

GENERAL BUSINESS TERMS AND CONDITIONS FOR THE PURCHASE OF PHOTOGRAPHIC SERVICES AND THE PURCHASE AND USE OF PHOTOGRAPHIC IMAGES AS SUPPLIED BY LEE SHAUGHNESSY T/A MID SUSSEX PHOTOGRAPHY

("Terms and Conditions") You agree to license the Photographic Images for Your business and/or personal and private purposes only on and subject to these Terms and Conditions.

These terms and conditions apply to general photography services supplied by Lee Shaughnessy t/a Mid Sussex Photography, including Portrait Photography, Wedding & Events Photography, Model Portfolios, Corporate/Commercial Photography, Passport Photography and any other services that may be permanently or temporarily offered. These terms and conditions are supplemented for Wedding and Event Photography services by the appropriate contracts/documentation linked to via the respective web pages or otherwise made available to customers by Lee Shaughnessy t/a Mid Sussex Photography.

These terms and conditions of business represent the agreement between the parties for non-exclusive engagement of the services offered by Lee Shaughnessy t/a Mid Sussex Photography. No variation of these terms shall be made without the mutual consent of both parties.

It is important that the Client reads and fully understands this document as it establishes the working relationship between the parties. The Client is encouraged at any time to seek clarification on any matter contained in this document, including but not limited to obtaining assistance in the translation of the document, by contacting Lee Shaughnessy t/a Mid Sussex Photography.

1 INTERPRETATION

1.1 In these Terms and Conditions the following words have the following meanings:

Contract means the contract between Us and You for the sale and purchase of any and all photographic services offered for sale by Us and the sale, purchase and licensing of any and all Photographic Images

Photographic Images means the photographs, pictures, images, illustrations, drawings, sketches, paintings and any similar copyrighted work displayed on the Web Site by Us in digitised thumbnail format and any and all transparencies, negatives, prints or other copies or reproductions of the same (including copies held in electronic, magnetic and/or optical format)

Web Site means either any of Our web sites with Internet address <http://www.midsussexphotography.com> or <http://www.midsussexphotography.co.uk> or <http://www.midsussexphotography.uk> on which the Photographic Images are displayed

We, Us and Our means Lee Shaughnessy t/a Mid Sussex Photography

You and Your means the person(s), firm or company who purchases any and all photographic services offered for sale by Us and the licensing of any and all Photographic Images from Us.

1.2 In these Terms and Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1.3 In these Terms and Conditions references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

1.4 In these Terms and Conditions headings will not affect the construction of these Terms and Conditions.

2 APPLICATION OF TERMS

2.1 Any quotation price given by Us and any other information displayed on the Web Site (including pricing information) is an invitation to treat only.

2.2 Each order for Photographic Services and/or Images by You and provided to Us shall be deemed to be an offer by You to purchase such Photographic Services and/or Images. The Contract between You and Us will be made on and is subject to these Terms and Conditions to the exclusion of all other terms and conditions (including any terms or conditions which You purport to apply under any purchase order, confirmation of order, specification or other document).

2.3 No terms or conditions endorsed upon, delivered with or contained in Your purchase order, confirmation of order, specification or other document will form part of the Contract simply as a result of such document being referred to in the Contract.

2.4 These Terms and Conditions apply to all Our sales, Photographic Services and the licensing of the Photographic Images and any variation to these Terms and Conditions and any representations about the Photographic Services and/or Images shall have no effect unless expressly agreed in writing and signed by an authorised representative of Lee Shaughnessy t/a Mid Sussex Photography.

2.5 No order placed by You shall be deemed to be accepted by Us until a written acknowledgement of Your order is issued by Us or (if earlier) We deliver the Photographic Images to You.

2.6 You are responsible for ensuring that the terms of Your order and any applicable specification are complete and accurate.

3 ORDER PROCEDURE (Applicable to services that do not include the provision of a complete set of digital images and/or where specific prints and/or items are requested or required)

3.1 All Photographic Images can be viewed on the Web Site as a thumbnail image. Before purchase the Photographic Images may, at Our discretion, depict a visible watermark ("Watermarked Images"). The Web Site enables You to search through and view all Watermarked Images.

