



TERMS AND CONDITIONS OF BUSINESS

These Terms and Conditions of Business ("**Terms**") set out the terms and conditions on which Sandra Ace Photography Limited with company number 08450774 of 11 Axis Court Mallard Way, Swansea Vale, Swansea, Wales SA7 0AJ ("**Photographer**", "**we**", "**us**") shall supply you ("**Client**"; "**you**") with such services ("**Services**") and/or deliverables ("**Deliverables**") as set out in the attached schedule ("**Schedule**"). By signing and returning a copy of the Schedule, you hereby agree to be bound by the Terms herein.

IT IS HEREBY AGREED between the parties hereto as follows:

1. SERVICES AND/OR DELIVERABLES In consideration for the payment of any fixed prices agreed for the Services and/or Deliverables and/or such time and material charges accrued through the performance of the Services and/or Deliverables ("**Charges**") and subject to these Terms, the Photographer shall provide the Client with the Services and/or Deliverables as set out in the Schedule.

We shall perform the Services with reasonable skill and care and in a manner consistent with generally accepted standards for identical or similar Services. The Photographer reserves the right to use third parties, for example photographer's assistants, to fulfil its obligations in respect of the Services.

We shall use reasonable skill and care to produce the Deliverables and act in a manner consistent with generally accepted standards for identical or similar Deliverables.

The Photographer will perform the Services at the time(s) set out in the Schedule. If the Photographer is unable to provide the Services on the agreed time(s) and date(s) for any reason including without limitation pregnancy, personal injury or sickness or that of their immediate family, the Photographer at its sole discretion shall be entitled to give notice to you as soon as is reasonably practicable that they must cancel the Services and/or Deliverables ("**Cancellation Notice**"). In the event that the Photographer provides you with a Cancellation Notice, you will be reimbursed 100% of any Charges paid to the Photographer prior to receipt of the Cancellation Notice by you.

The agreed estimated delivery date for the Deliverables shall be as set out in the Schedule ("**Estimated Delivery Date**"). Both parties agree that this is an estimate given in good faith by the Photographer and does not constitute a contractually binding delivery date. For the avoidance of doubt, we shall not be liable in any way for any failures to meet such Estimated Delivery Date.

These Terms shall commence upon the commencement of the provision of the Services and shall terminate upon the completion of all Services and Deliverables set out therein.

2. CHARGES AND PAYMENTS The Services and Deliverables shall be provided on either a fixed price or a time and materials basis or a combination of both, in accordance with the Schedule. Any expenses set out in the Schedule shall be borne by the Client.

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Where the Client is to examine the Deliverables at the agreed place and time set out in the Schedule, unless you notify the Photographer at the time of the examination that you do not accept the Deliverables, acceptance of the Deliverables shall be deemed to take place upon the completion of your examination. In this case, the Photographer will not be liable to offer you any refunds. In the event that you notify the Photographer during the examination that the Deliverables are not accepted, the Photographer at its sole discretion shall be entitled either to offer you a refund or re-perform its obligations and provide the Services and Deliverables hereunder.

Where the Photographer has agreed to provide electronic versions of the Deliverables for Sign-Off, we shall use our reasonable efforts to make the electronic copies of the photographs ("**Images**") available on our Website, on an online gallery or sent via email to you once we have performed the Services. This is to enable you to view, examine and select the Images to form part of the Deliverables. Where the Photographer has agreed to make the Images available on a website, the Photographer will notify you when the Images have been uploaded and the Images will be made available for a limited period of ten calendar days from the date of that notification ("**Viewing Period**"). You are deemed to have accepted the Deliverables once you have selected the Images by informing the Photographer of your selection by email.

For avoidance of doubt, in the event that you notify the Photographer at the time of viewing the Images that you do not accept any or all of the Deliverables, the Photographer at its sole discretion shall be entitled to offer you a refund, offer you a substitute service, and/or offer to re-perform its obligations and provide the Services and Deliverables hereunder.

