

TERMS & CONDITIONS

1 DEFINITIONS

In this document (Terms & Conditions) the following definitions are valid:

- AV : Author's regulation, 193
- Photographic work : Photographic work as referred to in article 11, paragraph 1, sub 8 AV. It can also refer to other work in context of the AV, which can be put in the same context with the Photographic work.
- Photographer: Studiosrootz Photography
- Use: Duplication and/or publication in context of article 1, sub 12, 13 and 14 AV
- Commissioning Company: the entity/client with which the photographer has signed an agreement for an assignment.

2 APPLICATION

These Terms & Conditions are applicable to all legal and formal relations between the Photographer and the Commissioning Company. They include offers/quotations, confirmations of assignment as well as other verbal and written agreements. They are also valid after the completion of an assignment, unless both parties agree in writing to deviate from them.

3 OFFER/QUOTATION

- 3.1 All offers/quotations are without engagement, unless specifically mentioned otherwise. An offer/quotation does not oblige the Photographer to complete part of the work for a proportional price. The quoted prices do not include VAT unless specifically mentioned otherwise.
- 3.2 All offers/quotations have a validity of thirty (30) calendar days, starting on the day of the offer/quotation. After the 30-day period lapses, the Photographer is free to adjust the quotation and/or conditions.

4 FINANCIAL REMUNERATION

- 4.1 If parties have not agreed to a financial remuneration, the Commissioning Company is obliged to compensate the Photographer in a fair manner. The Photographer will provide details of the going remuneration rates valid for similar assignments between clients and service providers.
- 4.2 If it is plausible that the Photographer has had higher costs due to extra, but necessary work, the compensation for these costs can be claimed from the Commissioning Company.

5 INVOICE & PAYMENT

- 5.1 The Commissioning Company will check the invoice issued by the Photographer for any possible errors. In case the Commissioning Company does not react in writing within ten (10) working days after the date of invoice to reject the invoice (with relevant explanation/argumentation), the relevant invoice will be considered as final. The Commissioning Company will not have the right of appeal after the mentioned 10-day period has lapsed.
- 5.2 The payment of the invoice should be made within fourteen (14) days after the date of the invoice.
- 5.3 The payments to be made by the Commissioning Company will be made without any deductions or any other adjustments.
- 5.4 If the Photographer has not received the relevant payment within the time frame mention in 5.2, the Commissioning Company will be considered to be in default and will be charged a monthly contractual interest of 1.5%. This interest charge will be applied from the date on which the payment was due.
- 5.5 If the Commissioning Company does not comply with one of its commitments, including the non-adherence to the copyright provisions, all costs to obtain compensation will be for the Commissioning Company.

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5.6 It is not permitted to use any of the Photographic work as long as the Commissioning Company has not yet paid any pending invoices or has not yet complied with any other commitments related to the contract with the Photographer.

6 DELIVERY

6.1 The Photographic work will be delivered via digital transmission and/or via the internet.

6.2 If a specific delivery time has not been agreed-upon, the Photographer will make every effort to effect delivery within a reasonable time frame.

6.3 If the Photographer and the Commissioning Company agree to advance the delivery time, the Photographer reserves the right to increase the agreed-upon fee by 50%.

7 COMPLAINTS

If there are complaints about the delivered Photographic work, these should be made in writing as soon as possible, but at least within ten (10) working days after the delivery. The Photographer reserves the right to deliver corrected work within a reasonable time frame, unless this would lead to non-repairable damage for the Commissioning Company.

8 “FORCE MAJEUR”

8.1 In the case of an event beyond the control of both parties (“force majeure”), the compliance to the obligations of the relevant contract will be postponed during the period of the “force majeure”. No penalties will be charged in this case. All cases of “force majeure” need to be notified in writing, with related evidence, to the other party.

