

## **General Conditions and Terms**

Information for consumers for concluding distance contracts as well as customer information for concluding contracts in electronic business transactions

### **1. Scope**

The following general terms and conditions in the version valid at the time of the order apply to the business relations between BIA birdimagency and the customer when ordering graphical material via this online image agency.

Contrary general terms and conditions of the customer do not apply.

### **2. Conclusion of the contract**

The presentation of the graphical material in our online agency is only to prompt the customer to place an offer to enter into a contract.

By choosing images, adding them to the order and clicking the button „order selected images“ at the end of the given order procedure, the customer places an order to enter into a contract in the meaning of art. 145 German Civil Code.

Following this procedure, the customer will receive an e-mail confirming reception of the order.

The contract will be concluded with us once the customer makes the agreed payment either by advance payment via remittance or by PayPal.

We declare acceptance of the offer to enter the contract once we have received the payment provided that such payment will be done within 10 days following placement of the order.

The customer waives access to a declaration of acceptance, art. 151 p. 1 German Civil Code.

By effecting the payment, the customer expressly declares his/her agreement that BIA birdimagency will send a link to the customer following reception of the payment where the customer will find the purchased graphical material in form of an electronic file that can be downloaded from the website of the image agency.

### **3. Usage and exploitation rights / licences**

Any usage of graphical material from the online image agency BIA birdimagency is subject to licences and fees.

With the conclusion of the contract, the customer will receive a digital copy of the chosen graphical material and the right to use this graphical material within the scope expressly agreed upon.

The graphical material remains property of the respective photographer and/or owner of the right. The customer may only use the graphical material within the scope as set out by the licence.

Any usage beyond this scope will require approval and will be subject to a fee.

Usage without a required licence may be deemed infringement of a right due to which BIA birdimagery and/or the owner of the right in the respective graphical material may claim for damages. The customer is not allowed to transfer, to sell and/or to grant usage rights in the graphical material to third parties without the prior consent of BIA birdimagery.

BIA birdimagery is entitled to payment of damages of five times the royalties for every unauthorised usage of the graphical material being the subject of the contract or for every unauthorised transfer to third parties.

#### **4. Prices and payment**

The royalties mostly correspond to the remunerations for image usage rights customary in the market which are determined annually by the Mittelstandsgemeinschaft Foto-Marketing (MFM).

The customer will be informed on the methods of payment (advance payment by remittance or PayPal) during the order procedure.

#### **5. Copyright notice for usage of the graphical material**

The customer is obligated to include the following agency and copyright notice for every usage of the graphical material unless otherwise agreed upon with BIA birdimagery in writing:

© Given name and surname of the photographer / BIA

The notice must be made in such a way that the image can be clearly allocated to the respective photographer.

A missing or wrong agency and copyright notice is deemed an infringement of right according to art. 13 German Copyright Act which basically entitles to claim for damages.

#### **6. Warranty**

The warranty is based on the legal requirements of the German Civil Code. If the purchase is a commercial transaction for both parties, the provision of the German Commercial Code will remain unaffected.

#### **7. Information for consumers for concluding distance contracts as well as customer information for concluding contracts in electronic business transactions**

A consumer is an individual concluding a legal transaction for a purpose which can neither be attributed to his/her commercial nor his/her self-employed professional activity.

For the key features of the offered goods as well as for information on payment and performance, please refer to the individual descriptions and notes on our website.

During the order procedure on our website, you will be informed on the possibilities to recognise and to correct typing errors.

You may assert your warranty claims at the address stated in the imprint. You can either save the text of the contract on your computer by clicking the right mouse button in your browser or print it with the print function of your browser.

The text of the contract will also be saved by us. We are not subject to specific and not aforementioned codes of conduct.

### **8. Data protection notice**

We hereby assure that the collection, storage, transfer and usage of your personal data in our company is performed for protecting your personal data in compliance with the applicable data protection provisions and other legal regulations.

For further information, please refer to our Privacy policy.

By concluding the contract, you agree to the collection, processing and usage of our personal data according to the aforementioned notice.

### **9. Applicable law, place of jurisdiction**

The contract is subject to the law of the Federal Republic of Germany with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

If the customer is a consumer, the legal regulations applicable according to the law of his/her country of residence and in favour of the customer will remain unaffected from this agreement.

Exclusive place of jurisdiction is the court responsible for our registered seat unless the customer is a merchant in the meaning of the German Commercial Code or a public corporation.

We are entitled to bring an action against the customer at his/her domicile.

### **BIA birdimagency**

December 2017