

FACILITIES HIRE AGREEMENT: PHOTOGRAPHY

The King's School Enterprises Limited (including **INSERT LOCATION**) ("the Owner). Co. No. 02552953, 25 The Precincts, Canterbury, Kent CT1 2ES ("School"), has pleasure in making available the Facilities and providing the Services (as each term is defined below) subject to the provisions set out below and in the Terms of Hire shown on the reverse of or accompanying this Facilities Hire Agreement (together the "Agreement")

1. Hire Details

Name of Photographer/Company ("the Hirer"):

Name of Publication ("the Content"):

Address of Company:

Postcode:

Location Name(s) ("the Location"):

Location Address:

Location Postcode

Photography Period arrival date:

Photography Period arrival time:

Photography Period end date:

Photography Period end time:

("Photography Period")

2. Facilities Location

Specific location of Facilities to which the Hirer will be given access:

Location:

Specified areas/rooms:

3. Services

Applicable Service (Details of each category are set out in the Services Specification)	Service Charge Rate	Total Due
Location Hire Fee		
Security		
Catering		
Additional		

4. Payment Schedule

Fee	Rate	Total Due	Payment Due Date
Security Deposit:			
Holding deposit (if applicable)			
Full payment:			

5. Cancellation Schedule

Period of time in advance of Arrival Date notice received pursuant to clause 6.1	Sums due and payable
More than 48hours prior to the Arrival Date.	50% of location fee
Between 48 and 24 hours prior to the Arrival Date.	75% of location fee
Less than 24 hours prior to the Arrival Date.	100% of location fee

TERMS OF HIRE

1. INTERPRETATION

1.1 Unless the context requires otherwise, the following definitions and rules of interpretation apply in this Agreement:

Applicable Law: in England, any and all applicable laws, regulations and industry standards or guidance (including any applicable British Standard) and any applicable and binding judgment of a relevant court of law;

Arrival Date: the date that the Hirer commences hire of the Facilities (including any period of set up planned ahead of arrival of the majority of Delegates) as indicated on the Facilities Hire Agreement;

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

Departure Date: the date that the period of hire of the Facilities ceases as indicated on the Facilities Hire Agreement;

Deposit: the deposit amount set out in the Payment Schedule;

Facilities: the Facilities listed in the Facilities Hire Agreement, together with any substitutions or replacements of such Facilities and all related equipment, manuals and instructions for use provided with them;

Hire Period: the period of hire running from the Arrival Date and Time to the Departure Date and Time as indicated on the Facilities Hire Agreement;

Hire Fee: the sums payable by the Hirer to the School pursuant to the Payment Schedule in consideration of hire of the Facilities;

Facilities Hire Agreement: the hire agreement setting out the specific details of this Agreement shown on the reverse of or accompanying these Terms of Hire;

Payments: the sums due in respect of the Deposit, Hire Fee and Service Charges or any instalment of them;

Payment Schedule: the details of and dates for payment of all sums payable by the Hirer to the School under this Agreement as set out in the Facilities Hire Agreement, including the Licence Fee and Service Charges;

Reconciliation: the process by which the Payments due shall be adjusted to reflect actual numbers of Delegates and any additional sums due for additional Services requested during any Hire Period and any sums due including by way of indemnity under this Agreement to meet any damage to the Facilities;

Service Charges: the sums payable by the Hirer to the School pursuant to the Payment Schedule in consideration of the Services provided to the Hirer by the School;

Services: the services to be provided by the School to the Hirer as more specifically set out in the Facilities Hire Agreement;

VAT: value added tax chargeable under the Value Added Tax Act 1994.

1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

- 1.3 Reference to any gender shall include all genders. Words indicating a person shall include bodies of persons whether corporate or incorporate.
- 1.4 Reference to any statute or statutory provision includes a reference to the same as from time to time amended, extended, re-enacted or consolidated and all subordinate legislation made pursuant to it.
- 1.5 Any reference in this Agreement to a clause is to a clause of this Agreement.
- 1.6 The headings of this Agreement shall not affect its construction or interpretation.
- 1.7 A reference to **writing** or **written** does not include fax.
- 1.8 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.9 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. FACILITIES HIRE

- 2.1 In consideration of the Payments the School shall hire the Facilities to the Hirer subject to the terms and conditions of this Agreement.
- 2.2 The School shall not, other than in the exercise of its rights and obligations under this Agreement or Applicable Law, interfere with the Hirer's quiet enjoyment of the Facilities during the Hire Period.
- 2.3 The Hire Period starts on the Arrival Date and Time and shall continue until the Departure Date and Time unless this Agreement is terminated earlier in accordance with its terms.

