

1. Scope of application/conclusion of contract

1.1 The General Terms and Conditions of Business of Laudert GmbH + Co. KG (Contractor) for photography services (Photography Terms) apply exclusively; the Contractor does not recognise any conflicting or deviating terms and conditions of the Client unless they have expressly agreed to their validity. These Photography Terms shall also apply if the Contractor performs the services without reservation in the knowledge of conflicting or deviating terms and conditions of the Client.

1.2 The object of the orders placed with the Contractor is the production of photographs, moving image recordings (videos), the provision of graphic services as well as the conception, design and processing of such services.

1.3 „Works“ within the meaning of the Photography Terms are all photographs, photographic works, motion pictures, film works or other multimedia works (e.g. computer-generated images or 3D models) created or produced by the Contractor, regardless of their technical form or medium.

2. Prices

2.1 The prices stated in the Contractor's quotation shall apply subject to the proviso that the order data on which the quotation is based remain unchanged, but not later than four months after receipt of the quotation by the Client. In the case of orders with delivery to third parties, the orderer shall be deemed to be the Client unless otherwise expressly agreed. The Contractor's prices are ex works. They do not include packaging, freight, postage, insurance and other shipping costs.

2.2 Subsequent changes at the instigation of the Client, including the resulting service interruption, shall be charged to the Client. Subsequent changes also include repetitions of services requested by the Client due to minor deviations from the original.

2.3 Sketches, drafts, specimen typesetting, specimen prints, specimen photographs, correction proofs, changes to delivered/transmitted data and similar preparatory work initiated by the Client shall be invoiced.

2.4 For the production of the works the Contractor shall charge a fee as hourly rate, daily rate or lump sum plus the statutory value added tax on the basis of the current price lists, offers or according to expenditure (in EUR). Additional costs (travel expenses, model fees, expenses, props and material costs etc.) are to be borne by the Client and will be invoiced additionally.

2.5 The Contractor may invoice changes to the order on an hourly basis on the basis of expenditure in accordance with the price list valid at the time of the change.

2.6 If the Client wishes to make changes during or after the recording production, they must also bear the additional costs notified after consultation. Additional expenses due to subsequent changes of the briefing or the layout will be charged to the Client after consultation. The Contractor retains the right to remuneration for work already commenced.

2.7 All prices quoted are net amounts which must be paid plus statutory value added tax.

2.8 The Client shall pay all expenses such as travel and accommodation costs, expenses and all third-party claims for payment arising in connection with the execution of the contract against proof.

2.9 If the parties have not reached an agreement on the remuneration of a service of the Contractor, the performance of which the Client could only expect under the circumstances against remuneration, the Client shall pay the remuneration customary for this service. In case of doubt, the remuneration rates demanded by the Contractor for their services shall be deemed customary.

3. Service content and obligations

3.1 If the Client has not presented the Contractor with a layout or briefing and thus no express instructions regarding the design of the work or the object to be graphically designed in text form, the design shall generally be at the discretion of the Contractor.

3.2 In the case of coloured reproductions in all manufacturing processes, minor deviations from the original cannot be objected to. The same applies to the comparison between other templates (e.g. digital proofs, press proofs) and the end product.

3.3 Supplies (including data carriers, transmitted data) by the Client or by a third party engaged by the Client shall not be subject to any duty of inspection on the part of the Contractor. In the case of data transmissions, the Client must use

state-of-the-art protection programs for computer viruses and malware prior to transmission. Data backup is the sole responsibility of the Client. The Contractor is entitled to make a copy.

4. Changes in services

4.1 If the Client wishes to change the contractually specified scope of the services to be rendered by the Contractor, they shall express this change request in text form to the Contractor. The further procedure is governed by the following provisions. The Contractor may waive the procedure set out in paragraphs 4.2 to 4.5 in the case of requests for changes which can be rapidly examined and are expected to be implemented within 8 working hours.

