

- The Photographer shall provide and the Client shall purchase the Services in accordance with these Terms and Conditions to the exclusion of any other. These Terms and Conditions shall apply to the services provided by Jon P Farmer, trading as JPhoto ("the Photographer"), of 28 Newton Road, Wollaston, Northants, NN29 7QN.
1. **Definitions and Interpretation:** In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:
    - "the Agreement" means the agreement entered into by the Client and the Photographer incorporating these Terms and Conditions which shall govern the provision of the Photographer's services;
    - "Client" means the individual or corporate body who requires the Photographer's services;
    - "Commercial/Corporate" means any Agreement made where the Client is a company;
    - "Event" means any non-commercial or non-corporate event for which the Photographer's services are required, such as weddings or sporting events;
    - "Expenses" means costs incurred by the Photographer in direct relation to the provision of the services;
    - "Licence" means a licence granted by the Photographer to the Client under Clause 9;
    - "Order" means the Client's request to acquire the services of the Photographer as set out in Clause 2 of these Terms and Conditions;
    - "Photograph" means any photograph taken by the Photographer during the Photo Shoot;
    - "Photo Shoot" means all stages of the Photographer's services provided to the Client including preparation beforehand, the taking of Photographs and the processing of Photographs;
    - "Portraiture" means a Photo Shoot for an individual Client, a family or pet;
    - "Price" means the fee payable for the Photo Shoot and any Selected Photographs;
    - "Quotation" means a document or email submitted by the Photographer to the Client setting out any required deposit, the Price and any anticipated Expenses;
    - "Selected Photographs" means the Photographs chosen by the Client from the viewing service made available to them which shall be licensed under these Terms and Conditions.
  - 1.1 Unless the context otherwise requires, each reference in these Terms and Conditions to:
    - 1.1.1 "writing", and any cognate expression, includes faxes, emails and transmissions by similar means;
    - 1.1.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
    - 1.1.3 "these Terms and Conditions" is a reference to these Terms and Conditions and each of the Schedules as amended or supplemented at the relevant time;
    - 1.1.4 a Clause or paragraph is a reference to a Clause of these Terms and Conditions.
    - 1.1.5 a "Party" or the "Parties" refer to the parties to these Terms and Conditions.
  - 1.2 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
  - 1.3 Words imparting the singular number shall include the plural and vice versa. References to any gender shall include the other gender. References to persons shall include corporations.
  2. **Orders:** The Photographer will prepare and submit a quotation to the Client which shall set out the Price, payment terms and any anticipated expenses. The Quotation shall not necessarily include all Expenses which may be incurred nor shall it include any additional photographs or licence fees outside those specifically included in the Quotation. The Client shall be free to make changes to the Quotation prior to acceptance. The Client may accept the Quotation in writing by email or post. Any descriptions set out on our website shall not be binding on us and are intended as a guide only. Where the price of the Photo Shoot is stated on our website, these shall only remain current at the date of your order, except in the cases of obvious error, or such other price as may be agreed in writing by us.
  3. **Price and Payment – Portraiture:** The Client shall pay the deposit outlined in the quotation a minimum of 5 days in advance of the Photo Shoot in order to secure the booking.
    - 3.1 If the Client wishes to order any Selected Photographs on completion of the Photo Shoot, these shall be paid for in full at the time of ordering. Any such Selected Photographs will be provided on receipt in cleared funds of this payment.
  4. **Price and Payment – Commercial/Corporate Services:** The Photographer shall invoice the Client on completion of the services for all items set out in the Quotation, further reasonable Expenses incurred during the Photo Shoot and the total fees payable for the Selected Photographs.
    - 4.1 Any and all invoices provided by the Photographer to the Client must be paid in full on receipt of the invoice by the Client, without set-off, deductions or retentions.
    - 4.2 Any sums not received in accordance with the dates outlined above shall incur interest on a daily basis at 4% above the Bank of England base rate from time to time until such payment is made.
    - 4.3 Where any sums remain unpaid following the expiry of the time periods outlined above, any Licence granted to the Client under Clause 9 shall be suspended until payment is made in full.
  5. **Price and Payment – Events:** Our usual payment terms are as follows:
    - 25% deposit to accompany the order. Orders shall not be deemed confirmed until the Deposit is paid in full.
    - 50% of the total price is to be received a minimum of 2 months prior to the agreed event date.
    - 25% of the total price is to be received on completion of the Photo Shoot and on viewing the Photographs. Any Selected Photographs will be provided on receipt in cleared funds of the final instalment.
  - 5.1 The Photographer shall include any further reasonable Expenses incurred during the Photo Shoot and the total fees payable for the Selected Photographs in the final invoice.