3. LOCATION AND ACCESS

- 3.1 The Owner agrees and confirms to the Hirer that they have the right and authority to grant all necessary permissions and consents in and to the Location without having to obtain and further third party consents.
- 3.2 The Location will be made available for photography use during the Shoot Period. If photography is not completed during the Shoot Period, the Hirer is entitled to return to the Location to continue with the named Content but will be charged an additional filming fee.
- 3.3 The Owner will not infringe or interfere with the Hirer's photography shoot. The Owner shall not say anything derogatory or detrimental or do anything or undertake any conduct that may bring the Content, publication or Hirer into disrepute.
- 3.4 The Owner warrants the Location is compliant with health and safety legislation.
- 3.5 The Hirer will adhere to the terms set out in The King's School, Canterbury Photography Guidelines at all times.

4. IMAGE RIGHTS

- 4.1 The Owner gives the Hirer exclusive ownership to the rights of all photographic content recorded at the Location for the above named production and associated promotional purposes, throughout the world, in perpetuity. Where possible and agreed in advance, the Hirer will permit the Owner usage of promotional footage for its own website and social media accounts.
- 4.2 The Hirer has no obligation to use any part/or all of the footage in the Content, and the Hirer can give no warranties that the production of the Content will proceed to completion.

5. PAYMENTS AND DEPOSIT

5.1 The Hirer shall pay the Payments to the School in accordance with the Payment Schedule, the final instalment of which shall be notified to the Hirer by the School following the process of Reconciliation after Departure Date. The Payments shall be paid in pounds sterling and shall be made by bank transfer to the following bank account:

Bank: Barclay's Bank plc

Sort Code: 20-00-00

Account Number: 00173118

5.2 The Payments are exclusive of VAT and any other applicable taxes and duties or similar charges which shall be payable by the Hirer at the rate and in the manner from time to time prescribed by law.

5.3 Time for payment shall be of the essence. No payment shall be deemed to have been received until the School has received payment in full and cleared funds.

5.4 All amounts due under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

5.5 If the Hirer fails to make any payment due to the School under this Agreement by the due date for payment, then, without limiting the School's remedies under clause 10, the Hirer shall pay interest on the overdue amount at the rate of 4% per annum above [FULL NAME OF SCHOOL'S BANK]'s base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Hirer shall pay the interest together with the overdue amount.

5.6 The Deposit is a non-refundable deposit against default or early cancellation by the Hirer. The Hirer shall, on the date of this Agreement, pay the Deposit in the sum specified in the Facility Hire Agreement to the School. The Hirer acknowledges that the amount of the Deposit is reasonable and that it is reasonable for the School to retain all of the Deposit in the event of the Hirer's default bearing in mind the School's anticipated costs and expenses.

5.7 The School has the right, at its discretion, to request a sum payable by the Hirer and retained by the School as a damage security deposit in addition to the Deposit, which sum shall be a refundable deposit against and subject to damage to the Facilities and which shall be returned to the Hirer (without interest) when the Facilities have been reinstated to the reasonable satisfaction of the School.

6. CANCELLATION

6.1 If, after signing the Facilities Hire Agreement, the Hirer decides not to proceed with the Agreement, the Hirer must notify the School as soon as reasonably practicable in writing of such cancellation and depending on how far in advance of the Arrival Date such notice is received by the School will determine the liability of the Hirer to pay the sums specified in the Cancellation Schedule of the facilities hire agreement, which sums shall become due and payable within seven (7) days of such notice.

7. TITLE, RISK AND INSURANCE

7.1 The Facilities shall at all times remain the property of the School, and the Hirer shall have no right, title or interest in or to the Facilities nor any exclusivity to its right of use under this Agreement (save the right to use of the Facilities subject to the terms and conditions of this Agreement).

7.2 The risk of loss, theft, damage or destruction of the Facilities shall pass to the Hirer on the Arrival Date. The Facilities shall remain at the risk of the Hirer throughout the Hire Period.

- 7.3 During the Hire Period, the Hirer shall, at its own expense, obtain and maintain the following insurances:
- (a) insurance to protect all Delegates comprehensively against all usual risks of personal accident, injury or death whilst attending and making use of the Facilities and such other risks as the School may from time to time nominate in writing;
 - (b) insurance for such amounts as a prudent owner or operator of the Facilities would insure for, or such amount as the School may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Facilities; and
 - (c) Insurance against such other or further risks relating to the Facilities as may be required by law, together with such other insurance as the School may from time to time consider reasonably necessary and advice to the Hirer.
- 7.4 The Hirer shall give immediate written notice to the School in the event of any loss, accident or damage to the Facilities arising out of or in connection with the Hirer's possession or use of the Facilities.
- 7.5 If the Hirer fails to effect or maintain any of the insurances required under this Agreement, the School shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Hirer.
- 7.6 The Hirer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to the School and proof of premium payment to the School to confirm the insurance arrangements.

