



## **Devils Lake Chamber of Commerce & Tourism Media Hub Terms of Use**

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PLEASE NOTE THAT THESE TERMS OF USE ARE SUBJECT TO CHANGE BY US IN OUR SOLE DISCRETION AT ANY TIME. WHEN CHANGES ARE MADE, WE WILL MAKE A NEW COPY OF THE TERMS OF USE AVAILABLE ON THE MEDIA HUB. PLEASE CHECK THE MEDIA HUB REGULARLY TO VIEW THE THEN-CURRENT TERMS.

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  - Exploitation of Content is limited to non-commercial uses only, and for the specific purpose of promoting Devils Lake, North Dakota as a travel destination;
  - Content shall not in any way be used for the purpose of selling or reselling promotional items or for commercial gain;
  - Content shall include the appropriate credits (name of photographer or owner of the copyright in the licensed photograph) as supplied by via the Media Hub, and these credits shall be clearly identifiable;
  - By granting this license We do not in any way transfer any intellectual property rights in the Content to You;
  - You agree that You will not authorize any third party to use any Content without Our prior written authorization; and
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2. **Restrictions on Use of the Media Hub.** In using the Media Hub, You shall not:
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  - b. impersonate any person or entity or misrepresent Your affiliation with a person or entity;

- c. forge headers or otherwise manipulate identifiers in order to disguise the origin of any material downloaded from the Media Hub or to impersonate another person or organization;
- d. interfere with or disrupt the Media Hub or servers or networks connected to the Media Hub, or disobey any requirements, procedures, policies or regulations of networks connected to the Media Hub or probe, scan, or test the vulnerability of any system or network or breach or circumvent any security or authentication measures;
- e. intentionally or unintentionally violate any applicable local, state, national or international law or regulation;
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- g. license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Media Hub; or
- h. modify, translate, make derivative works of, disassemble, duplicate, adapt, hack, decompile, reverse compile, modify or reverse engineer any part of the Media Hub, except to the extent the foregoing restrictions are expressly permitted by applicable law.

You also agree not to access the Media Hub in a manner that utilizes the resources of the Media Hub more heavily than would be the case for an individual person using a conventional web browser. If Your bandwidth usage exceeds reasonable levels, or significantly exceeds the average bandwidth usage (as determined solely by Us or our platform providers) of other Media Hub users, We reserve the right to immediately disable Your account and/or throttle Your usage until You can reduce Your bandwidth consumption. Notwithstanding the foregoing, operators of public search engines may use spiders or other bots for the purpose of creating publicly available searchable indices of the materials on the Media Hub in accordance with our robots.txt file.

3. **Advertising.** You acknowledge and agree that the Media Hub may contain advertisements. If You elect to have any business dealings with anyone whose products or services may be advertised on the Media Hub, You acknowledge and agree that such dealings are solely between You and such advertiser and You further acknowledge and agree that We and Our licensors and platform providers shall not have any responsibility or liability for any losses or damages that You may incur as a result of any such dealings.

3. **DISCLAIMER OF REPRESENTATIONS, WARRANTIES AND CONDITIONS.** THE MEDIA HUB AND ALL CONTENT ARE PROVIDED "AS IS" AND WE AND OUR LICENSORS AND PLATFORM PROVIDERS DO NOT WARRANT THAT THE MEDIA HUB OR CONTENT WILL MEET YOUR SPECIFIC REQUIREMENTS, THAT THE MEDIA HUB WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE, THAT ANY ERRORS IN THE MEDIA HUB OR CONTENT WILL BE CORRECTED. IN ADDITION, WE AND OUR LICENSORS AND PLATFORM PROVIDERS SPECIFICALLY DISCLAIM ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, EITHER EXPRESS, IMPLIED, STATUTORY, BY USAGE OF TRADE, COURSE OF DEALING OR OTHERWISE INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, NON-INFRINGEMENT, TITLE, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE MEDIA HUB IS AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM(S), LOSS OF DATA, OR ANY OTHER LOSS THAT RESULTS FROM DOWNLOADING OR USING ANY SUCH CONTENT. WE AND OUR LICENSORS AND PLATFORM PROVIDERS DO NOT WARRANT, ENDORSE, GUARANTEE, PROVIDE ANY CONDITIONS OR REPRESENTATIONS, OR ASSUME ANY RESPONSIBILITY FOR ANY CONTENT MADE AVAILABLE THROUGH THE MEDIA HUB OR IN RESPECT TO ANY WEBSITE THAT CAN BE REACHED FROM A LINK ON THE MEDIA HUB OR FEATURED IN ANY BANNER OR OTHER ADVERTISING ON THE MEDIA HUB, AND WE AND OUR LICENSORS AND PLATFORM PROVIDERS SHALL NOT BE A PARTY TO ANY TRANSACTION THAT YOU MAY ENTER INTO WITH ANY SUCH THIRD PARTY.
5. **LIMITATION OF LIABILITY.** UNDER NO CIRCUMSTANCES SHALL WE OR OUR LICENSORS OR PLATFORM PROVIDERS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR OTHER DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES THAT RESULT FROM (I) YOUR USE OF OR YOUR INABILITY TO USE THE MEDIA HUB OR THE CONTENT, (II) THE COST OF PROCUREMENT OF SUBSTITUTE CONTENT OR SERVICES, (III) ERRORS, MISTAKES, OR INACCURACIES IN THE CONTENT, OR (IV)

