

## **DONE FOR YOU PHOTOGRAPHY ORGANISING AGREEMENT**

These terms and conditions formalise the Photography Organising Services ("Photography Organising Services") that Allison Lee t/as The Memory Curator [ ABN 59258299758 ] ("The Memory Curator" "we"/ "us"/"our") will be providing. The Photography Organising Services will be performed personally by Allison Lee. You could be any client of our done for you photography organising services. This Agreement commences upon payment of your Deposit, and terminates in accordance with this Agreement.

You must pay the Photography Organising Fees for the Photography Organising Services in accordance with the Payment Terms. All invoices are due and payable within 7 days. Interest is payable on any unpaid invoices at the rate of 10% per annum, and any debt recovery fees will be billed to you.

### **Deposit**

A Deposit is required for us to commence the Initial Assessment of your Photo Collection. All Deposits are non-refundable. Once we determine the size of your Photo Collection, which includes all photos sent including duplicates of photos, we will confirm with you our Photography Service Fee. We require 50% of the Photography Service Fee to be paid to commence the Photography Organising Services. The remainder 50% is due immediately prior to the Delivery Date (ie immediately prior to the returning of your Photo Collection).

### **Promises you make for us**

You must provide us with all Information we need so that we can perform the Photography Organising Services. You represent and warrant that all Information in the Questionnaire you provide is true, current, and to the best of your knowledge.

### **Acknowledgements and agreements you make**

You acknowledge and agree:

- to provide us with a copy of all photos and/or access to your cloud accounts;
- to provide us with the above copies or access to your Photo Collection within 5 working days of our request.

### **What we agree to do**

We agree to:

- provide the Photography Organising Services from the Commencement Date;
- use our reasonable endeavours to keep your accounts secure;
- to deliver the organised Photo Collection on the Delivery Date (subject to the provision by you of all requested information); and
- at all times comply with our Privacy Policy, details of which you can find on our website.

### **Where you wish to cancel or seek a refund**

We will provide a full refund where you wish to cancel the Photography Organising Services within 7 days of the date of this Agreement or receipt of deposit whichever comes first.

To the extent permitted by law, any further refunds and any cancellations are at our absolute discretion. We do not provide refunds for your change of mind, where you fail to provide us with adequate information or clearly explain your needs, or where you fail to act on our advice.

### **Our obligations under the Australian Consumer Law**

You are entitled to various consumer guarantees, rights, and remedies under the Australian Consumer Law in the *Competition and Consumer Act 2010*, including, but not limited to, consumer guarantees that the Photography Organising Services are delivered within a reasonable time and with acceptable care and skill. If you believe we have breached your consumer guarantees, please contact us and we will comply with the law.

### **Intellectual Property and publicity**

We own or have a license to use all Intellectual Property Rights in any Materials we may provide you throughout the performance of the Photography Organising Services. You must not use any Materials for any purpose other than your sole personal use. Any Materials we provide you must not be reproduced or resold without our prior written permission which will be given at our absolute discretion, and will be the subject of license fees.

Where you provide us with photos, videos and testimonials specifically for our marketing and information purposes, you consent to their use accordingly. Where we take photos or videos of you, we will seek your consent to use them. You must seek our prior written consent before any publication of information about the Photography Organising Services.

### **Limited liability**

You acknowledge and agree that we are not liable for any Loss or Damage which may result from the Photography Organising Services. To the extent permitted by law, our liability is limited, at our option to:

- the replacement of the services or the supply of equivalent services; or
- the payment of the cost of replacing the services or of acquiring equivalent services.

In any case, our liability to you will not exceed the amount actually paid by you to us for the most recent invoice we have sent you that has been paid.

You acknowledge and agree to indemnify us and keep us at all times fully indemnified from and against any Claims whatsoever arising directly or indirectly as a result of any breach by you of this Agreement and any third party claims, and any unauthorised access to your online accounts.

### **Where we can terminate**

We may either suspend or terminate the Photography Organising Services where you do not provide us with your Photo Collection or we are unable to access it. We may also, at our option and without prejudice to any of our rights, immediately terminate this Agreement where you default on any invoices, breach this Agreement, or commit an act of bankruptcy. Upon termination, you must pay all accrued Photography Organising Fees owing up to the date of termination.

### **If there is a dispute**

If a dispute arises, you acknowledge and agree that confidentiality is paramount to our reputation. At no time will any communications or discussions be made public, including but not limited to any social media websites. Any public discussion or comments considered defamatory, negative or otherwise damaging and will be the subject of compensation in any mediation or litigation claim. In the event of any dispute that cannot be resolved, both parties agree to obtain an independent professional arbitrator/dispute resolution specialist to make a determination on the dispute and each party agrees to pay their own costs.

### **THE GOVERNING LAW AND OTHER MATTERS**

This Agreement completely states the agreement of the parties as to its subject matter. It supersedes, and its terms govern all previous communications, representations, inducements, undertakings, agreements and arrangements between the parties in respect of its subject matter. This Agreement

may not be modified or amended except in writing signed by both parties. The failure by us to exercise any right, or enforce any provision in these Terms does not waive the future operation of that right or provision. In the event that a provision in this Agreement is not enforceable, such provision shall be severed from this agreement to the extent permitted by law, and the remaining provisions will remain in full force and effect. This Agreement must not be transferred or assigned without the prior written consent of the other party. This Agreement is governed by the laws from time to time in force in the state of NSW Australia. Both parties agree to unconditionally submit to the non-exclusive jurisdiction of the courts of NSW, Australia for determining any dispute concerning this Agreement.

**DEFINITIONS:**

“Agreement” means these terms and conditions, and the Proposal.

"Claim" means any claim under statute, tort, contract or negligence, any demand, awards or costs.

“Confidential Information” means any confidential information, and any of your personal information as defined under the *Privacy Act 1988*.

“Information” means any information you provide to us during the Photography Organising Services.

“Intellectual Property Rights” means all trademark, copyright, design rights, patents, trade secrets, confidential information and all other intellectual property rights whether registered or unregistered.

“Loss and/or Damage” means any direct, indirect, consequential or incidental loss or damage. This includes, but is not limited to any loss, personal injury, death, negligence, loss of profits, revenue, salary, property damage, loss of enjoyment, virus or damage to your systems, or reliance on our Photography Organising Services.

“Materials” means any educational and or teaching PDFs, worksheets, videos, documents, information, and includes any concepts.

All other capitalised terms are defined in the Proposal.