

Preamble

The online photo archive of Yannick Andrea GmbH operates an archive via the Internet (www) for the purpose of granting rights of use to photographs with third parties against payment.

All photographs are protected by copyright and are the property of the respective named author.

1. General information

- a) All offers, deliveries and the granting of rights of use, legal and business relations are exclusively subject to the following General Terms and Conditions of Delivery and Business (AGB) "online photo archive".
- b) The online photo archive of Yannick Andrea GmbH is hereinafter referred to as "online photo archive".
- c) The "Customer" is the person who orders the rights of use from the online photo archive.
- d) The "Parties" are the photo archive and the Customer.
- e) By creating a customer account, the customer is made aware of the general terms and conditions and the data protection declaration of the image archive and is accepted as mandatory when registering the application.
- f) The photo archive allows the Customer access to the online photo archive after the Customer's registration application has been checked and approved. The photo archive can revoke access at any time without giving reasons.
- g) Deviating terms and conditions of the Customer shall only apply if confirmed in writing by the photo archive. Any terms and conditions of the customer referred to in order forms, delivery confirmations or similar are hereby expressly rejected.
- h) If a type of use / licence is acquired by a customer on behalf of a third party, the customer shall be jointly and severally liable to his client.
- i) The photo archive reserves the right to supplement, change, remove, block or replace photographs and information from the offer.
- j) The customer has no claim to the accessibility of the online photo archive. Legal recourse is excluded. The photo archive endeavours to offer an uninterrupted service and, if possible, places maintenance, updates etc. on evening and night hours.

2. Fees

- a) The prices for the use of a photograph are shown in the fee calculator after the selection of the type of use and are based on the price recommendations of the Swiss Association of Picture Agencies and Archives (SAB) and apply to the type of use ordered, for the purpose, period and language area indicated. Any further use is subject to a new fee and requires a new order in the online image archive.
- b) Each use of the photographs is subject to a fee. This also applies to the use of a picture as a model for drawings, caricatures, logos, brands, re-enacted photos, as well as to the use of picture details that become part of a new work by means of montages, collages, electronic picture carriers or similar techniques.
- c) Fees are to be agreed before each use. They are based on the medium, type and scope of use. If no fee enquiry is made by the customer or no other fee agreement is made, the fees are calculated according to the respective valid fee rates of the photo archive. If the customer does not provide exact details, the picture archive is entitled to charge a flat fee.
- d) Exclusive rights and/or blocking periods must be agreed separately and require a surcharge of the respective basic fee to be calculated separately.

3. Use of the photograph by the customer

a) In general

- I) The viewing and selection of the photographs does not constitute a licence / agreement to publish, edit or otherwise use the photographs.
- II) In principle, only the right to use the photographic copyright is transferred and always remains the property of the author. It is made available exclusively in the sense of copyright law for a specific purpose.
- III) Only the customer may use the photographs and only for the purpose and for the period agreed with the Photo Archive.
- IV) The transfer of the photograph or the transfer of reprint rights to third parties is not permitted. Therefore the upload on social media platforms is not possible.
- V) Image cropping is only permitted within the scope of format adjustment, e.g. from portrait format 3:2 to 4:5, approximately 20 percent of the image area, provided that the image statement is not impaired, falsified or cropped. Larger image croppings are only permitted with the written consent of the photo archive.
- VI) For each use, the photograph must be named with the presented copyright sign © or with a clearly assignable note such as "Photo: Photo archive Yannick Andrea".
- VII) If the name is not mentioned, the photo archive is entitled to compensation amounting to **100%** of the agreed fee.
- VIII) In the event of unauthorised use (such as distortion of meaning, discrimination) or unauthorised transfer of the photographs, unauthorised transfer of reprinting rights to third parties, a minimum fee amounting to five times the usual usage fee will be charged subject to the assertion of claims for damages.
- IX) The modification of the photograph by composing or montage to produce a new copyrighted work is only permitted with the prior written consent of the picture archive.
- X) After the photograph has been used, a specimen copy must be sent to the image archive without being asked, or a link in the case of online use.
- XI) After use of the photographs, these (files) must be deleted from all data storage devices of the Customer. Photographs not used shall also be deleted.

b) Rights of third parties

- I) The rights specified in the "Note" field in the detailed image view in the online photo archive, e.g. the personal rights of depicted persons and/or other rights, must be observed and may not be violated.
- II) When using the photographs on which people, brands, names, works of art, buildings or designs (each of which is noted in the "Note" field) are depicted, the photo archive gives no guarantee as to whether the rights of third parties are infringed by the type of use (licence) ordered. Before using the photograph, the customer must independently obtain the corresponding rights at his own expense and, if legal support is given, obtain it at his own expense.
- III) If the rights described in the first section under I) are infringed, the customer undertakes to reimburse the photo archive any payment (e.g. damages) to which the photo archive could be obliged in favour of the entitled persons, and to compensate the photo archive for all costs incurred in connection with the rectification of the situation (e.g. costs in connection with settlement or court proceedings, expenses).
- IV) If a photograph is used in such a way that it appears that, for example, the person depicted is related to a topic, service or product, but has been taken out of its original context, this must be made clear when using the photograph by stating that the photograph is only used for the purpose of an example.

c) Prices

General Terms and Conditions (AGB) of the Online Picture Archive of Yannick Andrea GmbH

- I) All prices shown are exclusive of VAT. The value added tax is shown on the invoice / shopping cart.
- II) With other costs (third-party costs, material costs, compensation for damages, etc.) the customer acquires neither ownership nor usage rights to the ordered types of use of the photographs.
- III) Unjustifiably chosen discounts will be adjusted with the difference to the actual use and additionally charged with a fee of CHF 50.

d) Period of use

- I) For the selected period, the period of use begins with the date of publication.
- II) Uses after the expiry of the period will be charged at the rate of one-off uses for the use made, subject to paragraph 3.a.VIII
- III) Editorial packages: If the editorial package is not completely subscribed to after the end of the selected period, the user will be switched to the next lower editorial package after the end of the period and the difference in the subscribed rights of use will be invoiced.

4. Liability

- a) The photo archive confirms that the photographs provided have no defects when they are placed in the photo archive and that the photo archive functions without defects in normal use.
- b) The download of high-resolution data is only possible with a valid customer number and password. The Customer must treat access to the photo archive with customer number and password confidentially. The Customer shall be fully liable for any damage caused by misuse.
- c) In the case of downloads and other use of the online photo archive, the full risk lies with the Customer. No liability is assumed for any damage to the Customer's software and hardware.
- d) The photo archive assumes no guarantee for the compatibility of the image data with the various computer systems or software products. The customer must submit his complaint in writing within six working days from the date of delivery of the photograph, otherwise the photograph shall be deemed accepted and no further claims can be made.
- e) The photo archive is only liable, including liability for defects, for intentional and grossly negligent behaviour. The photo archive does not accept any liability for consequential damage, loss of profits or claims by third parties.
- f) The photo archive cannot be held liable if it cannot guarantee the online offer due to force majeure (accident, serious illness etc.).

5. Terms of payment

- a) The customer receives access / download to the ordered files after payment has been made in advance.
- b) For regular customers the "advance payment" can be put on account. The access / download is available immediately after completion of the order.
- c) Unless otherwise agreed in writing, the customer shall pay the invoice strictly net within 30 days of the order / invoice.

6. Use of the photographic work by artificial intelligence

- a) Any use of the photographs for artificial intelligence is prohibited
- b) Any use of the text content of the image files for artificial intelligence is prohibited..

7. Data protection

Personal data is stored in machine-readable form and processed by machine. These data are required for the functioning of the online offer. They can be evaluated for internal marketing purposes, but they will be kept strictly confidential and not passed on to third parties. The customer has the possibility to view, change and delete his data at any time via the customer account. The data protection officer of the picture archive can provide information on the data upon request of the customer.

8. Applicable law, place of jurisdiction and other provisions

- a) The Customer acknowledges the licences (visible on the invoice), invoices (as download in "my account") / notifications transmitted / provided electronically and waives the delivery of the paper form.
- b) The invoice indicating the type(s) of use / licence acquired is an integral part of these GTC.
- c) Failure to comply with these contractual provisions shall result in the termination of the ordered type of use (licence) of the photograph(s). The customer agrees that the photographs in question may no longer be used. The customer's payment obligation for the type of use is not cancelled with the cancellation.
- d) Changes to the general terms and conditions may be made at any time. Legally effective are those published at the time of the order and communicated with each order.
- e) Only Swiss law is applicable to contracts between the customer and the photo archive.
- f) The use of photographs for any kind of advertising purposes for companies which are in competition with the picture archive is not permitted.
- g) Exclusive place of jurisdiction is the place of business of the photo archive, also for deliveries abroad.
- h) Should any provision of these General Terms and Conditions of Delivery and Business be invalid, the validity of the remaining provisions shall not be affected. Both parties undertake to replace the invalid provision by a corresponding valid provision which comes closest to the intended provision in economic and legal terms.

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