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General terms and conditions

1. Terms of use for the online-database of Outdoor-Archiv

1. Access to the online-database is open to customers after release through our customer service. Outdoor-Archiv is not under obligation to give permanent release to its customers.
2. The database is accessible only with a valid username and password. Those have to be treated with the strictest confidence from both parties, Outdoor-Archiv and customer. In the event of data misuse by the customer, the customer is liable for any damages caused.
3. Customers are able to use the online-database of Outdoor-Archiv in order to do research into the stock material and download data in form of low-resolution data as well as high-resolution data.
4. Customers do not have a legitimate claim to have permanent access to the online-server. It is up to Outdoor-Archiv whether to switch off the online-server temporarily as well as to exchange, delete or supplement the data.
5. Research in the archives and download of data are free of charge.
6. Outdoor-Archiv charges a fee for the use of images and texts according to the given specifications required by the customer. These charges are made clear before the information is made available for download.
7. In general it is possible to make all-inclusive agreements for particular publications. Such agreements have to be put down in writing.
8. Only written confirmation allows customers to save the transferred data for a longer period than the duration of the current production.
9. Commissioned works like scans etc. are quoted separately.
10. Registration
 - The registration is free of charge.
 - Misrepresentation is a breach to this terms of business.
 - In case of a modification to the registration-data the customer is obliged to inform Outdoor-Archiv.
11. Data protection
 - Outdoor-Archiv has authorization to use the registration data as far as required for the cooperation between the two parties.
 - With his registration the customer agrees that Outdoor-Archiv is authorized to save and use these data electronically for e.g. the correspondence in connection with the database. Outdoor-Archiv is obliged to treat these data confidential and not to hand them out to third parties.
 - For any further use beyond that Outdoor-Archiv needs the customer's consent. The customer has the right to revoke his consent at any time.
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2. Preamble

Supply and business conditions for the supply of picture material for the granting of utilisation rights (Through the announcement by the Federal Mergers and Monopolies Commission, published in the Bundesanzeiger (Federal Gazette) No. 194 on 17 October 1997, page 12964)

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1. All offers, supplies and the granting of utilisation rights are exclusively provisional and not exclusive with regard to the business conditions below.
2. Differing business conditions of the customer are only valid after written confirmation by the agency. Business conditions printed on order forms, confirmations of supply etc., will herewith be contradicted.
3. The refusal of our terms of supply only becomes valid through the return of the supplied picture material within three working days of receipt by the customer.
4. Complaints relating to the content of the consignment must be reported by phone within two working days of receipt of the picture material and within a further three working days in writing; complaints concerning technical or other hidden faults in writing within ten working days of discovery. If you fail to submit such complaints we are not liable for possible already incurred or future costs.
5. When ordering but at the latest before technical use of the pictures, the customer must state the type, extent and language area of the planned utilisation. In accordance with the information supplied by the customer, the agency will agree in writing to the utilisation of the picture material supplied. If the type of utilisation does not correspond with the customer's information or if the utilisation does not correspond with the customer's information on the actual utilisation, the agreement for utilisation will be regarded as not given and the agency is released from entitlements of third parties.
6. Picture material supplied remains the property of the agency / originator. It will only be made available for a certain period and for the acquisition of utilisation rights based on the copyright.
7. Picture material of which the customer does not want to acquire utilisation rights or has not acquired them must be returned within the period stated on the delivery note. Picture material of which the customer has acquired utilisation rights and / or of which he has stated the intent to acquire them must be returned within 90 days of receipt whether or not the customer has used them.
8. All pictures supplied are subject to administrative charges and postage and packing resulting from the type and extent of the costs incurred. In addition, we charge for the obtaining of third party material and information commissions or information fees resulting from the type and extent of costs incurred. A balancing with possible utilisation fees is ruled out. With the payment of administrative charges, the customer acquires neither utilisation nor ownership rights. Through the payment of compensation and / or a penalty calculated on the basis of these contractual terms, the customer acquires neither ownership nor utilisation rights of the picture material.

