

Kirsten Neumann Photography

GENERAL TERMS AND CONDITIONS OF DELIVERY AND BUSINESS

I. General

1. The following general terms and conditions (hereinafter referred to as GTC) apply to all orders, offers, deliveries and services performed by the photographer.
2. They shall be deemed to have been agreed upon upon acceptance by the customer of the delivery or service or the offer of the photographer, at the latest, however, upon acceptance of the photographic material for publication.
3. If the customer wants to contradict the terms and conditions, this must be declared in writing within three working days. Deviating terms and conditions of business of the customer are hereby contradicted. Deviating terms and conditions of the customer are not valid, unless the photographer acknowledges them in writing.
4. The terms and conditions apply in the context of an ongoing business relationship even without explicit inclusion for all future orders, offers, deliveries and services of the photographer.

II. Submitted image material

1. The terms and conditions apply to any image material provided to the customer, regardless of the level of creativity or technical form. They also apply in particular to electronic or digitally transmitted images.
2. The customer acknowledges that the photographic material provided by the photographer is copyright protected photographs i.S.v. § 2 Abs.1 Ziff.5 Copyright Act acts.
3. Design proposals or conceptions commissioned by the customer are independent services that must be remunerated.
4. The provided photographic material remains the property of the photographer, even in the event that damages are paid.
5. The customer must treat the picture material carefully and with care and may pass it on to third parties only for business purposes of sighting, selection and technical processing.
6. Complaints regarding the content of the delivered item or the content, quality or condition of the picture material must be reported within 48 hours of receipt. Otherwise, the photographic material is deemed to have been received in accordance with the contract, in accordance with the contract and as recorded.

III. Utilization rights

1. The customer acquires basically only a simple right of use for single use.
2. Exclusive rights of use, media-related or spatial exclusive rights or blocking periods must be agreed separately and require a surcharge of at least 100% on the respective basic fee.
3. With the delivery only the right of use is transferred for the one-time use of the image material for the purpose specified by the customer and in the publication and in the medium or data medium which / -s / -n the customer specified or which / -s / -r results from the circumstances of the order. In case of doubt, the object (newspaper, magazine, etc.) for which the image material has been provided, as evidenced by the delivery note or the shipping address, is authoritative.
4. Any use, exploitation, duplication, distribution or publication beyond Clause 3 shall be subject to a fee

and requires the prior express consent of the photographer. This applies in particular to:

- a second utilization or second publication, in particular in anthologies, product-accompanying brochures, in advertising measures or other reprints, any processing, modification or transformation of the image material,
 - The digitization, storage or duplication of the image material on data carriers of all kinds (for example, magnetic, optical, magneto-optical or electronic media such as CDROM, CDI, floppy disks, hard disks, memory, microfilm, etc.), as far as this is not only the technical processing of the image material acc. Section III 3. General Terms and Conditions
 - any duplication or use of image data on CD-ROM, CDI, floppy disks or similar data media, any recording or reproduction of the image data on the Internet or in online databases or in other electronic archives (even if the customer's internal electronic archives are involved) .
 - the distribution of the digitized image material by means of remote data transmission or on data carriers that are suitable for public display on screens or for the production of hard copies.
5. Changes to the photographic material through photo-composing, montage or electronic aids for the creation of a new copyrighted work are only permitted with the photographer's prior written consent and only when marked with [M]. Also, the image material may not be signed off, post photographed or otherwise used as a motif.
 6. The customer is not entitled to transfer the rights of use granted to him in whole or in part to third parties, not even to other group or subsidiary companies.
 7. Any use, reproduction or transfer of the image material is only permitted under the condition that the copyright notice given by the photographer is affixed in unambiguous association with the respective image.

IV. Liability

1. The photographer assumes no liability for the infringement of rights of depicted persons or objects, unless a correspondingly signed release form is attached. The acquisition of rights of use beyond the photographic copyright as well as the obtaining of publication permits at collections, museums, etc. are the responsibility of the customer.
2. The customer bears the responsibility for the caption as well as the contexts of meaning resulting from the actual publication. V. Fees 1. The agreed fee applies. If no fee has been agreed, it is determined according to the current image fee overview of the Mittelstandsgemeinschaft Foto-Marketing (MFM). The fee is exclusive of the applicable VAT.
2. The fee applies only to the one-time use of the photographic material for the agreed purpose in accordance with section III.3 or 2. GTC. If the fee is also intended for further use, this must be agreed in writing.
3. Costs and expenses incurred by the order (for example, material and laboratory costs, model fees, costs for necessary props, travel expenses, required expenses, etc.) are not included in the fee and shall be borne by the customer.
4. The fee according to V. 1. GTC is also to be paid in full if the commissioned and delivered picture material is

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not published. When using the recordings as a working template for layout and presentation purposes, a fee of at least € 75.00 per recording is payable, subject to a different agreement.

5. Set-off or exercise of the right of retention is only permitted against uncontested or legally established claims of the customer. In addition, offsetting with disputed but decision-ready counterclaims is permissible.

VI. Return of the picture material

1. The image material in the form supplied must be returned to the public immediately after publication or the agreed use, but not later than 3 months after the delivery date; Attached are two voucher copies. An extension of the 3-month period requires the written permission of the photographer.
2. If the photographer, at the request of the customer or with his consent, leaves photographic material for the sole purpose of checking whether use or publication is to be considered, the customer must return the photographic material no later than one month after receipt, unless the delivery note specifies otherwise is. An extension of this period is only effective if confirmed by the photographer in writing.
3. The return of the image material by the customer at his expense in industry standard packaging. The customer bears the risk of loss or damage during transport to the photographer's entrance.

VII. Contractual penalty, blocking, damages

1. In the event of any unauthorized use (without the consent of the photographer), use, reproduction or transfer of the photographic material, a contractual penalty of five times the user fee shall be payable for each individual case, subject to further claims for damages.
2. If the copyright notice is omitted, incomplete, misplaced or can not be assigned, a surcharge of 100% of the user fee is payable.
3. In case of non-timely return of the photographic material (blocking), a contractual penalty for the

period after expiry of the deadlines set out in clause VI.1 or 2. shall be payable in the amount of

- € 0.25 per day and image for b / w or color prints or duplicate slides
 - € 1,00 per day and image for slides, negatives or other unique items.
4. Damaged, destroyed or lost pictorial material shall be indemnified without the photographer having to prove the amount of damage in the amount of
 - € 40.00 per b / w or color print or KB Dia duplicate
 - € 125.00 per medium or large format slide duplicate
 - € 250.00 per slide original, negative or other unique
 - € 500.00 per non-repeatable slide, negative or other unique item.
 5. In the event of damage, the rates must be reduced according to the degree of damage and the extent of the further possibility of use. Both contracting parties reserve the proof that a higher or lesser or no damage has occurred.
 6. If there is no voucher copy or billing without a voucher copy or billing without specifying which picture was used at which point in which publication, a contractual penalty of 50% of the user fee is payable.
 7. The payments provided for in Section VII. Do not give rise to any rights of use.

VIII. General

1. The law of the Federal Republic of Germany applies as agreed, including for deliveries abroad.
2. Additional agreements to the contract or these terms and conditions must be in writing in order to be valid.
3. Any nullity or ineffectiveness of one or more provisions of these GTC does not affect the validity of the remaining provisions. The parties undertake to replace the invalid provision with a valid, valid provision which comes closest to the desired provision economically and legally.
4. Place of performance and place of jurisdiction is, if the customer is a registered trader, the domicile of the photographer.