

Thank you for choosing Rebecca Holmes Photography Ltd. for your family photography membership. We look forward to working with you.

WHAT THIS DOCUMENT IS FOR

The purpose of this document is to confirm the terms on which we have agreed to the Photo Session and on which we will offer you the opportunity to purchase a package ("Package") of photographic images, as well as artwork products incorporating your photographs, such as prints, albums, canvasses or other similar artwork products ("Artwork Products"). Please read through these terms carefully since you will be deemed to have accepted them if you proceed with the Photo Session or pay the Session Fee.

The terms and conditions applicable to your engagement of us are the "**Key terms**" set out below and the "**General Terms and Conditions**".

KEY TERMS:

OUR DETAILS

Company name: Rebecca Holmes Photography Ltd.

Address: 20 Madderfield Mews, Linlithgow, EH49 7HB

Telephone Number: 0131 370 9209

Email Address: hello@rebeccaholmesphotography.com

YOUR DETAILS

Name: `[[client_first_name]]` `[[client_last_name]]`

Address: `[[client_address]]`

Telephone Number: `[[client_phone]]`

Email Address: `[[client_email]]`

PHOTO SESSION MEMBERSHIP DETAILS

Type of Photo Session Membership: Family

Your selected membership tier includes:

[[package_with_description]]

Additional Artwork products are available but will incur an additional fee – please see our Price List.

[[accept]] I accept that by entering into this Membership Agreement, I am agreeing to pay the full twelve or twenty-four (as above) months of membership fees, even if some/all payments occur after my Photo Session is completed and Artwork Products delivered.

GENERAL TERMS AND CONDITIONS

BOOKING YOUR MEMBERSHIP PHOTO SESSION/S

- **Booking windows:** Photo Session booking will be opened twice a year. Once in the first two weeks of February, and again, in the first two weeks of August. You will be required to book your Photo Session within the above time periods.
- **Failure to book:** If you fail to book your Photo Session within the allotted booking windows, we cannot guarantee a place will be available for you that year. No refund of membership fees will be given in this instance.
- **Booking times:** Your Photo Session must be held during the Membership Period. You cannot carry forward an outstanding Photo Session.
- **Availability of key dates:** While we will do our best to accommodate specific Photo Session dates, and have a very large range of options, we cannot guarantee that date you require will be available. No refund of membership fees will be given in this instance.

FEES AND PAYMENT

- **Payment of Membership Fees:** You must pay the Total Membership Fee in accordance with the terms of payment specified in the Key Terms.
- **Regular Payments:** In order to confirm your Membership, you must setup a direct debit payment for monthly fees. We will send you a link to a system to do this.
- **Overdue Payments:** If any payment is overdue prior to the date of the Photo Session, full payment must be received in order to confirm your booking.

- **Missed Payments:** If for whatever reason, you miss a payment, we will attempt twice via email to bring you up to date. If we receive no response your membership will be cancelled (please see the section on cancellation). If you miss two payments, we reserve the right to cancel your membership.
- **Cancelling after a Photo Session has taken place:** Should you cancel your membership after the Photo Session has taken place, but before the completion of the Membership Period, full payment of the Total Membership Fee will become due immediately.
- **Fees for Additional Artwork:** The fee that you pay for additional Artwork Products will depend on which Artwork Products you select. Prices for all of our Artwork Products are set out in our full Price List, which is available on request.
- **Price Validity:** Our prices are guaranteed for a period of 90 days from the Photo Session Date and after that our prices are subject to change on notice.
- **VAT:** Unless otherwise stated, all fees that are quoted to you by us are inclusive of VAT, if applicable.

THE PHOTO SESSION

- **Scheduling:** We will use all reasonable endeavours to hold the Photo Session on the Photo Session Date, at the Photo Session Location, subject to our cancellation, rescheduling and refund policy set out above.
- **Outcomes:** Due to the nature of the subjects of the photographs we take during your Photo Session ("Photographs"), we cannot guarantee any particular outcomes or guarantee the fulfilment of any specific requests for the Photo Session. However, we will conduct the Photo Session using professional skill and care.
- **Reasonable Requests:** In any event, we will endeavour to accommodate any reasonable requests from you regarding the artistic direction of the Photo Session, but the Photographer retains absolute discretion as to the nature of the Photographs.
- **Supervision:** A parent or guardian must be present at all times if we are photographing children.
- **Photographs During the Session:** You must not take any photographs during the Photo Session without first obtaining permission from the Photographer.

