

This version: October V1.5 2016

Commercial Photography Contract *(Version October 20016)*

These terms and conditions are applicable to international work as well. Note that all contracts are only accepted under jurisdiction of English law.

TERMS AND CONDITIONS OF COMMISSIONING AND REPRODUCTION OF PICTURES FROM YOUR REFLECTION STUDIO

1. In this Agreement the terms

- (a) picture includes a photograph, transparency, negative, digital scan, design, artwork, painting, montage drawing, engraving or any other item which may be offered for the purposes of reproduction.
- (b) reproduction includes any form of publication or copying of the whole or part of any picture and whether or not altered by printing, photography, slide projection (whether or not to an audience) xerography, artist's reference, artist's illustration, layout or presentation, electronic or mechanical reproduction or storage by any other means
- (c) the Client is the person or organisation to whom the invoice is addressed (whether or not the Client is acting for a third party).

2.

- (a) The entire copyright in the pictures is retained by Gareth Allcock at all times throughout the world unless agreed and jointly assigned to the client.
- (b) Your Reflection Studio supplies the technical and artistic ability to illustrate an idea photographically, and sells the right to reproduce those pictures in a given context. No property or copyright in any pictures shall pass to the Client unless specifically agreed prior to commission.
- (c) Gareth Allcock asserts both his moral right to be identified as the author of his work and the right to a credit is asserted in accordance with sections 77 and 78 of Copyright, Designs and Patents Act 1988.
- (d) Unless otherwise agreed in writing, if any picture reproduced by the Client omits the copyright notice or credit line specified by Your Reflection Studio any fee payable by the Client shall be subject to an increase specified by Your Reflection Studio, and in any event an increase of not less than 25%. The Credit line should be www.your-reflection.co.uk. Terms agreed are contained within the invoice.
- (e) Your Reflection Studio has the right to use images created under this contract for advertising, display, publication, or other purposes. The client agreeing the terms of this contract warrants that he/she has actual authority to agree to the use and shall indemnify and defend the Studio/Photographer in the event of litigation arising out of such use.
- (f) Images are sold under licence only. Unless agreed otherwise. Licence terms are contained within the invoice and the period for which the licence extends or is offered. Use of any of images beyond this period is permitted only when a renewal contract is agreed. This must be agreed 30 days prior to expiry. Renewed use of any single image from the collection or the collection in full will be charged at 33% of the original commission cost.
- (g) All licence contracts are in two parts the term or period of the licence and the purpose of use. For term see 2.f. Purpose of use is always indicated in the quote and invoice and is again in two parts: where the images may be used and the times it may be used. Owner website usage only is for use only in the website (not including case studies) including content and templates. Digital Image Use: corporate presentations (e.g. MS Powerpoint & Adobe Flash), promotional videos, commercial film, applications, email, e-books, software applications. Print Image Use: newspapers, magazines, books, newsletters, brochures, catalogues, adverts produced by the licensee, marketing materials, posters, postcards, greeting cards, wall décor (but not for resale or licence). Merchandise Use: prints, posters, calendars, mugs and tableware, t-shirts and clothing, games of all kinds including electronic, postcards, greeting cards, screensavers, exhibition stands, product merchandising standards, product promotion stands. Editorial Image use (print and electronic): newspapers, blogs, magazines, books, newsletters, press statements (corporate, product and financial). Packaging image use: carton or wrapping use, promotional pack use, limited period or trial period packaging. Social media use: the use of images on any site or format where the licensee no longer has control of the image, it's use and replication including examples such as Facebook, Twitter, Instagram, Snapchat.

3.

- (a) Reproduction rights (if and only when granted) are strictly limited to the use and period of time specified on Your Reflection Studio' invoice. **An agreement must be reached with Your Reflection Studio before the pictures are used for a different purpose or after the licence to use has expired.**
- (b) Any reproduction rights are not issued exclusively to the Client except when specified on the invoice.
- (c) Reproduction rights granted are personal to the Client and may not be assigned, nor may any picture submitted to the Client be loaned or transferred to third parties save for the purpose of the exercise by the Client of such reproduction rights.
- (d) Any reproduction rights granted are by way of licence and no partial or other assignment of copyright shall be implied.
- (e) Your Reflection Studio reserves the right to refuse to supply or grant a reproduction licence to a third party when requested to do so by the Client.