4.2 The Contractor shall examine what effects the desired change will have, in particular with regard to remuneration, additional expenses and deadlines. If the Contractor realises that the services to be rendered cannot be performed or can only be performed with delay due to the inspection, the Contractor shall inform the Client accordingly and point out to them that the change request can still only be inspected if the services concerned are postponed for an initially indefinite period. If the Client declares their agreement to this postponement, the Contractor shall carry out an examination of the change request. The Client is entitled to withdraw their request for change at any time; the initiated change procedure shall end then.

4.3 After examining the change request, the Contractor shall explain to the Client the effects of the change request on the agreements made. The statement shall contain either a detailed proposal for the implementation of the change request or information as to why the change request cannot be implemented.

4.4 The parties shall immediately agree on the content of a proposal for the implementation of the change request and attach the result of a successful vote to existing documents as a supplementary agreement.

4.5 The dates affected by the change procedure shall be postponed, taking into account the duration of the examination as well as the duration of the vote on the change proposal and, if applicable, the duration of the change requests to be carried out, plus a reasonable start-up period if necessary. The Contractor shall inform the Client of the new dates.

4.6 The Client shall bear the costs incurred by the request for change. In particular, this includes checking the change request, preparing a change proposal and any downtimes. In the event that an agreement on daily rates has been reached between the parties, the expenses shall be charged by the Contractor in accordance with these rates, otherwise in accordance with the usual remuneration.

4.7 The Contractor shall be entitled to change or deviate from the services to be rendered if the change or deviation is reasonable for the Client taking into account the interests of the Contractor.

5. Time of performance and delay

5.1 If the Contractor is in default, their liability for compensation for the damage caused by the delay in the event of simple negligence shall be limited to 5% of the contract price. Further claims of the Client remain unaffected.

5.2 Contractual penalties for late delivery are excluded.

5.3 In the event of operational disruptions such as strikes, lockouts and in all other cases of force majeure (in particular war, natural disasters, official orders, fire, energy shortages and technical disruptions (e.g. failure of the server environment)), the agreed delivery periods shall be extended by the duration of the disruption. Such operational disturbances also include bad weather days with planned outdoor photography as well as unforeseeable non-appearance of booked models due to circumstances for which the Contractor is not responsible. The delayed order can only be cancelled if the Client cannot be expected to wait any longer. However, termination is possible at the earliest four weeks after the occurrence of the operational disruption described above. The liability of the parties in the event of the above-mentioned operational disruptions is excluded.

6. Payment

6.1 Any discount agreement does not apply to freight, postage, incidental costs (travel expenses, model fees, expenses, props and material costs, etc.), insurance or other shipping costs.

6.2 Payment is due after acceptance of the recording work.

6.3 If the recording work has to be accepted in parts and remuneration has been agreed for the individual parts, the remuneration for each part shall be due after its acceptance.

6.4 If the recordings extend over a longer period of time (from two months) and/or if they require high financial advance payments from the Contractor (from EUR 5,000.00), the Contractor can demand appropriate advance payments from the Client.

6.5 The Client shall only have the right to set off counterclaims from other legal relationships to the extent that they are undisputed, recognised by the Contractor or legally established.

6.6 In the event of the existence of defects, the Client shall not be entitled to a right of retention unless the retention is in reasonable proportion to the defects and the anticipated costs of subsequent performance (in particular rectification of defects). If the Client is an entrepreneur, their right of retention is excluded altogether, unless the counterclaim of the Client originates from the same contractual relationship and is undisputed or legally established.

6.7 If it becomes apparent after conclusion of the contract that the fulfilment of the payment claim is at risk due to the lack of solvency of the Client, the Contractor may demand advance payment, retain goods not yet delivered and discontinue further work. The Contractor shall also be entitled to these rights if the Client is in default of payment for services which are based on the same legal relationship. § 321 para. 2 BGB (German Civil Code) remains unaffected.

6.8 If the Client does not pay within 14 days of receipt of the invoice, they shall be in default even without a reminder.

6.9 The Contractor does not recognise any limitation of their statutory rights of set-off and retention. Nor does the Contractor acknowledge any reservations under which the Client makes payments.

