

1. Definitions applying to these General Terms and Conditions

1. Aw: Auteurswet 1912 [Dutch Copyright Act of 1912]
2. Photographic Work: photographic works as referred to in Article 10 section 1 subsection 9 Aw, or other works covered by the Aw that can be equated with the said photographic works.
3. Photographer: the user as defined by Book 6, Article 231 of the Dutch Civil Code - here: Eline Tasma.
4. Other Party: the other party as defined by Book 6, Article 231 of the Dutch Civil Code.
5. Usage: copying and/or publication as defined by Article 1 in conjunction with Articles 12 and 13 of the Aw.

2. Application

These General Terms and Conditions apply to all legal relationships between a Photographer and Other Party, including offers, confirmations of orders and oral or written agreements, even after the termination of an agreement, unless the parties have explicitly deviated from these Terms and Conditions in writing.

3. Offer

Offers are entirely free of obligation unless expressly stated otherwise. The Photographer has the right to withdraw her offer up to two working days after receiving acceptance of this offer. The offer does not oblige the Photographer to deliver part of the agreement in return for a proportionate price.

4. Price

1. If the parties have not agreed a price, then the Photographer shall charge her usual rate.
2. If and insofar as there is no usual rate, the Photographer shall fix the rate in a reasonable and fair way, bearing in mind (i) the rates for similar commissions normally charged in the market between similar customers and similar suppliers, with reference to rates charged by the Photographer's colleagues, (ii) what in past cases was by right regarded as reasonable and fair, (iii) comparable rates charged by photographers in neighboring countries, and (iv) the scope and extent of the desired usage of the work by the Other Party.

3. If it is plausible that the Photographer had to spend more and/or had to carry out additional work within reason, then these costs and/or additional work shall also be payable by the Other Party.

5. Invoice and payment

1. The Other Party shall check that the invoice of the Photographer is accurate. If the Other Party has not rejected the invoice in writing and returned it to the Photographer within ten working days of its date, providing legally relevant reasons for doing so, then the invoice shall be deemed to be binding between the parties and the Other Party loses any right to put in a claim.
2. Payment shall be made within fourteen days of the date of the invoice.
3. The Other Party shall pay the amount due to the Photographer without any reduction or claim to compensation, except for the deduction of any advance payments agreed between the parties and previously made to the Photographer.
4. If the Photographer has not received the amount due within the period specified in 5.2 above, the Other Party is in breach and therefore liable for interest at the statutory rate plus 2%.
5. If the Other Party is in breach of any of its obligations under the agreement, including any infringement of copyright, then it is liable for all judicial and extra-judicial costs incurred in seeking compensation for the same.

6. Audit

1. If the payment is dependent in any way on any facts or circumstances to be proven by the financial records of the Other Party, then upon receiving such statement from the Other Party the Photographer is entitled to have the financial records audited by any RA/AA accountant he may choose to appoint.
2. In the event that the results of the audit differ by more than 2% from the statement and payment by the Other Party, then the auditor's expenses shall be paid in full by the Other Party. The Other Party shall then also pay to the Photographer the amount due on the basis of the correct information after this has been invoiced.

7. Delivery

1. Image Carriers shall be delivered in the premises in which the Photographer carries out her business. From the moment they are sent out until the moment they are received back undamaged by the Photographer, Image Carriers are at the risk of the Other Party.
2. Digital files containing Photographic Works shall be delivered within 6-8 weeks through an online gallery.
3. If the Photographer is unable to deliver within the standard timeframe due to, including but not limited to, technological issues without fault of the Photographer this will be communicated to the Other party as soon as the problem arises.
4. In case no delivery time or date has been agreed, the Photographer shall decide a reasonable period.
5. If the Photographer and the Other Party agree to fix the delivery at an earlier date, the Photographer is entitled to increase the price originally agreed by at least 50%.
6. Every delivery, including the delivery of any part of a commission, may be invoiced separately if any part of a commission can be valued separately.

8. Complaints

Complaints regarding the Photographic Work supplied should be reported to the Photographer in writing as soon as possible, within a maximum of five days of its delivery. The Photographer has the right to substitute the rejected work with good work within a reasonable period, unless this would cause disproportionate damage to the Other Party.

9. Copyright

1. Copyright of the Photographic Works is owned by the Photographer.
2. Any duplication or alteration of original images is strictly prohibited without the written permission of the Photographer. Alterations include, but are not limited to, application of filters, cropping, or modifications of any kind.
3. The Photographer provides the Other Party permission to resize photographs for Internet-based usage.
4. The Other Party can only use the Photographic Work for personal prints and personal social media; it shall not be submitted to contests or reproduced for commercial use - unless expressly stated otherwise.