3.2 To order specific images, the online store may be used to construct an electronic order, or relevant details of purchase requirements may be sent to orders@midsussexphotography.co.uk or any other qualified Mid Sussex Photography email address.

3.3 Purchased physical items and/or digital image files will be supplied upon full payment being received by Lee Shaughnessy t/a Mid Sussex Photography

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5 DELIVERY

5.1 Any and all purchased physical items and/or any and all digital image files will be supplied to You as either i) downloadable documents accessed via FTP, ii) digital files on CD and/or DVD as required and determined by the size and nature of the purchased item/file, iii) physical items such as prints, frames, albums and other such like tangible products, immediately or as soon as possible thereafter, upon receiving Your order and payment confirmation.

5.2 Any times and dates specified by Us for delivery of the Photographic Images and/or physical products are intended to be an estimate and time for delivery shall not be of the essence.

5.3 If You do not receive all the Photographic Images or physical products ordered by and/or sent to You, You shall not be entitled to object to or reject all the Photographic Images ordered or any of them by reason of the shortfall and shall pay for such goods at the pro rata Contract rate. You shall immediately notify Us in writing if You do not receive all the Photographic Images You ordered or if You receive any incorrect Photographic Images stating which Photographic Images are missing and/or which Photographic Images You received in error. It is an express condition of Your licence to use the Photographic Images that You must immediately inform Us of any Photographic Images not ordered by You which You received in error and You acknowledge that You do not have any right to use or exploit any such Photographic Images received in error.

5.4 Your download of the specified Photographic Images shall be conclusive evidence that such Photographic Images have been delivered to and received by You unless You can provide conclusive evidence proving the contrary.

5.5 We shall not be liable for any non-delivery of the Photographic Images and/or physical products (even if caused by Our negligence) unless written notice is given to Us within 7 days of the date when the Photographic Images and/or physical products would in the ordinary course of events have been received. FURTHER We shall not be liable for any non-delivery of the Photographic Images in the event of the unavailability of the server used in relation to the Web Site.

5.6 Our total liability to You in respect of the delivery of the Photographic Images and/or physical products are as set out in these Terms and Conditions. Any delay in delivering the Photographic Images and/or physical products to You shall not entitle You to terminate or rescind the Contract unless such delay exceeds 180 days.

6 PRICE

6.1 Unless otherwise agreed by Us in writing, the price for the Photographic Services, Images and/or physical products shall be the price set out in Our price list or published on Our Web-Site at the date of delivery or deemed delivery, or the price as communicated to You via an official quote if requested.

7 PAYMENT

7.1 Payment of the price for the Photographic Services and/or Images and/or physical products is required from You using any of the stated payment methods allowable when You place Your purchase order with Us, or as stated on the invoice provided to You by Us.

7.2 No Photographic Images and/or physical products will be delivered or deemed to have been delivered by Us until We have received full payment.

7.3 No payment shall be deemed to have been received until We have received cleared funds in Our account.

7.4 If You fail to pay Us any sum due the Contract and Your license to use the Photographic Images will be terminated and We will not deliver any of the Photographic Images and/or physical products ordered by You.

8 QUALITY

8.1 If You inform Us that any Photographic Image and/or physical product is damaged, We may, at Our option, replace such Photographic Images and/or physical products or provide You with a refund of the purchase price, subject to You notifying Us within 14 days of the time You discovered, or ought to have discovered, the defect.

9 COPYRIGHT

9.1 We licence to You the use of the Photographic Images on a non-exclusive non-transferable world-wide basis (the "Licence"). The copyright and all intellectual property rights and other rights in and to the Photographic Images are reserved to and retained by Us and nothing in this Contract or otherwise shall operate to transfer to You or any third party any right, title or interest in the Photographic Images otherwise than as expressly set out in this Contract.

9.2 Photographic Images featuring brands, trade marks, models or other recognisable proprietary products does not necessarily mean that We have the consent of the right holders to the same and You must satisfy Yourself that You have all necessary rights and consents which may be required for Your use of Photographic Images incorporating such brands, trade marks, models or other recognisable proprietary products. We make no claim or warranty with regard to and We are not liable for Your use of any brands, trade marks or models or any other proprietary rights depicted on any of the Photographic Images.

