



## 1. TERMS OF SERVICE

1.1 This terms of service, together with the information contained within your agreed order will form a binding contract between Névé Studios Ltd and the Client who orders Photographic Services from Névé Studios Ltd ("Client") and which shall constitute the entire agreement between Client and Névé Studios Ltd and apply to any trading agreement or other contract or arrangement between Client and Névé Studios Ltd;

1.2 These terms apply to the exclusion of all other terms or conditions of contract the Client may propose and shall not be varied unless agreed in writing and signed by Névé Studios Ltd.

## 2. DEFINITIONS

2.1 For the purposes of this agreement, the following expressions shall have the following meanings:

"Client Content" shall mean all materials and third party services provided by the Client to Névé Studios Ltd for inclusion into or in conjunction with the Photographic Content.

The "Fees" shall mean the rate of payment for the provision of Photographic Services by Névé Studios Ltd to Client as is communicated to the Client either through the website of Névé Studios Ltd or by any other means. The Fees shall include any third party Fees payable in the creation of the Photographic Content.

"Total Fees Estimate" shall mean any estimate of the Fees for undertaking photographic works given to the Client by the Névé Studios Ltd.

"The Delivery" date shall mean the date agreed by the Client and Névé Studios Ltd for delivery of the Photographic Content.

"Photographic Content" shall mean the photographic works requested by the Client and supplied by Névé Studios Ltd in accordance with this agreement.

"Photographic Services" shall refer to the act of producing the Photographic Content requested by the Client and supplied by Névé Studios Ltd in accordance with this agreement.

The "Shoot Date" shall mean the date agreed by Névé Studios Ltd and the Client upon which the Photographic Material will be created.

## 3. CONFIRMATION & BOOKING

3.1 In consideration of the payment by the Client to Névé Studios Ltd of the Fees, Névé Studios Ltd agrees on the Shoot Date, to create the Photographic Content in accordance with the Proposal (where such exist), with reasonable and due care in accordance with and subject to these terms.



3.2 Névé Studios Ltd undertakes that the Photographic Content shall be faithful to the conceptualisation of the works, pitch or proposal and follow the same standards of quality.

3.3 Written acceptance of this proposal acts as a receipt of this order acknowledgement and acceptance of these Terms of Service, whereby a contract shall be created between Névé Studios Ltd and the Client for the supply of the Photographic Services.

3.4 The Client assumes sole responsibility for ensuring that the Photographic Services described in the Proposal meets its requirements before acceptance of the Proposal.

3.5 A non-refundable 25% deposit is required together with acceptance of the proposal for all ad-hoc work. The deposit covers the agreed loss to the Névé Studios Ltd in the event of a cancellation. Photographic Services that are postponed to a later date will retain the deposit as long as the Névé Studios Ltd can reschedule for the new date and time.

3.6 Névé Studios Ltd is not obliged to carry out any work before the deposit is received. In the event that any preliminary work is carried out prior to receipt of the deposit and the order is then cancelled Névé Studios Ltd will invoice the Client for this work.

3.7 All quotes are valid for thirty (30) days unless otherwise agreed or stated.

3.8 The client's requirements must be clearly provided in the form of a written brief to Névé Studios Ltd with at least 48 hours notice before commencement of any work.

3.9 Any contract requiring Névé Studios Ltd to work to specific deadlines provided within the written agreement will be deemed to include a proviso that the Client will make themselves reasonably available to communicate with Névé Studios Ltd, its servants or agents, as necessary.

#### **4. COOPERATION**

4.1 The Client will cooperate with and act in good faith towards Névé Studios Ltd and provide on request such source materials as are required to create the Photographic Content ("Client Content") as Névé Studios Ltd is to incorporate into the Photographic Content or Névé Studios Ltd require to carry out its obligations.

#### **5. PAYMENT**

5.1 The Client shall pay Névé Studios Ltd the Fees without deduction or setoff within 45 days of receipt of a valid invoice.

5.2 The Client shall provide Névé Studios Ltd with all such information and material as it may reasonably request for the purpose of generating a valid invoice for payment of the Fees, including, where required, the provision of purchase order references within the period of two (2) days following the Shoot Date.

5.3 Any Total Fees Estimate communicated to the Client by Névé Studios Ltd is an estimate only. The Fees shall be set on the basis set out by Névé Studios Ltd and may be less than, or more than, the Total Fees Estimate.

5.4 Névé Studios Ltd may charge additional Fees in accordance with its then prevailing rates in the event of:



5.4.1 Delays or additional works caused or required by the Client including its failure to properly and / or timeously provide Névé Studios Ltd with such information, Client Content, instructions, media or approvals as are reasonably required for the supply of the Photographic Content;

5.4.2 Changes to the cost of labour, materials, services and other circumstances outside of Névé Studios Ltd's reasonable control.

