

Client Order Terms ("Terms")

These Terms and any document(s) referred to in them constitute the entire agreement about Hilary Adamson Photography's supply of the Products and services to Client and supercedes all prior understandings, arrangements and agreements.

Words with special meanings are defined in clause 1. A reference in these Terms to:

(a) the singular includes the plural and vice versa; (b) the word "including" means "including, but not limited to," and the word "includes" means "Includes, without limitation,"; (c) A reference to a gender Includes all genders; and (d) a reference to a person Including a party) Includes an individual, company, other body corporate, partnership, firm, joint venture, or a trust.

1. Definitions.

- a. "Photographer" means the professional photographer employed (or contracted) by Hilary Adamson Photography.
- b. "Client" means the Client (person (individual or The Client), business, company, organisation or government department) that has is the purchaser of the Products.
- c. "Products" means any products or services (where applicable) supplied to the Client by Hilary Adamson Photography described in Hilary Adamson Photography's invoice.
- d. "Sales Contract" means any sales contract or distribution agreement entered into by the Client and Hilary Adamson Photography in respect of products and services supplied to the Client in which these terms are deemed to be incorporated.

2. Orders.

- a. All orders for Products placed by the Client:
 - i. must be made in accordance with Hilary Adamson Photography's order policy as amended by Hilary Adamson Photography from time to time, the current version of which is set out by Hilary Adamson Photography on our price list; and
 - ii. are subject to acceptance by Hilary Adamson Photography, and no order will be deemed to have been accepted by Hilary Adamson Photography unless Products are supplied or back-order or delivery delay is confirmed in writing by an authorised representative of Hilary Adamson Photography to the Client.
- b. Hilary Adamson Photography may reject any order placed by the Client if there is an insufficient supply of Products which prevents Hilary Adamson Photography from being able to fulfill such order.
- c. Hilary Adamson Photography will not be bound by any terms attaching to Client's order and, unless those terms are expressly agreed to in writing by an authorised representative of Hilary Adamson Photography, Client agrees that those terms are hereby excluded.

3. Payment.

- a. The price of the Products will be Hilary Adamson Photography's quoted price.
 - b. Payment is required at the time of ordering of the Products to Client unless agreed otherwise in writing by an authorised officer of Hilary Adamson Photography. If Client fails to make payment in accordance with this clause 3(b) after demand for payment by Hilary Adamson Photography, all amounts owing by Client to Hilary Adamson Photography on any account will immediately become due and payable together with legal costs of enforcement.
 - c. Hilary Adamson Photography may, in its sole discretion:
 - i. suspend the provision of credit to Client until all amounts owing are paid for in full; and
 - ii. from time to time and at any time, vary or cancel any credit facility it makes available to Client.
 - d. Client will be liable to pay interest on any overdue amount at the annual rate of 2% above the prevailing base lending rate quoted by Commonwealth Bank of Australia (Bankwest) ABN 48 123 123 124. Interest will accrue daily from the date payment became overdue until Hilary Adamson Photography has received payment of the overdue amount, together with any interest accrued.
 - e. Unless stated otherwise in these Terms (or in writing by Hilary Adamson Photography's authorised representative), all prices quoted for Products are exclusive of all taxes, handling, delivery, agents' charges and any other charge, duty or impost.
 - f. Client must pay Hilary Adamson Photography, on demand, any tax (other than income tax) payable under these Terms, any matter or thing done under these Terms or any payment, receipt or other transaction contemplated by these Terms, including any goods and services or value-added tax, customs duty, sales tax, excise duty, stamp duty, other duty, governmental charge, fee, levy or impost, together with any fine, penalty or interest payable because of a default by Client.
 - g. Client must pay to Hilary Adamson Photography any amount Client must pay under clause 3(a) in full, despite any right of set-off that Client may have.
 - h. Client shall pay the full amount due to Hilary Adamson Photography under this clause and shall not deduct from that amount any tax in relation to purchase of the Products. Client shall reimburse Hilary Adamson Photography for any taxes Hilary Adamson Photography pays on its behalf.
- 4. Delivery.**
- a. Delivery times advised to the Client are estimates only and Hilary Adamson Photography will not be liable for any loss, damage or delay suffered or incurred by the Client or its the Clients arising from late or

