I. Application

1. The following Standard Terms and Conditions of Delivery and Business (hereinafter referred to as the Standard Terms and Conditions) shall apply to all of orders, offers, commissions, and services provided by the photographer.

2. They shall be deemed to be binding on both parties upon acceptance of the photographer's delivery, service or offer by the customer, however no later than upon the photographic material being accepted for publication.

3. If the customer does not accept these Standard Terms and Conditions, it shall lodge written notification to this effect within three work days. Any alternative Standard Terms and Conditions on the part of the customer are hereby rejected. Alternative Standard Terms and Conditions on the part of the customer shall be deemed to be void if the photographer agrees in writing to be bound by them.

4. In the absence of any express reference to the contrary, these Standard Terms and Conditions shall also apply to all of the photographer's future orders, offers, deliveries and services under the ongoing business relationship notwithstanding the absence of any express reference to them.

II. Commission products

1. Any estimates provided by the photographer shall be given without engagement.

2. If any increase in costs occurs during production, the photographer shall only report such increase when it becomes evident that the original estimate of the total costs is likely to be exceeded by more than 15 %. If the planned production period is exceeded for reasons beyond the photographer's control, additional remuneration shall be paid on the basis of the agreed time-based fee or in the form of a reasonable increase in the flat-rate fee agreed upon.

3. The photographer may commission third party services which are required for the execution of the photographer's order on behalf and for the account of the customer and with the customer's authorization.

4. Any additional requirements must be documented and confirmed in writing by the photographer. The photographer shall not be held liable for any delay or default by the third parties unless these are members of its group or subsidiaries. All use, reproduction, and transfer of the photographic material shall be subject to the conditions that the copyright information stipulated by the photographer be included in such a way that it can be clearly allocated to the picture in question.

5. The grant of the rights of utilization shall be subject to the condition precedent of full settlement of all of the photographer's claims for payment under the applicable contractual relationship.

V. Liability

1. The photographer shall not be held liable for the breach of any rights held by persons objects depicted in the photographic material unless a duly signed release is enclosed. The customer shall be responsible for acquiring the rights of utilization of the above the copyright or with its approval for obtaining releases from collections, museums, etc., e.g. for images showing works of applied or plastic arts. The customer shall be responsible for the legend as well as the context in which the photographic material is used.

2. The customer shall assume responsibility for the due and proper utilization of the photographic material as of the date of delivery.

VI. Fees

1. The agreed fee shall apply. If no fee has been agreed upon, it shall be determined on the basis of the prevailing list of photographic fees issued by Mittelstandsgemeinschaft Foto-Marketing (MFM). The fee shall be subject to value added tax at the applicable rate.

2. The fee shall be deemed to constitute good consideration for the one-time utilization of the photographic material for the agreed purpose in accordance with Section 4 of the Copyright Act.

3. The fee shall not include any costs and expenses arising in connection with the order (e.g. cost of materials, laboratory, models, props, travel, other necessary expenses), which shall be borne by the customer.

4. The fee shall be payable upon delivery of the photographs. If the products of the production are supplied in parts, the corresponding part payment shall fall due upon receipt of the corresponding delivery. In the case of commission productions, the photographer may request advance payments matching the percentage of completion of the production.

5. The fee provided for in Section VI. 1 herein shall be payable in full notwithstanding the fact that the photographic material ordered and supplied is not published. If the photographic material is to be used as a basis for layout and presentation purposes, a fee of at least 7.75.00 shall be payable in the absence of any other agreement to the contrary.

6. Only counter-receivables which are not disputed or have been upheld in a court of law may be netted or shall be subject to a right of retention. Moreover, counter-receivables which are disputed but on which a decision is soon to be made may also be netted.

VII. Return of photographic material

1. Analog photographic material shall be returned in the form in which it was supplied immediately after it has been published or utilized for the agreed purpose provided that this is no later than three months after the date of delivery; two sample copies of the publication in which the photographic material appears shall be enclosed. An extension to this three-month period shall be granted by the photographer's written approval.

2. Digital data shall be deleted and/or the data media destroyed or returned. This period may only be extended with the photographer's written consent.

3. If at the customer's request the photographer supplies photographic material solely for the purpose of determining whether it is suitable for use or publication, the customer shall return analog photographic material no later than one week after receipt to the photographer within its original form or a suitable form not exceeding the period stated on the consignment note. Digital data shall be deleted and/or the data media destroyed or returned. This period may only be extended with the photographer's written consent.

4. The customer shall return the photographic material at its own cost in standard packaging. The customer shall bear the risk of loss or damage during transportation until the photographic material reaches the photographer.

VIII. Penalties, damages

1. In the event of any unauthorized utilization, use, reproduction or disclosure of the photographic material (i.e. without the photographer's consent), the customer shall be liable to pay a penalty equaling five times the applicable fee for each individual instance. It being understood that this shall not operate to restrict any other remedies available to the photographer.

2. If the copyright notice is missing, incomplete, in the wrong position or not possible to what they intended with the void provision.

3. If any of the provisions contained herein are void, this shall not prejudice the validity of the remaining provisions. In such a case, the Parties undertake to replace the void provision with a valid one coming as commercially and economically close as possible to what they intended with the void provision.

4. The place of fulfillment and the legal venue shall be the photographer's domicile in cases in which the customer is a full merchant as defined by German commercial law.