
TERMS AND CONDITIONS OF BUSINESS OF TRACEY WELCH (TRADING AS 'TRACEY WELCH PHOTOGRAPHY')

BACKGROUND:

These Terms and Conditions shall apply to the hiring of Tracey Welch ("the Photographer") as a freelance photographer by customers wishing to acquire photographs for commercial purposes.

1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

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| "the Agreement" | means the legally binding agreement in writing for the provision of the Photographer's services which comprises these Terms and Conditions and the Customer's unconditional acceptance of the Quotation; |
| "Business Day" | means, any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in Leeds; |
| "Confidential Information" | means, in relation to either the Photographer or the Customer, information which is disclosed to either of them by the other in connection with the work to be carried out by the Photographer (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such); |
| "Data Protection Legislation" | means all applicable legislation in force from time to time in the United Kingdom applicable to data protection and privacy including, but not limited to, the UK GDPR (the retained EU law version of the General Data Protection Regulation ((EU) 2016/679), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018); the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended; |
| "Customer" | means the customer who requires the Photographer's services subject to these Terms and Conditions; |
| "Expenses" | means costs incurred by the Photographer in direct relation to the provision of her services; |
| "Licence" | means a non-exclusive, perpetual, non-transferrable, licence granted by the Photographer to the Customer under Clause 7 to use the Selected Photographs for commercial purposes within a Project; |
| "Order" | means the information provided by the Customer to request the services of the Photographer as set out in Clause 2 of these Terms and Conditions; |

“Photograph”	means any photograph (in digital or other form) taken by the Photographer during the Photo Shoot;
“Photo Shoot”	means all stages of the Photographer’s services provided to the Customer including preparation beforehand, the taking of Photographs and the processing of Photographs;
“Price”	means the fee payable for the Photo Shoot itself which shall not extend to Selected Photographs;
“Project”	means a particular use to which the Customer intends put the Selected Photographs;
“Rejection Fee”	means a sum agreed and set out in the Quotation which shall be payable by the Customer in the event that the Customer chooses to reject the Photographs entirely;
“Royalty Fees”	means the fees payable on a per-Project basis for the Licence to use the Selected Photographs; and
“Selected Photographs”	means the Photographs chosen by the Customer from the proofs made available to them which shall be licensed under these Terms and Conditions.

1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

1.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic transmission or similar means;

1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

1.2.3 “these Terms and Conditions” is a reference to these Terms and Conditions and each of the Schedules as amended or supplemented at the relevant time;

1.2.4 a Clause or paragraph is a reference to a Clause of these Terms and Conditions.

1.2.5 a "Party" or the "Parties" refer to the parties to these Terms and Conditions.

1.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.

1.4 Words imparting the singular number shall include the plural and vice versa.

1.5 References to any gender shall include any other gender.

1.6 References to persons shall include corporations.

2. Orders

2.1 The Photographer will accept Orders for Photo Shoots through email.

2.2 When placing an Order the Customer shall set out the following information:

2.2.1 Location of Photo Shoot

- 2.2.2 Date of Photo Shoot
 - 2.2.3 Type of Photo Shoot
 - 2.2.4 Duration of Photo Shoot
 - 2.2.5 Customer's right to reject and Rejection Fees
 - 2.2.6 Responsibility for obtaining clearances
- 2.3 Once the Customer has submitted the Order the Photographer shall prepare and submit a quotation to the Customer ('the Quotation') either by email or first-class post which shall set out the Deposit, the Price and any anticipated Expenses. The Quotation shall not necessarily include all Expenses which may be incurred nor shall it include the Royalty Fees which may be payable for Selected Photographs. The Quotation shall confirm which particular information contained in the Order (whether part/s or all) are accepted for the purpose of the Quotation.
- 2.4 The Customer may accept a Quotation by email or first-class post. The Customer shall be free to submit to the Photographer any changes to anything in the Order and/or Quotation. If they do so, the Photographer will reissue the Quotation. Alternatively, the Photographer may advise the Customer that she is not willing to amend the original Quotation.
- 2.5 A binding agreement will only come into existence and be of legal effect between the Parties for any services to be provided by the Photographer if and when the Photographer's Quotation has been unconditionally accepted by the Customer in writing including the payment of the Deposit
- 2.6 If the Deposit is not paid in full within 7 days after the Customer's unconditional acceptance referred to in Clause 2.5, it shall cease to be payable from the expiry of that period. In that case the binding agreement shall be deemed to be cancelled (but neither Party shall have any liability to the other as a result). If the Deposit is paid late, the Photographer shall return it to the Customer.