- non-delivery of these Products.
5. Part deliveries.
 - a. Hilary Adamson Photography may make part deliveries of any order, and each part delivery will constitute a separate supply of the Products upon these Terms.
 6. Inspection and acceptance the Client must:
 - a. in the case of all Products ordered, inspect such Products upon delivery to the Client's premises ("Shipping Address"), or upon collection from Hilary Adamson Photography's Studio.
 - b. within 7 days of delivery, give notice to Hilary Adamson Photography of any matter or thing by which the Client alleges that the Products do not accord with the Client's order. Failing such notice and to the extent permitted by law, the Products will be deemed to have been accepted by the Client.
 7. Title and risk.
 - a. Products supplied by Hilary Adamson Photography to the Client will be at the Client's risk immediately upon:
 - i. delivery of the Products to the Client, Client's agent or into the Client's custody or control; or
 - ii. collection of the Products by the Client's nominated carrier or agent.
 - b. The Client must:
 - i. effect and maintain insurance with a reputable insurance company for the Products, at its cost, against all risks as it thinks appropriate;
 - ii. note: the interest of Hilary Adamson Photography on the insurance policy; and
 - iii. produce a certificate of currency of the insurance effected by the Client under this clause 7(b) to Hilary Adamson Photography, upon request.
 - c. Risk in the Products will remain with the Client at all times unless Hilary Adamson Photography retakes possession of the Products in accordance with clause 7.
 - d. Title in the Products supplied by Hilary Adamson Photography to the Client will not pass to the Client and will remain the absolute property of Hilary Adamson Photography until such time as Hilary Adamson Photography has been paid by the Client all monies due and owing to it by the Client in relation to any account.
 - e. Unless the Products have been paid in full for:
 - i. the Client must properly segregate and store the Products in such a manner as to clearly indicate that they are the property of Hilary Adamson Photography; and
 - ii. the Client may sell the Products and shall keep records of the Products in the ordinary course of its business as fiduciary agent for Hilary Adamson Photography and the Client agrees to deposit all proceeds of any such sale (including an proceeds received from any insurance claim) in a separate bank account and agrees not to mix the proceeds with any other monies and hold the monies on trust for Hilary Adamson Photography and shall immediately account for such proceeds to Hilary Adamson Photography.
 - f. If the Client breaches these Terms or the terms of any relevant Sales Contract, the Client authorises Hilary Adamson Photography, at any time, to enter onto any premises upon which Hilary Adamson Photography's Products are stored to enable Hilary Adamson Photography to:
 - i. inspect the Products; and/or
 - ii. reclaim the Products.
 - g. If the Client sells, disposes of or otherwise deals with Products or any part thereof before full payment has been received by Hilary Adamson Photography, the Client must advise Hilary Adamson Photography in writing, at such times as Hilary Adamson Photography may request, specifying full details of the Products sold, disposed of, utilised or otherwise dealt with.
 - h. The Client agrees the the provision of this clause 7 apply despite any arrangement under which Hilary Adamson Photography grants credit to the Client.
 8. Returns.
 - a. The Client must notify Hilary Adamson Photography in writing of any Products it wishes to return within 7 days from the date of the invoice relating to those Products.
 - b. Returns will be subject to Hilary Adamson Photography's returns policy as advised to the Client and amended by Hilary Adamson Photography from time to time, the current version of which is set out on Our website ("Returns Policy").
 - c. Each claim for the return of Products by the Client will be dealt with in accordance with the Returns Policy. Any substitute Products to be shipped to the Client in accordance with the Returns Policy will be sent by Hilary Adamson Photography to the Client by ordinary freight pre-paid.
 - d. Hilary Adamson Photography will not be liable for any damage or defects in the Products that have been caused by the improper storage, warehousing or transport, or by any neglect, abuse or improper use, installation, maintenance or unauthorised repair of Hilary Adamson Photography's Products.
 - e. The provision of this clause 8 do not extend to any Products which have been added to, varied or otherwise modified by, any person other than Hilary Adamson Photography.
 9. Force majeure.
 - a. If the performance of Hilary Adamson Photography's obligations under these Terms or any relevant Sales Contract is prevented, restricted or affected by force majeure including strike, lock out, raw material shortage, breakdown of plant, transport or equipment or any other cause beyond the reasonable control of Hilary Adamson Photography, Hilary Adamson Photography will give notice of such cause to the Client and

after 60 days from the receipt by the Client of such notice, either party may terminate the relevant Sales Contract without penalty.

10. Client's cancellation.

- a. Unless otherwise agreed in writing by an authorised officer of Hilary Adamson Photography, the Client may not cancel an order which has been accepted by Hilary Adamson Photography.
- b. If the Client's right of cancellation is agreed to by an authorised officer of Hilary Adamson Photography in writing, the right must be exercised by notice in writing from the Client to Hilary Adamson Photography no later than 7 days before the estimated date of shipment by the manufacturer or Hilary Adamson Photography (as the case may be).
- c. Unless otherwise agreed between the Client and Hilary Adamson Photography, upon cancellation prior to shipment, any deposit paid by the Client will be forfeited to Hilary Adamson Photography.