5.4.3 Client requiring the supply of Photographic Content, goods and services in addition to those requested or any variations to the Photographic Content;

5.4.4 Agreed third party expenses.

5.5 In the event that the Client requires any change or alteration to the Photographic Content ("Change"), Névé Studios Ltd and the Client shall, prior to such change being effective or implemented, agree:

5.5.1 The nature of the Change;

5.5.2 The procedures for implementation of such Change; and

5.5.3 The variation to the Fees.

5.6 Until any Change is formally agreed between the Client and Névé Studios Ltd, Névé Studios Ltd will continue to perform and be paid for the Photographic Content as if the Change had not been proposed, unless otherwise requested by the Client.

5.7 All and any Changes to the Photographic Content shall be accompanied by appropriate amendments to the Fees.

5.8 Névé Studios Ltd shall be entitled to charge interest on any overdue payment at the rate of 4% over base rate of the Bank of England at the time.

5.9 Payments of the Fees for all contracted work will be taken as a straight direct debit.

5.10 Payment of Fees for all ad hoc project work can be made through BACS, CHAPS or online via the Sage payment gateway integrated into invoices (if applicable).

5.11 The Fees are exclusive of VAT. VAT shall be charged at the prescribed rate at the date of invoicing. The Client shall pay the VAT to Névé Studios Ltd as if it were part of the Fees and all requirements and other provisions concerning payment of the Fees shall apply accordingly.

## **6. COPYRIGHT & CONFIDENTIALITY**

6.1 All copyright, design right, registered designs, trademarks, database rights and confidential information and ideas and all other rights whatsoever of a like nature worldwide whether registered or not of whatever nature in material devised, created or commissioned by Névé Studios Ltd, in supplying the Photographic Content and under this Agreement will vest in and belong to



Névé Studios Ltd unless otherwise agreed in writing and signed by both Parties. Névé Studios Ltd may include within the Photographic Content reasonable copyright notice and credit.

6.2 Névé Studios Ltd hereby grants the Client an agreed world wide web display usage license throughout the Internet and an agreed UK, world or any single country print/digital license – any media usage licenses being conditional upon receipt by Névé Studios Ltd of the Fees in accordance with the above. In the event that the Fees are not paid, or if the Client rejects the Photographic Content, the license granted in this clause 6.2 will be deemed to be terminated.

6.3 The license granted above shall apply only to the visual image contained within the Photographic Content which Névé Studios Ltd is specifically requested to proceed with and not to any original ideas, concepts or proposals of Névé Studios Ltd pitched or suggested to the Client, all of which shall be retained by Névé Studios Ltd.

6.4 Névé Studios Ltd shall use reasonable endeavours to obtain the Client's approval for the use of the Photographic Content otherwise than as stipulated under this agreement. In the event that the Client is contacted with such a request, the approval requested may be withheld by the Client on reasonable grounds. In the event that Névé Studios Ltd's endeavours to contact the Client are unsuccessful or if the approval for use of the Photographic Content by Névé Studios Ltd is withheld without the Client setting out reasonable grounds for withholding that approval, Névé Studios Ltd shall be entitled to use the Photographic Content without further reference to the Client. Nothing in this clause shall give Névé Studios Ltd any right to grant further licenses to use the Photographic Content in relation to any third party.

6.5 The Client grants Névé Studios Ltd a non-exclusive royalty free license to use the Client Content for all purposes relating to this Agreement and warrants that it is fully entitled to grant Névé Studios Ltd these rights and that the Client Content are free of racist, defamatory, obscene and other legally restricted material.

6.6 The Client undertakes to Névé Studios Ltd to indemnify and hold harmless Névé Studios Ltd in full and defend at its own expense Névé Studios Ltd against all costs, damages and losses incurred by it arising out of its use of the Client Content.

6.7 Each Party undertakes that it will keep secret and confidential any information supplied by either party in connection with this Agreement or in connection with the business of the other and in connection with the Photographic Content and shall only disclose such information or part thereof (except to its own employees and advisers and then only on a need to know basis) with the other party's prior written consent provided that this Clause shall not extend to information which was and can be shown to be rightfully in the possession of the Client prior to the commencement of the negotiations leading to this Agreement or which is in the public domain (other than as a result of a breach of this clause);

6.8 Névé Studios Ltd warrants that it will use reasonable efforts to ensure that the Photographic Content does not infringe the copyright of any third party.

## **7. DELIVERY, INSPECTION AND ACCEPTANCE**

7.1 Névé Studios Ltd shall, on the Delivery Date, provide the Photographic Content to the Client via online transfer, as agreed between Névé Studios Ltd and the Client. If the Client requires delivery of the Photographic Content in any other format or by any specified method of delivery, the Client shall meet such additional costs (if any) incurred by reason of that requirement.