8.2 “Force majeure” can occur when one of the parties is not able to comply with its contractual obligations as a result of an event beyond its control. “Force majeure” will include, but is not limited to, illness of the Photographer as well as a sudden technical deficiency of the equipment. In the latter case, the deficiency must not be due to the lack of maintenance.

9 ASSIGNMENT

9.1 The agreement will become binding as soon as the Commissioning Company accepts the offer/quotation of the Photographer. This acceptance can also be considered valid when the Commissioning Company sends an order-confirmation.

9.2 Changes in the assignment by the Commissioning Company, for whatever reason, will be charged. The Photographer will only implement the requested changes after an additional offer/quotation for the extra Photographic work has been accepted, signed and returned by the Commissioning Company.

9.3 The Photographer reserves the right at all times to decline an assignment.

9.4 In the case the assignment is cancelled by the Commissioning Company, the Photographer will still receive the agreed-upon fee, independent of the motivation and timing of the cancellation. The resultant fee will exclude the budgeted costs that have not yet been spent.

10 COPYRIGHT & IMAGE RIGHTS

10.1 The Photographer owns the copyright of all the Photographic work.

10.2 The Photographer reserves the right to use the Photographic work for his/her own promotional purposes

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and use in own publications. These include, but are not limited to, websites, portfolios, advertisements, social media, magazine articles, printed material, trade fair material and demonstration material. The Photographer will not make use of this right without informing the Commissioning Company in advance.

10.3 The Commissioning Company confirms that it authorizes and gives permission to the Photographer to use the Image Rights of the Photographic work for the in 10.2 mentioned purposes.

11 LICENSE

11.1 The Commissioning Company will be given permission in writing to use the Photographic material prior to its use. This will be done in the form of a license drawn up in context of the Photographer's offer/quotation and the ensuing invoice.

11.2 Unless otherwise specified in the license, the use and application of the Photographic work by the Commissioning Company is for one-time use only, without adaptations/changes, as well as only for the purposes agreed-upon in the contract.

11.3 In absence of an agreement that specifies the type of publication (as well as its circulation and format), it is understood that only the ones mentioned in the license will apply, as well as the ones that result from the agreement..

11.4 The Commissioning Company is not authorized to make adaptations/changes to the Photographic work, unless the Photographer has granted permission for this. The adapted work will only be used once the mentioned permission has been granted.

12 INFRINGEMENT OF THE COPYRIGHT

12.1 Each use of a Photographic work that is not in the license agreement, will be considered an infringement of the copyright.

12.2 With each infringement the Photographer can claim a compensation that is at least three (3) times the value of the usual license fee that the Photographer charges. Further, the Photographer reserves the right to claim a compensation of other possible losses and damages that may be incurred (be it direct or indirect losses as well as possible judicial and non-judicial expenses).

13 RIGHTS OF THIRDS

The Commissioning Company, when making public a particular Photographic work, is responsible for the obtaining of the necessary permissions and authorizations of those in the portrait and/or other relevant parties. The Commissioning Company will safeguard the Photographer from all liabilities in this context.

14 LIABILITIES OF THE PHOTOGRAPHER

The Photographer is not liable for any damages incurred by the Commissioning Company, unless it is shown that it is due to negligence or deliberate intent on the part of the Photographer or those involved by the Photographer. In all cases the liability will not exceed the invoiced value, or in case of an insured activity, not exceeding the value paid out by the insurance company.

15 BANKRUPTCY OR "CHAPTER 11"

In case of bankruptcy or a "chapter 11" situation ("suspension of payments") of either party, the other party (either the Photographer or the Commissioning Company) has the right to end the agreement immediately. In case of bankruptcy of the Commissioning Company, the Photographer has the right to withdraw the issued license, unless this would be deemed unfair or unjust.

16 REFERRAL AND JURISDICTION

16.1 In all situations governed by these Terms & Conditions, the laws of Curaçao will be applicable.

16.2 Each difference of opinion and difference of interpretation of these Terms & Conditions, as well as any judicial procedure, will be submitted to the relevant court in Curaçao.