. Fees

9. Each utilisation of our picture material is subject to royalties. This applies also to the utilisation of a picture as a model for drawings, caricatures, postpositive photos or layout purposes for presentations for customers as well as when utilising picture details for new pictures developed with montage, photo composing, electronic picture carriers or similar techniques. The customer is liable to the picture agency until the pictures are received undamaged even if the customer has passed them on to a third party. This also applies if the customer requests the agency to send them to a third party.
10. Fees must be agreed before utilisation. They relate to the media, type and extent of utilisation which must be declared before utilisation. If the customer does not inquire about charges or if no charges are agreed, the respective valid charges of the agency apply. If the customer does not submit exact information, the agency is entitled to charge a flat rate. All charges stated in offers, price lists or other documents are without VAT and artists social welfare contributions.

11. Photos involving photographic models, aerial photos, underwater photos, expedition photos and other photos made under exceptional circumstances and costs are always subject to an additional charge based on the basic fee and the respective utilisation purpose.
12. Fees apply only for one utilisation and for the purpose, extent and language area announced. Each further utilisation demands our prior written agreement.
13. If an illustrated object (such as a book, record sleeve, brochure etc.) is depicted in a new medium, a fee must be paid for the photo depicted in it in addition to the fee paid for the utilisation rights of the same photo. This applies in particular for utilisation for advertising purposes. The user must inform the photo agency on the new utilisation and seek written agreement for this utilisation.
14. Exclusive rights or waiting periods are subject to special agreements and involve an adequate additional charge on the basic fee.
15. Immediately after the customer's announcement that he wants to use the entire picture material or parts of it, the agency is entitled to invoice the granting of utilisation rights even if the publication or other utilisation has not taken place.
16. Picture material (selection of photos) sent for the decision on the acquisition of utilisation rights will be made available without invoicing blocking fees but only for the period stated in the delivery note. Exceptions must be agreed in individual cases (see point E3). Picture material of which the customer has acquired utilisation rights or announced that he will utilise it will be made available for a maximum of 90 days after receipt without charging blocking fees. Exceptions must be agreed in individual cases (see point E3).
17. If the planned publication or other utilisation does not take place, the agency cannot reimburse any fees already paid.
18. Payments of fees must always be made by stating the customer number, photo number (guide number) and the name of the originator. Without this information, an additional administrative fee must be paid subject to the extent of the additional costs. In addition, when settling the account the customer must state in detail which photo was used in which publication and where.

. Limitation of disposal, liability, utilisation rights and copyright

19. All picture documents must be treated as originals. On principle, only the utilisation right of the photographic copyright will be transferred. This applies in particular to picture documents which, based on the content of the picture, are subject to another copyright (for example, pieces of fine and performing arts). Fees for further utilisation rights and permissions are obtained by the user. The agency makes available photos only for purposes stipulated in the contract. They must be returned immediately after utilisation. Rights stipulated in the contract apply only to one utilisation to the agreed extent. Repetitions or other extensions of the originally granted utilisation rights are only permitted with our prior written agreement.
20. The distortion of the piece protected by copyright through copying, rephotographing, photocomposing or by using other electronic aids is not permitted. Exceptions are subject to a special agreement. Utilisations and distortions of the picture in illustrations and words and utilisations with distorting tendencies which may belittle persons depicted are not permitted and subject to compensation by the user.
21. The passing on of the picture material or the passing on of reprinting rights to third parties is not permitted. In addition, slide duplication and the production of internegatives, reproductions and enlargements for the customer's archives and the passing on of these to third parties is not permitted. Exceptions are subject to a special agreement. The customer is obliged to inform us whether and to what extent he has duplicated or made other copies for his archive.

