



Standard Terms & Conditions

GinaDphoto and the Client hereby acknowledge that the following Standard Terms and Conditions are incorporated in and make a part of the Agreement between the parties hereto.

1 DEFINITIONS

Client means the Client specified in Item 1 of the Summary.

Expenses means the expenses incurred by GinaDphoto and to be paid by the Client and set out in Item 4 of the Summary.

Photography Fee or Fee means the total fee as specified in Item 3 of the Summary.

GST has the meaning defined in the A New Tax System (Goods and Services) Act 1999 (Cth).

License means the license granted by GinaDphoto to the Client for Uses of the Photographs as specified in Item 5 of the Summary.

Photographs means the finished photographs taken by GinaDphoto and as chosen by the Client and detailed in Item 2 of the Summary.

GinaDphoto means Gina D Photo Pty Ltd and includes employees, assistants, or any other parties engaged by GinaDphoto specified in Item 1 of the Summary to provide the Services.

Services means the services provided by GinaDphoto and set out in Item 2 of the Summary.

Summary means GinaDphoto Services Agreement Summary attached to this Agreement which forms part of this Agreement.

Term means the period set out in Item 7 of the Summary.

Territory means the territory set out in Item 8 of the Summary.

Uses means the permitted uses granted by GinaDphoto to the Client for use of the Photographs as set out in Item 6 of the Summary.

2 ENGAGEMENT AND SERVICES

2.1 The Agreement is between GinaDphoto and the Client. The Client wishes to engage GinaDphoto and GinaDphoto accepts the engagement to hereby:

- (a) provide the Services to the Client;
- (b) produce the Photographs; and
- (c) upon full payment of the Fee and the Expenses, GinaDphoto will grant the Client the License on the terms set out in this Agreement.

3 PAYMENT AND FEES

3.1 The Client agrees to pay the Fee and Expenses (plus GST, if applicable) to GinaDphoto.

3.2 All amounts payable under this Agreement are exclusive of GST. If any amount payable under this Agreement is the consideration for a taxable supply under GST Law, then GST, calculated in accordance with the GST legislation, must be paid in addition to the amount specified in this Agreement at the same time and in the same manner as the Fee and Expenses. All stamp duties and governmental charges, if any, arising out of or incidental to this Agreement are the responsibility of and must be paid by the Client.

4 THE CLIENT'S OBLIGATIONS

4.1 We agree the Copyright in all photographs is owned by GinaDphoto. We give permission to GinaDphoto to use any image for industry competitions and as required subsequent usage and for reasonable general promotional advertising for GinaDphoto. The usage for any other purpose is to be renegotiated between the parties and requires specific permission.

4.2 The negatives/digital files remain the property of GinaDphoto and will be kept on file a period of five years. We recognise that materials & technology change constantly so we need to place our required order as soon as possible to obtain the optimum quality. We note that we may then negotiate with GinaDphoto for release of the Negatives/digital files. Regarding re-ordering photographs, we also understand that:

4.3 GinaDphoto has no control over the environment in which the photographs are kept and that colour photographs, in common sensitised material and colour dyes, have limited life expectancy when exposed to strong and prolonged sunlight or fluorescent light sources. Photographs will retain their colour and brilliance much longer when displayed under better lighting conditions.

5 GINA D PHOTO OBLIGATIONS

5.1 Should nominated photographer not be available for any reason, GinaDphoto will notify the Client of the change as soon as it is known and provide another photographer with equivalent skills or provide a refund, whichever is the client's choice.

5.2 GinaDphoto shall carry out this assignment with due and professional diligence. Elements beyond GinaDphoto's control include faulty material, equipment failure, damaged and exposed film, loss of film/photos/negatives/digital files in

transit between GinaDphoto and professional laboratories employed by GinaDphoto, loss or damage to film, negatives/digital files and proofs during processing and developing either by GinaDphoto or professional laboratories employed by GinaDphoto, industrial disputes, civil disturbances, or weather conditions which may inhibit or prevent GinaDphoto completing in whole or in part this assignment. In this case GinaDphoto shall not be liable for its complete performance of the assignment. It is agreed that the liability of GinaDphoto shall be limited to be a refund of any money paid under this agreement which shall be in full & final satisfaction of any damage or loss suffered.

6 WARRANTY AND INDEMNITY

6.1 The Client warrants to GinaDphoto that:

- (a) it has the capacity and authority to enter into this Agreement;
- (b) it has obtained the necessary clearances in relation to the subject matter to be photographed; and
- (c) it will only use the Photographs in accordance with the License granted under this Agreement.

6.2 The Client agrees to indemnify GinaDphoto against any actual and direct loss, claim, injury or damage (including any reasonable legal costs or expenses properly incurred) by GinaDphoto as a direct result of breach by the Client of the above warranties.

7 CANCELLATION BY CLIENT

7.1 If the Client cancels the Agreement prior to the Cancellation date as set out in Item 3 of the Summary, GinaDphoto reserves the right to charge the Cancellation Fee set out in Item 3 of the Summary. In the event that the Client cancels or postpones the Services after the Cancellation Date, GinaDphoto reserves the right to charge the Client the full Fee and Expenses.

8 TERMINATION

8.1 This Agreement may be terminated if:

- (a) The Client fails to pay any part of the Fee or Expenses;
- (b) The Client is declared bankrupt, enters into administration or liquidation; or
- (c) The Client is in breach of this Agreement and has failed to rectify the breach within 30 days after receiving notice from GinaDphoto of such breach.

8.2 Immediately upon termination:

- (a) All rights in the Photograph/s and/or work(s) revert to GinaDphoto;
- (b) The Client must return all physical property (including but not limited to the Photographs and any equipment); and
- (c) All Fees and Expenses owed to GinaDphoto under this Agreement must be paid in full.

9 MISCELLANEOUS

9.1 This Agreement constitutes the entire understanding between the Parties, and may not be modified, amended, or otherwise altered unless agreed in writing between the parties.

9.2 If any provision of this Agreement is held to be invalid under the law, the validity of the whole shall not be affected. The remaining provisions will remain in full force and effect.

9.3 Each party must do all acts and execute all documents as necessary to give effect to this Agreement.

9.4 The Client must not assign or sub-license all or any of its rights in this Agreement without prior written consent of GinaDphoto.

9.5 This Agreement must be read and construed according to the laws of the state indicated in Item 9 of the Summary. The Parties submit to the jurisdiction of that state.