3. Deposit

- 3.1 When (or within 7 days after) the Customer unconditionally accepts the Photographer's written quotation ('the Quotation') the Customer shall pay a deposit to the Photographer ('the Deposit'). The amount of the Deposit shall be set out in the Quotation. When the Deposit has been paid the Photographer shall promptly provide a receipt for it.
- 3.2 Subject to the provisions of the Agreement, the Deposit shall be non-refundable.

4. Price and Payment

- 4.1 The Price for the Photo Shoot shall be set out in the Quotation.
- 4.2 The Photographer shall invoice the Customer at the end of the Photo Shoot for the Price (including the Deposit) and all other items set out in the Quotation, including further reasonable Expenses incurred during the Photo Shoot and the total Royalty Fees payable for the Selected Photographs.
- 4.3 Any and all invoices provided by the Photographer to the Customer under the Agreement must be paid in full within 14 days of receipt by the Customer.
- 4.4 Without prejudice to sub-Clause 11.3.1, any sums which remain unpaid following the expiry of the time period set out in sub-Clause 4.3 shall incur

interest on a daily basis at the rate set from time to time by The Late Payment of Commercial Debts (Interest) Act 1998 until cleared funds are received by the Photographer.

- 4.5 Where any sums remain unpaid following the expiry of the time period set out in sub-Clause 4.3 the Licence granted to the Customer under Clause 7 shall be suspended until payment is received in full by the Photographer.

5. Cancellation and Rescheduling

- 5.1 Without prejudice to any right to terminate the Agreement pursuant to any other provision of these Terms and Conditions, the Customer may cancel or reschedule the Photo Shoot at any time prior to start date of the Photo Shoot. The following charges shall apply to cancellation or rescheduling:

5.1.1 If the Customer cancels the Photo Shoot more than 7 days ahead of the start date the Photographer shall issue a full refund of all sums paid, including the Deposit.

5.1.2 If the Customer cancels the Photo Shoot less than 7 days ahead of the start date the Photographer shall retain all sums paid and the full price of the Photo Shoot shall become immediately payable. No refund shall be issued

5.1.3 If the Customer reschedules the Photo Shoot more than 14 days ahead of the start date the Photographer shall retain all sums paid, including the Deposit and shall deduct all such sums from any balance payable on the rescheduled Photo Shoot.

5.1.4 If the Customer reschedules the Photo Shoot less than 14 days ahead of the start date the Photographer shall retain all sums paid and the full price of the Photo Shoot shall become immediately payable. No refund shall be issued and no sums paid will count toward the fees and Deposit payable on the rescheduled Photo Shoot.

- 5.2 The Photographer may cancel the Photo Shoot at any time prior to the start date and shall refund all sums paid, including the Deposit.

6. Photography

- 6.1 The Customer shall, within a reasonable time prior to the date of the Photo Shoot, specify any particular Photographs or compositions they require.

6.2 Subject to any specific reasonable requirements set out by the Customer, the Photographer shall use their own exclusive judgement when selecting equipment and deciding upon artistic factors such as composition, lighting and photographic style.

6.3 Subject to the nature of the Photo Shoot and the specific reasonable requirements of the Customer the Photographer will take as many Photographs as she deems appropriate with a view to giving the best choice when processing and preparing the final Photographs for selection by the Customer. The number of Photographs taken during the Photo Shoot shall not affect the Price payable by the Customer.

6.4 Following processing and preparation of the Photographs the Photographer will make proofs available to the Customer to enable the Customer to select the Photographs they require.

6.5 The Photographer shall deliver the Selected Photographs to the Customer in

the format(s) agreed at the time of selection, subject to the terms of the Licence granted in Clause 7.

- 6.6 The Customer shall have a period of 7 days following the delivery of the Selected Photographs to inform the Photographer of any discrepancies with their choices or significant flaws in the Selected Photographs which were not visible in the proofs. The Photographer shall undertake any necessary remedial action which is practicable upon being informed of any such problems.
- 6.7 Subject to the provisions of sub-Clause 6.6 there shall be no right to reject the Photographs on the basis of style or composition unless a Rejection Fee has been stated in the Quotation and included as part of the Agreement.
- 6.8 The Photographer shall be free to sub-contract any of her obligations under the Agreement provided that any and all sub-contractors are reasonably skilled in the relevant practices and provided that no additional charges are passed on to the Customer.