22. The user is obliged to observe the journalistic principles of the German Press Council (Press Code). The user or customer is responsible for his text. We are not liable for infringements of the general personal right or copyright caused by the unagreed or distorting utilisation of the picture or text. If such rights are violated, the user alone is obliged to pay compensation to third parties.
23. The publication of photos of well-known persons must only be done editorially and by stating their names.
24. We explicitly reserve the right to transfer secondary rights to utilisation companies and do not acknowledge clauses which rule out the exploitation of further rights after acceptance of a fee.
25. The postage risk for the return of picture material is borne by the sender. Costs and risks for the complete and correct return and for unsuitable or inadequate packaging are borne by the customer who is obliged to pay compensation in the case of loss or damage even if the return to the picture agency has been made by a third party commissioned by the customer. If picture masks and the labelling are missing, the consignment is regarded as incomplete and possible administrative costs must be met by the customer.

. Copyright / voucher copy

26. Based on § 13 UrhG (Copyright) we demand that the agency and originator are named explicitly, i.e. in such a way that no doubt may arise over the assignment of the respective picture. Summaries are only sufficient if they clearly assign the picture to the agency and originator. The user will release the agency from entitlements of third parties resulting from missing labellings of originators.
27. As long as no special agreement has been concluded, point 1 will also apply to advertising, insertions in TV programmes, movies or other media.
28. As long as not especially stated above, each utilisation is subject to German copyright.
29. According to § 25 VerlagsG (Publishing Act), a minimum of two complete copies of print publications must, free of charge and without being asked for, be submitted to us.

. Conventional penalty / flat rate compensation (compare also with E in the appendix)

30. In case of unauthorised utilisation, distortion or passing on of our picture material or unauthorised passing on of reprinting rights to third parties as well as unauthorised production of slide duplications, internegatives, reproductions and enlargements for the customer's archives or passing on of these to third parties (compare with C1, 2 and 3), a minimum charge of five times the usual basic utilisation fee is agreed. In addition we reserve the right to demand compensation.
31. If no labelling of the originator and / or agency was made we are entitled to charge an additional fee of 100% of the respective utilisation fee plus possible administration costs incurred.
32. If the material is returned after the charge-free deadline agreed, blocking costs will, in accordance with E, point 1 in the appendix, be charged for unutilised pictures. This applies also for offers made without obligation as long as the receiver of the consignment is a permanent user of picture material offered free of charge. According to E, point 1 in the appendix, so-called blocking charges must, in addition to the utilisation fee, be paid if the picture material, of which the user has acquired utilisation rights and/or of which he has announced the intent to do so, has not been returned within 90 days of receipt.

33. In accordance with the graduation stipulated under E, point 2 in the appendix, compensation must be paid for damaged or unreturned picture copies. The respective amounts for each picture stipulated in the graduation are regarded as agreed. The picture agency has no obligation to prove individual damages. Compensation will be calculated based on the lapse of further utilisation opportunities. The customer may prove that the damage was lower than calculated. Moreover, we reserve the right to claim additional compensation and blocking costs (in case of damage or loss, up to the amount of compensation). Duplicates offered by the customer as replacement for damaged or destroyed picture copies will not be accepted.
34. If picture copies reported as lost are found and returned within one year we will reimburse one third of the compensation.
35. Our colour material is sealed. If the seal is broken without a certain utilisation being declared we will charge a layout fee. In addition, we reserve the right to claim compensation.

. Conditions of payment, place of jurisdiction, other matters

36. Our invoices must be paid net within 30 days.
37. As long as both sides are qualified merchants, the place of jurisdiction and performance is Hamburg, Germany.
38. For supplies abroad, German law applies.
39. Should one regulation of these supply and business terms be invalid, the validity of the remaining regulations remains unaffected.

. Appendix to E (Conventional penalty / flat rate compensation):

40. Blocking costs for each picture and day after the deadline has been exceeded:
 - colour slides, colour prints and colour negatives €1,00
 - black and white prints €0,75
41. Flat rate compensation in case of damage, destruction/loss
 - colour slides, colour prints, negatives:
 1. in the case of light damage allowing further use €150,00
 2. in the case of heavy damage allowing limited further use €300,00
 - 3. Loss/destruction:
 1. slides up to 6 x 9 €500,00
 2. slides 9 x 12 and 13 x 18 €600,00
 3. slides 18 x 24 €1.000,00

(Source: Lothar J. und Gesine Mielke)