11. Default of the Client.

- a. Without prejudice to any of Hilary Adamson Photography's other rights under these Terms, if a Client fails to make any payment due to Hilary Adamson Photography under these Terms, Hilary Adamson Photography may, in its sole discretion, and without further liability to the Client:
 - i. refuse to make further supplies to the Client under the relevant Sales Contract; and/or
 - ii. terminate the Sales Contract without notice.
- b. The Client agrees that these Terms shall give rise to an interest in land thereby enabling Hilary Adamson Photography to lodge a caveat against the title to any land owned partly or wholly by the Client, in order to protect and secure the interests of Hilary Adamson Photography under these Terms and under any Sales Contract.
- c. In the event that Hilary Adamson Photography lodges a caveat against any land owned partly or wholly by the Client, the Client hereby irrevocably agrees to endorse its consent upon any relevant forms or documents to enable the lodgement and timely registration of any such caveat by Hilary Adamson Photography.

12. Warranty.

- a. Products are covered by manufacturers' warranty. To the extent permitted by law, Hilary Adamson Photography's entire responsibility with respect to warranties for the Products is to pass on to the Client the benefit of any such warranties.
- b. To the extent permitted by law, the manufacturers' warranties referred to in clause 12(a) are in substitution for all other terms, conditions and warranties, whether implied by statute or otherwise (including implied warranties with respect to merchantability and fitness for purpose) and all such terms, conditions and warranties are expressly

excluded.

- c. Certain legislation may imply warranties or conditions or impose obligations upon Hilary Adamson Photography which cannot be excluded, restricted or modified or cannot be excluded, restricted or modified except to a limited extent. These Terms must be read subject to those statutory provisions. If those statutory provisions apply, to the extent to which Hilary Adamson Photography is able to do so, its liability will be limited, at its option, to:
 - i. in the case of products: the replacement of the products or resupply of equivalent products; repair of the products; payment of the cost of replacing the products or acquiring equivalent products; or the payment of the cost of having the products repaired; and
 - ii. in the case of services: the supply of the services again; or the payment of the reasonable cost of having the services supplied again.
- d. Hilary Adamson Photography does not warrant that repair facilities or parts will be available in respect of any of the Products.

13. Liability.

- a. To the extent permitted by law, Hilary Adamson Photography will not be liable to the Client or any other person under any circumstances for any loss of use, profit, revenue, interest, goodwill or data, or for any injury or death to any person, or for any indirect, incidental or consequential damages sustained or incurred by the Client, whether such liability arises directly or indirectly as a result of:
 - i. any negligent act or omission or wilful misconduct of Hilary Adamson Photography or its employees or agents;
 - ii. the supply, performance or use of any Products or services; or
 - iii. any breach by Hilary Adamson Photography of its obligations under these Terms or any relevant Sales Contract.

14. Credit assessment.

- a. If any Products are supplied to the Client on credit, Hilary Adamson Photography may need to disclose to a credit reporting agency certain information referred to in clause 14(c) about the Client when assessing The Client's application for credit and managing the Client's account with Hilary Adamson Photography. The Client authorises Hilary Adamson Photography to disclose such information to a credit reporting agency for these purposes.
- b. Subject to Hilary Adamson Photography's obligations under the Privacy Act 1988 (Cth) as amended and any other applicable laws, Hilary Adamson Photography may provide the information referred to in clause 15(c) to a credit reporting agency to obtain a consumer