You must select the Images by the date specified in the Sign-Off provision as set out in the Schedule. If you fail to make such selection the Photographer reserves the right to select the Images and produce the Deliverables.

The terms for payment of the Photographer for Services and/or Deliverables shall be as set out in the Schedule ("**Payment Terms**"). The Client shall pay the Photographer all amounts due in accordance with the Payment Terms without discount, deduction, set-off or counterclaim of any kind.

All Charges hereunder are exclusive of any applicable value added taxes and any other applicable taxes of any nature whatsoever, shall be payable by the Client in addition in accordance with the law applicable from time to time.

Should the Client fail to make any payments due under these Terms by the due date for payment to the Photographer, then we shall be entitled to, without prejudice to any other right or remedy, charge the Client interest on the amount outstanding on a daily basis at the rate of five (5) per cent per annum above the base rate of HBSC from time to time in force, such interest to be calculated from the due date for payment thereof to the date of actual payment.

3. CLIENT'S OBLIGATIONS The Client shall perform its obligations in accordance with these Terms and shall provide at no charge to the Photographer all such documents, materials, data and any other information, assistance and services necessary to enable the Photographer to perform its obligations under these Terms including without limitation to the generality of the foregoing:

- (a) providing the Photographer with your identity and contact details, and those of your representative (if applicable);
- (b) procuring such instructions and information as may reasonably be requested by the Photographer as soon as reasonably practicable

after the time such request is made. The Photographer shall have the right to rely on any instructions or information given by the Client or any of its representatives;

(c) procuring that all licenses, consents, (including where relevant in relation to copyright material, any persons appearing in the photographs and the venue) which may be required by the Photographer in the performance of the Services are obtained so as to enable the Photographer to properly fulfil its obligations hereunder;

(d) providing promptly upon request from the Photographer such funds as are required to pay third party disbursements in advance;

(e) procuring your availability (or that of your representative) for the purpose of reviewing the Services and, where appropriate, to procure your sign-off of the Services and/or Deliverables. If Sign-off is requested and no response is received by the Photographer in the period set out in the Schedule, then the Photographer shall be entitled to continue with any actions that would follow Sign-off as if Sign-off had been received and the Client shall pay the applicable Charges for the performance of such work;

(f) if the Services, Deliverables or any part thereof is rejected by the Client, the Photographer shall be entitled to charge the Client a reasonable sum for the work completed up until the time of such rejection; and

(g) if the Client cancels the Services and/or Deliverables at any time the Photographer shall be entitled to charge a reasonable sum for the work done prior to the cancellation of the Services and/or Deliverables according to the cancellation provision set out in the Schedule. All sums arising under the cancellation provision shall immediately fall due for payment.

For the avoidance of doubt, the Photographer shall not in any way be liable for any loss, damage or delay in providing the Services and/or Deliverables caused by or arising from the Client's failure to comply with its obligations under these Terms and in the event of such failure, the time for performance of the Photographer's obligations under these Terms shall be extended by an equivalent period of time.

4. INTELLECTUAL PROPERTY RIGHTS Provided that the Photographer is unaware of any infringement of any third party intellectual property right at the time of its performance of the Services and delivery of the Deliverables, and that the Services are performed in good faith, and that the Deliverables are delivered in good faith the Photographer shall not be liable in any way to the Client for any breach of such rights subsequently notified to either party.

All copyright and all other intellectual property rights whether registered or unregistered throughout the world ("**Intellectual Property Rights**") used and/or embodied in the Services and Deliverables shall be and shall remain the sole property of the Photographer.

No title or Intellectual Property Rights in the Services, Deliverables or in any modification or extension thereof shall pass to the Client who agrees that its rights in such Services and to the information contained therein shall be limited to those specified in these Terms.