10. Portrait right

1. The Photographer has the right to use the Photographic Work for her own promotional purposes and publications, including, but not limited to, website, portfolio, social media and print.
2. If the Client doesn't want certain photos to be used, the Client shall discuss this with the Photographer before the photos are taken - possibly an additional percentage of the price shall be charged,
3. If the Client doesn't want any photos to be used, an additional 100-200% of the price shall be charged.
4. If the Photographer wishes to use the Photographic Work for contests, publications in magazines, or large prints, the Photographer shall first discuss this with the Client.

11. Licence

1. Use by the Other Party of a Photographic Work requires prior written consent in the form of a license the nature and scope of which is described by the Photographer in the offer and/or the confirmation of the commission and/or the relevant invoice.
2. If the scope of the license is not specified, it shall not extend beyond the right to one single use, in original form and for a purpose, circulation and method as intended by the parties at the time they enter into the agreement, in accordance with the interpretation of the Photographer.
3. In the absence of a specifically agreed method of publication and/or described purpose and/or described circulation, the only authority deemed to have been conferred is that which is included in the license as standard or which, given the nature and scope of the agreement, necessarily follows from this.
4. If the Photographer has given permission for image manipulation, electronically or otherwise, the result may only be used once explicit written consent has been obtained.
5. Unless otherwise agreed, the Other Party is not entitled to grant sub-licenses to a third party.

12. Infringement of copyright

1. Each unauthorized use of a Photographic Work is deemed to be an infringement of the Photographer's copyright.

2. Any infringement entitles the Photographer to claim compensation of at least three times the license fee usually charged by the Photographer for such type of use, without losing any right to claim compensation of other damages (including the right to compensation of all direct and indirect damages and all judicial and extra-judicial costs actually incurred).

13. Photographer's credit

1. The name of the Photographer should be clearly credited alongside the Photographic Work used, or included elsewhere in the publication with reference to the Photographic Work.
2. Failure to comply with this condition entitles the Photographer to claim compensation of at least 100% of the license fee usually charged by the Photographer for such a type of use, without losing any right to claim compensation of other damages (including the right to compensation for all direct and indirect damages and all judicial and extra-judicial costs actually incurred).

14. Moral rights

1. The Other Party shall always respect the moral rights of the Photographer in accordance with Article 25 (1)(c) and (d) Aw when reproducing or publishing a Photographic Work.
2. Any infringement of these moral rights entitles the Photographer to claim compensation of at least 100% of the license fee usually charged by the Photographer for such a type of use, without losing any right to claim compensation of other damages (including the right to compensation for all direct and indirect damages and all judicial and extra-judicial costs actually incurred).

15. Third party rights

1. If the Other Party publishes a Photographic Work, it is solely responsible for obtaining the consent of those persons depicted and/or other legally entitled parties. The Other Party indemnifies the Photographer from all claims relating to the same.
2. The Photographer is obliged to cooperate in tracing the persons referred to in this article.

16. Liability of the Photographer

1. The Photographer is not liable for any loss suffered by the Other Party unless such loss is caused by the gross negligence or deliberate act of the Photographer or any third party acting on her behalf. Any liability is limited to the amount of the invoice or, if and insofar as damage is insured, up to the amount of the sum actually paid out under the insurance policy.
2. If the Photographer is unable to deliver photographic materials due to technological malfunctions, including but not limited to camera and processing or otherwise lost or damaged without fault of the Photographer, liability shall be limited. The limit of liability shall not exceed the amount of the invoice.
3. The Photographer will not be held responsible for any ruined photographs due to guests' (or any other) flashes; or any other ruined photographs due to any other cause in or outside of the photographers's control.

17. Safe Working Environment

1. The Client agrees to undertake the best efforts to ensure that the Photographer is provided with a safe working environment.
2. Photographer retains the right to cancel the photography coverage in any instances of sexual harassment, violence, threats or other behavior that would lead a reasonable person to feel unsafe. In the event of such cancellation the Client shall not be entitled to any refund.

18. Choice of law and forum

1. All matters governed by these General Terms and Conditions are subject to Dutch law.
2. The Vienna Sales Convention 1980 (CISG) shall not apply.
3. Any dispute concerning the wording and explanation of these General Terms and Conditions and a legal relationship between the Photographer and the Other Party shall be brought before the court with relevant jurisdiction in the Netherlands.