8. **HIRER'S RESPONSIBILITIES**

- 8.1 The Hirer acknowledges and agrees that it is the responsibility of the Hirer, and not that of the School, to ensure the safety and appropriate supervision at all times of all Delegates using the Facilities during the Hire Period and, to this end in particular, the Hirer shall:
- (a) ensure that no less than one Delegate to every eight Delegates is a responsible adult (“**Supervisor**”), suitably qualified, experienced and specifically designated to supervise the conduct and behaviour of Delegates who are under the age of eighteen (18) years or who may be regarded as a vulnerable adult (as such term is defined in the Safeguarding Vulnerable Groups Act 2006) whilst at the Facilities (including any specialist qualifications being required for the specific activities being undertaken, for example, life guarding for use of swimming pool areas within the Facilities);
 - (b) ensure that all Supervisors attend an induction given by the School on arrival at the Facilities;
 - (c) ensure that all Supervisors are the subject of a valid disclosure check undertaken through the Disclosure and Barring Service; and
 - (d) not employ or use the services of any person in the conduct of activities or supervision of Delegates at the Facilities (whether or not as designated Supervisors) who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out such activities or who may otherwise present a risk to Delegates under the age of eighteen (18) years or who may be regarded as a vulnerable adult (as such term is defined in the Safeguarding Vulnerable Groups Act 2006).
- 8.2 The Hirer shall during the Hire Period:
- (a) use the Facilities only for the purposes for which they are designed;
 - (b) not access or attempt to access any part of the property or premises owned by the School other than the Facilities;

- (c) not use the Facilities or any part of them for any purpose or activities which are dangerous, offensive, noxious, illegal or immoral or which are or may become a nuisance to the School or the owner or occupier of any neighbouring property;
- (d) not do anything which might invalidate any insurance maintained by the School in respect of the Facilities of which the Hirer is aware or which might increase the insurance premium payable by the School;
- (e) not bring on to the Facilities or any part of it any animals without the prior consent of the School;
- (f) observe all Applicable Laws relating to the use of the Facilities;
- (g) at its own cost comply with all requirements of the Health and Safety Executive in relation to any features of the Facilities, including in relation to any ongoing building or maintenance works underway during the course of the Hire Period (whether at the Facilities or any other part of the property or premises owned by the School);
- (h) pay to the School the cost of making good all damage to the Facilities suffered during the Hire Period (excluding only fair wear and tear and damage caused by any risk covered by the School's insurance and damage by the School's agents, servants and sub-contractors);
- (i) at the end of the Hire Period remove all the Hirer's goods, waste and other materials at the Facilities and hand back the Facilities cleared and in such condition as is required by clause 8.2(h) above. In default the Hirer shall pay to the School at the rate of £X per day for every day or part of a day during which the default exists and shall indemnify and keep indemnified the School against any costs, damages or liability incurred by the School or by any subsequent hirer;
- (j) not park on or obstruct the access ways giving access to the Facilities;
- (k) not make any alterations, attachments, repairs or additions to nor affix or suspend any equipment or items from any part of the Facilities without the prior written consent of the Licensor;
- (l) obtain the prior written approval of the School to any publicity material proposed to be issued in relation to the use by the Hirer of the Facilities or any use made of the School's trade marks (whether registered or unregistered);
- (m) keep the School fully and promptly informed of all material matters relating to the Facilities;
- (n) not permit smoking on any part of the Facilities nor on any other part of the property or premises owned by the School and to strictly enforce such no-smoking policy amongst the Delegates;
- (o) permit the School or its duly authorised representative to inspect the Facilities at all reasonable times and for such purpose to enter upon the Facilities, and shall grant reasonable access and facilities for such inspection; and
- (p) Not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of the School in the Facilities.

8.3 The Hirer acknowledges that the School shall not be responsible for and that the Hirer shall be liable for any loss or damage to the Facilities arising out of or in connection with any negligence, misuse, mishandling of the Facilities or otherwise caused by the Hirer or its Delegates, officers, employees, agents and contractors, and the Hirer undertakes to indemnify and keep indemnified the School on demand against the same, and against all losses, liabilities, claims, damages, costs or expenses of whatever nature otherwise arising out of or in connection with any failure by the Hirer to comply with the terms of this Agreement. The School shall be entitled to add sums due under this indemnity to the Payments by way of the process of Reconciliation.