ANY ERRORS OR OMISSIONS IN ANY CONTENT ON THE MEDIA HUB OR ANY OTHER LOSS OR DAMAGE OF ANY KIND ARISING FROM OR RELATING TO YOUR USE OF THE MEDIA HUB. THESE LIMITATIONS SHALL APPLY EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS OF USE, OUR AND OUR LICENSORS AND PLATFORM PROVIDERS CUMULATIVE LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO THE AMOUNTS YOU'VE PAID US IN THE PRIOR TWELVE (12) MONTHS (IF ANY) OR FIVE DOLLARS (\$5.00), WHICHEVER IS LESS. THE FOREGOING LIMITATIONS SHALL APPLY TO THE FULLEST EXTENSION PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

6. **INDEMNIFICATION.** YOU SHALL INDEMNIFY AND HOLD US AND OUR LICENSORS AND PLATFORM PROVIDERS AND THE AFFILIATES, OFFICERS, AGENTS, AND EMPLOYEES OF EACH OF THE FOREGOING, HARMLESS FROM ALL CLAIMS, ACTIONS, PROCEEDINGS, DEMANDS, DAMAGES, LOSSES, COSTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), INCURRED IN CONNECTION WITH ANY CONTENT MADE AVAILABLE TO YOU THROUGH THE MEDIA HUB, YOUR USE OF THE MEDIA HUB AND/OR ANY VIOLATION BY YOU OF THESE TERMS OF USE, THE RIGHTS OF ANY THIRD PARTY, OR ANY APPLICABLE LAW OR REGULATION.
  
7. **Termination and Survival.** We may, under certain circumstances and without prior notice, immediately terminate Your ability to access the Media Hub and/or Content. Sections 3, 4, 5, 6, 7, 9, 10, 11 and 12 shall survive the termination of these Terms of Use.
  
8. **Availability and Updates.** We and/or Our licensors and platform providers may alter, suspend, or discontinue the availability of the Media Hub and/or the Content at any time and for any reason or no reason, without notice, but will endeavor to provide notice of the same. The Media Hub and/or Content may be unavailable from time to time due to maintenance or malfunction of computer or

network equipment or other reasons. We may periodically add or update the information and materials on the Media Hub without notice. You may need to update third-party software from time to time in order to use the Media Hub and/or Content.

9. **Third-Party Beneficiaries.** Our licensors, technology, service and platform providers will have the right (and will be deemed to have accepted the right) to enforce these Terms of Use against You as a third-party beneficiary thereof. Every right, exemption from liability, release, indemnity, defence, immunity and/or waiver of whatsoever nature applicable to Us under these Terms of Use shall also be available and shall extend to benefit and to protect the designated third-party beneficiaries of these Terms of Use and such party's and the designated beneficiaries' officers, directors, and employees and for such purposes We are or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of such companies and persons to the extent such exemptions, releases, indemnities, defenses, immunities and waivers apply to such companies and persons.
  
10. **Governing Law.** Any dispute or claim relating in any way to Your use of the Media Hub or any Content or arising from or relating to these Terms of Use will be governed and interpreted by and under the laws of North Dakota without giving effect to any principles that provide for the application of the law of any other jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded from these Terms of Use.
  
11. **Enforcement of Terms and Conditions.** If any part of these Terms of Use is unlawful, void, or unenforceable, that part shall be deemed severable and shall not affect the validity and enforceability of the remaining provisions. The failure by Us or Our third-party beneficiaries to exercise or enforce any right or provision under these Terms of Use shall not constitute a waiver of such right or provision. Any waiver of any right or provision by Us or Our third-party beneficiaries must be in writing and shall only apply to the specific instance identified in such writing. No waiver by Us or Our third-party beneficiaries of any provision of these

Terms of Use shall be deemed to be a further or continuing waiver of such provision or any other provision. You agree that any cause of action that You may have arising out of or related to the Media Hub or Content must be commenced by You within one (1) year after the cause of action accrues, otherwise such cause of action shall be permanently barred.

12. **General.** These Terms of Use constitute the entire agreement between the parties relating to the Media Hub and Content and all related activities. These Terms of Use shall not be modified except in writing signed by both parties or by a new posting of these Terms of Use issued by Us. If any part of these Terms of Use is held to be unlawful, void, or unenforceable, that part shall be deemed severed and shall not affect the validity and enforceability of the remaining provisions. The failure of Us or Our licensors or Our platform providers to exercise or enforce any right or provision under these Terms of Use shall not constitute a waiver of such right or provision. Any waiver of any right or provision by Us must be in writing and shall only apply to the specific instance identified in such writing. You may not assign the Terms of Use, or any rights or licenses granted hereunder, whether voluntarily, by operation of law, or otherwise without Our prior written consent. We may assign these Terms of Use without restriction.