WAIVER OF CANCELLATION RIGHTS

By signing this contract, you confirm that the Photo Membership should be completed, even if the Photo Session Date occurs during my 14-day cooling-off period. I understand that I will lose my right to cancel the contract once the Photo Shoot is complete and that I must pay for services provided prior to cancellation. [[accept]]

CANCELLATION, RESCHEDULING AND REFUNDS

Membership Cancellation

- **Legal right of cooling off:** You have 14 days after the day we accept your membership to cancel the membership; this is called the cooling-off period. However, once we have completed the Photo Session you cannot change your mind, even if the cooling-off period is still running. If the cooling-off period is still running and you decide to cancel after we have started the Photo Session, you must pay us for the services provided up until the time you tell us that you have changed your mind. We will refund you all membership fees paid by the method you used for payment within 14 days.
- **Cancelling after the 14-day cooling off period:** Except in exceptional circumstances and in our sole discretion, we are unable to refund any Membership Fees if you cancel after the 14-day cooling off period.
- **How you cancel:** If you wish to cancel the Membership, please contact us in writing via hello@rebeccaholmesphotography.com.
- **Cancelling after a Photo Session has taken place:** Should you cancel your membership after the Photo Session has taken place, but before the completion of the Membership Period, full payment of the Total Membership Fee will become due immediately.
- **How we cancel:** We may cancel your Membership for any reason prior to the Photo Session Date. We will then provide a full refund of the total Membership Fees.
- **Extenuating circumstances:** We may terminate your Membership at any time if there are extenuating circumstances, for example, inappropriate behaviour or a participant is ill. We are not required to reinstate the membership or refund any of the Membership Fee to you in these circumstances.

Photo Session Rescheduling

- **Notice:** You should give us as much notice as possible if you wish to change the Photo Session Date. Occasionally, we may need to reschedule the Photo Session (for example, weather conditions and events outside our control) and, in such event, we will give you as much notice as possible. We will use reasonable endeavours to reschedule the Photo Session to a date that suits you, but cannot promise that an appropriate date will be available.
- **Number of Reschedules:** You may instigate the rescheduling of a Photo Session once at no cost to you, after which you must pay a fee equal to one month's Membership Fee payment for every subsequent reschedule. This applies only to rescheduling instigated by you, we may reschedule any number of times without fee or refund (for example, due to weather conditions or events outside our control).

VIEWING AND DOWNLOADING THE PHOTOGRAPHS

- **When you receive the photographs:** Following your Photo Session, we will prepare and make available a selection of proofs of the Photographs from your Photo Session ("Your Proofs Gallery"). We will present Your Proofs Gallery in an online gallery of web-sized files. We aim to have Your Proofs Gallery ready within 21 of the Photo Session Date, but during busy periods this timeframe may be extended.
- **Notifying you when your gallery is ready:** We will advise you by email when Your Proofs Gallery is ready for you to view.

- **Number of photographs taken:** The number of Photographs in Your Proofs Gallery will vary from session to session. We will take into consideration your specific requests as regards the contents of Your Proofs Gallery, but we retain absolute discretion regarding
 - which Photographs we include in Your Proofs Gallery (it being acknowledged that not all Photographs taken during the Photo Session will be included); and
 - the application of any digital editing to any Photographs.
- **Specific editing requests:** Requests you make for specific corrections to images, or re-editing of images, may attract additional costs. We also accommodate specialist or bespoke requests for retouching of Photographs at additional cost. We may need to refer certain retouching services to our third-party partners. We will advise you of the costs upon request. Please note that we do not provide RAW image files under any circumstances.
- **Downloading the digital files:** It is your responsibility to download the digital files from the online gallery, and store these in a safe place. We recommend a minimum of two backups of all of the files be in place, one of which is cloud-based.
- **How long the gallery will be available for:** Your Proofs Gallery will be available for 30 days from the date of the email notifying you it is open. Unless otherwise agreed by the Photographer, you must download your photographs, and make any selections of additional Artwork Products within this availability period. We reserve the right (at our option) to charge a fee for extending the availability of Your Proofs Gallery, or to delete Your Proofs Gallery and all Photographs if you do not place an order during that time.
- **Password Protection:** Your Proofs Gallery may be subject to password-protection. Only you may access Your Proofs Gallery. You are solely responsible for maintaining the confidentiality of any password we provide, and you may not disclose your password to any other person. You agree to accept responsibility for all activities that occur through use of your password by a third party.
- **Gallery Maintenance/Downtime:** Your access to and use of Your Proofs Gallery may be suspended during any unanticipated or unscheduled downtime or unavailability of any portion or all of our website, including as a result of power outages, system failures or other interruptions. We are entitled, without any liability to you, to suspend access to any portion or all of Your Proofs Gallery and/or our website at any time (a) for scheduled downtime to permit us to conduct maintenance or make modifications to Your Proofs Gallery or our website; (b) in the event of a denial of service attack or other attack on our website and/or our servers or other event that we determine, in our sole discretion, creates a risk to you or to any of our other users; or (c) if it is necessary or prudent to do so for legal or regulatory reasons (collectively, "Service Interruptions"). Where practicable, we will endeavour to post updates on our website regarding any Service Interruption and resumption of service following any such suspension, but we are not liable for the manner in which we may do so or if we fail to do so and we shall have no liability whatsoever for any damage, liabilities, losses (including any loss of data) or any other consequences that you may incur as a result of any Service Interruption.

