personal hygiene or birth control products; and

(6) uses that are defamatory, or contain otherwise unlawful, offensive or immoral content.

#### **4. Payments and Pricing**

As indicated above, the Non-Exclusive Downloading Member shall pay to Purebudget.com a sublicense fee in accordance with Purebudget.com's Standard pricing and payment policies .

#### **5. Ownership and Retention of Rights**

The Non-Exclusive Downloading Member acknowledges and agrees that Purebudget.com and/or its licensor retains all rights, title and interest in and to the Work (except for the rights granted pursuant to this Agreement), and that neither title nor any ownership interest in or to the Work is transferred to the Non-Exclusive Downloading Member by virtue of this Agreement. Purebudget.com and/or its licensor (as applicable) shall also retain the right to use, reproduce or display the Work solely to demonstrate the Work as part of his or her professional portfolio. Without any limitation to any other rights that Purebudget.com may retain, Purebudget.com shall continue to have the right to use the Work for internal archival and reference purposes.

#### **6. Representations and Warranties**

In addition to the representations and warranties made by the Non-Exclusive Downloading Member above, each of Purebudget.com and the Non-Exclusive Downloading Member hereby represent and warrant that it, or he or she, has the right to enter into this Agreement.

#### **7. Indemnification**

The Non-Exclusive Downloading Member agrees to indemnify, defend and hold harmless Purebudget.com and its affiliates, and their respective officers, directors, employees, owners, agents, representatives, licensors and (sub)licensees (collectively, "Indemnitees")

from and against all claims, expenses (including attorney fees) or other liability arising from the Non-Exclusive Downloading Member's breach of any of his or her representations, warranties or obligations under this Agreement, and from any and all uses of the Work, including, without limitation, any claims or actions based on infringement or violation of intellectual property rights, libel or slander or other defamation, right of privacy or "false light", right of publicity or blurring or distortion or alteration whether or not intentional. Purebudget.com shall have the right, in its sole discretion, to control the defense of any claim, action or matter subject to indemnification by the Non-Exclusive Downloading Member with counsel of its own choosing. The Non-Exclusive Downloading Member shall fully cooperate with Purebudget.com in the defense of any such claim, action or matter.

## **8. Limitations and Disclaimer**

The Non-Exclusive Downloading Member agrees that neither Purebudget.com nor its affiliates, nor any of their respective officers, directors, employees, owners, agents, representatives, licensors and (sub)licensees (other than the Downloading Member), shall be liable for any damages, whether direct, incidental, indirect or consequential, arising from any use or non-use of the Work, even if such parties have been advised, or advised of the possibility, of such damages.

The Non-Exclusive Downloading Member acknowledges that Purebudget.com generally does not have releases for the trademarks, logos or other intellectual property of other parties that may be depicted in some Works. The procuring of such releases is the responsibility of the Non-Exclusive Downloading Member.

The Non-Exclusive Downloading Member acknowledges that Purebudget.com generally does not have releases from property owners, manufacturers or designers of commercial products such as (without limitation) automobiles, aircraft, packaged products, designer clothing, etc. that are depicted in some Works. It is generally not possible for any stock image library or artist to get blanket releases for such products, but they can often be obtained on a case-by-case basis. The procuring of such releases is the responsibility of the Non-Exclusive Downloading Member.

THE WORK IS PROVIDED "AS IS" AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## **9. Term and Termination**

This Agreement shall continue in perpetuity unless terminated in accordance with this Section 9. Purebudget.com may at any time terminate this Agreement with respect to any Work in the event of any breach by the Non-Exclusive Downloading Member of any of his or her representations, warranties or obligations under this Agreement. The Non-Exclusive Downloading Member may at any time terminate this Agreement. Each of Purebudget.com and the Non-Exclusive Downloading Member shall notify the other in the event it, he or she terminates this Agreement. Purebudget.com shall also have the right, in its sole discretion, to deny the downloading of any Work from the [Purebudget.com](http://Purebudget.com) website. Upon termination of a license for any particular Work, the Non-Exclusive Downloading Member shall immediately cease using such Work, destroy, or upon the request of Purebudget.com return the Work to Purebudget.com, delete or remove the Work from its premises, computer systems and storage (electronic and physical), and shall ensure that its clients and customers do likewise.

## **10. Effect of Termination**

Upon the termination of this Agreement, the Non-Exclusive Downloading Member shall cease using the Work and destroy all copies of the Work, and all derivative works and related materials (if any), in his or her possession or control. At Purebudget.com's request, the Non-Exclusive Downloading Member shall certify in writing to such destruction of the Work, derivative works and/or related materials. Termination of this Agreement shall not relieve the Non-Exclusive Downloading Member from any payment obligations that may have arisen prior to such termination. The provisions of Sections 1, 4, 5, 6, 7, 8, 10 and 11 shall survive the termination of this Agreement.

## **11. Miscellaneous**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to any conflict of laws principles. Any legal action, suit or proceeding arising out of or relating to this Agreement shall be instituted in a court of competent subject matter jurisdiction in the federal or state courts of the State of New York, and the Non-Exclusive Downloading Member and Purebudget.com each submit to the personal jurisdiction of such court and waive any right each might otherwise have to claim lack of personal jurisdiction or inconvenience of forum.

The relationship between Purebudget.com and the Non-Exclusive Downloading Member under this Agreement is that of independent contractors. For clarification purposes, the parties are not joint ventures, partners, principal and agent, or employer and employee. Neither party shall have the power to bind or obligate the other in any manner.

The Non-Exclusive Downloading Member agrees that he or she shall be responsible for all use, sales, value-added and similar taxes and duties imposed by any governing authority in any jurisdiction in connection with the license granted to him or her under this Agreement.

No waiver on the part of Purebudget.com to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of Purebudget.com to exercise any such power, right, privilege or remedy, shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy.

Except with respect to any trademark rights, all rights and licenses granted by Purebudget.com under or pursuant to this Agreement are for all purposes of Section 365(n) of Title 11 of the United States Code ("Title 11"), licenses of rights to "intellectual property" as defined in Title 11. Purebudget.com agrees that, in the event of commencement of bankruptcy proceedings by or against Purebudget.com under Title 11, the Non-Exclusive Downloading Member, as licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights under this Agreement (including the license granted under this Agreement) and all of its rights and elections under Title 11.

Purebudget.com shall have the right, in its sole discretion, to assign any or all of its rights or obligations under this Agreement. The Non-Exclusive Downloading Member shall have no right to assign any of his or her rights or obligations under this Agreement.

This Agreement shall be inure to the benefit of, and be binding upon, Purebudget.com and the Non-Exclusive Downloading Member, and their respective successors and assigns. Nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than Purebudget.com and the Non-Exclusive Downloading Member, and their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

Whenever the context so requires, the singular number shall include the plural and vice versa, and the masculine, feminine and neutral genders shall include each other.

If any term or provision of this Agreement is invalid, illegal or unenforceable, all other terms and conditions of this Agreement shall nevertheless remain in full force and effect.

The underlined headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement