

# Production Assignment Agreement (Client)

## General Terms and Conditions

### 1. Preamble

The client and Image Professionals GmbH (formerly StockFood GmbH) (hereinafter referred to as: "the production partners") intend to carry out in particular photo and video productions jointly and by mutual agreement. The subject matter of this agreement is the regulation of the framework conditions under which Image Professionals GmbH (hereinafter referred to as: "Image Professionals") carries out these productions and transfers the relevant usage rights to the client.

### 2. Definitions

**"Production"** means the contractual production of medial works of any kind and in any carrier form that Image Professionals or the assigned contributor creates for the client.

Medial **"Works"** is understood by the production partners to mean – singly or in combination - photographs, digital images, graphics, illustrations, video sequences, moving images, text or spoken works (such as for example journalistic articles, descriptive texts, documentary contents, content information, recipes as well as spoken texts) of any kind and in any carrier form that the client creates within the scope of this agreement.

**"Briefing"** is understood by the production partners to mean a written document setting out the production requirements of the client, in particular the specific scope of production, the description of a precise motive as well as the styling of the shootings, where applicable including ideas with regard to location, background, scenes as well as the desired usage rights (usage period and usage purpose). In it the production partners also fix the specific dates for the production, in particular the desired delivery date and if applicable the client's wish concerning a specific contributor for the production.

**"Offer"** is understood by the production partners to mean an issued written and binding proposal from Image Professionals about the specific implementation of the production, including a cost estimate, the probable delivery date and if applicable the name of the specific contributor.

**"Assignment"** is understood by the production partners to mean the acceptance of an offer and with it a binding consensus with regard to the specific requirements and contents of the production.

**"Contributors"** is understood by the production partners to mean the authors commissioned by Image Professionals, especially contributors of photographic and video content.

### 3. Fulfilment of the Production Assignment

#### 3.1. Briefing

Before the assignment of a production, Image Professionals and the client shall jointly liaise about the production requirements of the client. If Image Professionals then submits a written briefing, possibly also as part of the corresponding offer, this document shall include the client's requirements for the later fulfilment of the production. If no written briefing has been submitted by Image Professionals, the client himself is obliged to compile a written briefing (e.g. minutes of a meeting per email) and to obtain approval from Image Professionals. In the event that none of the production partners have compiled a written briefing or no explicit approval has been obtained, then the exchange of information per telephone or written correspondence as well as memos from Image Professionals shall be deemed to constitute the briefing.

### 3.2. Offer, Assignment

Image Professionals will submit an offer based upon the previous consultation with the client. With the acceptance of the offer, usually in writing or by electronic means, the commissioning of Image Professionals by the contractual partner becomes binding.

The agreement only covers points which are included in the offer. If the client wishes amendments to the offer at a later point in time, then the parties must discuss this at an early stage and must make a note of these contractual amendments.

### 3.3. Choice of Contributor

After the assignment, Image Professionals will entrust one or more contributors with the production of works ordered by the client. If the client explicitly desires a certain contributor, he must notify Image Professionals of this wish before the creation of the offer. If this contributor is not available at this time, then Image Professionals will propose another qualified contributor. Image Professionals is permitted at its own discretion to entrust one or more contributors as an alternative for the implementation of the production, especially if the initial candidate is impeded, if cooperation does not occur for some reason or if such cooperation cannot take place satisfactorily in Image Professionals' opinion.

### 3.4. Implementation of the Production, Obligation of Cooperation

The client is responsible for making sure that all necessary information required for the implementation of the production has been provided well in advance. Layouts or other written concepts must be submitted to Image Professionals at an early date and adequately explained. The client is required to participate in the production process even after the award of an assignment, by replying to questions, giving feedback to interim results and preventing possible rectifications. Any wishes for changes must be announced to Image Professionals as early as possible. If the client does not meet these obligations, then Image Professionals shall not be obliged to later rectify such defects, which could have been avoided if they had been reported in time.

The production partners agree that the production must adhere to the binding guidelines of the briefing document and grant the assigned photographer artistic freedom, within the given framework. Objections or complaints to the course of the briefing are therefore ruled out. Subsequent change requests must be agreed separately and require an additional remuneration.

### 3.5. Presence on Set, Availability

It is permitted for the client to be personally present on set during the production, after consultation with Image Professionals. The client must declare his interest in being present on set at the latest during assignment of the production, so that Image Professionals can take his interest into account during the choice of contributors. Any incurred travel expenses or accommodation costs must be borne by the client himself.

As long as he does not send an authorized employee, the client must ensure that he himself or another named by him is available throughout Image Professionals' normal business hours and can answer any questions or coordinate any arrangements. A contact person designated by the client must be authorized by the client to express objection or to grant approval. If the client waives his right to personal presence, if he is not available at any time for queries and has not named any other authorized contact partner, then the shooting shall be regarded as accepted. In this case, a right to complain about already completed productions is ruled out.

