

SOCIALSTOCK LIMITED
PHOTOGRAPHER CONTRACT

Interpretation

1.1 In this Agreement:

“Average Credit Price”	means the average price (less VAT and other expenses, charges or taxes) paid by the Customer for credits at the time the Image is purchased;
“Commissioned Image”	means an Image provided by the Photographer to SocialStock which is specifically commissioned by a Customer;
“Commencement Date”	means the date of this Agreement;
“Customer”	means a purchaser of Images on the Website;
“Fees”	shall mean the fees payable to the Photographer in accordance with clause 5 of this Agreement;
“Images”	shall mean all images or other material supplied by the Photographer to SocialStock under the terms of this Agreement;
“Independent Expert”	means a single chartered accountant or firm of chartered accountants nominated by agreement between the parties, or in default of such agreement by the President for the time being of the Institute of Chartered Accountants in England and Wales on the application of either of the parties at any time;
“Intellectual Property Rights”	means any patents, design rights, trade marks, service marks (in each case whether registered or not), applications or rights to apply for any of the foregoing, database rights, know-how, trade or business names, rights in confidential information, goodwill and other similar rights existing in any part of the world;
“Licence”	means SocialStock’s standard licence terms and all extended licence terms agreed by SocialStock with the Customer;
“SocialStock”	means SocialStock Limited, a company registered in England and Wales under number 06216816 whose registered office is at Russell House, 140 High Street, Edgware, Middlesex HA8 7LW;
“Term”	means the duration of the Agreement from the Commencement Date until termination in accordance with clause 8;
“Total Download Fee”	means the total fee (exclusive of VAT) paid by the Customer for an Image as stated on the Website;
“Website”	means the website www.socialstock.co.uk ;
“Year”	means each 12 month period from the Commencement Date.

1.2 The supply of Images by the Photographer to SocialStock shall be subject to this Agreement. This Agreement is in addition to the terms of the Membership Agreement and Website Terms of Use which apply in full to the Photographer’s use of the Website. In the event of any inconsistency between this Agreement, the Membership Agreement and the Website Terms of Use, the terms of this Agreement shall have supremacy.

1.3 No variation of these Conditions shall apply unless confirmed in writing by or on behalf of a Director of SocialStock.

1.4 This Agreement together with the Membership Agreement and the Website Terms of Use constitutes the whole agreement between the parties and supersedes any prior promises, representations, undertakings or implications whether written or oral.

2 Licence

2.1 By agreeing to the terms of this Agreement, the Photographer appoints SocialStock on a non-[exclusive] basis to licence and distribute the Images on a worldwide single usage basis (unless an extended licence has been agreed) in all media to third parties on the terms and conditions set out in this Agreement and in the Licence. The Photographer also agrees that SocialStock may use, scan, print, store or make duplicates of the Images for its own business purposes including but not limited to promotion and advertising of the Website.

2.2 The Photographer agrees that SocialStock at its option may use the Images any number of times free of charge in any promotional activities designed by SocialStock to promote either SocialStock and/or the Photographer.

2.3 SocialStock has full authority to negotiate all Licences including the fee, scope and duration of a Licence, even if the duration of the Licence is for a term capable of exceeding the term of this Agreement.

2.4 Images may be uploaded to the Website in accordance with the procedures set out on the Website. All Images must be (i) of the quality specified by SocialStock and (ii) captioned, have a description and key-worded in the form specified from time to time by SocialStock.

2.5 The Photographer agrees and acknowledges that the content of all Images must comply with the terms of this Agreement. SocialStock retains sole discretion, without liability to the Photographer, to remove or reject all Images which breach the terms of this Agreement.

2.6 The Photographer should keep a copy of all Images supplied to SocialStock.

3 Term

3.1 This Agreement shall commence on the Commencement Date and shall operate from Year to Year unless terminated in accordance with the provisions of clause 8.

4 Intellectual Property Rights and Content

4.1 Except as set out in clause 4.4, the Intellectual Property Rights in the Images shall be and shall remain vested in the Photographer.

4.2 Images uploaded to the Website have to be identified to whether they have appropriate releases or not. This is done by clicking on the 'model release' button in the photographer upload area. Upon demand the Photographer has to show written proof of a release.