7. Copyright and Licensing

- 7.1 The Copyright in the Photographs is and shall remain the property of the Photographer. Subject to a written agreement to the contrary nothing in these Terms and Conditions shall transfer any ownership rights to the Customer.
- 7.2 A Licence granted pursuant to sub-Clause 7.4 shall become effective on the date of delivery of the Selected Photographs to the Customer and, subject to the provisions of sub-Clauses 4.5 and 7.9, shall continue from that date for the duration of copyright protection (which shall be the life of the Photographer plus 70 years under Section 12 of the Copyright Designs and Patents Act 1988).
- 7.3 The Customer must ensure that the Photographer's name is shown on or in reasonable proximity to all reproductions of the Photographs which are published by the Customer. The Photographer hereby asserts their statutory right to be identified under Sections 77-79 of the Copyright Designs and Patents Act 1988. The Photographer may subsequently waive this requirement at any time by giving written notice to the Customer.
- 7.4 All Licences shall be granted on a per-Project basis as set out in sub-Clause 7.5. The Customer shall pay Royalty Fees once per Project and shall not be required to pay recurring Royalty Fees for repeated use within the same Project.
- 7.5 The Customer shall be permitted to use the Selected Photographs in any Project subject to the following limitations:
 - 7.5.1 The Selected Photographs may not be used for any purposes which are libellous, defamatory, pornographic, obscene or otherwise unlawful;
 - 7.5.2 Where the Selected Photographs are to be published on a website of any kind the Customer must take reasonable steps to limit the ease of copying and downloading the same.
- 7.6 The Licences shall apply only to the Selected Photographs and Projects and shall not extend to proofs or any other material provided by the Photographer to the Customer or to any other Projects.
- 7.7 The Customer may not sub-licence the Selected Photographs without the prior written permission of the Photographer.

- 7.8 The Photographer reserves the right to use the Photographs in any advertising or promotional material provided such material is only related to the Photographer or her services.
- 7.9 The Licences granted to the Customer shall be automatically revoked if the Customer breaches any of their terms.

8. **Liability and Indemnity**

- 8.1 Whilst the Photographer shall use all reasonable endeavours to ensure that all Photographs delivered in a digital format are free from viruses and errors, the Photographer provides no guarantee that the Photographs will be free from such defects and accepts no liability for any loss or damage which may result from the same.
- 8.2 The Photographer shall indemnify and hold harmless the Customer against any costs, liability, damages, loss, claims, threatened claims or proceedings brought by any third party arising out of any failure by the Photographer to obtain any clearances for which she was responsible in respect of third-party copyright works, trademarks, designs or other intellectual property provided that:
- 8.2.1 It is stated in the Quotation that the Photographer shall be responsible for obtaining such clearances.
 - 8.2.2 The Photographer shall be given full control of any proceedings or negotiations in connection with any such claim or threatened claim;
 - 8.2.3 The Customer shall at their own cost give the Photographer all reasonable assistance for the purpose of any such proceedings or negotiations;
 - 8.2.4 Except pursuant to a final award, the Customer shall not pay or accept any such claim or threatened claim, or compromise any such proceedings or negotiations, without the consent of the Photographer, such consent not to be unreasonably withheld;
 - 8.2.5 The Customer shall do nothing which would or might vitiate any policy of insurance or insurance cover which they may have in relation to any such claim or threatened claim. The indemnity provided by the Photographer under this sub-Clause 8.2 shall not apply to the extent that the Customer recovers any sums under any such policy or cover (which the Customer shall use its best endeavours to do);
 - 8.2.6 The Photographer shall be entitled to, and the Customer shall accordingly account to the Photographer for, all damages and costs (if any) awarded against any other party or agreed by the Customer (which agreement shall not be unreasonably withheld) to be paid by any other party in respect of any such claim or threatened claim; and
 - 8.2.7 The Photographer shall be entitled to require the Customer to take such steps as the Photographer may reasonably require to mitigate or reduce any loss of the Customer.
- 8.3 Except in respect of death or personal injury caused by the Photographer's negligence, and except in respect of fraud or fraudulent misrepresentation, the Photographer shall not be liable in contract or tort (including negligence) or otherwise for any loss of profit or any indirect, special or consequential loss,

damage, costs, expenses or other claims arising from any act or default of the Photographer in connection with the performance of the Photographer's obligations to the Customer or the use by the Customer of any Photographs or services provided to them by the Photographer.

