

1. RELATIONSHIP OF PARTIES

The Assistant is an independent contractor to the Photographer. This agreement is not an employment agreement, nor does it constitute a joint venture, relationship of agency, or partnership between the Assistant and the Photographer, and neither party shall make any representation to the contrary. The Assistant is responsible for payment and reporting of his or her own income tax, GST, withholding tax and any other tax or levy. The parties will perform their obligations under this Agreement in good faith.

2. WARRANTIES

The Assistant warrants that he or she is fully able to enter into and perform his or her obligations pursuant to this Agreement and that the Services shall be performed in a professional manner, exercising all due care, diligence and skill.

3. BOOKING PROCEDURE AND PROTOCOLS

- 3.1 At the time a job is booked between the Photographer and the Assistant, the Photographer will clearly communicate the exact nature of the Assignment (e.g. editorial, corporate, advertising) and the level of service and experience required (e.g. digital operating, camera & lighting assistance), so that the Fee can be fairly negotiated.
- 3.2 The Services to be provided by the Assistant will be clearly specified in the Booking Form and supplied to the Photographer prior to booking confirmation.
- 3.3 If the Assistant has a provisional booking with another photographer, that photographer must be given the option to confirm before another booking is accepted.

4. COPYRIGHT

Copyright in the Photographic Works created for/during the Assignment belongs to the Photographer. The Photographer indemnifies the Assistant for any third party claims for breach of copyright in the Photographic Works.

5. COPYRIGHT IN WORKS CREATED BY THE ASSISTANT WHILE UNDER CONTRACT AND ON SET WITH THE PHOTOGRAPHER

- 5.1 The Assistant shall not take any photographs or footage on the Photographer's set without the express permission of the Photographer. The copyright in any Photographic Works created by the Assistant while working on set with the Photographer remains the property of the Photographer in cases where such works have been specifically directed by the Photographer, as an integral part of the Photographer's assignment.
- 5.2 When works have been produced independently by the Assistant, without specific instructions from the Photographer (such as general behind the scenes images and footage on the Photographer's set):
 - a Copyright in the works created by the Assistant remain the property of the Assistant;
 - b To protect the Photographer-Client relationship, the Assistant agrees to refrain from displaying such works publicly, without the express written permission of the Photographer;
 - c Where the Photographer publicly displays the Assistant's works, he/she shall credit the Assistant wherever possible, in acknowledgment of the Assistant's moral right to be recognized as the author of the works.

6. BACK UP OF DIGITAL WORKS

- 6.1 The Assistant will when requested follow the Photographer's usual backup procedure (if any) upon the completion of the Photographic Works, using the Photographer's own digital devices.
- 6.2 The Assistant will not be responsible for maintaining backups of the Photographic Works on the Assistant's own digital devices unless this is specifically agreed between the Photographer and the Assistant.
- 6.3 The Assistant will ensure to the best of his or her ability that all backups are checked thoroughly for integrity and completeness. However, the Assistant will not be liable in the event that a backup fails due to an electronic defect, software issue, or other factor beyond the control of the Assistant.

7. DELETION OF PHOTOGRAPHIC WORKS AND RETURN OF EQUIPMENT

- 7.1 The Assistant shall not copy or reproduce the Photographic Works for any use, whether personal or otherwise, by any means or in any form without the Photographer's written consent.
- 7.2 At the end of the Assignment, the Assistant will return all of the Photographer's equipment and other materials/property. Any digital files in the possession of the Assistant will be deleted from the Assistant's own electronic devices unless the Photographer and the Assistant agree that the Assistant will maintain a temporary off-site backup of the Photographic Works.

8. CHANGES TO THE ESTIMATE

Statements of Fees and Job Related Costs are estimates and not firm quotations and are liable to alteration. Any change to the job specifications made by the Photographer may change the estimate of the Fees and Job Related Costs. The Assistant must bring any increase to the estimate of 10% or more to the attention of the Photographer.

9. JOB RELATED COSTS

- 9.1 The Photographer shall reimburse the Assistant for all reasonable Job Related Costs.
- 9.2 Where possible all Job Related Costs will be agreed in advance, and recorded in the Booking Form. In the event of unexpected costs arising on set, the Assistant will immediately notify the Photographer of such costs and seek approval to include these in the Assistant's invoice or for cash reimbursement.
- 9.3 Fees and mileage for the use of the Assistant's car will be agreed at the time of booking confirmation.
- 9.4 The Photographer is responsible for the cost of accommodation and meals whilst on location.
- 9.5 Personal expenses such as telephone calls made by the Assistant are the responsibility of the Assistant.

