

## The Terms and conditions of David Graeme-Baker (trading as Optum Photography)

These may also be viewed on the website <http://www.davidgb.co.uk/TandC.pdf>

### 1. Definitions

"The Photographer" means David Graeme-Baker trading as Optum photography.

### 2.

"The Client" means any person, body of persons, firm or Company with whom the Photographer enters into a contract, verbal or written, for the sale of goods or provision of services by the Photographer.

### 2. Acceptance of Terms and Conditions

All contracts and transactions between the Photographer and the Client whether made orally or in writing are subject to these terms and conditions which shall be deemed to be incorporated into any contract between the Photographer and all or any of its Clients.

### 3. Copyright and Ownership

In accordance with the Copyright, Designs & Patents Act 1988, the copyright of all images created by the Photographer is owned by the Photographer.

The Client's licence to reproduce such images is granted to the Client on the understanding that all invoices are paid within the Photographer's stated payment terms. Reproduction rights are strictly limited to the use specified on the Photographer's invoice and/or quotation.

Unless otherwise stated and agreed by both parties the licence granted by Optum photography to its clients is: exclusive, worldwide, print and digital media, for a period of two years, for commercial clients and ten years for broadcast media e.g. Television etc., exclusively for the clients promotion and / or publicity.

An agreement must be reached with the Photographer before the pictures are used for a different purpose or after the licence to use has expired.

The Photographer reserves the right to charge an additional fee if the photographs are used for purposes other than what is shown on the Photographers invoice and/or quotation.

If the Client wishes to extend the licence to the images created by the Photographer, an additional fee will be due to the Photographer. This fee will be mutually agreed by both parties. The extension of licence will only become applicable after this payment has been made in full.

At no time may the licence be sold or otherwise transferred to a third party without written consent of the photographer.

The Photographer reserves the right to make reproductions of images created during assignments for marketing, promotional, competition and editorial purposes.

### 4. Exclusivity

If a booking is made where the Client is to be paid a commission/pitch fee/stand fee or the Photographer is paid by commission or sales, the Photographer reserves the right to have exclusive photography rights for the assignment. This includes photographs being offered for sale or being given away by any other photographer and also images being uploaded to websites for events participants to download for payment or without charge.

### 5. Cancellation Fees / Overruns

If a booking is cancelled by the Client within two working days of the appointed time, the Photographer reserves the right to charge 100% of fee for the assignment plus any other out of pocket expenses. (e.g. travel reservations, equipment hire etc.)

If a booking is cancelled within ten working days of the starting time, the Photographer may charge 50% of this fee. For cancellations/postponements due to weather conditions, the Photographer reserves the right to charge his full fee and expenses due to weather conditions on location. In such instances, the Photographer may charge in full for his expenses (e.g. including but not limited to; hire of specialist equipment, vehicles etc), that he may have incurred prior or during the assignment taking place.

### 6. Payment Terms

For all Clients, payment for all products and services provided by the Photographer must be made within 30 days of the date of that invoice.

Any sum outstanding after the expiry of 30 days shall have the following consequences: Interest at a rate of 4% per

annum above the base rate of Barclays Bank plc shall accrue in respect of any outstanding sum.

(Late Payment of Commercial Debts (interest) Act 1998)

Any licence granted for usage of the images shall be automatically revoked and only be capable of reinstatement upon payment of any outstanding sum plus interest and any other costs incurred by the Photographer.

#### 7. Fees and Expenses

All prices quoted to the Client apply only to the original job description and specifications given to the Photographer by the Client. The Photographer reserves the right to make additional charges for fees and expenses should these descriptions or specifications differ or change before or during the assignment. Wherever possible, the Photographer shall endeavour to provide an indication of what these additional charges will be.

#### 8. Delivery Shortages / Loss and Damage in Transit

Claims for damage, non-delivery or shortages will not be considered unless notified in writing within seven days of delivery.

The Photographer will make reasonable endeavours to ensure that items delivered by a third party are suitably packaged for transit. The Photographer cannot accept liability for loss or damage caused by a third party. For valuable items, the Client should take out suitable insurance cover. Upon written request, the Photographer will provide suitable loss/ damage cover for an additional charge. Clients who choose to have items returned to them without loss/damage cover do so at their own risk.

#### 9. Confidentiality

The Photographer acknowledges that in the performances of the services, she may receive information from the Client which is designated by the Client as confidential.

Upon request from the Client, the Photographer agrees to keep this information secret and not to disclose such information to other parties except as required by law.

#### 10. Liability

The Client agrees that in all dealings with the Photographer, the Photographer's liability will be limited to the following sums:

Public Liability: Limit of indemnity - £1,000,000

Professional Indemnity: Limit of indemnity - £0

#### 11. Delivery of Products and Services

The supply of products and services are provided by the Photographer on a best endeavours basis.

The Photographer will not be liable for delays that are beyond reasonable control.

The Photographer shall use reasonable endeavours to meet agreed deadlines where applicable.

The Photographer shall not be liable for any delays in meeting any of his obligations which were due to causes beyond reasonable control including but not limited to; postage/courier/lab delays, war/acts of terrorism, riots, government legislation, industrial action, adverse weather conditions, acts of God, floods, fire, loss or damage in transit etc.

#### 12. Prices & Terms

The Photographer reserves the right to amend both Prices and these Terms and Conditions without prior notice.

(see also <http://www.davidgb.co.uk/rates.pdf>)

#### 13. Short Notice or Rush Services

The Photographer reserves the right make an additional charge should the Client request a Short Notice or Rush service. This service is subject to availability and cannot be guaranteed.

#### 14. Images/Data Supplied in Electronic Format

For all images/data supplied to the Client in electronic format (including but not limited to electronic mail, CD's/ DVD's etc), The Photographer will endeavour to ensure that the data sent is not corrupt and is virus-free by scanning the data with Antivirus software before despatch. The Photographer cannot be held responsible for any damage, disruption and/or loss of any kind that the said media may cause to the Clients computer or data. The Client agrees to take similar steps to ensure that data sent to the Photographer is not corrupt and/or virus-free.

#### 15. Law

This Agreement shall be subject to and constructed according to English Law and the parties agree to accept the exclusive direction of the Courts of England.