

Future Publishing Limited
Rights Team
Quay House
The Arnbury
Bath BA1 1UA

31 July 2020

FAO: The Rights Team at Future Publishing
CC: GAP Photos, PGPA, GAP Interiors, Garden Media Guild

Re: Future Publishing contributor contract and content licence

Dear Rights Team,

We have recently been made aware that a great deal of concern exists in the professional photographic and creative community over the terms of engagement that Future Publishing is proposing to its contributors, both those existing and new.

We are in receipt of the legal opinion from the law firm, Briffa, and concur with the concerns raised by them and echoed by the Garden Media Guild, GAP Interiors, GAP Photos Ltd and the Professional Garden Photographers Association (PGPA) and others, in respect of both the Contributor's Contract and the Content Licence.

There are a number of inconsistencies and conflicts, which, unless and until resolved, render the two documents un-signable in their current form. We have, with permission, circulated the legal advice received from Briffa to our membership of around 3,000 professionals and made our wider photographic networks of around 20k individual image-makers and creatives, aware of the issues. Our advice at this time is that no-one should sign the documents in their current form.

We fully support the calls from GAP Photos Ltd, the PGPA and others to discuss the matter in more detail and try to bring about a satisfactory conclusion. Clearly, Future Publishing relies on regular contributions of well-produced content for its business and survival in these uncertain times and we would hope that Future Publishing would recognise the same and avoid compromising its own position in the marketplace.

We are happy to take part in any discussions to attempt to bring about a satisfactory outcome for all.

Yours sincerely,

Nick Dunmur
AOP Business & Legal Team



Dear sirs,

The purpose of this letter is to address the issues raised in the letters that Future Publishing Limited has received from the representatives of the PGPA and the AOP following advice from BRIFFA Legal Limited regarding the contracts issued to contributors.

We strongly believe that BRIFFA's interpretation of certain provisions within Future's contracts does not accurately reflect Future's intended interpretation of those provisions, and we wish to set out Future's position.

In relation to the Contributors Contract used for commissioned work, we would like to clarify that, as BRIFFA have pointed out in the letter, the licence is exclusive for 6 months, and thereafter becomes non-exclusive and is unlimited - we therefore believe the contract is clear in the fact this means the licence is perpetual and the Work may be used as set out in clause 18 of the contract.

The geographical limitations and other limitations are also clearly set out in clause 18, which states the licence applies throughout the world and the Work may be used for editorial purposes only except where promoting the Future Group. This does not mean that Future can exploit/sell the Work commercially. The contributor retains copyright and is free to use/sell the Work in any manner they wish after the agreed exclusivity period.

We would note that, as Future's use of the Work is restricted to editorial use in any event, we do not believe that BRIFFA's comment relating to releases is relevant.

Future's position is that it is perfectly reasonable and industry standard for a licensor to give warranties and indemnities in circumstances where it is supplying content to a licensee for publication. Therefore, both Contracts contain a warranty in respect of intellectual property infringement, to ensure that the Work provided is either new and original and not copied from an existing source or being provided by someone who has the relevant permissions to do so, and an indemnity to back up the warranty in the event of a breach. We do appreciate, however, that the warranty and indemnity would only apply to the Work as supplied by the contributor, and not to the extent it has been adapted/edited by Future and a third party claim arises due to those edits/adaptations. Future's view is that this would be implied in any event but we would be willing to amend the clause to expressly state the warranty/indemnity apply to the Work as provided by the contributor

In relation to the Content Licence used for pre-existing stock work, we do not believe that the licence is ambiguous. The Licence specifies re-publishing may only occur in the same context for which the Material was originally supplied - for clarity, this means if an image was supplied to illustrate a specific article then that article may be republished as it originally appeared. The image could not be taken and used for a

different purpose as that would be deemed a different context and therefore constitute a new use and a further fee would be required.

We would be happy to remove [if applicable] in relation to the payment terms.

We would like to reiterate and clarify that, under these contracts, the contributor retains copyright and, aside from any agreed exclusivity period, there are absolutely no restrictions on what the copyright holder may do with the content. The contributor is able to sell/reuse the content as they wish and any incompatibility between contracts is not down to the Future terms.

These contracts have been in place for several years and we contract 1000's of contributors with whom we work under these terms.

I am sure you can appreciate that we need to maintain a consistent approach in how we engage with our contributors, due to the size of the Future portfolio, and we need to ensure that we have the flexibility to use the content Future publishes for the required purposes.

We note that the AOP has circulated BRIFFA's advice, and/or the AOP's concerns regarding Future's contracts, to its membership of professionals and via its wider photographic networks. We would therefore appreciate it if you could share our response letter with such members and networks so that they are in receipt of all the facts and can make an informed decision as to whether they decide to continue to work with Future publications under the proposed terms.

Kind regards,

Polly Beauchamp.
Senior Rights Manager on behalf of Future Publishing Limited.