9. Confidentiality

9.1 Each Party undertakes that, except as provided by sub-Clause 9.2 or as authorised in writing by the other Party, it shall, at all times during the continuance of the Agreement and for 25 years after its termination:

- 9.1.1 keep confidential all Confidential Information;
- 9.1.2 not disclose any Confidential Information to any other party;
- 9.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of the Agreement;
- 9.1.4 not make any copies of or record in any way or part with possession of any Confidential Information; and
- 9.1.5 ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 9.1.1 to 9.1.4 above.

9.2 Either Party may:

- 9.2.1 disclose any Confidential Information to:
 - 9.2.1.1 any sub-contractor or supplier of that Party;
 - 9.2.1.2 any governmental or other authority or regulatory body; or
 - 9.2.1.3 any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;

to such extent only as is necessary for the purposes contemplated by the Agreement (including, but not limited to, the provision of the Services), or as required by law. In each case that Party shall first inform the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body under sub-Clause 9.2.1.2 or any employee or officer of any such body) obtaining and submitting to the other Party a written confidentiality undertaking from the party in question. Such undertaking should be as nearly as practicable in the terms of this Clause 9, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and

- 9.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of the Agreement, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information which is not public knowledge.

9.3 The provisions of this Clause 9 shall continue in force in accordance with their terms, notwithstanding the termination of the Agreement for any reason.

10. Force Majeure

10.1 The Photographer shall not be liable for any failure or delay in performing her obligations where such failure or delay results from any cause that is beyond

her reasonable control (“Force Majeure”) Such causes include, but are not limited to: illness (including pandemic or reasonably suspected pandemic symptoms), injury, vehicle or photographic equipment breakdown, failure or delay in public transport facilities, power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other similar or dissimilar event that is beyond the control of the Photographer.

- 10.2 In the event that as a result of Force Majeure the Photographer cannot perform her obligations under the Agreement for a continuous period of 14 days, either Party may at their discretion terminate the contract between the parties by written notice at the end of that period. In the event of such termination, the Photographer shall be entitled to retain from the Price received or still due from the Customer such costs, expenses and disbursements which the Photographer has incurred or for which they are liable to any third parties in connection with the provision of the Photographer’s services and such contribution to the Photographer overhead as shall be reasonable and shall return any balance to the Customer. The Photographer may, but shall not be obliged to, take such steps as she shall in her discretion consider reasonable to recover any such costs and expenses from the relevant third parties and shall, subject to deduction of costs incurred in connection therewith, reimburse any sums so recovered to the Customer.
- 10.3 The Photographer shall advise the Customer in writing as soon as possible if and when any such Force Majeure event occurs and at the same time provide an estimate to the Customer of how long the event is likely to continue and its likely impact on the performance of the Photographer’s obligations.

11. **Term and Termination**

- 11.1 The Agreement between the parties shall come into force on the date the Quotation is unconditionally accepted by the Customer and the Deposit has been paid and shall continue from that date, subject to the provisions of this Clause 11 and Clauses 5 and 10.
- 11.2 In the event of cancellation under Clause 5 the Agreement shall immediately terminate.
- 11.3 Either Party may immediately terminate the Agreement by giving written notice to the other Party if:
- 11.3.1 any sum owing to that Party by the other Party under any of the provisions of the Agreement is not paid within 10 Business Days of the due date for payment;
 - 11.3.2 the other Party commits any other breach of any of the provisions of the Agreement and, if the breach is capable of remedy, fails to remedy it within 10 Business Days after being given written notice giving full particulars of the breach and requiring it to be remedied;
 - 11.3.3 an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;
 - 11.3.4 the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);

- 11.3.5 the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or reconstruction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations of the Customer);
 - 11.3.6 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;
 - 11.3.7 that other Party ceases, or threatens to cease, to carry on business; or
 - 11.3.8 control of that other Party is acquired by any person or connected persons not having control of that other Party on the date of the Agreement. For the purposes of this Clause 11, "control" and "connected persons" shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.
- 11.4 For the purposes of sub-Clause 11.3.2, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
 - 11.5 Where the Customer is the Party which terminates under sub-Clause 11.3, the Photographer shall refund to the Customer the Deposit and other amounts received by the Photographer from the Customer, and the Customer shall not be liable for any other amount(s) payable under the Agreement.
 - 11.6 The rights to terminate the Agreement given by this Clause 11 shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

12. **Effects of Termination**

Upon the termination of the Agreement for any reason:

- 12.1 any sum owing by either Party to the other under any of the provisions of the Agreement shall become immediately due and payable;
- 12.2 all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Agreement shall remain In full force and effect;
- 12.3 termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have which existed at or before the date of termination;
- 12.4 subject as provided in this Clause 12 or under any other provision of these Terms and Conditions, and except in respect of any accrued rights neither Party shall be under any further obligation to the other; and
- 12.5 each Party shall (except to the extent referred to in Clause 9) immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information.

