

MTP Terms and Conditions

1. Defined Terms

“Photographer” is My Tribe Photography (MTP) and the Author of the photograph;

“Picture” shall mean a photograph, images, transparency, negative, digital scan, design, artwork, painting, montage drawing, engraving or any other physical or electronic material which may be offered to a Client for the purposes of reproduction;

“Reproduction” includes any form of publication or copying of the whole or part of any picture, whether or not altered by printing, photography, slide projection (whether or not to an audience) xerography, artist’s reference, artist’s illustration, layout or presentation, electronic or mechanical reproduction or storage by any other means;

“Services” are provided by MTP and defined in an estimate and/or quotation agreed by MTP and the Client. Services may include, but not limited to; Photographic Shoot, Art Direction and Image Retouching.

2. Services, Booking and Cancellation

The Services shall be provided to the Client and defined in writing for the Client’s written or electronic approval of the Services prior to commencement. Any quotation or estimate supplied to the Client is valid for 30 days from the date of supply to the Client.

Upon confirmation of a booking, MTP shall not accept work from any other clients for the period of the booking time and dates. Any cancellations after booking shall be subject to the following fees:

- More than 30 days – no charge
- Between 14 and 30 days – 10% of the Fee
- Between 7 and 14 days – 25% of the Fee
- Less than 7 days – 40% of the Fee
- Less than 3 days – 100% of the Fee

In addition, to the above fees, MTP shall charge the Client and unrecoverable expenses such as pre-booked travel or Location Fees in relation to the Services.

3. Fees and Payment Terms

The Fees shall be determined based on the Services requested by the Client. Travel and Expenses, Location Fees, Permits and any other associated Fees incurred in relation to the Services shall be billed at cost to the Client, and estimated to the Client. All additional fees will require written approval by the client prior to MTP incurring these fees.

All pricing information, estimates and quotations provided to the Client is Confidential information and will not be disclosed to another party without prior approval from MTP.

Payment is due within 7 days of the completion of the session(s) and prior to distribution of any Pictures being supplied to the Client.

A fee of \$50 (or equivalent in the billed currency, excluding any VAT, GST or any other applicable taxes) will be charged for each account reminder, duplicate invoice, or any other paperwork, correspondence or phone calls involved with the pursuance of a debt. This fee is non-refundable, and represents the additional time spent pursuing overdue invoices.

4. Copyright

The entire copyright in the Photographs is retained by the Photographer at all times throughout the world unless otherwise mutually agreed between the Client and MTP, and included in the quotation and/or estimate to the Client.

5. Ownership

Title to all Photographs remains the property of the Photographer. When the License to Use the material has expired the Photographs must be returned to the Photographer in good condition within 30 days.

6. Use and Reproduction

- a. The License to Use comes into effect from the date of payment of the relevant invoice(s). No use may be made of the Photographs before payment in full of the relevant invoice(s) without the Photographer's express permission. Any permission which may be given for prior use will automatically be revoked if full payment is not made by the due date.
- b. Where use is restricted in the Agreement, permission to use the Photographs for other purposes will normally be granted upon payment of a further fee, to be mutually agreed. An additional agreement must be reached with the Photographer before the Photographs may be used for other purposes or where the license has expired.
- c. Reproduction rights (if and when granted) are strictly limited to the use and period of time specified on MTP' invoice. An agreement must be reached with MTP before the pictures are used for a different purpose or after the licence to use has expired;
- d. Reproduction rights are not issued exclusively to the Client except when specified on the invoice;
- e. Reproduction rights granted to the Client and may not be assigned, nor may any picture submitted to the Client be loaned or transferred to third parties save for the purpose of the exercise by the Client of such reproduction rights;
- f. Any reproduction rights granted are by way of licence and no partial or other assignment of copyright shall be implied;
- g. MTP reserves the right to refuse to supply or grant a reproduction licence to a third party when requested to do so by the Client;
- h. In all cases of media usage, evidence of use must be made available if requested;

7. Definitions of Reproduction Rights

The following terms are used when describing the reproduction rights granted by MTP, the Photographer to the Client

- a. Personal use: The perpetual right to use the pictures for personal use the enjoyment of the Client, excluding any commercial purposes;
- b. Internal Use only: The right to use the pictures only within a company for non-commercial purposes; publication in a free in-house magazine not normally available to the public; exhibition within the Client's premises; editorial use in the Client's intranet site;
- c. PR and Press distribution: The right to use the pictures as described in 7(b); plus a licence for third parties to reproduce such pictures in print or electronic media in an editorial context where no fee has been paid to guarantee publication;
- d. Specified Use Only: The right to use the pictures once only for the purpose as described on the invoice;
- e. Editorial: One reproduction only of pictures supplied within one print edition of the specified title in an editorial context only.

8. Rejection

MTP will use best endeavours in providing the Services. Unless a rejection fee has been agreed in advance, there is no right to reject on the basis of style or composition.

9. Exclusivity

The Client may be authorized to publish the Photographs to the exclusion of all other persons including the Photographer. However, the Photographer retains the right in all cases to use the Photographs in any manner at any time and in any part of the world for the purposes of advertising or otherwise promoting their work. After the exclusivity period indicated in the License to Use the Photographer shall be entitled to use the Photographs for any purposes.

10. Client Confidentiality

The photographer will keep confidential and will not disclose to any third parties or make use of material or information communicated to MTP in confidence for the purposes of the photography, save as may be reasonably necessary to enable the MTP to carry out their obligations in relation to the project.

11. Indemnity

MTP warrants that all services shall be undertaken in a professional manner and in conformance with generally accepted standards for the completion of such services prevailing at the time and in accordance with applicable specifications.

While the MTP takes all reasonable care in the performance of this agreement generally, MTP shall not be liable for any loss or damage suffered by the Client or by any third party arising from use or reproduction of any image or its caption.

The Client agrees to indemnify MTP, their Directors, Staff, Subcontractors and Partners in respect of any claims or damages or any costs arising in any manner from the reproduction without proper reproduction rights of any image supplied to the Client by the photographer.

It is the Client who must satisfy themselves that all necessary rights, model releases or consents which may be required for reproduction, are obtained and it is acknowledged that the MTP, their Directors, Staff, Subcontractors and Partners give no warranty or undertaking that any such rights, model releases or consents have or will be obtained whether in relation to the use of names, people, trademarks, registered or copyright designs or works of art depicted in any image.

In the event that the image issued or reproduced by or with the authority of the Client then the Client shall indemnify the MTP, their Directors, Staff, Subcontractors and Partners against any loss or damage, proceedings or costs where such rights, releases or consents have not been obtained.

12. Force Majeure

Neither party will be liable for any loss or damage resulting from its failure or delay in performing obligations to the extent that such failure or delay arises from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, act of God, strike or labour dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.

13. Entire Agreement and Jurisdiction

These terms and conditions represent the entirety of the agreement between My Tribe Photography and the Client, and supersedes and previous Agreements between the parties. In the event that any part of this agreement is found to be invalid or unenforceable, the remainder of this agreement shall remain valid and enforceable. Any agreement to waive one or more provisions of this Agreement or any failure by one or both parties to enforce a provision of this agreement shall not constitute a waiver of any other portion or provision of this Agreement. Any variation is only applicable when agreed in advance and in writing. This Agreement will be subject to and construed and interpreted in accordance with, and all disputes hereunder shall be governed by the laws of the Courts of Australia.