ARTWORK PRODUCTS

- **Additional Artwork:** Should you choose to purchase Artwork Products over and above what is included in your membership, the amount that you will pay will depend on which Package and/or Artwork Products you select. Prices for all of our Packages and Artwork Products are set out in our Price List.
- **Payment for Artwork:** Payment for your selected Artwork Product/s is due upon placing your order.
- **Artwork Proofs:** If you order an Artwork Product, a proofed layout of the Artwork Product, together with any options available to you, will be submitted to you for approval before the Artwork Product is printed. You may request reasonable changes as part of the approval process, but some changes may be subject to additional charges. We will advise you if additional charges apply.
- **Artwork Approval:** We will not submit any Artwork Product for printing unless and until the proofed layout has been approved by you and you have confirmed your options (where available). You will be liable for any costs associated with any changes requested after you have approved the proofed layout.
- **Defective Items and Returns:** We are under a legal duty to supply Packages and Artwork Products that are in conformity with these Terms and Conditions. You should check your delivered Package and Artwork Products and advise us in writing of any defects or errors as soon as possible. Nothing in these terms will affect your legal rights.
- **Order Cancellation:** Your Photographs and Artwork Products are personalised for you, so you do not have any right to cancel your order and we are unable to refund or offer an exchange if you change your mind. This doesn't affect your statutory rights.

DELIVERY

- **Delivery costs:** Delivery costs are included in the Package and/or Artwork Product prices.
- **Lead times:** We will let you know when you place your order when to expect to receive the Artwork Products (as applicable). Lead times from receipt of your order and payment typically start at two weeks for smaller items (without retouching) and up to two months for some Artwork Products.
- **Payment:** Any delay in payment of fees payable to us will affect the delivery period.
- **Digital File Delivery:** Digital files must be downloaded by you via Your Proof Gallery.
- **Artwork Product Delivery:** Artwork Products will be delivered to the address specified in the Key Terms. Risk in the Package and Artwork Products will pass to you upon delivery.

ARCHIVING

- **Archiving:** We will archive your Photographs for a period of 1 year.
- **Extending the archiving period:** We are happy to archive your Photographs beyond this period, subject to payment of the storage fee we specify.
- **Orders after archiving:** Any orders placed once your Photographs have been archived will incur a retrieval fee, in addition to the cost of the order.

- **Reinstatement of the Proofs Gallery:** At your request and subject to payment of any fees we may charge, we may agree to reinstate a Your Proofs Gallery that has been archived, or extend the viewing period for a Your Proofs Gallery that is still active.
- **After archiving:** We are unable to reinstate a Your Proofs Gallery that has been destroyed.

INTELLECTUAL PROPERTY RIGHTS

- **Ownership of the Photographs:** We will be the first owner of any copyright in the Photographs, under section 11 of the Copyright, Designs and Patents Act 1988, as the author of the artistic works that are the Photographs. No right, title or interest in the Photographs or any copyright therein is granted to you, except as expressly set out in these Terms and Conditions.
- **Ownership of Artwork Products:** If you purchase Artwork Products, you will own the Artwork Product, that being the medium on which a Photograph is printed, once you have paid for it in full. Copying, scanning or other reproduction of an Artwork Product is an infringement of our rights and is strictly prohibited.
- **Use of Digital Files:** You are entitled to create Artwork Products using the digital images provided as part of your Membership Package, for your own personal use and you will own the medium on which the digital image is printed. In all cases, your ownership of the Artwork Product is subject to our ownership of the copyright and other intellectual property rights embodied in the Photographs.
- **What you can't legally do with the photographs:** Without our prior consent, you undertake not to:
 - use any Artwork Product or digital images that are provided to you for any commercial purpose
 - crop, resize, edit, manipulate or otherwise alter any Artwork Product or digital image provided to you.
- **Anti-copying measures:** We may apply anti-copying measures to all Artwork Products that are provided to you and to any digital images that are displayed on our website or in Your Proofs Gallery. You agree not to try to circumvent any such measures.