### 3.6. Delivery of Works

After completion of the production, Image Professionals will deliver a suitable and extensive selection of the works which were created during production to the client. The agreed copyrights shall only be deemed to have been granted subject to the proviso that the agreed production has been recognized by the client as fulfilled in accordance with the contract and that Image Professionals has been paid in full and without deduction for its services.

The data format of the delivered production shall be decided upon by the parties by mutual agreement. If no agreement was made, Image Professionals can choose a suitable data format and suitable data storage media. With the transmission of the image data to the client, the image material of the production shall be deemed to have been

delivered. The client himself must ensure that the image data is kept in a safe place and enough copies have been made in order to prevent a loss of data. Image Professionals will normally keep the transferred image data for a period of six months, but accepts no guarantee for renewed transfer of data to the client.

## 4. Usage Rights

### 4.1. Transfer of Usage Rights

Image Professionals will commission one or possibly several contributors with the production of the ordered works at its own discretion and in this respect be granted the rights necessary for the fulfilment of this agreement. The client shall be granted copyrights to the works transmitted to him which were created in the course of the contractually commissioned production only to the contractually agreed extent.

Unless otherwise agreed in the underlying offer or the final invoice, the transfer of a non-exclusive usage right shall apply for a period of one year from the delivery of the works and only for the named purpose as mentioned in the contract. If the contractual partner is interested in a more extensive use of the works beyond the initially agreed scope of usage, then he must agree this further use with Image Professionals in writing prior to its commencement and compensate Image Professionals accordingly.

### 4.2. Sub-licensing, Transfer

If not otherwise stipulated, the client is not entitled to sub-license the image material to third parties. It is also not permitted for the client to pass on the delivered licensed material to customers or other photo agencies (with the exception of Image Professionals for marketing purposes) or market the material through a third party. Any transfer of granted usage rights from the client requires the previously obtained written approval from Image Professionals.

### 4.3. Copyright Notice

When publishing the works, the client must ensure that the author's personal rights are protected to the extent required and customary in the industry. Insofar as is technically possible and customary in the industry, each publication of the production (or individual components thereof) will be provided with the copyright notice "StockFood Studios/name of contributor". If the copyright notice is not possible on the page of the publication due to technical reasons, then the client must state the copyright notice in the imprint.

### 4.4. Self-Publicity

It is permitted for Image Professionals and the commissioned photographer to use certain works after completion of the production for purposes of self-publicity, independent of the extent of usage rights which have been agreed upon between Image Professionals and the client. Self-publicity includes among other things the website of Image Professionals and the photographer, as well as exhibitions, portfolio presentations, art projects and other suitable publicity campaigns. Self-publicity must take place in accordance with the right to one's own image and only with the consent of the person(s) depicted in the image. The client shall allow Image Professionals to use and print his brand and other labels for reference purposes.

### 4.5. Secondary Rights

Image Professionals retains the right to transfer secondary rights to copyright associations. Clauses according to which the acceptance of a fee should exclude the exercise of other rights shall not be recognized.

## 5. Payment

### 5.1. Fees, Terms of Payment

If the production partners have not reached a separate written agreement about remuneration, then by accepting the offer, the fees stipulated in the offer are deemed agreed upon. The client must reimburse expenses in addition to the due remuneration (e.g. digital image processing, travel expenses etc.) that occur in connection with the production, unless otherwise explicitly stated in the agreed remuneration.

The invoice amount is due for payment immediately without deduction. Image Professionals can demand an advance payment from the client, which must be determined before the start of production. If the volume of work increases, Image Professionals can demand a suitable increase in the advance payment that was stated in the agreement.

The client is not entitled to offset the payment against disputed claims which have not been established as legally binding. The contractual partner is also not permitted to assign any claims or rights due to him to third parties.

## 5.2. Deviations, Excess

Offers from Image Professionals are non-binding price estimates. If the intended time for the production is substantially exceeded due to reasons that Image Professionals or the contributor are not responsible for (e.g. subsequent changes to the briefing, other differing or additional wishes of the contractual partner, weather conditions, non-appearance of the parties concerned, delayed delivery of the products, loss of luggage etc.), then the agreed payment must be accordingly increased. This also applies if a fixed fee, a time-related remuneration rate or an image price has been agreed upon. If remuneration has been agreed upon according to time required, then Image Professionals will receive an appropriate hourly or daily rate for the loss of time or the time in which the production is lengthened. The increased remuneration must be measured according to the time in which the production is extended.

## 5.3. Reduced Quantities, Shortfall

In the event that the original production volume must be reduced by more than 10%, the client can demand a price reduction. Impacts of reduced quantities on the calculations for the price adjustment must be considered here. All costs that have already accumulated during the preparation or implementation of the production (location, scouts, booking, rental, purchase of goods etc.) must be reimbursed by the client without deduction, regardless of the reduced quantities. This also applies for fixed bookings (artist, studio, stylists etc.) that cannot be cancelled or reduced despite the reduction of the production volume.

