



# Nic Cleave

## PHOTOGRAPHY

Award winning Wedding, Portrait and Commercial photography that captures how you 'feel' as well as how you look.

### TERMS AND CONDITIONS

**A. Definitions:** "Photographer" refers to any agent of Nic Cleave Photography; "Client" refers to the commissioning party or company named above, its representatives, successors, assigns, agents and affiliates.

**B. Payment: FULL PAYMENT MUST BE RECEIVED BY THE PHOTOGRAPHER PRIOR TO PUBLICATION. ANY USE PRIOR TO PAYMENT SHALL BE CONSIDERED AN UNAUTHORIZED USE.** If unauthorized use occurs, the Client agrees that a reasonable and stipulated amount shall be paid by the Client to the photographer for such unauthorized use and such amount shall be three (3) times Photographer's fee stated above for such usage.

**C. Grant of Rights:** The granting of reproduction rights hereunder is conditioned upon the Client's written acceptance of each term set forth in this agreement, including but not limited to, receipt of payment in full by the Photographer and the placing of the required copyright notice on each use of the Photographer's work. All rights not expressly licensed to the Client in writing remain the exclusive property of the Photographer. Unless otherwise stated above, the duration of the license is six times the periodicity of the publication or ninety (90) days which ever comes first.

**D. Space Rates:** All usage is quoted as a minimum against space. Any additional space rate will be billed as such upon publication.

**E. Return of Photographs, Destruction of Digital files & Return of Media:** The Client assumes all risk for all photographic material supplied by the Photographer from time of receipt by the Client to time of actual receipt of photographs by the Photographer. The Client agrees to return all such material in an undamaged, unaltered and un-retouched condition within thirty (30) days of receipt, or if a License is granted, within three (3) months of receipt by client or by first publication date, whichever is sooner, or such other period as is stated in writing herein. **The Client agrees to destroy all digital files and copies made within one week of reproduction.** If the files were sent on digital media, all such material must be returned in an undamaged condition within thirty (30) days of receipt.

**F. Film and Digital Media Holding Fees:** A holding fee of £5 or €/\$10 per item per day shall be payable from the return date until time of receipt by the Photographer unless otherwise indicated.

**G. Copyright Protection/Credit Line:** For Editorial use, a credit line in the form © Year of publication **Nic Cleave Photography** in type no smaller than that of related text must appear adjacent to or within the photograph(s) or the fee is tripled; the Client acknowledges that such a tripled fee is fair and reasonable for the photographer's loss of recognition and lack of copyright protection resulting from lack of, or improper, copyright notice/credit line. For Non-Editorial use, the Client will provide copyright protection by placing a proper copyright notice on any use. A Proper notice is © Year of publication **Nic Cleave Photography** adjacent to, immediately below, or within the photograph(s). Notwithstanding the foregoing, the Photographer reserves all rights and remedies at law and in equity for damages resulting from breach of its copyright in Photographs used by the Client.

**H. Indemnity:** The Client hereby indemnifies and holds the Photographer harmless against any and all liabilities, claims, and expenses, including reasonable legal fees, arising from the Client's use of the Photographer's work. The Client assumes insurer's liability (a) to indemnify the Photographer for all loss, damage, or misuse of any photographs; and (b) to return all photographs prepaid, fully insured, and undamaged, by bonded messenger or overnight delivery service.

**I. Loss or Damage:** The parties acknowledge that it is difficult if not impossible to determine the exact value of each photograph subject to this agreement because of the duration of copyright protection and its present and potential value. Therefore, the parties have agreed that the reasonable value for loss or damage of each photograph is a sum no less than the amount indicated on the first page of this agreement. The Client further acknowledges that its acceptance of this liquidated damage amount is a material consideration for the photographer agreeing to deliver to the Client the photographs subject to this agreement. In the event that the Client infringes on the Photographer's copyright in and to the works delivered herewith, then the Photographer shall be entitled to obtain immediate injunctive relief to prevent further infringement and that the Photographer shall not be required to post a bond to obtain injunctive relief, or if a bond is not waiveable, such bond shall not exceed £100 or €/\$150. The Photographer shall be entitled to recover the greater of the Photographer's actual damages, or statutory damages in a sum not to exceed £10,000 or €/\$15,000, in cases of non-willful infringement. In each instance, the Photographer shall be entitled to recover reasonable legal fees incurred and related costs in enforcing the Photographer's rights under the relevant Copyright Act, and under each federal or ancillary provincial law under which the Photographer is awarded or granted damages.

