

TERMS AND CONDITIONS

1. **Definitions**

For the purpose of this agreement "the Agency" and "the Advertiser" shall where the context so admits include their respective assignees, sub-licensees and successors in title. In cases where the Photographer's client is a direct client (i.e. with no agency or intermediary), all references in this agreement to both "the Agency" and "the Advertiser" shall be interpreted as references to the Photographer's client. "Photographs" means all photographic material furnished by the Photographer, whether transparencies, negatives, prints or any other type of physical or electronic material.

2. **The Photographer**

On occasions and without notice it may be necessary for the Photographer originally specified to be substituted by another photographer, (e.g. due to ill health).

3. **Images**

All image sizes are nominal. The Photographer/s will provide a pleasing colour balance but cannot guarantee exact colour matching owing to anomalous reflectance caused by a combination of certain dyes and materials especially man-made fibres. It is sometimes impossible to record on film the exact colour as seen by the human eye.

4. **Special Requests/Coverage**

The client understands and accepts that the photographic coverage will be as the Photographer's professional expertise determines and that no one photograph will be deemed more important than another. Special requests are not binding instruction, although every effort is made to comply with the client's wishes. The photographer/s' judgement regarding the locations/poses and number of images taken shall be final.

Any special requests not notified on this booking form must be made by the client to the Photographer/s in writing.

Due to the vagaries of the weather and the willingness of subjects it may not be possible to capture all the images requested.

5. **Retouching**

Retouching, digital manipulation and artist finishing is available to the client as an optional extra.

6. **Copyright**

The entire copyright in the Photographs is retained by the Photographer at all times throughout the world.

7. **Ownership of Materials**

Title to all Photographs remains the property of the Photographer. When the Licence to Use the material has expired the Photographs must be returned to the Photographer in good condition within 30 days.

8. **Use**

The Licence to Use comes into effect from the date of payment of the relevant invoice(s). No use may be made of the Photographs before payment in full of the relevant invoice(s) without the Photographer's express permission. Any permission which may be given for prior use will automatically be revoked if full payment is not made by the due date or if the Agency is put into receivership or liquidation. The Licence only applies to the advertiser and product as stated on the front of the form and its benefit shall not be assigned to any third party without the Photographer's permission. Accordingly, even where any form of 'all media' Licence is granted, the photographer's permission must be obtained before any use of the Photographs for other purposes eg use in relation to another product or sublicensing through a photolibrary. Permission to use the Photographs for purposes outside the terms of the Licence will normally be granted upon payment of a further fee, which must be mutually agreed (and paid in full) before such further use. Unless otherwise agreed in writing, all further Licences in respect of the Photographs will be subject to these terms and conditions.

9. **Exclusivity**
The Agency and Advertiser will be authorised to publish the Photographs to the exclusion of all other persons including the Photographer. However, the Photographer retains the right in all cases to use the Photographs in any manner at any time and in any part of the world for the purposes of advertising or otherwise promoting his/her work. After the exclusivity period indicated in the Licence to Use the Photographer shall be entitled to use the Photographs for any purposes.
10. **Client Confidentiality**
The photographer will keep confidential and will not disclose to any third parties or make use of material or information communicated to him/her in confidence for the purposes of the photography, save as may be reasonably necessary to enable the Photographer to carry out his/her obligations in relation to the commission.
11. **Indemnity**
In respect of third party copyright works, trade marks, designs or other intellectual property. The Photographer shall only be responsible for obtaining such clearances if this has been expressly agreed before the shoot. In all other cases the Agency shall be responsible for obtaining such clearances and will indemnify the Photographer against all expenses, damages, claims and legal costs arising out of any failure to obtain such clearances.
12. **Payment**
Payment by the Agency will be expected for the commissioned work within 30 days of the issue of the relevant invoice. If the invoice is not paid, in full, within 30 days The Photographer reserves the right to charge interest at the rate prescribed by the Late Payment of Commercial Debt (Interest) Act 1998 from the date payment was due until the date payment is made.
13. **Expenses**
Where extra expenses or time are incurred by the Photographer as a result of alterations to the original brief by the Agency or the Advertiser, or otherwise at their request, the Agency shall give approval to and be liable to pay such extra expenses or fees at the Photographer's normal rate to the Photographer in addition to the expenses shown overleaf as having been agreed or estimated.
14. **Rejection**
Unless a rejection fee has been agreed in advance, there is no right to reject on the basis of style or composition.
15. **Cancellation**
A booking is considered firm as from the date of confirmation and accordingly the Photographer will, at his/her discretion, charge a fee for cancellation or postponement.
16. **Electronic Storage**
Save for the purposes of reproduction for the licensed use(s), the Photographs may not be stored in any form of electronic medium without the written permission of the Photographer. Manipulation of the image or use of only a portion of the image may only take place with the permission of the Photographer.
17. **Force Majeure or Act of God**
The due performance of this contract is subject to alteration or cancellation by either party owing to any cause beyond their control.
18. **Limitation of Liability**
In the unlikely event of a total photographic failure or cancellation of this contract by either party or in any other circumstance the liability of one party to the other shall be limited to the total value of the contract. Neither party shall be liable for indirect or consequential loss.
19. **Applicable Law**
This agreement shall be governed by the laws of England and Wales.
20. **Variation**
These Terms and Conditions shall not be varied except by agreement in writing.