

## Terms of Trade

ALL ASSIGNMENTS AND LICENCES ARE SUBJECT TO THE FOLLOWING AGREEMENT TERMS AND CONDITIONS:

### 1. DEFINITIONS

For the purpose of this agreement "the Agency" and "the Advertiser" shall include their respective successors and permitted assignees and where there is no agency or advertiser, all references in this agreement to either shall mean the Client.

"BUR" means the Base Usage Rate charged overleaf and includes first use of the Photographs. Any additional usage is subject to clause 2.

"Licence" means those rights in the Photographs licensed to the Client pursuant to clause 2.

"Photographs" means all photographic material furnished by the Photographer, whether transparencies, negatives, prints or any other type of physical or electronic material.

### 2. COPYRIGHT AND LICENCE TO USE

#### i) COPYRIGHT

The Photographer is the sole author of the Photographs. The Photographs shall be the Photographer's interpretation, rather than a literal re-creation of any concepts or layouts provided to the Photographer by the Client or the Client's representative. Subject to the Licence, the Photographer retains the entire copyright in the Photographs at all times throughout the World.

#### ii) MORAL RIGHTS

The photographer must be suitably credited with the photography in any instance where the photography is used for PR purposes in trade or mainstream publications.

#### iii) LICENCE TO USE

The Client shall have the right to use the Photographs only in the media, within the territory and for the period set out overleaf. Any extended usage must be with the written consent of the Photographer and will be subject to a further fee. The Licence cannot be transferred without the Photographer's written consent.

### 3. OWNERSHIP OF MATERIALS

Title to all Photographs remains the property of the Photographer. The Client shall return all Photographs in an undamaged, unaltered and unretouched condition within 30 days after first publication or use of the Photographs.

### 4. LOSS OR DAMAGE

Reimbursement by the Client for loss or damage of each original photographic transparency or film negative shall be in the amount of Two Thousand Dollars (\$2,000). The Photographer and Client agree that the said amount represents the fair and reasonable value of each item.

### 5. EXCLUSIVITY

The Agency and Advertiser will be authorised to publish the photographs to the exclusion of all other persons including the Photographer for the duration of the Licence according to the usage rights designated therein. 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. On expiry of first initial exclusive period, the Client will be offered the first right to extend the licence upon payment of a further fee.

### 6. INDEMNITY

The Photographer shall not be liable for any legal action, claim or damages resulting from or arising out of the publication of the Photographs or other use by the Client. The Client shall indemnify the Photographer against any claims and/or damages against him/her including reasonable Counsel fees arising from the Client's use of the Photographs and the Photographer's use of the material or the instructions of the Client.

### 7. PAYMENT

The Client shall pay all expenses referred to herein. All assignments where the total cost estimate exceeds \$5,000.00 require payment of 100% of the Production Expenses and 50% of the Fees before commencement. Full payment is otherwise required within 30 days of receipt of the relevant invoice.

### 8. CLIENT APPROVAL

The Client is responsible for having its authorised representative present during all "shooting" phases of the Assignment to approve the Photographer's interpretation of the Assignment. If no representative is present, the Photographer's interpretation shall be accepted. The Client shall be bound by all approvals and job changes made by the Client's representatives. Unless a rejection fee has been agreed in advance there is no right of rejection.

### 9. Invoice

Actual amount invoiced will reflect variations to the brief and actual hours worked.

### 10. CANCELLATIONS AND POSTPONEMENTS

The Client is responsible for payment of all expenses incurred up to the time of the cancellation, plus 50% of the Photographer's fees. If notice of cancellation is given less than two business days before the shoot date, the Client will be charged 100% of the Photographer's fees.

Weather postponements: Unless otherwise agreed, the Client will be charged 100% of the fee if the postponement is due to weather conditions on location, and 50% of the fee if postponement occurs before departure to the location.

### 11. RESHOOTS

The Photographer will charge 100% of his fees, charges and expenses on any reshoot requested by the Client.

### 12. ELECTRONIC DATA

The Client shall not electronically or by any other means, methods or processes, whether now known or hereafter developed, in any manner use, scan, reproduce, copy, store or alter any Photograph in whole or in part except as expressly agreed overleaf or with the subsequent written agreement of the Photographer.

### 13. ENTIRE AGREEMENT

This agreement is the entire agreement between the parties with respect to the subject matter and no alteration, modification or interpretation hereof shall be binding unless in writing and signed by both parties.

camera, lighting + photography services

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