**J. Alterations:** The Client will not make or permit any alterations, additions, or subtractions in respect of the photographs, including without limitation any digitalization or synthesizing of the photographs, alone or with any other material, by use of computer or other electronic means or any other method or means now or hereafter known.

Client initial: .....

[www.niccleave.com](http://www.niccleave.com) email: [stock@niccleave.com](mailto:stock@niccleave.com)

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# N i c C l e a v e

P H O T O G R A P H Y

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**K. Default:** In the event of non-payment or other breach of this Agreement by the Client, the Client shall pay all of the Photographer's costs and expenses incurred in connection with enforcement of the terms of this agreement, including the Photographer's reasonable legal fees.

**L. Releases:** The Photographer is not responsible for obtaining model, property, or other releases in connection with any of the photographs licensed herein **unless specifically stated herein.**

**M. Copies and promotional 'tear sheets':** The Client shall provide to the Photographer five (5) copies of each use of the photographs no later than the date of first publication. The photographer shall retain the right to display copies of the use of all photographs, for self-promotional purposes. This includes the use and display of hard copy 'tear sheets', together with the use and display of 'digital tear sheets' on the photographer's website.

**N. Miscellaneous:** The Client may not assign or transfer this license. No alterations may be made in any of these provisions without the express written consent of the Photographer.

**O. Re-shoots for commissioned work:** The Client will be charged 100% fee and expenses for any reshoot required by the Client. For any reshoot required because of an act of God, (other than inclement weather which is addressed below) or the fault of a third party, the Photographer will charge no additional fee and the Client will pay all expenses. If the Photographer charges for special contingency insurance and is paid in full for the shoot, the Client will not be charged for any expense covered by insurance. A list of exclusions from such insurance will be provided on request.

**P. Cancellations:** Cancellations and postponements: The Client is responsible for payment of all expenses incurred up to the time of cancellation, plus 50% of Photographer's fee. If notice of cancellation is given less than two (2) business days before the shoot/publication date, the Client will be charged 100% fee. Weather postponements: Unless otherwise agreed, the Client will be charged 100% fee if postponement is due to weather conditions on location and 50% fee if postponement occurs before departure to location.

**Q. Governing Law:** This agreement shall be interpreted and governed by the laws of Europe and the UK, all applicable provincial legislation and international conventions including the World Trade Organization's Agreement on Trade Related Aspects of Intellectual Property Rights. This agreement shall be deemed to be a contract made under the laws of Europe and the UK and for all purposes shall be interpreted in its entirety in accordance with these laws. The Client specifically and irrevocably confers personal jurisdiction over it by the courts of the Europe and the UK. The Client specifically waives all rights to contest each court proceeding on the grounds of personal jurisdiction, venue and forum non-convenience or other rules of conflict. In the event of any award or judgment in favour of the Photographer, or any settlement between the Photographer and the Client, arising from effecting and protecting the Photographer's rights and benefits hereunder and/or any aspect of this agreement, the Client shall pay all costs and expenses incurred by the Photographer and/or the Photographer's legal counsel related thereto, including, but not limited to, reasonable legal fees, arbitration and court costs, associated expenses, and legal interest on such award, judgment, or settlement.

**\*THIS CONTRACT MUST BE SIGNED BY THE CLIENT WITH A COPY RETURNED TO THE PHOTOGRAPHER PRIOR TO ANY FINAL ARRANGEMENTS OR DELIVERY OF IMAGES.**

**\* PLEASE SIGN THE FIRST AND LAST PAGES AND INITIAL ALL OTHER PAGES IN THE BOTTOM RIGHT HAND CORNER. ANY AREAS HIGHLIGHTED IN RED SHOULD BE COMPLETED OR CONFIRMED AND ALL PAGES SHOULD BE SENT BY POST TO:**

NIC CLEAVE PHOTOGRAPHY  
577 CLYDACH ROAD,  
SWANSEA,  
SOUTH WALES  
SA6 5AX  
UK.

\*FULL PAYMENT IS DUE WITHIN THIRTY (30) DAYS or PRIOR TO PUBLICATION, WHICH EVER OCCURS FIRST.

\*STERLING CHEQUES SHOULD BE MADE PAYABLE TO 'NIC CLEAVE PHOTOGRAPHY.'

**Client name (printed) ..... Client Signature: .....**

**www.niccleave.com** email: stock@niccleave.com