10. INVOICING AND PAYMENT

- 10.1 On completion of the Assignment the Assistant will provide an Invoice to the Photographer that will include the words 'Tax Invoice'.
- 10.2 All prices and charges will be in New Zealand dollars unless stated otherwise. Goods and Services Tax will be charged if the Assistant is registered for GST with the New Zealand Inland Revenue Department, in which case the Assistant's GST number will be clearly stated on the Invoice.
- 10.3 The Assistant will clearly state their payment terms on the Booking Form and the Invoice.

11. LATE PAYMENT

Any monies not paid in full by the specified payment date may be charged with interest at a rate of 2.5% per month or part month overdue.

12. NON-PAYMENT

The Photographer will be liable to the Assistant for all debt collection fees (including legal expenses incurred pursuing late payment or non-payment of Invoices).

13. RE-SHOOTS

Where the Photographer's client requires Photographic Works to be re-shot by the Photographer, the Assistant will not be liable for any losses or damages arising out of the necessity to re-shoot the job.

14. CANCELLATION BY THE PHOTOGRAPHER

- 14.1 The Photographer may terminate this Agreement by providing reasonable notice to the Assistant. However, once the booking is confirmed the Photographer may not cancel the Agreement unless the Assignment is cancelled. Upon receipt of a termination notice from the Photographer, the Assistant must take immediate steps to bring the Services to a close and to reduce expenditure on Job Related Costs to a minimum.
- 14.2 Where the photographer cancels the agreement:
 - a Within 1 working day of the booked shoot day, the Photographer must pay 100% of the agreed Fee.
 - b Giving notice of cancellation of greater than 1 working day and within 3 working days of the booked shoot day, the Photographer must pay 50% of the agreed Fee.
 - c The Photographer must pay the Assistant for all Job-Related Costs incurred.

15. POSTPONEMENT BY THE PHOTOGRAPHER

- Where the Photographer postpones or changes the date of the shoot:
 - a Within 1 working day of the booked shoot day, the Photographer must pay 50% of the agreed Fee for each shooting day that is postponed;
 - b Giving notice of postponement of greater than 1 working day and within 3 working days of the booked shoot day, the Photographer must pay 25% of the agreed Fee for each shooting day that is postponed;
 - c The Photographer must pay the Assistant for all Job Related Costs incurred.

16. WEATHER CONDITIONS

- 16.1 A 'weather permitting' booking must be agreed between the Photographer and the Assistant at the time of booking confirmation.
- 16.2 Upon postponement or cancellation of a shoot due to bad weather, the Photographer must pay the Assistant all Job Related Costs incurred up until the time the shoot was postponed and 50% of the Fee which was to be charged for the Services.

17. CANCELLATION BY THE ASSISTANT

The Assistant will not cancel the Agreement without good justification (such as illness or bereavement) and the substitution of another assistant will not be made without the Photographer's prior knowledge and consent. The Photographer has the right to approve any replacement before commencement of the shoot.

18. CLIENT CONFIDENTIALITY

The Assistant shall treat any material or information relating to the job as confidential, and not disclose or use confidential material or information, except where reasonably necessary to enable the Assistant to provide the Services, or recover Fees due.

19. ASSISTANT CREDIT LINES

The Photographer will at his or her discretion advocate for the Assistant to obtain a credit where possible. However the Assistant acknowledges that this cannot be guaranteed as it is at the discretion of the Photographer's Client.

20. MODEL RELEASES

Where the task of obtaining model releases is delegated to the Assistant, the Assistant will endeavour to obtain all necessary information for the completion of the model release form. However the Client is ultimately responsible for obtaining all necessary model releases.

21. OVERTIME CHARGES

The Assistant reserves the right to charge overtime for days exceeding 10 hours on set, provided that the Assistant's overtime rates have been stated on the Booking Form.

22. HEALTH AND SAFETY

- 22.1 The Photographer is responsible for notifying the Assistant of potential hazards on the set and will take all reasonably practicable steps to ensure that nothing they do at work harms themselves, the Assistant, or any other person.
- 22.2 As a self-employed, independent contractor the Assistant will also take all reasonably practicable steps to ensure that nothing they do at work harms themselves, the Photographer, or any other person.
- 22.3 The Assistant will take all reasonably practicable steps to ensure that the set is kept free of obvious hazards and that the Photographer is informed of any hazards that may arise as a result of the Assistant's work.
- 22.4 The Assistant will inform the Photographer immediately if the Assistant is not qualified to operate any piece of equipment encountered while under contract to the Photographer. For further information visit <http://www.osh.govt.nz/law/quickguide/index.shtml>

23. PUBLIC LIABILITY INSURANCE

The Photographer is responsible for maintaining up to date Public Liability insurance to cover damage to the property of third parties or accidents caused to members of the public while on set. The Assistant will indicate on the Booking Form if they also have such a policy in place to cover their own business activities.