LIABILITY

We maintain professional indemnity insurance and whilst we make every effort to ensure that your Photo Session is a safe and enjoyable experience and that you receive Photographs and Artwork Products you will cherish, occasionally things go wrong. This section outlines our liability to you in those circumstances.

- Our aggregate liability to you due to, under and/or arising out of or in connection with these Terms and Conditions in contract, tort (including negligence), breach of statutory duty or otherwise, will not exceed the Total Membership Fee and Artwork Fee actually paid by you to us in relation to the Membership, Photo Session and your order. We will not be liable to you for:

- your loss of profit, loss of anticipated savings, loss of revenue or earnings, or loss of business (in each case, whether direct or indirect); or
 - any indirect or consequential loss.
- Nothing in these Terms and Conditions will in any way exclude or limit our liability to you for:
 - death or personal injury caused by our negligence;
 - fraud or fraudulent misrepresentation; and/or
 - any other matter for which it would be illegal to exclude or attempt to exclude our liability.
- Unless the Photographer enters into these Terms and Conditions in his or her personal capacity or as a sole trader, the Photographer is not a party to these Terms and Conditions and has no liability to you in connection with the Photo Session or the Photographs pursuant to these Terms and Conditions.
- Except as set forth in this section, to the fullest extent permitted by law, we disclaim all warranties, implied or express.

PRIVACY

We use and process your personal information in accordance with our Privacy Policy, a copy of which can be found on our website here; <https://rebeccaholmesphotography.com/privacypolicy>

COMPLAINTS

We endeavour to address any concerns or complaints you may have as quickly as possible.

Please address concerns or complaints to us in writing to hello@rebeccaholmesphotography.com.

MISCELLANEOUS

- **Entire agreement:** The Key Terms and these Terms and Conditions contains the entire agreement between you and us with respect to their subject matter.
- **Confidentiality:** Each party will keep confidential and not disclose to any third party or use (except as contemplated by these Terms and Conditions), any non-public information obtained from the other party that is marked or otherwise designated confidential ("Confidential Information"); provided, however, that neither party shall be prohibited from disclosing or using Confidential Information that: (i) is publicly available or becomes publicly available through no act or omission of the receiving party, (ii) is or has been disclosed to such party by a third party who is not under an obligation of confidentiality with respect thereto, (iii) is or has been independently developed by such party, without use or reference to the other party's confidential information, or (iv) must be used or disclosed under court order or applicable law, provided such use or disclosure is to the minimum extent required by such court order or applicable law. You also agree not to disclose the terms of these Terms and Conditions to any third party.

- **Events Outside Our Control:** If we are prevented or delayed from carrying out the Photo Session or supplying your Package or Artwork Products by an event outside our control (including acts of god, fault or failure of equipment, software, hardware, networks, epidemic, pandemic or widespread outbreak of illness or disease or infrastructure or failure by third parties), then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for failure or delays caused by the event, but if there is a risk of substantial delay you may contact us to end the contract and receive a refund for any goods or services you have paid for but not received.
- **Governing law and jurisdiction:** The Key Terms and these Terms and Conditions, and any dispute or claim arising out of or in connection with them or the Photo Session (“Dispute”), whether of a contractual or non-contractual nature, will be governed by and construed in accordance with the laws of the courts of the United Kingdom, within which locus the contractual obligations governed by these Terms and Conditions are performed. . You and we irrevocably agree that the courts of (i) England and Wales and (ii) Scotland, will have exclusive jurisdiction to settle any Dispute, depending upon the locus of the performance of the contractual obligations contained herein. It is expressly provided however, that the terms of the Contract (Rights of Third Parties) Act 1999, the Contract (Scotland) Act 1997 and the Contract (Third Party Rights) (Scotland) Act 2017 shall not apply to these Terms and Conditions and may not be relied upon by you or any third party in relation to any claim made by you or any third party under these Terms and Conditions.

USE OF PHOTOGRAPHS

It is vital as an image-based business that we are able to show examples of our work.

Please let us know if you consent to us using your images in our portfolio and marketing.

Anonymity is protected at all times; you can withdraw your consent at any point.

Please enter 'agree' or 'do not agree' as appropriate below;

I to you using the photographs from my Photo Session in your portfolio and marketing.

COMMUNICATIONS

Please may we add you to our email mailing list, so we can send you updates on news and special offers? We do not share this data and take great care to send you relevant and useful information.

Please enter 'agree' or 'do not agree' as appropriate below;

I to being added to the Rebecca Holmes Photography mailing list.