7. Copyrights, ancillary copyrights, granting of rights of use

7.1 The copyright to the photographic works, cinematographic works and other works created by the Contractor within the meaning of the Copyright Act shall belong to the Contractor. The Contractor shall be entitled to the ancillary copyrights to the photographs and running pictures produced by the Contractor.

7.2 The Client receives the non-exclusive (simple) right of use to the works as well as in the case of model photographs with regard to the right to their own image for use for the contractually agreed purpose and scope, unless otherwise agreed in text form. The granting of spatial, temporal or content-related unrestricted rights of use as well as blocking periods requires agreement in text form. The Client shall not be granted any rights for new types of use that become known only in the future.

7.3 The rights of use with personal rights (pictures on which persons are recognisable) are based on the time, space and content of the identified buyouts of the respective model agency. Unless otherwise agreed with the Client, the use of such images by the Client in the print area is excluded; the right to online use of such images by the Client is limited to six months from the date of publication of the images. Any liability on the part of the Contractor for violations of these restrictions on the right of use by the Client is excluded.

7.4 The works shall in principle be used unchanged and in their entirety. Processing, e.g. by post-photography or post-filming with mechanical or electronic means, is not permitted, unless otherwise agreed in text form. The same applies to the use of the works in the context of a presentation to Clients as well as to the passing on in electronic, digital or analogue form or the granting of rights to third parties. The Contractor's personal copyright pursuant to § 14 Copyright Act shall always remain protected.

7.5 The Client shall not receive the rights of use until the invoice has been paid in full. If the Contractor is entitled to further claims against the Client, the Client shall not be granted the rights of use until all claims against them have expired.

7.6 If the Client places an order for the electronic processing of third-party works, they must ensure that they are entitled to do so. They exempt the Contractor from all claims of third parties.

7.7 The Contractor does not grant the rights of use exempted from all conceivable rights of third parties. The Client must therefore observe any third-party rights to the works provided.

8. Retention of title

8.1 The works produced or created by the Contractor shall remain the property of the Contractor until payment has been made in full.

9. Acceptance, complaints and warranty

9.1 After creation of the works, the Client shall immediately, within 8 days, subject them to acceptance and release the works or demand the necessary corrections (e.g. due to non-observance of the Client's specifications or poor quality of the pictures). Upon release, the work shall be deemed accepted unless defects (e.g. improper execution of clipping, re-colouring or image processing) could only be detected after release.

9.2 If the Client already uses the services provided by the Contractor productively, the part used productively shall automatically be deemed accepted.

9.3 Obvious defects must be reported within 8 days after receipt of the work, later defects must be reported immediately, within 2 to 3 days after discovery.

9.4 In the event of justified complaints, the Contractor shall be entitled, at their own discretion, to rectify the defect twice and/or replace the defective goods. If subsequent improvement or substitute performance is unsuccessful or if the expenditure for this is unreasonably high, the Client may withdraw from the contract or demand a reduction in the invoice amount.

9.5 The Contractor warrants the quality of the work described in the definition of performance.

9.6 Any warranty shall not extend to defects caused by external influences or non-compliance with the agreed rights of use. It shall not apply if the Client changes the services or has them changed by third parties without the Contractor's consent, unless the Client proves that the defects were not caused by such changes and that the removal of defects is not unreasonably impeded by the changes.

9.7 The warranty period begins with acceptance by the Client and ends after 12 months.

9.8 In any case, the Client must immediately check the contractual conformity of the goods as well as the preliminary and intermediate products sent for correction. The risk of any errors shall pass to the Client with the declaration of readiness for printing / declaration of readiness for production, insofar as these are not errors which only occurred or could only be detected in the production process following the declaration of readiness for printing / declaration of readiness for production. The same applies to all other release declarations of the Client.

9.9 Defects in part of the delivered goods do not entitle the Client to complain about the entire delivery unless the partial delivery is of no interest to the Client.

9.10 Furthermore, liability for defects which do not or only insignificantly impair the value or usability is excluded.

10. Liability for damages

10.1 Claims for damages and reimbursement of expenses on the part of the Client, irrespective of the legal basis, are excluded.

