



## PHOTOGRAPHER TERMS AND CONDITIONS OF ANYWHERE I ROAM LIMITED

**1) DEFINITIONS.** For the purposes of this agreement the "Client" is the party commissioning the "Photographer". For the purposes of this agreement the "Client" shall, where the context so admits, include their respective assignees, sub licensees and successors in title. "Photographs" means all the material furnished by the Photographer, whether electronic or physical i.e. transparencies, negatives or prints. "Fees" means Photographer's Fees as set out in the Estimate. "Expenses" means any costs necessary to produce the images aside from Fees. "Estimate" means any document prepared by the Photographer setting out the Fees and Expenses necessary to produce the shoot. "Usage Licence" is the licence granting specific reproduction rights to the photographs and outlined in the Estimate. "Days" referred to are working days. "Shoot Duration" includes all shoot, travel, casting, recce or other preparation days. "The Shoot" is defined as the number of confirmed days whether the job is undertaken as a whole or in separate parts.

**2) COPYRIGHT AND OWNERSHIP.** The entire copyright in the Photographs including ownership of all materials is retained by the Photographer at all times throughout the world. Photography Fees are based on a Usage Licence specified on the Estimate. In the absence of such a licence having been specified in writing, there is no usage granted whatsoever. Changes to the Usage Licence required must be negotiated with the Photographer. For the period specified the Usage Licence is granted exclusively, aside from Photographers self promotional purposes. Where Photographs are stored electronically, they must be erased at the conclusion of the agreed usage period. We may require return, in good condition, of photographic material supplied by the Photographer at the end of the Usage Licence period. A high resolution digital file including photography in context of use- e.g. advertisement- or a hard copy of printed material incorporating photography must be supplied upon request to the Photographer.

**3) USE.** The Usage Licence comes into effect from the date of full payment of the relevant invoice(s). The period of usage commences from date of first use (or 6 months after shoot date, whichever is sooner). No use may be made of Photographs before payment in full of the relevant invoice(s) without the Photographer's express permission. Any permission which may be given for prior use will automatically be revoked if full payment is not made by the due date or if the Client is put into receivership or liquidation. Where use is restricted in the Usage Licence, permission to use the Photograph/s for other purposes will normally be granted upon full payment of a further fee, to be agreed with the Photographer. The Usage Licence only applies to the advertiser and products as stated on the invoice and it's benefit shall not be assigned to any third party without the Photographer's permission. Accordingly, even where any form of 'All Media Licence' is granted, the Photographer's permission must be obtained before any use of the Photographs for other purposes e.g. use in relation to another product or sub licencing through a photo-library. Note: An agreement must be reached with the Photographer before the Photographs may be used for other purposes. All further Licences in respect of the Photographs will be subject to these terms and conditions. Any estimates of usage fees to the client are valid for a period of six months only from estimate date. We reserve the right to renegotiate these fees after this period has expired. Any unauthorised use of the Photograph/s by the Client, beyond the usage constraints agreed with us, will be subject to further usage fees. The Photographer retains the right in all cases to use the Photographs at any time (unless an embargo is agreed with Client) for the purposes of promoting his/her work. After the exclusivity period indicated in the Usage Licence the Photographer shall be entitled to use and licence others to use the Photographs for any purposes. Fees negotiated for any further uses licenced will not be conditional on the exercise of the further rights granted and will be payable when invoiced. Any usage extensions must be negotiated with the Photographer.

**4) INDEMNITY.** The Photographer shall only be responsible for obtaining clearance in respect of third party copyright works, trademarks, designs or other intellectual property if this has been expressly agreed in writing before the shoot. In all other cases the Client shall be responsible for obtaining such clearances and will indemnify the Photographer against all expenses, damages, claims and legal costs arising out of any failure to obtain such clearances.

**5) PAYMENT.** All figures provided are estimates and not a quotation, therefore allow 10% contingency budget on all estimates. All estimated costs are GST exclusive. Expenses and production costs to be paid in advance of the Photographic shoot or on demand whichever is applicable. Terms of payment are immediate on invoices for expenses in advance and 30 days from date of all other invoices. All fees for the right to use Photography once agreed are payable irrespective of whether the usage is appropriated or not. We reserve the right to charge 2% interest per month (or part thereof) on amounts overdue.

**6) CONTINGENCY 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 be liable to pay such extra Expenses or Fees at an agreed rate in addition to that which has been estimated.

**7) REJECTION.** If the Client is not present during the shoot then the Photographers interpretation of the brief is deemed acceptable to the Client. Unless stated in writing on the day of the shoot, there is no right to reject on the basis of style or composition unless otherwise agreed.

**8) CANCELLATION / POSTPONEMENT / RE-SHOOT.** If a confirmed shoot is canceled, postponed or it is necessary to re-shoot for reasons outside the control of the Photographer (including but not limited to unsuitable weather/light), the following fees plus expenses in all cases are applicable: On shoots of two days duration or less, cancellation within 2 days notice = 100% of fees plus expenses incurred. Between 3 & 6 days notice = 75% fees plus expenses incurred. 7 days notice and over = 25% fees plus expenses incurred. On shoots in excess of 2 days duration, cancellation within the number of shoot days or less = 100% of fees plus expenses incurred, within twice the number of shoot = 75% fees plus expenses incurred, in excess of twice the number of shoot days 25% fees plus expenses incurred.

**9) RIGHT TO CREDIT.** The photographer must be credited on all editorial uses and in other cases if stated on the estimate.

**10) LIABILITY.** Photographer's liability in any case is limited to personal fees, which have been agreed. Photographer shall not be liable to Client for any loss of profit, loss of contracts, loss of business or revenues, loss of production or for any indirect, special or consequential loss, damage, costs, expenses or other claims which arise out of or in connection with the Shoot.

**11) THIRD PARTIES.** Bookings of all third party suppliers are subject to such terms and conditions as these parties may impose- available on request. Model fees estimated cover modeling time and usage as stated on Estimate. Photographer takes no liability for model fees incurred due to additional usage of images above and beyond the usage stated on final invoice. It is the clients responsibility to contact models/model agents directly unless otherwise agreed.

**12) CONFIDENTIALITY.** It shall be the sole responsibility of the Client to arrange for the Photographer plus any third party involved to enter into any confidentiality agreement. Photographer cannot be held liable for any breach of confidentiality by any third party.

**13) APPLICABLE LAW.** This agreement shall be governed by the laws of New Zealand and are subject to the exclusive jurisdiction of the New Zealand Courts, to whom all parties submit.

**14) VARIATION.** These Terms and Conditions shall not be varied except by agreement in writing.