

SIAOSI PHOTOGRAPHY CLIENT AGREEMENT & TERMS OF SERVICE

Based on NZIPP Standard Terms and Conditions.

All capitalised words are defined in the definitions section.

DEFINITIONS

Photographer: Siasoi Photography and where the context requires may include, the company, employees or sub-contractors.

Client: means the person(s) listed on the booking form.

Subject: the person or property being photographed on behalf of the Client

Photographic Works: any work created by the Photographer which may include, but is not limited to; templates, processes, photographic prints, negatives and digital images.

Licence: is a right granted by the Photographer to the Client to use the copyright works of the Photographer according to the terms set out below.

Order: an order placed by the Client to produce Photographic Works as set out in the booking form and/or property release and/or invoice.

Event: includes a wedding or portrait session or any other specific event for which the Client has placed an Order and the Photographer has set aside a specific date or time to meet with or do work for the Client.

1. AGREEMENT OVERVIEW

This agreement contains the entire understanding between the Photographer and the Client. It supersedes all prior agreements between the parties. The only way to add or change this agreement is to do so in writing, signed by all the parties. By marking the confirmation box on an Order, the Client accepts and agrees with the terms set out below.

2. COOPERATION

The Photographer and the Client agree to cheerful cooperation and communication for the best possible result for the Event. The Client is responsible to ensure other services and guests will not interfere with the Photographer's ability to fulfil their contractual obligations. Any defect in the Photographic Works due to any breach of this clause is entirely the Clients responsibility and cost, and shall permit the Photographer to add restrictions to the use and publication of the Photographic Works. The Client also agrees that the Photographer shall be the sole photographer contracted by the Client, paid or unpaid, for the Event.

3. COPYRIGHT

The copyright in all Photographic Works resulting from the Order remains the property of the Photographer. The Photographer grants the Client a License to use these Photographic works.

The Photographer does not accept commissions to create Photographic Works. The Photographer and the Client have agreed by these terms to override section 21(3) of the Copyright Act 1994.

Unless otherwise specified in the Order, Photographic works are Licensed to the Client under the terms of the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 New Zealand License and may be reproduced and shared for personal use only. Under the terms of this License the work cannot be altered in any way without the express permission of the Photographer. The Client agrees to credit the Photographer in an appropriate way when copying or sharing the work. e.g. a link to the Photographer's website if shared on the internet.

The Client also agrees to not share the Photographic Works with any commercial interests not listed in the Order, but instead agrees to refer the commercial interest to the Photographer.

4. PRIVACY AND PERSONAL INFORMATION

The Photographer shall abide by the Privacy Act 1993 and shall take all practical steps to achieve privacy protection.

5. CLIENT CONFIDENTIALITY

The Client must advise the Photographer as to whether any material or information communicated to him/her is of a confidential nature. The Photographer will keep confidential material or information communicated to him/her in confidence for the purposes of the photography, except where it is reasonably necessary to enable the Photographer to carry out his/her obligations in relation to the Order.

6. PAYMENT

The Client shall pay the Photographer the various amounts payable in accordance with the Order.

7. BOOKING FEES AND PROGRESS PAYMENTS

The booking fee allows the Photographer to grant exclusivity of its services to the Client for the Event. As such the booking fee is non-refundable and non-transferable.

In cases where the Order specifies progress payments at intervals leading up to the Event, these monies are to cover work completed or the allocation of resources by the Photographer for future work related to the Event. Any such payments, shall be considered non-refundable and non-transferable as they become due.

8. PAYMENT DEFAULT AND CONSEQUENCE

Any monies not paid in full in accordance with clause 7 may be charged with interest at a rate of 2.5% per month or part month overdue. Any correspondence, regarding overdue amounts, is chargeable in addition to invoiced values.

9. INDEMNITY

The Client will indemnify the Photographer for any loss, damage, or expense suffered or incurred as a result of any breach by the Client of these conditions. The Client will also indemnify the Photographer for any loss, damage, or expense suffered or incurred while recovering monies that are due, and such loss, damage or expense shall now be considered monies due for the purposes of these terms and conditions.

10. CANCELLATION OR POSTPONEMENT OF ORDER OR EVENT

Where an Event involves more than one person, it is the Client's responsibility to ensure that everyone required arrives at the Event on time. Failure of any person to arrive at the Event on time will result in, at the Photographer's discretion, cancellation or postponement.

Where the Client cancels or postpones an Order or Event, the Client must pay, at the Photographer's discretion, the amounts that have already been invoiced or are due as outlined in the Order, regardless of whether the session is attended or not.

Unless otherwise stated in the Order, the minimum cancellation fee shall be 100% of the full fee if cancelled less than 1 month from a wedding, elopement or pre-wedding Event. For all other Events, unless otherwise stated in the Order, the minimum cancellation fee shall be 100% if cancelled less than 48 hours from the Event.

11. PHOTOGRAPHIC COVERAGE

Where an Order specifies a number of hours for photographic coverage of an Event, the hours stated shall be considered the maximum duration of coverage and shall be taken consecutively. Photographic coverage includes, but is not limited to; photographing, driving between locations, waiting, breaks or any other activity related to the Event.