  - 5.2 Any sums not received in accordance with the dates outlined above shall incur interest on a daily basis at 4% above the Bank of England base rate from time to time until such payment is made.
  - 5.3 Where any sums remain unpaid following the expiry of the time periods outlined above, any Licence granted to the Client under Clause 9 shall be suspended until payment is made in full.
  6. **Photography:** The Client shall, prior to the date of the Photo Shoot, specify any particular Photographs or compositions they require. However, any such Photographs and compositions discussed are a guide only and are dependent on the circumstances, such as timing, weather, venue issues, willingness of participants, and delays.
    - 6.1 The Photographer shall use their own exclusive judgement when selecting equipment and deciding upon artistic factors such as composition, lighting and photographic style. The Photographer will not accept liability in the unlikely event that the Client is dissatisfied due to a matter of personal taste.
    - 6.2 Subject to the nature of the Photo Shoot and the specific requirements of the Client, the Photographer will take as many Photographs as he deems appropriate with a view to giving the best choice when processing and preparing the final Photographs for selection by the Client. The number of Photographs taken during the Photo Shoot shall not affect the Price payable by the Client.
    - 6.3 Following processing and preparation of the Photographs, the Photographer will make a viewing service available to the Client to enable the Client to select the Photographs they require.
    - 6.4 The Photographer will provide the Selected Photographs to the Client in the format(s) agreed at the time of selection, subject to the terms of the Licence granted in Clause 9 and subject to payments being received in accordance with Clauses 3, 4 and 5.
    - 6.5 The Client is responsible for ensuring children and animals are accompanied and fully supervised at all times during the Photo Shoot.
    - 6.6 The Photographer shall be free to sub-contract any of his obligations under this Agreement provided that any and all sub-contractors are reasonably skilled in the relevant practices and provided that no additional charges are passed on to the Client. Any act or omission of such other sub-contractor shall, for the purposes of the Agreement, be deemed to be an act or omission of the Photographer.
  7. **Acceptance and Completion:** The Client confirms acceptance and satisfaction with any Selected Photographs on viewing the same. Any additional editing required will be chargeable. Any Selected Photographs ordered at this time will be exactly as viewed and any concerns must be addressed to the Photographer at this time. The Client confirms satisfaction if no concerns are raised at this time. Delivery of the Selected Photographs will be made as soon as reasonably possible but the Photographer cannot guarantee a particular delivery date or time.
  8. **Cancellation and Rescheduling:** The Client must provide a minimum of 48 hours' notice in order to cancel the Portraiture or Commercial/Corporate Photo Shoot. If the Client fails to provide the minimum notice required, the Photographer shall retain any deposit paid. If the Client wishes to reschedule, the Photographer shall require a further deposit, where applicable.
    - 8.1 Should the Client cancel the Event within 14 days of paying the Deposit, the Photographer shall refund the deposit in full. Should the Event be cancelled after this time, any sums already paid, including any interim payments, shall be non-refundable.
    - 8.2 The Photographer may cancel a Photo Shoot at any time prior to the start date and shall refund any sums paid. Liability shall be limited to the refunding of all sums paid.
  - 8.3 The Photographer reserves the right to charge a forced waiting fee for wasted visits or delays caused by any reason beyond the control of the Photographer either before, during or after the Photo Shoot.
  9. **Copyright and Licensing**
    - 9.1 The Copyright in the Photographs is and shall remain the property of the Photographer. Subject to a written agreement to the contrary, nothing in the Agreement shall vest any ownership rights in the Client.
    - 9.2 In the case of Commercial/Corporate Services, the Photographer will provide a non-exclusive limited Copyright Licence to the Client. The Client shall have the right to use the Selected Photographs for use on the internet, in promotion and marketing, and in publications with a circulation not exceeding 250,000. In the case of Portraiture and Events, the Client shall have the right to use the Selected Photographs for personal, non-commercial purposes only.
    - 9.3 At his sole discretion, and at additional cost, the Photographer may grant a non-exclusive extended Copyright Licence to the Client, allowing for use of the Selected Photographs for any commercial purposes, including publications over 250,000 and for use for or within saleable merchandise. Should the Photographs be required for any other purpose, further permission must be requested from the Photographer.
    - 9.4 If accepted and payment is made in accordance with the terms of payment herein:
      - 9.4.1 The Licence shall become effective following delivery of the Selected Photographs to the Client.
      - 9.4.2 The Licence shall apply only to the Selected Photographs and shall not extend to any other images or material viewed by the Client.
      - 9.4.3 The Client may not sub-licence the Selected Photographs without the prior written permission of the Photographer.