7.2 Photographic material shall only be treated as being defective if both the Client and Névé Studios Ltd agree that the Photographic Content is below the specific resolution communicated by the Client to Névé Studios Ltd (if any) or any commonly observed specific requirements as are suitable for the required media in which the Photographic Content is intended to appear.

7.3 The Client shall not be entitled to claim that the Photographic Content is defective if:

7.3.1 It has already approved the Photographic Content, including by email.

7.3.2 It or its directors, agents, employees or any other person acting under its instructions has been active in the art direction applied to the Photographic Content.

7.4 The Client shall inspect the Photographic Content upon delivery and shall notify Névé Studios Ltd immediately if it wishes to claim that the Photographic Content is defective whereupon Névé Studios Ltd shall, if such defect is proved, be given 5 days within which to remedy the same.

7.5 In the event that it is not possible for Névé Studios Ltd to remedy any defect in the Photographic Content and before any deadline set by a third party for the delivery of the Photographic Content by the Client, the Client shall be entitled to reject the Photographic Content and to withhold Payment of the Fees.

7.6 If the Client fails to alert Névé Studios Ltd of any defects in the Photographic Content within five (5) days of delivery then the Client shall be deemed to accept the Photographic Content.

7.7 The Client shall have no right to seek any cancellation or repayment of job costs on the basis of style or composition.

7.8 Settling an invoice and downloading or making use of any Photographic Content supplied by Névé Studios Ltd, are all considered implicit acceptance and agreement with all the relevant terms and conditions of your shoot.

## **8. CONTRACTED WORK**

8.1 The contract may not be cancelled following order acceptance unless a trial or rejection period has been agreed in advance. At the sole discretion of Névé Studios Ltd, a contract may be cancelled either wholly or in part subject to timing, and only once agreement in writing has been notified to the Client.

8.2 For retained work billed monthly and where no contract period has been explicitly stated on the Proposal, the contract may be terminated by the Client giving 3 months' notice in writing.

8.3 Unless otherwise stated in the Proposal, the contract may only be cancelled by agreement in writing of both parties and upon payment to Névé Studios Ltd of such amount as may be necessary to meet the costs incurred to Névé Studios Ltd up to the date of cancellation and to indemnify Névé Studios Ltd against all loss resulting from said cancellation.

8.4 The Fees, once accepted by both parties as signified by the receipt of a signed Proposal, is applicable for 12 months from the date of signing. Névé Studios Ltd reserves the right to increase the price of any work outstanding after that period.



8.5 Unless otherwise stated in the Proposal, the agreed monthly element of the Fees shall be payable to Névé Studios Ltd by the first working day of the month, in advance of the work to be carried out.

8.6 If the Client fails to make payment on a due date then without prejudice to any other right or remedy available to Névé Studios Ltd, Névé Studios Ltd shall be entitled to suspend or terminate the Photographic Services.

8.6.1 Should a payment be late by 30 or more days, Névé Studios Ltd may suspend the Photographic Services.

8.6.2 Should a payment be late by 60 or more days, Névé Studios Ltd may terminate the Photographic Services.

8.7 Credits for contracted work can only be rolled over into the following month once. After the credits have been rolled over, any unused credits from the previous month are written off unless explicitly stated by both parties in writing.

## 9. LIMITATION OF LIABILITY

9.1 Névé Studios Ltd's liability for any loss or damage direct or otherwise and howsoever caused whether in offense, contract or otherwise shall not exceed the Fees invoiced by Névé Studios Ltd to the Client for the Photographic Content.

9.2 Nothing in this Agreement shall limit the liability of either party for death or personal injury caused by its negligence.

9.3 Névé Studios Ltd shall not be liable to the Client for any consequential loss or damage.

9.4 When instructions or advice are given or received orally by Névé Studios Ltd, it shall have no liability to the Client for any misunderstanding or misrepresentation, which may arise in relation thereto except in relation to fraudulent misrepresentations.

9.5 Névé Studios Ltd shall have no liability to the Client in respect of the Client Content. On completion of the Photographic Content the Client agrees to collect the Client Content within 60 days of completion of the works, failing which, Névé Studios Ltd may dispose of it.

9.6 In the unlikely event of a total or part photographic failure, injury or sickness beyond Névé Studios Ltd's control, Névé Studios Ltd's liability shall be limited to a full refund of all monies paid.

