

**Photographer**

**Emilia Moisio**

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## **TERMS AND CONDITIONS**

### **1. DEFINITIONS**

For the purposes of this agreement the "Client" is the party commissioning the "Photographer". For the purposes of this agreement the "Client" shall, where the context so admits include their respective assignees, sub-licensees and successors in title. "Photographs" means all photographic material furnished by the Photographer, whether transparencies, negatives, prints or any other type of physical or electronic material. "Fees" means Photographer's fees as set out in the estimate. "Expenses" means any costs necessary to produce the images aside from fees. "Estimate" means any document prepared by the Photographer setting out the Fees and Expenses necessary to produce the shoot. "Usage Licence" is the licence granting specific reproduction rights to the Photographs and outlined in the Estimate. "Days" referred to are working days. "Shoot Duration" includes all shoot, travel, casting, recce, or other preparation days. "The Shoot" is defined as the number of confirmed days whether the job is undertaken as a whole or in separate parts.

### **2. COPYRIGHT AND OWNERSHIP OF MATERIALS**

The entire copyright in the Photographs including ownership of all materials is retained by the Photographer at all times throughout the world. Title to all Photographs remains the property of the Photographer. Photography Fees are based on a Usage Licence specified on the Estimate. In the absence of such a licence having been specified in writing, there is no usage granted whatsoever. The exclusivity stated in the Usage Licence is granted aside from Photographer's self-promotional purposes. A high resolution digital file including photography in context of use or a hard copy of printed material incorporating photography must be supplied upon request to the Photographer.

### **3. USE**

The Usage Licence comes into effect from the date of full 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 Client 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 e.g. 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. Any estimates of usage fees to the Client are valid for a period of six months only from the estimate date. The Photographer reserves a right to renegotiate these fees after this period has expired. Any unauthorised use of the Photograph(s), beyond the usage constraints agreed with the Photographer, will be subject to further usage fees. 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 (unless an embargo is agreed with the Client) for the purposes of advertising or otherwise promoting her work. After any exclusivity period indicated in the Usage Licence the Photographer shall be entitled to use and licence others to use the Photographs for any purposes. Fees negotiated for any further uses licenced will not be conditional on the exercise of the rights granted and will be payable when invoiced. Any usage extensions must be negotiated with the Photographer.

#### 4. CONFIDENTIALITY

It shall be the sole responsibility of the Client to arrange for the Photographer plus any third parties involved to enter into any confidentiality agreement. Photographer cannot under any circumstances be held liable for any breach of confidentiality by any third party.

#### 5. INDEMNITY

The Photographer agrees to indemnify the Client against all expenses, damages, claims and legal costs arising out of any failure by the Photographer to obtain any clearances for which he/she was responsible in respect of third party copyright works, trademarks, 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 Client 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.

#### 6. PAYMENT

All figures provided are estimates and not a quotation, therefore allow 10% contingency budget on all estimates. Expenses and production costs are to be paid in advance of the Photographic shoot or on demand whichever is applicable. Terms of payment are immediate on invoices for expenses in advance. Otherwise payment by the Client 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. All fees for the right to use the Photograph(s) once agreed are payable irrespective of whether the usage is appropriated or not.

#### 7. CONTINGENCY EXPENSES

Where extra expenses or time are incurred by the Photographer as a result of alterations to the original brief by the Client, or otherwise at their request, the Client 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.

## 8. REJECTION

If the Client is not present during the shoot the Photographer's interpretation of the brief is deemed acceptable to the Client. Unless stated in writing on the day of the shoot, there is no right to reject on the basis of style or composition unless a rejection fee has been agreed in advance.

## 9. CANCELLATION, POSTPONEMENT, RESHOOT

A booking is considered firm as from the date of confirmation and accordingly if a confirmed shoot is cancelled, postponed or it is necessary to reshoot for reasons outside the control of the Photographer (including but not limited to unsuitable weather / light), the Photographer will, at her discretion, charge a fee for cancellation or postponement or reshoot.

## 10. RIGHT TO A CREDIT

If the Photographer's right to a credit has been stated on the estimate the Photographer's name will be printed on or in reasonable proximity to all published reproductions of the Photograph(s). The Photographer also asserts her statutory right to be identified in the circumstances set out in Sections 77-79 of the Copyright, Designs and Patents Act 1988 or any amendment or re-enactment thereof.

## 11. LIABILITY

Photographer's liability in any case is limited to professional fees, which have been agreed. Photographer shall not be liable to Client for any loss of profit, loss of contracts, loss of business or revenues, loss of production or for any indirect, special or consequential loss, damage, costs, expenses or other claims which arise out of or in connection with the Shoot.

## 12. THIRD PARTIES

Bookings of all third party suppliers are subject to such terms and conditions as these parties may impose - available on request. Model fees estimated cover modelling time and usage as stated on Estimate. Photographer takes no liability for model fees incurring due to additional usage of images above and beyond the usage stated on final Invoice. It is the Client's responsibility to contact models/model agents directly unless otherwise agreed.

## 13. 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.

## 14. APPLICABLE LAW

This agreement shall be governed by the laws of England & Wales.

## 15. VARIATION

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