- credit report about Client or to allow the credit reporting agency to create or maintain a credit information file about the Client. The Client agrees that Hilary Adamson Photography may disclose a credit report about it to any credit provider, debt collecting agency or Hilary Adamson Photography's insurers for the purposes of assessing Client's creditworthiness or to collect any overdue payments (as the case may be).
- c. Hilary Adamson Photography may disclose the following information relating to the Client in accordance with clauses 15(a) and (b):
- i. Client's name and address;
 - ii. credit limits on Client's accounts;
 - iii. the amount of any payments which are overdue for at least 60 days;
 - iv. where an overdue payment has been previously reported, advice that the payment is no longer overdue;
 - v. Any method of payment including, but not limited to, cheques, electronic funds transfer, Spay, credit card payments which have been dishonoured;
 - vi. information that, in the opinion of Hilary Adamson Photography, the Client has committed a serious credit infringement; and
 - vii. information that Hilary Adamson Photography has ceased to supply the Products and services to The Client.
- d. The Client agrees that Hilary Adamson Photography may obtain information about the Client from any business which provides information about the commercial creditworthiness of persons for the purposes of assessing the Client's application to purchase the Products on credit and collecting any overdue amounts.
- e. Hilary Adamson Photography may refuse to supply the Products to the Client on credit on the basis of Hilary Adamson Photography's credit assessment of the Client.
15. Privacy.
- a. The Client agrees to Hilary Adamson Photography collecting, using and disclosing information about the Client of the kind referred to in clause 14(c) for various purposes, including to:
 - i. assess creditworthiness as outlined in clause 14;
 - ii. supply the Products and services to the Client and the management of the Client's account, including suppliers;
 - iii. communicate with the Client about the Products and services which Hilary Adamson Photography or its partners or affiliates may provide to the Client;
 - iv. implement these Terms and any Sales Contract; and
 - v. comply with relevant laws.
 - b. Hilary Adamson Photography, at the written request of the Client, will:
 - i. provide the Client with access to any personal information relating to the Client held by Hilary Adamson Photography; and
 - ii. correct or amend *any* personal information relating to the Client held by Hilary Adamson Photography which is inaccurate or out of date.
 - III. Hilary Adamson Photography will handle the Client's personal information in accordance with relevant laws.
- c. Hilary Adamson Photography's Privacy Policy is located on the Hilary Adamson Photography website.
16. Intellectual Property.
- a. The Client acknowledges that:
 - i. all trademarks, copyright and other intellectual property rights ("Intellectual Property") embodied in or in connection with the Products and any related documentation, parts or software are the sole property of Hilary Adamson Photography or its suppliers; and
 - ii. all Intellectual Property of Hilary Adamson Photography or its suppliers may only be used by the Client with the express written consent of Hilary Adamson Photography or its suppliers, during the continuance of any relevant Sales Contract, and such consent extends only to use essential for the purposes stated in it.
 - b. The Client must not register or use any trademarks, trade name, domain name, trading style or commercial designation or design used by Hilary Adamson Photography or Its suppliers in connection with the Products.
 - c. The Client will indemnify Hilary Adamson Photography against all liabilities, damages, costs and expenses which Hilary Adamson Photography may suffer or incur as a result of any work performed by Hilary Adamson Photography in accordance with the Client's specifications or as a result of the combination or use of the Products with other equipment, parts or software not supplied by Hilary Adamson Photography, and which results in the infringement of any Intellectual Property of any person.
17. Confidentiality.
- a. The Client acknowledges that Hilary Adamson Photography has disclosed and may from time to time disclose to the Client certain confidential information and documentation of Hilary Adamson Photography relating to the Products, their marketing, use, maintenance and software, including technical specifications ("Confidential Information").
 - b. Subject to clause 17(e), the Client must:
 - i. only use the Confidential Information solely for the purposes contemplated under any relevant Sales Contract; and
 - ii. not, during the continuation of such Sales Contract or thereafter, disclose (whether directly or indirectly) to any third party the Confidential Information, other than is

exclusive jurisdiction to hear any disputes arising from or relating to this agreement.

- required to carry out such purposes.
- c. If disclosure of Confidential Information to third parties is necessary, the Client will obtain from such third parties binding agreements to maintain in confidence the Confidential Information disclosed at least to the same extent as the Client is bound to protect Hilary Adamson Photography's Confidential Information under this clause 18.
- d. Upon the expiry or termination of any relevant Sales Contract, the Client must cease to use and must return or destroy (as Hilary Adamson Photography may instruct) Hilary Adamson Photography's Confidential Information in its possession or control.
- e. The provisions of this clause 17 do not extend to any information which is:
 - i. at the time of disclosure, rightfully known to or in the possession or control of the Client and which is not subject to an obligation or confidentiality;
 - ii. public knowledge (otherwise than as a result of a breach of this clause 18 or any other obligation of confidentiality);
 - iii. approved in writing by an authorised officer of Hilary Adamson Photography to be disclosed; or
 - iv. required to be disclosed by a government authority or by relevant laws provided that notice of any such required disclosure is first given to Hilary Adamson Photography.

18. General.

- a. Hilary Adamson Photography may amend these Terms at any time, by giving The Client notice by mail, e-mail or by posting a notice on Hilary Adamson Photography's public website. By continuing to place orders for Products, The Client will be deemed to have accepted the revised Terms.
- b. Any provision of these Terms which is invalid or unenforceable will be read down to the extent necessary, and the remaining provisions will continue unaffected.
- c. The Client acknowledges that some Products may be controlled under export laws in force at the time of the Sales Contract. The Client shall not export, re-export, or distribute Products, in violation of any such export control laws or regulations.
- d. The Client acknowledges that certain Products may be subject to license requirements or other restrictions specific to certain transactions. Where applicable, The Client agrees to be bound by any such terms and conditions and/or restrictions and shall indemnify Hilary Adamson Photography for any liability suffered by it arising from The Client's breach.
- e. The Client may not assign or attempt to assign any of its rights and obligations under these Terms.
- f. These Terms are governed by the laws of the State of Western Australia and the courts of the state of Western Australia shall have