9.3 You are permitted by this Licence to:

9.3.1 copy, backup or archive the Photographic Images to the extent necessary for the use within Your business only and You acknowledge that prior to placing Your order with Us and using the Photographic Images You have read and understand the copyright notice displayed on, or linked to, at Our Web Sites at either <http://www.midsussexphotography.com>, or <http://www.midsussexphotography.co.uk>;

9.3.2 use the Photographic Images in any one series of a television programme, any one video and any one film, in any electronic or print media including any one advertising brochure, newsletter, editorial layout, billboard, web page and any one issue of a magazine; and

9.3.3 modify or alter the Photographic Images as necessary for Your use of it, subject specifically to clause 9.4 of this Contract.

9.4 Except as expressly permitted by these Terms and Conditions You are NOT permitted to:

9.4.1 use or do anything with the Photographic Images not expressly permitted by Us by clause 9.3 above;

9.4.2 assign, novate, license, distribute, re-sell, charge or otherwise transfer any rights in or to the Photographic Images or make available for use by others all or a portion of the Photographic Images in any form or formats and all rights, title and interest in and to all Photographic Images shall at all times remain vested in Us or the third party owner of such rights;

9.4.3 copy or reproduce the Photographic Images, or the materials that accompany them, in any way;

9.4.4 materially alter or change in any way the Photographic Images or their accompanying materials;

9.4.5 alter, change, copy or reproduce in any way the Photographic Images or their accompanying materials for the purpose of re-selling the Photographic Images to any other photographic stock library.

9.4.6 use the Photographic Images in any way that could be considered defamatory, pornographic, obscene, immoral or fraudulent;

9.4.7 put the Photographic Images on-line in a downloadable format, or use the Photographic Images in a website at a resolution higher than 72dpi, or disassemble, decompile or "unlock", reverse engineer, translate or otherwise decode the Photographic Images for any reason;

9.5 You agree that We are permitted by this licence to:

9.5.1 display any photograph for purposes of advertising, marketing and promotion of Our business, be that in brochures, magazine articles and other such material, display via Our websites or the websites of Our partners or 3rd parties, providing that the images used are used lawfully and without damage to You, without formal notification to You being necessary and without copies of such materials requiring to be provided to You

9.6 A picture credit must be included on each publication of the Photographic Images and We request that the phrase or a screen "Copyright Mid Sussex Photography (c) [date]" appears adjacent to the Photographic Images or on a credit page. If You fail to credit the Photographic Images You will be deemed to be in breach of Your Licence.

10 TERMINATION

10.1 The Licence is effective until it is terminated. You can terminate it by destroying the Photographic Images along with any copies, backups or archives of it.

10.2 We may terminate Your Licence immediately, without notice at any time if You fail to comply with any of these Terms and Conditions.

10.3 We may terminate the Licence immediately by giving You notice in writing if:

10.3.1 an order is made or resolution is passed for Your winding up;

10.3.2 if You are unable to pay Your debts; or

10.3.3 if You present or have presented a petition to appoint an administrator or have an administrative receiver or receiver appointed over all or any part of Your business.

10.3.4 the termination on expiry of this Contract and/or the license to use any or all of the Photographic Images (or part thereof) will be without prejudice to Our rights and remedies which may have accrued up to the date of termination or expiry.

11 LIMITATION OF LIABILITY

11.1 The following provisions set out Our entire liability (including any liability for the acts or omissions of Our employees, agents and sub-contractors) in respect of:

11.1.1 any breach of these Terms and Conditions; and

11.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with these Terms and Conditions.

11.2 The Photographic Images are provided "as is" without warranty of any kind, either express or implied, including, but not limited to the implied warranties of satisfactory quality and fitness for a particular purpose, or that the Web Site or any other service will be uninterrupted or error free, and all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

11.3 Nothing in these Terms and Conditions excludes or limits Our liability for death or personal injury caused by Our negligence or fraudulent misrepresentation.

THE BUYER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CONDITION 11.4 Subject to conditions 11.2 and 11.3:

11.4.1 Our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to Us re-supplying You with the Photographic Images or other Photographic Images of equal value; or in the case of services purchased such as social event photography, where there is no opportunity to reshoot the images, reimbursing You the total service value paid to Lee Shaughnessy t/a Mid Sussex Photography only.