## 5.4. Postponement, Cancellation

In the event that the planned production must be postponed or cancelled due to reasons that Image Professionals or the photographer are not responsible for, then Image Professionals can charge a cancellation fee to the amount of 80% of the agreed remuneration without evidence of incurred damages. This is also the case if the client has not paid an advance payment in time or not to the agreed amount. The cancellation fee amounts to 100% of the agreed remuneration if the postponement or cancellation occurs within two weeks prior to the planned production. All costs that arose during the preparation of the production (location, scouts, bookings, rent, purchase of goods etc.), must be reimbursed by the client regardless of the time of cancellation.

## 5.5. Cancellation

In the event that the production cannot be take place due to adverse weather conditions, force majeure, delayed delivery, delayed arrival or due to other reasons that Image Professionals or the contributor are not responsible for, then Image Professionals can charge a cancellation fee to the amount of 100% of the determined fee, without the need to furnish evidence of loss. This does not affect the right of the client to deliver evidence of lower expenses. All costs that arose during the preparation or execution of the production (location, scouts, bookings, rent, purchase of goods etc.), must be reimbursed by the client without reduction regardless of the time of cancellation.

## 5.6. No Publication

The fees must be paid to the full amount even if the commissioned and delivered production is not published.

## 6. Direct Cooperation with Contributors

If the client already knows any contributor proposed or procured by Image Professionals at the time the contract is concluded, he must notify Image Professionals of this immediately. If the client does not point this out or the client has not carried out any productions with the relevant contributor for the last 24 months, then the client undertakes not to enter any direct contractual relationships with one of these contributors for a period of 24 months after being commissioned by Image Professionals, and not to commission them himself or via a third party or to pass them on to a

third party. Subsidiary companies and affiliated companies are also deemed to be third parties as well branch offices of the client.

In the event of an infringement of the aforesaid prohibition, the contractual partners are obliged to provide information by handing over relevant invoices or other documentary proof about the circumstances and the amount that he owes or has paid to the photographer based on a follow-up contract. Infringements against the temporal restriction will be fined with a penalty fee of five times the remuneration fee that the photographer has received for his services.

The granting of an extension or expansion of usage rights of a production carried out with Image Professionals by the photographer in favor of the client is excluded and will be fined with a penalty fee of five times the remuneration of the original production assignment and be subject to further claims for damages.

If a contributor who became known to the client through Image Professionals contacts the client by himself, the client must refuse cooperation with reference to the contractual agreement with Image Professionals and must notify Image Professionals about this immediately.

## 7. Liability, Compensation

### 7.1. Liability

The client is liable for any infringement of his obligations under this agreement.

If third-party copyrights, property rights, personal rights or other third-party rights are infringed upon due to the instructions of the client (for example due to the participation of certain persons, the provision of certain objects or the production being created at a certain location), then he must ensure that he obtains the necessary approvals needed for the production and usage of the images before production. The client must exempt Image Professionals and the contributor from all claims from third parties which may result as an infringement of this duty.

### 7.2. Transgression of Usage Rights

If a work is used beyond the contractually agreed scope or if the work is passed on to third parties without authorization, a minimum fee of five times the originally agreed usage fee shall be due, subject to further claims for damages.

### 7.3. Exclusion of Claims for Damages

Claims for damages against Image Professionals, the photographer or subcontractors are only possible in the event of gross negligence and willful intent, unless they arise from a culpable breach of contractual obligations (primary obligations) or are losses caused by loss of life, bodily injuries or damage to health. The assertion of indirect damages is excluded.

## 8. Final Clauses

The client must remain silent about the conditions of this agreement. This especially applies to the photographers proposed by Image Professionals.

The General Terms and Conditions of Image Professionals (on the homepage) do not apply to this production assignment agreement. Terms and conditions of the client are not accepted. This also applies if they were referred to in letters, offers or order confirmations or if they are attached and Image Professionals has not explicitly contradicted this.

There are no verbal arrangements. Changes or amendments to the agreement must be made in writing to be effective. This also applies in the event of a waiver of this written form requirement. The parties agree that the written form is complied with by sending the documents by verifiable e-mail to the respective management.

In the event of conflicts between this agreement and another contract between Image Professionals and the client, the conditions of this agreement have priority. Any invalidity or ineffectiveness of certain clauses of this contract does not affect the validity of the other clauses. The parties agree to replace invalid contractual clauses with legally effective clauses which come closest to the original legal and economic intentions of the parties. The same applies if the

agreement should prove to have a loophole which needs to be filled. Additional or differing clauses must be agreed in writing and will only then become an integral part of the agreement.

The client agrees that his personal data, insofar as they relate to the business relationship with Image Professionals and are made accessible in the course of the business relationship, will be stored electronically by Image Professionals, processed by means of EDP and used for information purposes.

The contractual partners must inform each other immediately in the event of a change to contact data (postal address as well as email address, telephone or fax number).

The law of the Federal Republic of Germany shall apply. The place of jurisdiction – where legally permissible – is Munich.

- End of the General Terms and Conditions for Production Assignment Agreement -