

Terms and Conditions valid for Switzerland, Europe, Thailand and ASEAN

1. Definitions

- a) The expression "work" or "job" refers to the **result (outcome)** of the photographers for the customer according to the customer and between photographer agreement reached rendered photographic work.
- b) The "photographer" is the person designated to carry out the photographic work, on behalf of Andy A. Helbling Photography Co., Ltd.
- c) The "Customer" is the person who placed (signed) the order with Andy A. Helbling Photography Co., Ltd.
- d) Any reproduction of the work, analog or digital form, or as an upload to a disk, especially on paper, transparencies and negatives is considered to be a "copy of the order" or "copy".
- e) By awarding (signing) the contract, the customer agrees to the Terms of Andy A. Helbling Photography Co., Ltd.

2. Delivery of the contract (photographic work)

- a) Subject to the written specifications of the customer, the design of the work is entirely at the discretion of the photographer. In particular, he has sole control over technical and artistic design elements (lighting, composition etc).
- b) To carry out the work, the photographer can use assistants of his choice.
- c) The photographic equipment and other materials needed for the work will be provided by the photographer.
- d) Unless agreed otherwise, in writing, the customer is responsible for ensuring that the necessary items to fulfill the order, (Locations), objects and persons are available on time. In the case of the customer wanting to use images of people, artwork, stamps etc. the customer is obliged to obtain prior approval for the use of imaged individuals, artwork, stamps etc at the customers expense.
- e) If the customer changes an order less than two days before the deadline to a later date, or fails to fulfill his obligations as in accordance with Section 2d) the photographer is entitled to reimbursement for costs already incurred (including third-party costs). In addition, he is entitled to compensation of 50% of the fee according to the agreement for the work.
- f) Point 2e also applies if the work has to be postpone less than two days before the start of the work due to unfavorable weather conditions.
- g) The place of work is the registered office of Andy A. Helbling Photography Co., Ltd. If the customer asks the photographer to send the work or examples, then the risk and the cost of transport will be borne by the customer.
- h) The fee agreed between customer and photographer must be paid within 10 days of invoicing, by cash or bank transfer.
- i) A deposit of 30% of production costs may be requested for larger orders.
- j) The work created for use by the customer, remains the property of the Photographer until full payment has been received.
- k) Price lists are subject to change without notice and in line with current market prices.
- l) Written quotations are valid for 30 days.
- m) The photographer must justify rejection of an order or comment at any time.
- n) The analog or digitally produced work, especially RAW files remain, at all times, the property of the photographer.
The work will only be made available under copyright law if a defined purpose is determined.

3. Liability of the photographer

- a) The photographer shall offer a warranty, only for intentional or grossly negligent conduct. The limitation of liability shall also cover the conduct of its employees and assistants.
- b) The customer must make his complaint within 10 working days from the delivery of the work, in writing, otherwise the Work is assumed as approved and no claims will be honored.
- c) The photographer gives the customer passwords for data download via FTP / Internet work, with the customer name and Password being confidential. The customer is fully liable for any resulting damage due to misuse of login details.
- d) The photographer will not be held liable if he is unable to attend a photography session due to reasons beyond his control (accident, serious illness etc).

4. The use of the photographic work by the customer

- a) Only the customer may use the work. The use is limited to the purpose agreed with the photographer. Compensation of 150% of his hourly rate per image misused, will be payable to the photographer. The customer will also be responsible for the removal, if possible, of any work printed in an inappropriate Publication.
This term is also valid, if the photos are copied illegally and published again without a permit (stolen work and miss use of Copyright).
In this case, the responsible person or company of the illegal use will be liable.
- b) Under the agreement, only the customer is entitled to use the work. Without written agreement from the photographer, the customer may not give a third party the right to use the work.
- c) **It is mandatory** that all use of the work by the customer shows the name of the photographer as follows:
© www.andyhelbling.ch or "Photo: Andy A. Helbling"
The customer will be liable for the agreed honorary compensation of 50% of the photographer's hourly rate for each image used without © www.andyhelbling.ch
This term is also valid, if the photos are copied illegally and published again without a permit (stolen work and miss use of Copyright).
In this case, the responsible person or company of the illegal use will be liable.
- d) Exclusive rights and waiting period in favor of the customer must be agreed and reimbursed separately.
- e) The photographic work may not be used to distort meaning or discriminate against.
- f) Changes to the work through composing relative assembly, for the production of a new copyright work is only permitted with prior written consent by the photographer, unless included as part of the initial contract.
- g) After any misuse of the work, a copy must be sent to the photographer.
- h) The agreed fee is to be paid in full even if the commissioned work is not used.
- i) With other costs (third party costs, material costs, damages, etc.), the customer acquires no ownership or rights to use the photographic work of the photographer.
- j) Data storage media may not be duplicated, except for internal backups, or disclosed to third parties, without the prior agreement of the photographer.
- k) The provisions of the Federal Act are subject to the Copyright and Related Rights (Copyright Law).
- l) Stolen work (multiplying or copying in any way or form) miss using the Copyright in any form without permit or license will be also fined by the amount of the photo based on the commercial license pricelist in the average resolution of the photo.