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Your Reflection Studio –
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(e) midlands@your-reflection.co.uk

4.

The following terms are used when describing the reproduction rights granted by Your Reflection Studio to the Client:

- (a) Internal Use only: The right to use the pictures only within a company for non-commercial purposes; publication in a free in-house magazine not normally available to the public; exhibition within the Client's premises; editorial use in the Client's intranet site.
- (b) PR and Press distribution use: The right to use the pictures as described in 4(a); plus a licence for third parties to reproduce such pictures in print or electronic media in an editorial context where no fee has been paid to guarantee publication.
- (c) Specified Use Only: The right to use the pictures once only for the purpose as described on the invoice.
- (d) Editorial use: One reproduction only of pictures supplied within one print edition of the specified title in an editorial context only.

5.

- (a) Risk in and responsibility for any original transparencies or prints passes to the Client from the time they are received until their safe return. The Client shall immediately inform Your Reflection Studio in writing of any loss or misuse of, or damage to the pictures while in the Client's possession or that of any third party. If a picture is not returned within four weeks of the date for return then Your Reflection Studio may in its sole discretion presume it to be lost.
- (b) The Client shall be liable to pay compensation to Your Reflection Studio in respect of each picture lost or damaged. Payment of compensation does not give rise to any rights in any picture. Compensation levels for the pictures are available from Your Reflection Studio upon request. These levels are a genuine pre-estimate of the loss which would be suffered if such a picture were to be lost or damaged. The Client is urged to request these figures and to take out insurance cover to cover the total value of the pictures delivered.

6.

- (a) Once the Client has made a booking for a specific time and date, Your Reflection Studio will not accept any other work from other clients for those times and dates.
- (b) As a result, once a booking is made, if it is subsequently cancelled, a cancellation fee will be charged to the client according to the following schedule. When a client cancels a booking within five days of any confirmed date, a fee of 50% of the booked time rate will be charged. When a client cancels photography within 2 days of any confirmed date, a fee of 100% of the booked time rate will be charged. In addition to this cancellation fee, the client will be charged for any expenses already incurred by Your Reflection Studio, including any props, ingredients, set build materials, travel support, mileage, model or venue hire.
- (c) If, in the opinion of studio/photographer, inclement weather or other adverse conditions prevent the creation of an image meeting the artistic standards of the Studio/Photographer, the photographer may elect to use an alternative location or reschedule the photo shoot.
- (d) If the Studio/Photographer cannot perform this contract due to fire or other casualty, strike, act of God, or other cause beyond the control of the parties, or due to photographer's illness or emergency, then the photographer shall return any deposit or fee if made to the client but shall have no further liability with respect to the Contract. This limitation on liability shall also apply in the event that photographic materials are damaged in processing, lost through camera or media malfunction, lost in the mail, or otherwise lost or damaged without fault on the part of the photographer. In the event that the Studio/Photographer fails to perform for any other reason, the Studio/Photographer shall not be liable for any amount in excess of the retail value of the Client's order.

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- (e) The studio/photographer takes every care in carrying out your professional commercial photography shoot and will not be liable for any loss or damage you, your property or any third party suffers as a result of creating, using or reproducing any picture taken.
- (f) Whilst every care is taken at every stage of the photographic process, in the event of a camera failure, operator error, material failure, or process machine failure, Reflection Studio can accept no responsibility for any losses however incurred as a result of any such failure beyond a full refund of the original purchase price.
- (g) Whilst every care is taken to digitally store images taken, in the event of a systems failure, image corruption, damage to technology or infrastructure, Your Reflection Studio can accept no responsibility for any losses however incurred as a result of any such failure beyond a full refund of the original purchase price.

7.