13. **Data Protection**

For complete details of the Photographer's collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of the Customer's

rights and how to exercise them, and personal data sharing (where applicable), please refer to the Photographer's Privacy Notice.

14. Data Processing

- 14.1 In this Clause 14 and in the Agreement, "personal data", "data subject", "data controller", "data processor", and "personal data breach" shall have the meaning defined in the Data Protection Legislation.
- 14.2 Both Parties shall comply with all applicable data protection requirements set out in the Data Protection Legislation. Neither this Clause 14 nor the Agreement shall relieve either Party of any obligations set out in the Data Protection Legislation and shall not remove or replace any of those obligations.
- 14.3 For the purposes of the Data Protection Legislation and for this Clause 14 and the Agreement, the Photographer is the "Data Processor" and the Customer is the "Data Controller".
- 14.4 The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing shall be agreed between the parties.
- 14.5 The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in the Agreement and these Terms and Conditions.
- 14.6 The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under the Agreement or these Terms and Conditions:
- 14.6.1 Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law;
- 14.6.2 Ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures. Measures to be taken shall be agreed between the Data Controller and the Data Processor;
- 14.6.3 Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential;
- Not transfer any personal data outside of the UK without the prior written consent of the Data Controller and only if the following conditions are satisfied:
 - The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;
 - Affected data subjects have enforceable rights and effective legal remedies;
 - The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any

and all personal data so transferred; and

- The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.

14.6.4 Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects and in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office);

14.6.4.1 Notify the Data Controller without undue delay of a personal data breach;

14.6.4.2 On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of the Agreement unless it is required to retain any of the personal data by law; and

14.6.4.3 Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 14 and to allow for audits by the Data Controller and/or any party designated by the Data Controller.

14.7 The Data Processor shall not sub-contract any of its obligations with respect to the processing of personal data under this Clause 14

14.8 Either Party may, at any time, and on at least 30 days notice, alter the data protection provisions of the Agreement, replacing them with any applicable data processing clauses or similar terms that form part of an applicable certification scheme. Such terms shall apply when replaced by attachment to the Agreement.

15. **No Waiver**

No failure or delay by either Party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right. No waiver by either Party of a breach of any provision of the Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

16. **Set-Off**

Neither Party shall be entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under the Agreement or any other agreement at any time.

17. **Assignment and Sub-Contracting**

17.1 The Photographer shall be entitled to perform any of the obligations undertaken by her through any other member of his group or through suitably qualified and skilled sub-contractors. Any act or omission of such other member or sub-contractor shall, in carrying out the Photographer's obligations to the Customer, be deemed to be an act or omission of the Photographer.

18. **Time**

The Parties agree that, except for the times specified for payments due to the

Photographer, the times and dates referred to in the Agreement are for guidance only and are not of the essence and may be varied by mutual agreement between the Parties.

19. Relationship of the Parties

Nothing in the Agreement shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in the Agreement.

20. Non-Solicitation

20.1 Neither Party shall, for the term of the Agreement and for a period of 1 year after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the other Party at any time in relation to the work undertaken by the Photographer without the express written consent of that Party.

20.2 Neither Party shall, for the term of the Agreement and for a period of 1 year after its termination or expiry, solicit or entice away from the other Party any customer or client where any such solicitation or enticement would cause damage to the business of that Party without the express written consent of that Party.

21. Third Party Rights

No part of the Agreement is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement.

22. Notices

22.1 All notices under the Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

22.2 Notices shall be deemed to have been duly given:

22.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

22.2.2 when sent, if transmitted by e-mail and a successful return receipt is generated; or

22.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid.

In each case notices shall be addressed to the most recent address or e-mail address notified to the other Party.

23. Entire Agreement

23.1 The Agreement and any mutually accepted amendments to the same recorded in writing (but not verbally) contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.

23.2 Each Party acknowledges that, in entering into the Agreement, it does not rely on any representation, warranty or other provision except as expressly

provided in the Quotation, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

24. Law and Jurisdiction

- 24.1 These Terms and Conditions and the Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 24.2 Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions or the Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.