10.2 This exclusion of liability does not apply

- in the event of damage caused intentionally or by gross negligence,
- in case of slightly negligent violation of essential contractual obligations, whereby the liability of the Contractor in this case is limited to the damage foreseeable and typical for the contract at the time of conclusion; essential contractual obligations are such obligations which protect essential contractual legal positions of the Client which the contract has to grant them according to its content and purpose, and such obligations the fulfilment of which makes the proper execution of the contract possible in the first place and on the observance of which the Client regularly trusted and may trust,
- in the event of culpable injury to the life, body or health of the Client,
- in the case of fraudulently concealed defects and assumed guarantee for the quality of the goods,
- to claims arising from the Product Liability Act.

10.3 If the rights of third parties are infringed by the Client's provision or specifications and the Contractor is held liable for such infringement, the Client shall indemnify the Contractor against the claims of third parties (including legal and defence costs). If the Client processes the works or uses them in a manner that is not in accordance with the contract and rights or specifications of third parties are infringed as a result, the Client will conduct the resulting disputes themselves. If this is not possible for compelling reasons, the Client shall indemnify the Contractor against the claims of third parties (including legal and defence costs).

10.4 The Contractor shall not be liable for the loss of data and/or programs to the extent that the damage is due to the fact that the Client has failed to carry out data backups and thereby ensure that lost data can be restored with reasonable effort.

10.5 The Contractor shall not be liable for production-related damage to the goods such as pinholes from styling, opening of packaging or the like.

10.6 The above provisions shall also apply to corresponding breaches of duty by the Contractor's vicarious agents. Insofar as liability towards the Contractor is excluded or limited, this shall also apply with regard to the personal liability of their organs, legal representatives, employees and other vicarious agents.

11. Archiving

11.1 Products to which the Client is entitled, in particular data and data carriers, shall only be archived by the Contractor beyond the time of handover of the final product to the Client or their vicarious agents after express agreement and against special remuneration. If the above-mentioned objects are to be insured, the Client must arrange this in the absence of an agreement.

12. Non-solicitation clause

12.1 During the period of cooperation between the parties and for a period of one year thereafter, the Client undertakes not to entice any employees away from the Contractor directly - or indirectly through third parties - or to employ them without the Contractor's consent. For each case of culpable infringement, the Client undertakes to pay a contractual penalty, the amount of which shall be determined by the Contractor and, in the event of a dispute, shall be reviewed by the competent court.

13. Data protection and confidentiality

13.1 The documents handed over to the respective other party as well as the knowledge and experience communicated may only be used for the purposes of cooperation and may not be made accessible to third parties unless they are intended to be made accessible to third parties or are already known to third parties. Third parties are not the auxiliary persons called in to carry out the contractual relationship, such as freelancers, subcontractors, etc., as the case may be.

13.2 In addition, the parties agree to maintain confidentiality regarding the content of the cooperation and the knowledge gained during its execution.

13.3 The obligation to maintain secrecy shall continue to apply after termination of the cooperation, but for no longer than 24 months.

13.4 If one party so requests, the documents such as strategy papers, briefing documents etc. submitted by it shall be returned to it after termination of the cooperation, insofar as the other party cannot assert a justified interest in these documents.

13.5 Press releases, information etc. in which one party refers to the other are only permissible after prior written agreement - which can also be made by e-mail.

14. Text form

14.1 All amendments and supplements to contractual agreements must be recorded in text form for verification purposes.

14.2 Notices of termination shall be given in text form.

15. Place of performance, place of jurisdiction, choice of law

15.1 If the Client is a merchant, legal entity under public law or special fund under public law or has no general place of jurisdiction in Germany, the place of performance and place of jurisdiction for all disputes arising from the contractual relationship, including cheque, bill of exchange and documentary proceedings, shall be the registered office of the Contractor.

15.2 German law shall apply to the contractual relationship with the exception of those standards which refer to another legal system. UN sales law is excluded. This choice of law shall not apply where specific consumer protection provisions are more favourable in the home country of the Client.

Laudert GmbH + Co. KG

Status: April 2019