4.3 Images taken of children (under 18 years of age) must be accompanied by a Model Release signed by a parent or legal guardian.

4.4 The Photographer warrants that:

4.4.1 it is the exclusive owner of the Images and owner of the rights to grant, market, licence, sell or assign any rights in the Images in any jurisdiction;

4.4.2 it has obtained all rights, releases and consents to the use of the Images in accordance with the terms and conditions of this Agreement and that the use of the Images by SocialStock in accordance with the terms and conditions of this Agreement and the Licence will not (i) infringe the Intellectual Property Rights or any other rights of a third party in any territory including but not limited to privacy or other proprietary rights or (ii) defame or lower the reputation of any third party;

4.4.3 all Images will be free from viruses or anything else which could damage the Website;

- 4.4.4 all information provided to SocialStock in connection with the Images or the Photographer's use of the Website is complete accurate, up-to-date and not misleading;
 - 4.4.5 it has notified SocialStock of any rights granted in respect of the Images which may affect the rights granted to SocialStock under this Agreement;
 - 4.4.6 it will reply to any requests by SocialStock for information or rights clearances within 3 days of the request. If the Photographer does not respond within 3 days, the rights will be deemed cleared.
- 4.5 The Intellectual Property Rights in the Commissioned Images shall hereby be assigned to and belong to SocialStock. The Photographer covenants that at the cost and request of SocialStock at any time and from time to time the Photographer shall execute such deeds or documents and do such acts or things as may be necessary or desirable to give effect to this clause.

5. Fees

- 5.1 SocialStock agrees to pay to the Photographer the following Fees:
- 5.1.1 40% of the Total Download Fee calculated by reference to the Average Credit Price; or
 - 5.1.2 20% of the Total Download Fee calculated by reference to the Average Credit Price where the Customer has a subscription;
 - 5.1.3 80% of the Total Download Fee (exclusive of VAT) paid by the Customer to SocialStock for a Commissioned Image.
- 5.2 SocialStock shall not be liable to pay Fees to the Photographer unless and until it has received cleared funds from the Customer.
- 5.3 Fees will be payable to the Photographer via cheque or BACS and will be net of VAT and other applicable taxes. SocialStock will provide the Photographer with a statement of Fees due each month. Payment will be made within 30 days thereafter.
- 5.4 SocialStock may set-off against any Fees owing to a Photographer all amounts to which SocialStock may be entitled to under this Agreement including but not limited to withholding such sum as SocialStock deems necessary as security for any pending or threatened claim in relation to breach of warranty by the Photographer.

6. Liability.

- 6.1 SocialStock shall not be liable for any breach of this Agreement or otherwise to the Photographer in respect of:
- 6.1.1 any Images supplied by the Photographer which breach the terms of this Agreement;
 - 6.1.2 any loss, damages, demands, claims, expenses or other liabilities suffered by the Photographer as a result of the Photographer's breach of any terms and conditions of this Agreement.
- 6.2 The entire liability of SocialStock under or in connection with this Agreement shall not exceed the amount equal to 100% of the Fees paid by the Photographer in any year.
- 6.3 Notwithstanding anything else contained in this Agreement SocialStock shall not be liable to the Photographer for any loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for compensation whatsoever (howsoever caused) which arise out of or in connection with this Agreement:
- 6.3.1 as a result of any increase in the Photographer's loss due to a failure by it to comply with this Agreement;
 - 6.3.2 if SocialStock has not breached any legal duty owed by it to the Photographer;
 - 6.3.3 if the loss or damage the Photographer suffers is not a reasonably foreseeable result of any breach by SocialStock of its duty to the Photographer.

6.4 The Photographer must take out appropriate insurance to cover its liability and obligations under this Agreement and shall produce evidence of such insurance to SocialStock on demand. SocialStock shall use its reasonable endeavours to take care of all Images but shall not be responsible for any loss or damage to the Images howsoever caused.