9. LIABILITY

- 9.1 Without prejudice to clause 9.2, the School's maximum aggregate liability for breach of this Agreement (including any liability for the acts or omissions of its employees, agents and subcontractors), whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall in no circumstances exceed £5,000,000 (five million pounds).
- 9.2 Nothing in this Agreement shall exclude or in any way limit:
- (a) either party's liability for death or personal injury caused by its own negligence;
 - (b) either party's liability for fraud or fraudulent misrepresentation; or
 - (c) Any other liability which cannot be excluded by law.
- 9.3 This Agreement sets out the full extent of the School's obligations and liabilities in respect of the Facilities and the hiring of the same to the Hirer. In particular, there are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on the School except as specifically stated in this Agreement. Any condition, warranty or other term concerning the Facilities which might otherwise be implied into or incorporated within this Agreement, whether by statute, common law or otherwise, is expressly excluded.
- 9.4 Without prejudice to clause 9.2, neither party shall be liable under this Agreement for any:
- (a) loss of profit;
 - (b) loss of revenue;
 - (c) loss of business; or
 - (d) indirect or consequential loss or damage,

In each case, however caused, even if foreseeable.

10. TERMINATION

- 10.1 Without affecting any other right or remedy available to it, the School may terminate this Agreement with immediate effect by giving written notice to the Hirer if:
- (a) the Hirer fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than five (5) Business Days after being notified in writing to make such payment;
 - (b) the Hirer commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of five (5) Business Days after being notified in writing to do so;
 - (c) the Hirer repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
 - (d) the Hirer is declared or becomes insolvent or bankrupt, has a moratorium declared in respect of any of its indebtedness, enters into administration, receivership, administrative receivership or liquidation or threatens to do any of these things, takes or suffers any similar action in any jurisdiction or any step is taken (including, without limitation, the making of an application, the

entering into of a board resolution or the giving of any notice) by it or by any other person in respect or any of these circumstances; or

- (e) The Hirer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

11. CONSEQUENCES OF TERMINATION

11.1 Upon termination of this Agreement, however caused:

- (a) the School's consent to the Hirer's access to and use of the Facilities shall cease immediately and the School may, by its authorised representatives, without notice and at the Hirer's expense, retake possession of the Facilities; and
- (b) without prejudice to any other rights or remedies of the Hirer, the Hirer shall pay to the School on demand:
 - (i) all Payments and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to clause 5.5;
 - (ii) Any costs and expenses incurred by the School in recovering, regaining access to or repairing any damage to the Facilities and/or in collecting any sums due under this Agreement (including any storage, insurance, repair, transport, legal and remarketing costs).

11.2 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

12. FORCE MAJEURE

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for three (3) weeks, the party not affected may terminate this Agreement by giving seven (7) days' written notice to the affected party.

13. CONFIDENTIAL INFORMATION

13.1 Each party undertakes that it shall not at any time, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 13.2.

13.2 Each party may disclose the other party's confidential information:

- (a) To its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 13; and
- (b) As may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under this Agreement.

14. ENTIRE AGREEMENT

- 14.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 14.2 Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 14.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement. Nothing in this clause shall limit or exclude any liability for fraud.

15. GENERAL

- 15.1 This Agreement is personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.
- 15.2 No variation of this Agreement shall be effective unless it is in writing and signed by an authorised representative of each party.
- 15.3 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 15.4 Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 15.5 No one other than a party to this Agreement shall have any right to enforce any of its terms.
- 15.6 Any notice under this Agreement shall be in writing and shall be deemed to have been duly given if sent or delivered to the party concerned at the address set out on the first page of this Agreement or such other address as that party may from time to time notify in writing and shall be deemed to have been served if sent by registered post 48 hours after posting.
- 15.7 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 15.8 The invalidity, illegality or unenforceability of any of the provisions of this Agreement shall not affect the validity, legality or enforceability of the remaining provisions of this Agreement.
- 15.9 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 15.10 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement together with The King's School, Canterbury signed Photography Guidelines represents the entire agreement between the parties in respect of its subject matter and replaces any

previous agreements relating to the subject matter and may be varied only in writing signed by the parties.

I am duly authorised to sign this Agreement on behalf of the Hirer. I confirm that I have read and agree to the Facilities Hire Agreement and the Terms of Hire and in signing this Facilities Hire Agreement consent to the Hirer being bound by the terms of this Agreement:

On behalf of the Hirer:

Signature: _____

Print Name: _____

Job Title: _____

Date: _____

On behalf of the Owner:

Signature: _____

Print Name: _____

Job Title: _____

Date: _____