- (a) Until Your Reflection Studio has invoiced the reproduction fee neither party is committed to grant or acquire any reproduction rights in any picture. After a fee has been agreed and an invoice issued there is a firm and binding contract whereby Your Reflection Studio is committed to grant reproduction rights and the Client to acquire them. If after such invoicing but before payment the Client requests cancellation of the reproduction rights Your Reflection Studio may in its discretion cancel subject to the Client paying a cancellation fee.
- (b) **The Client's right to reproduce a picture arises only when Your Reflection Studio' invoice relating to the grant of such right is fully paid** (including interest and administration charges levied on late payment of the invoice or invoices). Any reproduction before payment of the invoice constitutes an infringement of rights and a breach of this Agreement entitling Your Reflection Studio to rescind the Agreement and rendering the Client liable for the payment of damages.
- (d) If payment is not made in accordance with (a) above then Your Reflection Studio may rescind this Agreement and recover damages, or, at its option, may exercise its statutory right to interest under the Late Payment Of Commercial Debts (Interest) Act 1998.
- (e) If any invoice issued to the Client is not paid by the Due Date, then all unpaid invoices issued to the Client become due of immediate effect, even if it is less than 30 days from the issue date, and that Your Reflection Studio may consider these invoices as overdue when pursuing legal action for the recovery of said debts.
- (f) A fee of £17 will be made for each account reminder, duplicate invoice, or any other paperwork, correspondence or phone calls involved with the pursual of a debt. This fee is non-refundable, and represents the additional time spent pursuing overdue invoices. This is in addition to the interest charged on the outstanding debt.

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(h) Your Reflection Studio reserves the right to suspend ongoing services, such as (but not limited to) the Downloadable Web Page or other distribution of pictures, once any invoice issued to a Client becomes overdue, and also reserves the right to inform the reason of this to third parties to whom this suspension of service affects.

8.

On the Client's death or bankruptcy or (if the Client is a company) in the event of a Resolution, Petition or Order for winding up being made against it, or if a Receiver is appointed, Your Reflection Studio may at any time thereafter inspect any records, accounts and books relating to the reproduction of its pictures to ensure that the pictures are being used only in accordance with the reproduction rights granted to the Client.

9.

(a) Your Reflection Studio will edit every take and deliver what it considers to be the best of every situation covered. As a result, contact sheets (or their digital equivalent) will only be supplied to the client in exceptional circumstances.

(b) No addition to, deletion from or alteration to or adaptation of a picture may be made without the written permission of Your Reflection Studio.

(c) Unless a rejection fee has been agreed in advance, there is no right to reject on the basis of style, composition or editing.

10.

In the case of printed publications, three copies of the relevant pages containing any picture supplied are to be furnished to Your Reflection Studio free of charge within two weeks. In other media, evidence of use must be made available if requested.

11.

(a) While Your Reflection Studio takes all reasonable care in the performance of this agreement generally, it shall not be liable for any loss or damage suffered by the Client or by any third party arising from use or reproduction of any picture or its caption.

(b) The Client agrees to indemnify Your Reflection Studio in respect of any claims or damages or any costs arising in any manner from the reproduction without proper reproduction rights of any picture supplied to the Client by Your Reflection Studio.

(c) It is the Client who must satisfy himself that all necessary rights, model releases or consents which may be required for reproduction, are obtained and it is acknowledged that Your Reflection Studio gives no warranty or undertaking that any such rights, model releases or consents have or will be obtained whether in relation to the use of names, people, trademarks, registered or copyright designs or works of art depicted in any picture. In the event that the picture issued or reproduced by or with the authority of the Client then the Client shall indemnify Your Reflection Studio against any loss or damage, proceedings or costs where such rights, releases or consents have not been obtained.

12.

Insurance & Liability. We hold current Public Liability Insurance. Where we appoint another party by sub-contract, they are also required to hold such insurance. Where we, or any sub-contractor we appoint, act for you, no individual will have any liability to you. You shall not bring any claim against us or individuals for breach of duty or otherwise.

13.

(a) This Agreement shall be subject to and constructed according to Scottish and English Law and the parties agree to accept the exclusive jurisdiction of the Courts of Scotland and England.

(b) No variation of terms and conditions set out herein shall be effective unless agreed in writing by both parties.

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