The Photographer hereby grants a perpetual, irrevocable, non-assignable, non-transferable licence to the Client to use the Intellectual Property Rights in the Services and Deliverables solely for non-commercial purposes only. This includes a right to reproduce and store the Deliverables, including digitally uploading the Deliverables to websites for the Client's non-commercial use, save that, in the event that the Client makes such use, that the Deliverables be attributed to the Photographer.

5. LIMITATION OF LIABILITY All warranties, representations, guarantees, conditions and terms, other than those expressly set out in these Terms
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whether express or implied by statute, common law, trade usage or otherwise and whether written or oral are hereby expressly excluded to the fullest extent permissible by law.

The Photographer accepts liability for death or personal injury that is due to the negligence of the Photographer or its employees in the performance of the Terms herein.

The Photographer shall not be responsible for products or services supplied to the Client by any third parties, whether such third parties have been recommended or otherwise suggested by the Photographer or not. Responsibility for decisions taken on the basis of information, suggestions and advice given by the Photographer to the Client shall remain solely with the Client.

The Photographer shall not be liable for any failure or damage caused by the Services and/or Deliverables unless the failure can be directly and solely attributed to the Photographer. In no event shall the Photographer be liable to the Client for any:

- a) consequential, indirect or special losses; or
- b) loss of profits, loss of savings, interest or production, loss of business or business benefit, loss of contracts, loss of management time, loss of expectations, loss of reputation, loss of fashion appeal, emotional damage (whether direct or indirect), cost of any substitute or replacement photographers,

whether such losses or damages arise in contract or tort or as a result of any breach of statutory duty.

In the event that the Photographer fails to comply with its obligations under these Terms, then it shall be entitled to be given a reasonable opportunity to rectify any errors and to re-perform its obligations and provide the Services and Deliverables hereunder.

If the Photographer's failure to comply with its obligations is not remedied as above then the total amount of the Photographer's liability to the Client for all losses, damages, costs, claims and expenses howsoever and whenever arising under these Terms shall not exceed in aggregate the amount paid to the Photographer by the Client under these Terms.

The sum set out in this clause 5 represents the total liability accepted by the Photographer for any claims arising under or in connection with these Terms.

7. MISCELLANEOUS References to clauses and schedules shall be to clauses and schedules of these Terms. The invoice(s) forms part of these Terms and shall be interpreted accordingly.

The waiver by either party of its rights in respect of any breach of any provision of these Terms shall not be taken or held to be a waiver in respect of any subsequent breach thereof.

No alteration, modification or addition to these Terms shall be valid unless made in writing and signed by the duly authorised representatives from both parties.

Neither party or any of its employees, servants, agents or sub-contractors shall be under any liability whatsoever to the other party for any non-performance, defective performance or delay in the performance of any of the Services or work to be supplied hereunder resulting from causes beyond its reasonable control including but not limited to fires, strikes (of its own or other employees) insurrection or riots, wrecks or delays in transportation, personal injury or sickness, inability to obtain supplies and raw materials requirements or regulations of any civil or military authority

or by any other event or circumstance beyond the reasonable control of that party.

If any part of these Terms is found to be unreasonable, invalid or unlawful under any enactment or rule of law the Court shall have the power to strike out or override that part whether it be an entire clause or clauses or some part or parts thereof and enforce these Terms as if the offending part or parts had not been included.

The clause headings in these Terms are inserted for ease of reference only and shall not affect the construction or interpretation of these Terms.

Nothing in these Terms shall give, directly or indirectly, any third party any enforceable benefit or any right of action against the Photographer and such third parties shall not be entitled to enforce any term of these Terms against the Photographer.

These Terms (and all ancillary documents referred to herein, including without limitation the Schedule and the invoice(s)) constitute the entire contract between the parties. Other than as expressly stated otherwise in these Terms, neither party shall be under any liability for any representations made prior to or during the operation of these Terms.

These Terms shall be governed and construed in accordance with the Laws of England and Wales and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.