

#### **A) AREA OF APPLICATION**

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1. These General Terms and Conditions are applicable for all orders, quotes, deliveries and services provided by the photographer and/or his agent. They are applicable for each stage of creative development and in particular for digitally produced photographs.
2. They are considered as agreed to by the customer's acceptance of the photographer's pricing guide, quote and/or by the customer's acceptance of the photographer's delivery or service
3. Within the context of an ongoing business relationship, the General Terms and Conditions are applicable, even without explicit approval, to all future orders, quotes, deliveries or services of the photographer.

#### **B) SERVICES RENDERED BY THE PHOTOGRAPHER, CUSTOMER'S RIGHTS AND DUTIES**

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1. The photographer is obligated to execute the photography assignment in person. Should the photographer not be able to attend the assignment due to an incident (e.g. severe accident, illness) or deliver the photos within 8 weeks, the wedding couple will waive claims for damages or additional expenses for the photographer. The photographer will make his best effort to find a qualified substitute photographer and will waive payment.
2. Without other agreement between the parties, the creative presentation of the photographic works is at the discretion of the photographer. The photographer alone will decide about technical and artistic means for design, lighting and composition.
3. The photographer is responsible for supplying cameras and other equipment necessary for carrying out the order.
4. To carry out the photographic works, the photographer and/or his agent may appoint auxiliary staff of his choice (make-up artists etc.).
5. The customer acknowledges that the photographic images supplied by the photographer constitute copyright material within the meaning of the URG (Swiss federal law on Copyright of 9 October 1992).
6. Design suggestions or concepts ordered by the customer are independent services which must be remunerated separately.
7. Analogically and digitally produced photographs, in particular RAW files remain the property of the photographer. The customer has no right of retention of supplied photographic images.
8. The customer shall treat photographic images made available to him/her with utmost care.
9. Complaints concerning the content, quality, or condition of the photographic images are to be communicated by notice of defects within 8 days of receipt. Otherwise, the photographic images are considered approved.
10. The customer is responsible for ensuring that persons, objects and locations necessary for carrying out the order are available and/or accessible.
11. The customer will be held liable for costs incurred and third party costs if the customer does not fulfill the obligations (as stated in point 10) or postpones a photo shoot less than three workdays prior to the appointment. In addition, the photographer has the right to claim compensation of 50% of the fee agreed on for the photo shoot. No show or cancellation on the same day 100%.
12. It is not the responsibility of the photographer to obtain the approval (model release) of persons to be photographed nor of legitimate persons on location (location release) concerning the planned usage of the photographic images if the customer has designated the persons or locations that are to be photographed.
13. The photographer may name the customer as a reference in written or electronic (Internet) form.

#### **C) CANCELLATION OF THE ASSIGNMENT BY THE WEDDING COUPLE**

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1. Should the WEDDING COUPLE cancel the assignment, the following cancellation fees will apply:

Until 30 days before the wedding:	50%	of the assignment fee
Until 14 days before the wedding:	70%	of the assignment fee
Until 7 days before the wedding:	100%	of the assignment fee
2. In case of an annulment or postponement of the date agreed for the assignment all executed payments, including the booking fee of the assignment, will not be returned. Exceptions can be made in case of a new assignment of equal or higher value at the same date. In case of an act of God (e. g. death, severe accident or illness – always with supporting proof) the advanced assignment fee will be retained and no other costs will be charged.

#### **D) USAGE RIGHTS**

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1. With delivery and payment of the works, the customer acquires a license for use of the photographic works within the agreed scope. Not included herein is a sub-licensing to third parties by the customer.
2. For illegal use, the customer is obligated to pay the photographer a license of use amounting to 150% of the photograph fee, but at least 150% of the corresponding SAB (Swiss Association of Photo Agencies and Archives) rate.
3. The photographer can use the photographic images for his/her own advertising and, except as otherwise agreed, license them to third parties.
4. Exclusive rights and retention periods in the customer's favour must be agreed on and remunerated separately.
5. Modifications to the photographic images by analogue or digital composing and/or montage for the production of a new copyright product are only authorized with the photographer's prior written consent.
6. The photographic images may not be copied or photographed as a replicate or used as a motif in a picture.
7. If the work is used, the customer shall, as far as customary, ensure appropriate names are given.
8. If the photographic images are used by the photographer for his own purposes or for licensing to third parties, the photographer guarantees that the depiction of persons, objects or locations does not infringe any rights of third parties.

#### **E) LIABILITY**

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1. The photographer is only liable for intentional and/or grossly negligent behavior. This also applies to liability for defects.
2. The limitation of liability (according to point 1) also applies to the behavior of employees and auxiliary staff of the photographer.
3. In case of dispute, the customer bears the court costs and assumes claims for damages against the photographer by third parties who (in accordance with B, point 12) have authorized the customer to use the photographic images.
4. The photographic images may not be used in a distorting manner. The customer also bears the responsibility for the correct labeling of the photo- graphic images.
5. The photographer will not be made liable for unsatisfactory photos in a subjective assessment of said photos.

#### **F) REMUNERATION**

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1. The remuneration agreed on between the parties is owed and payable within 10 days of billing.
2. For comprehensive productions, in particular with large advance payments on the part of the photographer, the photographer has the right to a down-payment of at least one third of the production costs.
3. Costs and expenses for the execution of the job, such as for example remuneration for auxiliary staffs and models as well as rental fees for equipment, rental costs for studios, photo shoot locations, props, travel expenses, allowances, etc. are not included in the remuneration and will be charged to the customer.
4. For digital productions, the image editing (RAW conversions, colour and tonal value adjustments, selection of images, retouching, etc.) could be invoiced separately.
5. For digital productions, a flat-rate camera fee could payable. This is not identical to the costs for image processing and is calculated according to the size and scope of the equipment used.
6. The remuneration (according to point 1) must be paid in full even if the ordered and delivered photographic images are not used.
7. For delivery of photographic images from the photographer's archive, an archive utilization fee is due in addition to the license fee. This is calculated according to the fees of the SAB.

#### **G) VAT**

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1. All prices are including 7.7% VAT.
2. Should the billing address change during the course of the business relationship from a private customer to a business customer, both the payment and the invoice prices will be calculated with the inclusion of a 7.7% VAT.
3. If the business relationship changes from a business customer to a private customer, there will be no refund for the previously paid VA

#### **H) PLACE OF JURISDICTION AND APPLICABLE LAW**

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The sole place of jurisdiction and place of performance is the photographer's place of residence and/or place of business, even for deliveries abroad. Substantive Swiss law is applicable to this contractual relationship. Imperative jurisdictions remain reserved. Jurisdiction is the District Court of Zug.

Fotostudio Andreas Feusi  
Baar, October 26, 2018