

# NEALE SMITH PHOTOGRAPHY

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## TERMS AND CONDITIONS

### 1. DEFINITIONS

In cases where the Photographer's client is not a direct client (e.g. an agency), all references in this agreement to "Client" shall be interpreted as references to the agency or advertiser.

### 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 images only applies to the Client(s) as agreed at time of order: its benefit shall not be assigned to any third party without the Photographer's permission/ prior agreement. The Licence to Use comes into effect from the date of payment of the relevant invoice(s). No use may be made of the photographs before payment in full of the relevant invoice(s) without the Photographer's express permission.

### 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. RELEASES/ CLEARANCE

The Client shall be responsible for obtaining any required clearances and will indemnify the Photographer against all expenses, damages, claims and legal costs arising out of any failure to obtain such clearances. Unless delivered to Client by Photographer, no model or property release exists, and it is Client's responsibility to obtain the necessary permissions for usages that require any model or property releases not delivered by Photographer.

### 8. PAYMENT

Payment is 30 days from the invoice issue date, or first placement of the images by the client. Late payment fees apply.

### 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 as having been agreed or estimated.

### 10. CLIENT'S REPRESENTATIVE TO ATTEND

Client is responsible for sending an authorised representative to the assignment. If no representative is present, Client is obligated to accept Photographer's judgment as to the acceptability of the Images. Images may not be rejected on the basis of style or composition.

### 11. WEATHER CONDITIONS

Bad weather reshoot terms may be organised with the photographer in advance.

### 12. CANCELLATION & POSTPONEMENT

A booking is considered firm as from the date of confirmation and accordingly the Photographer will, at his discretion, charge a fee for cancellation or postponement.

Cancellations: Client is responsible for payment of all expenses incurred up to the time of cancellation of the commission, plus 50 percent of Photographer's fee; however, if notice of cancellation is given less than two (2) business days before the shoot date, Client will be charged 100 percent fee.

Postponements: Unless otherwise agreed in writing, Client will be charged a 100 percent fee if postponement of the commission occurs after photographer has departed for location (excluding bad weather; see 11) and 50 percent fee if postponement occurs less than two (2) business days before departure to location.

### 12. RIGHT TO A CREDIT

The Photographer's credit 'www.nealesmith.com' will be printed on or in reasonable proximity to all published reproductions of the Photograph(s). The Photographer also asserts his statutory right to be identified in the circumstances set out in Sections 77-79 of the Copyright, Designs and Patents Act 1988 or any amendment or re-enactment thereof.

### 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 by the laws of Scotland

### 15. VARIATION

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