Where the Order or Event exceeds 8 hours of photographic coverage, one meal per person shall be provided for the Photographer or the Photographer shall be allowed to leave the Event to provide their own meal. If the Photographer does need to leave the Event for this purpose, the time taken shall count towards the photographic coverage of the Event.

The Client also understands and acknowledges that while performing photography services the Photographer will make decisions about which moments to photograph and/ or deliver to the Client. the Client accepts that these decisions are up to the discretion of the Photographer and agree not to hold the Photographer liable for any photographs either taken or delivered to the Client or not taken or delivered to the Client.

12. INDEMNITY FOR BREACHES OF INTELLECTUAL PROPERTY

The Client shall fully indemnify the Photographer in respect of any claims, costs, or expenses arising out of any illegal or defamatory Photographic Works produced for the Client or any infringement of an intellectual property right of any person.

13. COLOUR VARIATION AND QUALITY

The Client acknowledges that Photographic Works may fade or discolour over time due to the inherent qualities of materials used. The Client releases the Photographer from any liability for any claim based upon fading or discolouration.

The Client understands that the processing and retouching of images, including converting to black and white, is part of the image creation process and that all decisions relating to the processing and retouching are at the discretion of the Photographer. Requests by the Client for further processing, retouching, or re-editing of images after delivery may incur an additional fee. the Photographer also reserves the right to decline any further processing and retouching services after delivery to the Client.

The Client acknowledges "airbrushing," "photoshop" and similar levels of retouching are not included as standard and may incur an additional fee.

"Print Resolution," "High Resolution," "Hi-Res" or similar variations, describes digital images that are able to be printed at up to 6x8" without obvious quality degradation. "Screen Resolution," "Low Resolution," "Low-Res" or similar variations, describes digital images that are at least 600 pixels on the long side.

14. IMPORTANT NOTICE – CONSUMER GUARANTEES ACT 1993

The Consumer Guarantees Act 1993 may apply to the licensed Photographic Works provided by the Photographer if the Client acquires those licensed Photographic Works for personal, domestic or household use or consumption. If this Act applies, nothing in these Standard Terms will limit or exclude the Client's rights under this Act.

If the Client is acquiring the licensed Photographic Works for business purposes, then the Client's rights are subject to these standard terms only and the Consumer Guarantees Act 1993 shall not

apply. In this case the Photographer may grant a separate licence under the Standard Terms for Commercial Photography.

15. PHOTOGRAPHER NOT LIABLE FOR LOSSES

Except as provided for by the Consumer Guarantees Act 1993 the Photographer shall not be liable for:

any loss or damage arising by reason of any delay in the completion of the Photographic Works; or
any loss of profits; or
any indirect or consequential loss of whatever nature; or
any loss resulting from any interference from the Client, other services or guests.
any loss resulting from any errors or omissions arising from an oversight or a misinterpretation of a Client's verbal instructions arising directly or indirectly from any breach by the Photographer of any of their obligations under the Order or from any cancellation of the Order or from any negligence on the part of Photographer.

16. LIABILITY OF PHOTOGRAPHER LIMITED

The Photographer's liability to the Client for any and all costs, loss or damage suffered by the Client, however caused, arising out of or connected with the performance or failure of performance of photographic services by the Photographer, except where provided to the contrary by the Consumer Guarantees Act, shall not exceed the full value of the payments made by the Client for the Order.

17. ORDER MAY BE TERMINATED ON NOTICE

Effective termination of the Order by the Client must be in writing and give reasonable notice to the Photographer. The Client must compensate the Photographer for all amounts due in accordance with the Order (including the proportion of the Order that has been completed at the date of termination). Upon receipt of such notice from the Client, the Photographer must take immediate steps to bring the photographic services to a close.

18. FORCE MAJEURE

Neither the Client nor the Photographer shall be liable for any loss or damage arising directly or indirectly due to an act of God, fire, armed conflict, labour disputes, civil commotion, intervention of a government, accidents, interruption to transportation, weather or any other cause outside the Photographers control.

19. CHANGE OF DETAILS

The Client shall give the Photographer not less than fourteen (14) days prior written notice of any proposed change related to the Order or Event or any change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's physical address, address for notices, email address, facsimile number, or business practice). The Client shall be liable for any loss incurred by the Photographer as a result of the Client's failure to comply with this clause.

All invoices and other communications (whether physical or electronic) sent by the Photographer to the Client will be deemed to have been delivered if they have been sent to the Client's current address for notices (whether physical, postal, or electronic) as per this clause.

20. SEVERABILITY

If any provision of these terms or service shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

These terms of service and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.

The Photographer reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Photographer notifies the Client of such change.

21. IN CASE OF COMPLAINT

The Photographer will endeavour to provide the Client with a competent, timely service. If the Client is not satisfied, they may discuss the matter with the Photographer. If the Client is still not satisfied, the Client may contact the NZIPP or another professional to provide 3rd party facilitation to assist in restoration of the differences.