

**Tom Lesser Photography**  
Policy for Sole & Shared Use of Photographs

- 1) This document defines Sole Use and Shared Use of photos taken by Tom Lesser Photography, and describes the usage rights that are granted in each type of agreement. Sole Use and Shared Use agreements grant a license to the specified parties for the use the photographs as described below. The photographer retains the copyright to all photographs.
- 2) **Sole Use** applies when you (the client) commission Tom Lesser to take photographs which will be used only by you/your company and which will not be shared with or distributed to any third party/parties now or in the future. If you are acting as the agent for a Sole Use agreement, you/your company will be responsible for the full amount of the invoice and you/your company will be entitled to perpetual and unlimited use of the photos upon payment of the invoice except that you may not - now or in the future - share, sell or give the photos to any third party.
- 3) **Shared Use** applies when you (the client or "Prime Contact" as defined below) commission Tom Lesser to take photographs which will be used by you/your company and which you will share with any third party/parties. If you are acting as the agent for a Shared Use agreement your payment obligation and usage rights will be as described below.
- 4) The agreement is between the "photographer" (Tom Lesser) and the client/Prime Contact. Neither photographer nor client/Prime Contact are obligated to enter into a Sharing agreement. The Prime Contact will not be held responsible for any violation of the terms of a Shared Use agreement committed by any Sharing Partner, Subcontractor or other project partner.
- 5) When the photographer has been commissioned to take regular periodic progress photos for a construction project, sharing of those photos between General Contractor, Owner, Architect and Subcontractors to communicate progress and other job-specific concerns is expected; a license to share those photos for those purposes is understood to exist. Additionally, a perpetual license is granted to the GC, Owner and Architect (but not to Subcontractors or others) to use those photos for any purposes related to their business without other restriction. The photos may be distributed to subcontractors and other project partners only to facilitate communication about the project. No other use of the photos by subcontractors or other project partners is permitted.
- 6) When the photographer has not been contracted to take regular periodic progress photos and when the photographer is subsequently hired by one party (i.e., the "Prime Contact") to make photos of a finished project, the associated costs may be distributed between interested "Sharing Partners" including Subcontractors according to the guidelines outlined below. A license is granted to all the Sharing Partners for perpetual and unlimited use of the Select photos (defined below) for any purpose related to their business, except that no further sharing, sale or gifting to other parties is permitted.
- 7) The Shared Use agreement is made between the photographer and the Prime Contact. Item 11-Costs, below, describes how the invoice will be calculated. The photographer will present one invoice to the Prime Contact, who can, at his/her discretion, pay the full invoice and (essentially) give a set of photos to the Sharing Partner(s), or enter into a cost-sharing agreement with the Partner(s). The Prime Contact must identify the Sharing Partners to the photographer before the photos are delivered and the invoice is prepared. If the invoice is split among the Sharing Partners the Prime Contact may determine the "share" to be paid by each Partner and assumes full responsibility for collecting the share from each Partner. The split could be equal shares to all, or an arrangement that favors the Prime Contact in consideration for the time & effort expended in coordinating the shared agreement. The Prime Contact may not collect more than the invoice total from the Sharing Partners; i.e. the Prime Contact may not make a profit on the transaction.

8) Photos fall into 3 categories: Production, Proofs and Selects:

- **Production** photos include all of the photos made by the photographer to use in the production of the Proofs and Selects. Production photos are "work product" and are retained solely by the photographer; no distribution of production photos will be made to any party.
- **Proofs** are those photos chosen by the photographer and presented for consideration. Proofs may contain a visible watermark, be reduced in size, and uploaded to a temporary on-line gallery/album. The photographer will create an on-line proof gallery (typically, on Dropbox) and provide the URL to the Prime Contact. A copy of the Proofs will be included with finished Selects.
- **Selects** are those photos chosen from the Proofs to be optimized by the photographer and included in the final submission. The Prime Contact may decide unilaterally which images are Selects, or distribute the gallery URL to the Sharing Partners and allow them to participate in the decision-making. If the Prime Contact chooses to distribute the gallery URL, any photo chosen by any partner becomes a Select, and the total cost will reflect the final production of all of the Selects. (example: 20 proofs are presented. The Prime Contact chooses 8. Sharing Partner #1 selects 2 not chosen by the Prime Contact. Sharing Partner #2 selects 3 not chosen by either the Prime Contact or Sharing Partner #1. The total number of Selects is 13. The cost of producing final versions of all 13 Selects will be included in the invoice.) All Sharing Partners will receive all Selects, including those they may not have chosen but which were chosen by another partner. Selects will be delivered in 3 different sizes/resolutions, all cropped as determined by the photographer: Native (cropped but not further down-sized from the camera-original), 3600 pixels on the long side and 1800 pixels on the long side. A CD/DVD will be prepared for each Sharing Partner.

9) Reviewing Proofs and making Selects

- If the gallery URL is distributed, the Prime Contact will determine the deadline for the Sharing Partners to submit their list of Selects. Sharing Partners will provide a list of their Selects to the Prime Contact. The Prime Contact will compile the list of Selects from all Sharing Partners and forward it to the photographer. (If the gallery is on Dropbox, please DO NOT use the Dropbox Commenting feature; if a selection is made, and then changed, modified or dropped, such changes are not reported accurately by Dropbox and confusion will result.)

10) Production

The photographer will gladly consider any special requests for retouching/optimizing Selects but will, at his sole discretion, make the final decision about edits/retouching that can/should be made for each photo.

11) Costs

- The normal costs associated with a photography assignment include, but are not limited to, travel time & mileage, on-site photography, photo file management, on-line gallery creation, photo editing and retouching, file processing/resizing, production of CD/DVDs and related clerical functions. The photographer will provide a non-binding estimate upon request, but the nature of the work dictates the amount of time that will be required to complete the related tasks, and the invoice will reflect that time. Sales tax will be calculated on the full amount of the invoice.
- In a Sole Use agreement all normal costs are billed to the Prime Contact.
- In a Shared Use agreement, the "normal" invoice will be tabulated, and an amount equal to 50% of that amount will be added to the invoice for each Sharing Partner.