

NICK MAILER PHOTOGRAPHY

TERMS & 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. COPYRIGHT.

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

3. 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.

4. 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. Where use is restricted in the Agreement, permission to use the Photographs for other purposes will normally be granted upon payment of a further fee, to be mutually agreed.

Note : An agreement must be reached with the Photographer before the Photographs may be used for other purposes.

5. EXCLUSIVITY

The Agency and Advertiser may 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 work. After the exclusivity period indicated in the Licence to Use the Photographer shall be entitled to use the Photographs for any purposes.

6. 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 obligations in relation to the commission.

7. INDEMNITY

While the photographer takes all reasonable care in the performance of this agreement generally, I shall not be liable for any loss or damage suffered by the Client or by any third party arising from use or reproduction of any image or its caption. (b) The Client agrees to indemnify the photographer in respect of any claims or damages or any costs arising in any manner from the reproduction without proper reproduction rights of any image supplied to the Client by the photographer. (c) It is the Client who must satisfy himself that all necessary rights, model releases or consents which may be required for reproduction, are obtained and it is acknowledged that the photographer gives no warranty or undertaking that any such rights, model releases or consents have or will be obtained whether in relation to the use of names, people, trade marks, registered or copyright designs or works of art depicted in any image. In the event that the image issued or reproduced by or with the authority of the Client then the Client shall indemnify the photographer against any loss or damage, proceedings or costs where such rights, releases or consents have not been obtained

8. PAYMENT

a. Payment terms are strictly 30 days from date of invoice by crossed cheque made payable to "Nick Mailer Photography" or by automated credit transfer (BACS). BACS details will be supplied with the invoice if this is a more convenient method of payment. Proof of postage of remittances is not considered proof of receipt, and clients are advised to send payment by any method affording proof of delivery. I understand and will exercise my statutory right to claim interest and compensation for debt recovery costs under the late payment of commercial debts act if I am not paid according to agreed credit terms. (b) If payment is not made in accordance with (a) above then the photographer may rescind this Agreement and recover damages, or, at their option, may exercise their statutory right to interest under the Late Payment Of Commercial Debts (Interest) Act 1998. (c) If any invoice issued to the Client is not paid by the Due Date, then all unpaid invoices issued to the Client become due of immediate effect, even if it is less than 30 days from the issue date, and that In Camera Photography may consider these invoices as overdue when pursuing legal action for the recovery of said debts. (d) A fee of £10.00 may be made for each account reminder, duplicate invoice, or any other paperwork, correspondence or phone calls involved with the pursuing of a debt. This fee is non-refundable, and represents the additional time spent pursuing overdue invoices. (e) The photographer reserves the right to suspend ongoing services, such as (but not limited to) the Downloadable Web Page or other distribution of images, once any invoice issued to a Client becomes overdue, and also reserves the right to inform the reason of this to third parties to whom this suspension of service affects. (f) On the Client's death or bankruptcy or (if the Client is a company) in the event of a Resolution, Petition or Order for winding up being made against it, or if a Receiver is appointed, the photographer may at any time thereafter inspect any records, accounts and books relating to the reproduction of their images to ensure that the images are being used only in accordance with the reproduction rights granted to the Client.

9. 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 as having been agreed or estimated.

10. REJECTION

Unless a rejection fee has been agreed in advance, there is no right to reject on the basis of style or composition.

11. CANCELLATION & POSTPONEMENT

A booking is considered firm as from the date of confirmation and accordingly the Photographer will, at his discretion, charge a fee for cancellation or postponement.

12. SUPPLY TO THIRD PARTIES

The licence only applies to the advertiser.

13. ELECTRONIC STORAGE

Save for the purposes of production 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.

14. APPLICABLE LAW

This agreement shall be governed by the laws of Scotland.

15. VARIATION

These Terms and Conditions shall not be varied except by agreement in writing.