      - 9.4.4 The Photographer reserves the right to use the Photographs in any advertising or promotional material, publications, print, competition entry or any other purpose required by the Photographer.
      - 9.4.5 Any Licence granted shall be automatically revoked if the Client breaches any of its terms.
  10. **Framing and Scanning:** Any personal items belonging to the Client are left at the Client's own risk. The Photographer's sole liability for any loss or damage to such items shall be limited to that which arises out of the negligence of the Photographer, its employees, sub-contractors or agents.
  11. **Exclusivity:** The Photographer shall be the sole professional photographer for the Photo Shoot.
  12. **Data Protection:** The Photographer will not share the Client's personal data with any third parties for any reasons without the prior consent of the Client. Such data and any Photographs taken will only be collected, processed and held in accordance with the Photographer's rights and obligations arising under the provisions and principles of the Data Protection Act 1998. The Photographer cannot guarantee any Photographs will be retrievable after the Client's order has been fulfilled.
  13. **Force Majeure:** No Party to the Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: equipment malfunction, data corruption, power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event beyond the control of the Party in question.
  14. **Term and Termination:** The Agreement shall come into force on an agreed commencement date and shall continue for an agreed period from that date, subject to the provisions of this Clause 14.
    - 14.1 In the event of cancellation under Clause 8, the Agreement shall immediately terminate.
    - 14.2 Either Party may immediately terminate the Agreement by giving written notice to the other Party if:
      - 14.2.1 any sum owing to that Party by the other Party under any of the provisions of the Agreement is not paid within 30 days of the due date for payment;
      - 14.2.2 the other Party commits any other breach of any of the provisions of the Agreement and, if the breach is capable of remedy, fails to remedy it within 30 days after being given written notice giving full particulars of the breach and requiring it to be remedied;
      - 14.2.3 an emburrancer takes possession, or a receiver is appointed of any of the property or assets of that other Party; the other Party makes any voluntary arrangement with its creditors or becomes subject to an administration order (within the meaning of the Insolvency Act 1986); or the other Party has a bankruptcy order made against it or goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the Company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under the Agreement); or anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party; or that other Party ceases, or threatens to cease, to carry on business; or control of that other Party is acquired by any person or connected persons not having control of that other Party on the date of the Agreement.
      - 14.2.4 For the purposes of this Clause 14, "control" and "connected persons" shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.
    - 14.3 For the purposes of sub-Clause 14.2.2, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
    - 14.4 The rights to terminate the Agreement given by this Clause 14 shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.
  15. **Effects of Termination:** Upon the termination of the Agreement for any reason:
    - 15.1 any sum owing by either Party to the other under any of the provisions of the Agreement shall become immediately due and payable;
    - 15.2 all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Agreement shall remain in full force and effect;
    - 15.3 termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of the Agreement which existed at or before the date of termination; and
    - 15.4 subject as provided in this Clause 15 and except in respect of any accrued rights neither Party shall be under any further obligation to the other.
  16. **No Waiver:** No failure or delay by either Party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.
  17. **Insurance:** The Photographer includes for Public Liability insurance with an indemnity limit of £2 million and Professional Indemnity insurance with an indemnity limit of £25,000. The Photographer's insurance does not cover any risks to third parties on the Photographer's premises or any other premises where the Photo Shoot is to be held whatsoever and any third party enters such premises entirely at their own risk.
  18. **Assignment:** The Client shall not be entitled to assign the benefits under this Contract without the prior written consent of the Photographer, which shall not be unreasonably withheld.
  19. **Relationship of the Parties:** Nothing in the Agreement shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in the Agreement.
  20. **Third Party Rights:** No part of the Agreement is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement.
  21. **Notices:** All notices under the Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice. In each case notices shall be addressed to the most recent address or e-mail address notified to the other Party. Notices shall be deemed to have been duly given: when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or when sent, if transmitted by e-mail and a successful return receipt is generated; or on the fifth business day following mailing, if sent by national ordinary mail, postage prepaid; or on the tenth business day following mailing, if sent by airmail, postage prepaid.
  22. **Entire Agreement:** The Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except in writing and signed by the Parties. Each Party acknowledges that, in entering into the Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in the Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
  23. **Consumer Rights:** Nothing in this Agreement shall affect the Client's statutory rights as a consumer.
  24. **Severance:** In the event that one or more of the provisions of the Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) shall be deemed severed from the remainder of the Agreement. The remainder of the Agreement shall be valid and enforceable.
  25. **Law and Jurisdiction:** These Terms and Conditions and the Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales. Any dispute between the parties relating to these Terms and Conditions shall fall within the jurisdiction of the courts of England and Wales.