24. TRAVEL INSURANCE

If required, responsibility for travel insurance cover will be discussed with the Photographer before the shoot begins.

25. MATERIAL DAMAGE INSURANCE

- 25.1 The Assistant is responsible for insuring any of their own equipment (including vehicles) that they bring to the Photographer's set, either for their own use or for loan or hire to the Photographer. In the event that the Photographer loses or damages items loaned or hired to the Photographer by the Assistant, the Photographer's liability to the Assistant will be limited to payment of the excess in the event of any insurance claim necessary to replace or repair the equipment. The Assistant will clearly state their insurance company's level of excess on the Booking Form and specify when different levels of excess apply and under what circumstances.
- 25.2 The Photographer's liability in relation to the Assistant's vehicle will be nil if the vehicle is solely being used to transport the Assistant to and from the set and is not directly used as part of the production.

26. CLIENT PROPERTY AND MATERIALS SUPPLIED

- 26.1 Client property and all property and material supplied to the Assistant by or on behalf of the Photographer and/or Client is held at the Photographer's risk and the Assistant accepts no responsibility for the insurance of such property or material. However, the Assistant will take all reasonable steps to ensure the safe storage, handling and transportation of all property and material associated with the Assignment.
- 26.2 The Assistant is not entitled to acquire any goods used in the creation of the Photographic Works (including props, wardrobe, makeup etc.) unless otherwise agreed between the Photographer and the Assistant.

27. ASSISTING WORK OF UNACCEPTABLE QUALITY

Where photographic assisting services are not of an acceptable technical quality, then no fee is due to the Assistant. However Job Related Costs must be reimbursed.

28. PROFESSIONAL CONDUCT

The Assistant will direct communication in regard to the shoot to the Photographer, not to the Photographer's Client. Where there is a representative of the Client at the shoot, the Assistant will maintain a professional attitude towards them and will not solicit photography work from the Client. In the event that the Photographer's Client invites the Assistant to show the Client the Assistant's portfolio, the Assistant will inform the Photographer and maintain an open and honest dialogue on the matter.

29. ASSISTANT NOT LIABLE FOR LOSSES

- The Assistant shall not be liable for:
 - a Any loss or damage arising by reason of any delay in the completion of the Photographic Works;
 - b Any loss of profits;
 - c Any indirect or consequential loss of whatever nature; or
 - d Any loss resulting from any errors or omissions arising from an oversight or a misinterpretation of the Photographer's verbal instructions.

30. LIABILITY OF ASSISTANT LIMITED

Except for breach of confidential information or copyright, the Assistant's liability to the Photographer for any and all costs, loss or damage suffered by the Photographer however caused (including negligence), arising out of or connected with the performance of, or failure to perform, any Services shall not exceed the full value of the payments made by the Photographer under the Invoice.

31. DISPUTE RESOLUTION

If there is a dispute regarding any of the terms above which is unresolved after negotiations between the Assistant and the Photographer, then the dispute shall be referred to the Executive Director of the Advertising and Illustrative Photographers Association who shall appoint a panel of independent experts to determine the matter. The panel's ruling shall be binding on all parties unless the matter is subsequently referred to a higher authority such as a court of law or the Disputes Tribunal.

32. AIPA MEMBERSHIP OBLIGATIONS

AIPA members who breach the above terms and conditions will receive a formal warning from the AIPA Executive. The AIPA may at its discretion choose to suspend or revoke the membership of photographers who regularly fail to pay their assistants.

DEFINITIONS

- 'the Agreement' means these Terms and Conditions and the terms of the Booking Form, which together constitute the entire agreement and supersedes any prior representation or agreement between the parties. To the extent of any inconsistency with these Terms and Conditions, the details of the Booking Form will prevail. If any provision of this Agreement is held invalid, unenforceable or illegal for any reason, this Agreement shall remain otherwise in full force and effect apart from such provision.
- 'the Assignment' means the shoot(s) and/or other work specified in the Booking Form between the Photographer and the Client.
- 'the Assistant' means the photography assistant named in the Booking Form.
- 'the Booking Form' means the booking form setting out the specifics of the agreement between the Assistant and the Photographer for the provision of Services.
- 'the Client' means the Photographer's client for the Assignment.
- 'the Invoice' means the written invoice to be provided by the Assistant to the Photographer in relation to the Services.
- 'the Fee' means the fee charged for the Assistant's professional services to the Photographer.
- 'the Job-Related Costs' means the costs and expenses incurred by the Assistant on behalf of the Photographer or the Client and agreed in the Booking Form.
- 'the Photographer' means the photographer named in the Booking Form.
- 'the Photographic Works' means the photographic works to be produced for the Assignment by the Photographer with assistance from the Assistant as specified in the Booking Form.
- 'the Services' means the services to be provided by the Assistant to the Photographer as specified in the Booking Form.