7. Indemnity

7.1 The Photographer agrees to indemnify and keep SocialStock indemnified and hold SocialStock harmless from and against any breach by the Photographer of this Agreement and any claim brought against it by a third party resulting from the provision of Images by the Photographer to SocialStock and SocialStock's use of the Images in accordance with the terms and conditions of this Agreement including without limitation, all claims, actions, proceedings, losses, liabilities, damages, costs, expenses (including reasonable legal costs and expenses), howsoever suffered or incurred by SocialStock in consequence of the Photographer's breach or non-observance of this Agreement.

8. Termination

8.1 If the Photographer:

8.1.1 commits any breach of any provision of this Agreement and, in the case of a breach capable of remedy, fails to remedy the same within 30 days after receipt of a written notice from SocialStock giving full particulars of the breach and containing a request for it to be remedied; or

8.1.2 has an encumbrancer take possession of or a receiver or administrator or administrative receiver appointed over any of its property or assets; or

8.1.3 makes a voluntary arrangement with its creditors or becomes subject to an administration order or bankruptcy order or is unable to pay its debts; or

8.1.4 enters into liquidation (except for the purposes of amalgamation or reconstruction and in such manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations of the Photographer under this Agreement); or

8.1.5 ceases or threaten to cease to carry on business;

then and in any such case SocialStock shall have the right (without prejudice to any of its other remedies) to terminate this Agreement forthwith by written notice to the Photographer.

8.2 Either party may terminate this Agreement by providing the other party with **three** months notice in writing.

8.3 On termination of this Agreement, SocialStock will remove all Images provided by the Photographer from the Website and no further Licences shall be granted to Customers in respect of the Images.

8.4 The termination of this Agreement for whatever reason shall be without prejudice to the rights and obligations of the parties accrued up to and including the date of such termination. Licences in existence on the date of termination shall be continued. Each party shall continue to be entitled to payments due for Licences negotiated during the Term irrespective of the termination of this Agreement.

9. Dispute Resolution

9.1 In the event of a dispute between the parties arising out of this Agreement, each party shall nominate a representative who shall have 90 days to resolve the dispute. In the event that the dispute cannot be resolved, either party may refer the dispute for determination by an Independent Expert, the costs of the Independent Expert being split equally between the parties.

10. Force Majeure

10.1 SocialStock reserves the right to cancel this Agreement without liability to the Photographer if it is prevented from or delayed in the carrying on of its business due to circumstances outside its

reasonable control including but, without limitation, strike, lock-out or other industrial action (whether or not relating to either party's workforce), terrorist activity, civil commotion, government action, acts of God, war or national emergency or other circumstances beyond SocialStock's reasonable control provided that, if the event in question continues for a continuous period in excess of three months then either party shall be entitled to give notice in writing to terminate the Agreement.

11. Miscellaneous

- 11.1 The headings to this Agreement are for convenience only and shall not affect their construction.
- 11.2 Where the context so admits reference in this Agreement to one gender shall include each other gender and words denoting the singular shall include the plural and vice-versa.
- 11.3 References to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.
- 11.4 SocialStock is an independent licensee and nothing in this Agreement shall render it an agent, employee or partner of the Photographer.
- 11.5 Failure or delay by SocialStock in enforcing or partially enforcing any provision of this Agreement shall not be construed as a waiver of any of its rights under this Agreement. No waiver of any of the terms of this Agreement by either party shall be deemed to be a further or continuing waiver of any subsequent breach of that term or condition or any other term or condition.
- 11.6 The Photographer shall not be entitled to assign, sub-licence, novate or part with possession of any of its rights or liabilities hereunder without the prior written consent of SocialStock. SocialStock shall be free to sub-contract the performance of all or part of its obligations hereunder.
- 11.7 A person who is not party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract or these Conditions.
- 11.8 This Agreement and any disputes or claims arising out of or in connection with their subject matter are governed by and construed in accordance with the law of England. The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.

12. Notices and Service

- 12.1 Any notice required under these Conditions or by statute, law or regulation shall (unless otherwise provided) be in writing and delivered in person, sent by facsimile or registered mail or sent by email or facsimile to the respective parties address as set out above or as each party may from time to time designate by notice hereunder. Any such notice shall be considered to have been given on the first working day of actual delivery or sending by facsimile or email or in any event within 2 working days after it was posted in the manner hereinbefore provided.

Signed by the Photographer

Print Full Name or Company Name

Address

Signature

Date

