Last Updated: March 2014

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(B) "License Fee" means the fee which is paid by You in order to enter into this Agreement. The License Fee is listed in Section #2, below.

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2. Licensed Image

The Licensed Image in this Agreement refers to the following image:



Title: Artist: Image Size: License Fee:

Nighthawks Edward Hopper 2000 pixels x 1093 pixels \$150.00

The Licensed Image may be viewed online at the following location: https://fineartamerica.com/featured/nighthawks-edward-hopper.html

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(E) You may NOT incorporate the Licensed Image into a logo, corporate ID, trademark, or service mark.

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(G) You may NOT use the Licensed Image in a pornographic, defamatory, or otherwise unlawful manner.

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6. Other Provisions

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(B) You agree to be liable for any failure to comply with the terms of this Agreement and/or any failure by your agent(s) to comply with the terms of this Agreement.

(C) If You post the Licensed Image onto a website, You are responsible for ensuring that the Licensed Image is not downloaded by third-parties or otherwise exploited by the website host. You must post terms and conditions on the website that prohibit downloading, republication, retransmission, reproduction, and all other uses of the Licensed Image as a standalone file.

(D) If You are purchasing rights to the Licensed Image for use by a third-party, You represent that You are authorized to act on behalf of the third-party and to bind the third-party to the terms of this Agreement. You may also be held independently liable if You violate the terms of this Agreement.

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You shall pay to defend, indemnify, and hold harmless Fine Art America and its subsidiaries, commonly owned or controlled affiliates, content providers and their respective officers, and directors and employees from all damages, losses, and expenses, including reasonable attorneys' fees, arising out of or as a result of claims by third parties relating to Your use of any Licensed Image or any other actual or alleged breach by You of this Agreement. Fine Art America may at its discretion, but is under no obligation to, assume the defense of any action arising from Your use of the Licensed Image or from your breach of this Agreement.

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Art America to all remedies available under law and pursuant to this Agreement.

12. Audit and Verification Rights

Fine Art America or its licensors may request and You must provide evidence of compliance with the terms of this Agreement upon demand with reasonable advance notice. Among the forms of evidence that Fine Art America or its licensors is entitled to receive in order to verify Your compliance with the terms of this Agreement are (1) free access to any website or platform where the Licensed Image is reproduced, (2) an audit of records related directly to Your use of the Licensed Image by Fine Art America or its designated auditor, (3) receipt and inspection of sample copies of reproductions containing the Licensed Image, and (4) a certificate of compliance signed under oath by You or Your agent in a form acceptable to Fine Art America. Should Fine Art America or its licensors determine that Your use exceeds what is permitted under this Agreement, You shall pay the costs incurred by Fine Art America in its efforts to verify compliance, plus a five percent (5%) surcharge in connection with these efforts.

13. No Modification of Embedded Data

You may not alter the Licensed Image in a manner that removes any copyright notice, name, identification number, or other information embedded in the Licensed Image.

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Should the Licensed Image be the subject of a claim of infringement by a third-party for which Fine Art America may be liable, Fine Art America may require You to immediately (1) stop using the Licensed Image, (2) delete the Licensed Image from all storage media, and (3) take steps to insure third-parties cease use or reproduction of the Licensed Image. Fine Art America shall provide you with a reasonable substitute image free of charge but subject to the terms and conditions of this Agreement.

15. Governing Law / Forum / Mandatory Arbitration

Disputes relating this Agreement and to any use of the Licensed Image will be governed by the law of the State of Illinois, United States, without respect to its choice of law provisions. Your claims relating to this Agreement or Your use of the Licensed Image shall be determined through the American Arbitration Association before a certified arbitrator and pursuant to the commercial arbitration rules promulgated by the AAA located in Chicago, Illinois. You agree that, notwithstanding any otherwise applicable statute(s) of limitation, any arbitration proceeding to determine Your claims shall be commenced within one year of the acts, events, or occurrences giving rise to the claim or be forever barred.

16. Entire Agreement / No Waiver

This Agreement contains the entire agreement between You and Fine Art America, and You acknowledge that there are no other agreements, representations, or warranties pertaining thereto which are not set forth in this document. If any provisions of this Agreement are held to be invalid or unenforceable under present or future laws, such provisions shall be fully severable, whereupon the remainder of this Agreement will be given full force and effect. No action or inaction by Fine Art America, other than express written waiver, may be construed as a waiver of any provision of this Agreement. In the event of any inconsistency between the terms contained herein and the terms contained on any purchase order or other communication sent by Fine Art America, the terms of this Fine Art America shall govern.

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