9.7 Névé Studios Ltd agrees that every effort will be made to provide high quality Photographic Content. In the unlikely event that a full mechanical failure should occur to Névé Studios Ltd's equipment or that Névé Studios Ltd is unable to provide the Client with the agreed Photographic Services or if the quality of the Photographic Content is deemed to be substandard, Névé Studios Ltd and the Client agree that Névé Studios Ltd is not responsible for any other consequential damages, emotional or otherwise, and that Névé Studios Ltd's liability shall be limited to a full refund of all monies paid.

9.8 The client agrees to accept the technical results of their imposition on Névé Studios Ltd. Negotiation with any officials for moderation of guidelines is the Client's responsibility.



9.9 Once the Client has the Photographic Content, it is the Client's responsibility to properly store and archive it. While Névé Studios Ltd may choose to archive the Photographic Content as part its own business practices, Névé Studios Ltd cannot guarantee the availability of any Photographic Content beyond the date of first delivery to the Client.

## 10. THIRD PARTY MATERIALS

10.1 The Client shall be responsible for and notify Névé Studios Ltd of all and any applicable rules, regulations, codes of practice and laws relating to its use and operation of the Photographic Content including without limitation any obligations under the Data Protection Act 1998; Regulation of Investigatory Powers Act 2000; Competition Act 1998; Disability Discrimination Act 1995 and equivalent legislation. Névé Studios Ltd shall not be liable to Client in relation to such legislation and gives no warranty, representation or undertaking in relation thereto, unless agreed in writing otherwise.

10.2 Névé Studios Ltd gives no warranty, representation or undertaking in relation to any third party materials or works.

10.3 Subject to and provided that Névé Studios Ltd acts in accordance with clause 6 above, the Client agrees that it is responsible for its selection and use of all Photographic Content and contracting with any third parties in relation thereto and that it shall be responsible for making reasonable enquiries into the copyright and like rights in any Photographic Content.

10.4 Subject to the foregoing Névé Studios Ltd shall have no liability to the Client whatsoever in relation to the Photographic Content and gives no warranty and makes no representation as to whether Photographic Content contain or are free from racist, defamatory, sexually explicit, inflammatory, obscene or other legally restricted material and explicitly excludes all and any liability in relation thereto.

## 11. CANCELLATION

11.1 Névé Studios Ltd shall be entitled to terminate this Agreement upon the Client's material breach (including without limitation non-payment of any sum due) unless the Client remedies such breach within 7 days of its occurrence.

11.2 Névé Studios Ltd will not be liable in any amount for failure to perform any obligation under this Agreement if such failure is caused by the occurrence of any unforeseen contingency beyond the reasonable control of Névé Studios Ltd including without limitation Internet outages, communications outages, war or act of God.

11.3 In the event that the Client wishes to cancel the creation of the Photographic Content by Névé Studios Ltd or the provision of Photographic Services in accordance with this Agreement (save in the event of a material breach by Névé Studios Ltd of a fundamental term of this Agreement) at any time, Névé Studios Ltd shall be entitled to recover the following proportions of the Fees:

11.3.1 Where such cancellation is communicated to Névé Studios Ltd more than 48 hours in advance of the Shoot Date, Névé Studios Ltd shall not be entitled to any proportion of the Fees;

11.3.2 Where such cancellation is communicated to Névé Studios Ltd within the period between 48 hours and 24 hours in advance of the Shoot Date, Névé Studios Ltd shall, at its option, be entitled to recover 50% of the Fees;



11.3.3 Where such cancellation is communicated to Névé Studios Ltd within the period of 24 hours before the Shoot Date, or if any such cancellation is not communicated to Névé Studios Ltd at all, Névé Studios Ltd shall, at its option, be entitled to recover 100% of the Fees.

11.4 During the course of this Agreement and for a period of 12 months afterwards, the Client shall not solicit the staff of Névé Studios Ltd or any person employed or engaged by Névé Studios Ltd in relation to its provision of the Services in the 6 months prior to expiry or termination of this Agreement, or entice them to transfer their employment or services.

## 12. GENERAL

12.1 Nothing in this Agreement shall be deemed to constitute a partnership or agency relationship between the Parties and neither of the Parties shall do or suffer to be done anything whereby it may be represented as a partner or agent of the other party.

12.2 If at any time any part of this Agreement is or becomes unenforceable, such part will at Névé Studios Ltd's option be construed as far as possible to reflect the parties' intentions and the remainder of the provisions will remain in full force and effect.

12.3 No forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of right operate as a waiver of any subsequent breach of this Agreement.

12.4 The Client shall not assign the benefit or burden of this Agreement without the prior written consent of Névé Studios Ltd.

12.5 No person who is not a party to this Agreement shall be entitled to enforce any of the term pursuant to the Contracts (Rights of Third Parties) Act 1999.

12.6 These Terms are made and shall be construed in accordance with the laws of England and the Parties submit to the exclusive jurisdiction of the English courts.