

TERMS AND CONDITIONS [Eire]

1. DEFINITION

For the purpose of this agreement "the Client" 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 intermediary), all references in this agreement to "the Client" 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.

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 all sums due by the Client to the Photographer for use of the Licence. No use may be made of the Photographs before payment in full of all sums due 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 Client 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 not agreed must be sought and 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.

5. EXCLUSIVITY

The Client 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.

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/her obligations in relation to the commission.

7. 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, 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 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.

8. PAYMENT

Payment by the Client shall be within 30 days of the date of the Photographer's invoice and in default of payment interest shall be charged on all sums due from the 31st day of the date of the Photographer's invoice at the rate of 8% per annum until payment is received in full.

9. 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.

10. REJECTION

The Client may not reject a photograph on the basis of style or composition unless he pays a fee acceptable to the Photographer.

11. CANCELLATION & POSTPONEMENT

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.

12. RIGHT TO A CREDIT

If the box on the estimate and the licence marked "Right to a Credit" has been ticked the Photographer's name will be printed on or in reasonable proximity to all published reproductions of the Photograph(s)

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 and construed in accordance with the laws of Ireland. Both parties submit to the non-exclusive jurisdiction of the courts of Ireland.

15. VARIATION

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

NOTE : For more information on the commissioning of photography refer to Beyond the Lens produced by the AOP.