5. Rights of third parties

- a) When the customer a person(s) to appear in the work, the customer is responsible for ensuring that consent, from the person(s) appearing in the work, has been given for the customer to use their image.
- b) When the customer gives the photographer items, or specifies locations to be included in the work, the customer is responsible for ensuring that no third party right preclude the use of said items/locations in the work or use of the work.
- c) Should point 5a or 5b be violated, the customer agrees to reimburse the photographer for any costs, including compensation cost, incurred resulting from litigation from a third party. (owner)

6. Social networks, Internet

- a) The publication for private use is royalty free, provided a copyright is shown on each copy.
- b) It is the duty and responsibility of the customer to seek permission for publication of the persons (see section 5a). Children are not allowed be identifiable unless the child's legal guardian or parent give written permission (allow this) before publication.

7. The use of the photographic work by the photographer / Data Protection

- a) The photographer reserves the right to publish the work in any form, on any medium (especially the Internet), to third parties. They may provide a third party with an exclusive or non-exclusive license to use the work or copies of the third copy of the work. This right is subject to the photographer obtaining prior consent from the customer when the order is agreed.
The customer is obliged not to refuse his consent without good cause. If, within 10 days of request by the photographer, no written denial or limitation by the customer has been received, it will be assumed that the customer agrees with the particular use.
- b) In case of use of the work by the photographer in the sense of the preceding paragraph, the photographer must ensure that the intended use by third parties does not violate any rights in the depiction of persons, goods, brands or locations is (Art.28 of the swiss Civil Code).
- c) excluded from 7a) are works that would violate the privacy of individuals.
- d) The right to one's own image is limited in participation in public events and places where such occurs (eg reporting current affairs). Likewise excluded are images of public interest as well as those containing illegal acts and events.
- e) A Legal guardian or parent must be present at all times for contracts involving minors.
- f) All generated image information and customer data is covered by the Swiss Data Protection Act.
Customer information will never be passed on to third parties for further use.

8. References

The photographer has the right, in particular publications (Internet, publications, exhibitions), and in discussions with potential Customers to refer to the relationship with the customer and to show the work created for him.

9. Quality

- a) Processed material is good quality. Proven defective products will be replaced accordingly. Colors in the negative, photos and data may change over time or be deleted. In this case, there is no compensation.
- b) If Negatives or data have been irretrievably deleted or changed, there will be no claim for damages, even if the loss represents an unrepeatabe event, people no longer alive, or commercial damages arises from the loss.
- c) Any claim for compensation will expire if supplied material was treated improperly by the customer, leading to the loss of the work.
Andy A. Helbling Photography is always striving to create and store data securely and sustainably, and to prevent data loss.

10. Disclaimer

The photographer can at no time be liable for the content of the work once delivered, since later manipulation of the work cannot be controlled. Claims for damages and satisfaction on image content cannot be made.

11. Governing Law and Jurisdiction

- a) Only Swiss law is applicable to Switzerland and Europe to all contracts between the customer and the photographer.
- b) Only Thai law is applicable to Thailand and Asia to all contracts between the customer and the photographer.
- c) The place of jurisdiction is the registered office of Andy A. Helbling Photography Co., Ltd., also for foreign shipments and international orders.
- d) If any provision of these Terms is invalid, this will not affect the validity of the remaining provisions. Both parties undertake to replace the invalid provision with a valid one determining which intended regulation, economically and legally, comes closest.

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THB: SCB Siam Commercial Bank, Konto: 966-224239-3 / SWIFT: SICOTHBKXXX
Andreas Armin Helbling

Andy A. Helbling Photography, Handelsregistereintrag Luzern, REG-UID: CHE-384.266.315
Andy A. Helbling Photography Co., Ltd. Patong, Phuket, Thailand / Reg-ID: 0835557009674

If an article should be not clear, the german version of this terms is valid.

This is a simplified copy of the General Terms and Conditions of the SBF (Swiss professional photographers) with your own supplements and replaces all previous versions.

The GTC will be continually monitored and adjusted without prior disclosure.

Lucerne in January 2018