11.4.2 We shall not be liable to You for any indirect or consequential loss or damage including loss of profit, loss of opportunity, lost savings, loss of business, depletion of goodwill, loss of subjective happiness and/or pleasure or otherwise arising out of or in connection with the Licence or the Contract.

12 **FORCE MAJEURE** We reserve the right to defer the date of delivery and/or performance or to cancel the Contract or reduce the volume of the Photographic Images ordered by You (without liability to You) if We are prevented from or delayed in the carrying on of Our business due to circumstances beyond Our reasonable control including, without limitation, acts of God, sudden illness, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials including, for the avoidance of doubt, the non-availability of the Web Site due to errors within the, or the unreliability of, any server used in relation to the Web Site. Provided that, if the event in question continues for a continuous period in excess of 14 days, You shall be entitled to give notice in writing to Us to terminate the Contract.

12.1 Non Guarantee

12.1.1 Whilst every possible care will be taken to produce photographs of all important and special events and/or persons during photographic shoots and social events, Lee Shaughnessy t/a Mid Sussex Photography, Our employees, agents and sub-contractors cannot, and will not place any unconditional guarantee on the above.

12.1.2 In accordance with 12.1.1 Lee Shaughnessy t/a Mid Sussex Photography, Our employees, agents and sub-contractors will not be held responsible for Your dissatisfaction with the final results, be that quality, quantity, content or otherwise, of any and all photographic services purchased, including but not limited to Weddings and other social events, where Your requested assistance in the provision of a shot list or any other form of communicated instructions in respect of Your desired and expected results is withheld or its communication is delayed so as to be of no practical use during the shoot.

12.1.3 In accordance with 12.1.1 and 12.1.2 Lee Shaughnessy t/a Mid Sussex Photography and Our employees, agents and sub-contractors will not be deemed to have the required intimate knowledge of Your Family structure and Your circle of friends to be able to make informed decisions on Your behalf as to what You would expect to be included in the final results of the shoot, even if Lee Shaughnessy t/a Mid Sussex Photography, Our employees, agents and sub-contractors have worked with You previously or have any other form of previous knowledge of, or contact with, You, Your family and Your friends.

12.1.4 Lee Shaughnessy t/a Mid Sussex Photography will not be held responsible for any ruined photographs due to guests' (or any other) flashes; interference by and/or requirement to share space and subjects attention with other official or non official photographers, or any other ruined photographs due to any other cause in or outside of Lee Shaughnessy t/a Mid Sussex Photography's direct control, including but not limited to non co-operation of guests, camera shyness of guests, lack of interest by guests in helping to obtain the best practical results for You.

13 GENERAL

13.1 Each of Our rights or remedies under the Contract is without prejudice to any other of Our rights or remedies whether under the Contract or not.

13.2 Failure or delay on Our part in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of Our rights under the Contract.

13.3 Any waiver by Us of any breach of, or any default under, any provision of the Contract by You will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

13.4 The parties to this Contract do not intend that any term of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

13.5 This Contract constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Contract

13.6 If any provision of this Contract shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Contract which shall remain in full force and effect.

13.7 All communications between the parties about this Contract must be in writing and delivered by electronic mail or by hand or sent by pre-paid first class post or sent by facsimile transmission:

13.7.1 (in case of communications to Us) to Our registered office or such changed address as shall be notified to You by Us; or

13.7.2 (in the case of the communications to You) to the registered office of the addressee (if it is a company) or (in any other case) to any address set out in any document which forms part of this Contract or such other address as shall be notified to Us by You.

13.8 Communications shall be deemed to have been received:

13.8.1 if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);

13.8.2 if delivered by hand, on the day of delivery;

13.8.3 if sent by electronic mail or by facsimile transmission on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

13.9 Communications addressed to Us shall be marked for the attention of Lee Shaughnessy t/a Mid Sussex Photography.

13.10 The formation, existence, construction, performance, validity and all aspects of the Contract including any actions, disputes or claims hereunder shall be governed by and be construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.