

General Terms and Conditions Business ProFotonet B.V.

Article 1 Applicability

- 1.1 These are the General Terms and Conditions for Business of ProFotonet B.V. ("ProFotonet"). ProFotonet is located at Rietbaan 17 in (2908LP) Capelle aan den IJssel, trade register number 29008637. ProFotonet is part of the Kamera Express Group and focuses on the production and sale of photos and photo products.
- 1.2 Profotosales is a trade name of ProFotonet and part of ProFotonet. Profotosales is ProFotonet's sales platform for school photographers: through this platform, ProFotonet can print their photos for their customers and, if desired, also provide the webshop and delivery of photos for school photographers
- 1.3 In these General Terms and Conditions Business, the school photographer, customer or prospect of ProFotonet is referred to as "the Customer". Where the Buyer is referred to as "he" in these terms and conditions, "they" or "them" may also be read.
- 1.4 These General Terms and Conditions for Business apply to all ProFotonet's offers and all offers, deliveries and services provided by ProFotonet to companies wishing to use ProFotonet's services, in particular school photographers. Orders from and deliveries to consumers are not subject to these terms and conditions, but to ProFotonet's general (consumer) terms and conditions drawn up on the basis of the Thuiswinkel.org model).
- 1.5 Deviations from these General Terms and Conditions Business in favour of the Customer shall only be valid if expressly agreed in writing. Any purchasing or other conditions of the Customer shall not apply.
- 1.6 If any provision of these General Terms and Conditions of Business is null and void or proves to be voidable, the other provisions of these General Terms and Conditions of Business will remain in full force and ProFotonet and the Customer will enter into consultations in order to agree on a new provision to replace the null and void or voided provision, taking into account as much as possible the purpose and purport of the void or voided provision.
- 1.7 All stipulations in these General Terms and Conditions of Business are also made on behalf of the directors and employees of ProFotonet, as well as on behalf of the third parties or auxiliary persons engaged by ProFotonet. Where appropriate, they too may invoke these terms and conditions, in particular the limitation of liability.
- 1.8 ProFotonet may amend or supplement these General Terms and Conditions for Business. An amendment and/or addition is binding on the Customer, but does not take effect until two weeks after ProFotonet informs the Customer in writing of the amendment or addition.

Article 2 Contract performance, provision of services

- 2.1 ProFotonet will always carry out orders to print and deliver photos from the Customer and/or make and deliver photo products and any other work as a good contractor. ProFotonet has a best-efforts obligation (but not an obligation to achieve a result) to keep its website and, if the Buyer subscribes to it, its platform available as much as possible.
- 2.2 The Buyer ensures that all documents and data needed to carry out the order in accordance with the agreement are immediately made available to ProFotonet.
- 2.3 The Customer may place orders on the website and/or (if the Customer subscribes to it) ProFotonet's platform. ProFotonet will generally confirm orders automatically, but ProFotonet is free to refuse them up to 3 working days after receipt of the order.
- 2.4 ProFotonet is not bound by obvious clerical errors or mistakes in its offers, order confirmations and other statements.

Article 3 Fees and payment

- 3.1 Unless otherwise indicated, ProFotonet's rates, including any licence fees, are exclusive of VAT and shipping costs.
- 3.2 ProFotonet is entitled at any time to adjust agreed rates and costs for its Products and services by means of a written notification to the Customer as long as the adjusted rates will take effect no less than three weeks after the notification is made.
- 3.3 Unless otherwise agreed in writing, ProFotonet will invoice the Customer every fortnight for the products and services provided to the Customer during that period

- 3.4 Unless otherwise agreed in writing, the Customer will ensure payment within 15 days of the date indicated on the invoice and in the manner indicated by ProFotonet.
- 3.5 The Customer shall be deemed to have approved the invoice if he has not protested against it in writing within 15 days of receipt of the invoice.
- 3.6 After the due date referred to in Article 3.4, the Customer shall by operation of law owe statutory commercial interest pursuant to Article 6:119a of the Dutch Civil Code on the amount payable, and all reasonable costs incurred to obtain satisfaction out of court shall be borne by the Customer.
- 3.7 Payment shall be made in a lump sum, unless payment in instalments has been agreed, in which case each due instalment shall be deemed to constitute a separate payment obligation.
- 3.8 Payment will be made without deduction, compensation or suspension on any account whatsoever. The Customer is not entitled to set off any claims against ProFotonet unless ProFotonet has given prior written consent.
- 3.9 Payments made by the Customer shall always serve to pay all interest and costs due and subsequently to pay the longest outstanding due invoice, even if the Customer states that the payment relates to a later invoice.
- 3.10 ProFotonet reserves the right to require an advance payment, full payment in advance or cash payment from the Customer. If it does so, it may suspend its work and/or deliveries in the meantime, without any resulting delay qualifying as a shortcoming on ProFotonet's part.
- 3.11 If the Customer fails to fulfil the payment obligations under the agreement, ProFotonet has the right to suspend its further work, deliveries and services (including, where applicable, the provision of access to its platform) until payment has been made.

Article 4 Time limits and termination of agreements

- 4.1 Deadlines within which ProFotonet's work for the Customer must be completed or products delivered are always indicative and not strict deadlines. Deviations from the indicated lead time for an order will be communicated to the Customer as soon as possible.
- 4.2 If ProFotonet does not fulfil its obligations, or does not do so on time or properly, the Customer will give ProFotonet the opportunity to still perform properly, taking all circumstances into account, within a reasonable period. Only if this also fails to lead to improvement or a solution after 30 days may the Customer terminate the agreement with ProFotonet in writing with immediate effect.
- 4.3 If the Buyer fails to fulfil one or more obligations, fails to fulfil them on time or properly, is declared bankrupt, applies for a moratorium, proceeds to liquidate his/her company, as well as when his/her assets are seized in whole or in part, ProFotonet has the right to suspend the fulfilment of its obligations or (at its discretion) to terminate the agreement in writing, without judicial intervention being required.
- 4.4 ProFotonet will never be obliged to pay damages because of a suspension or termination as referred to in this article 4.

Article 5 Intellectual property rights

- 5.1 The intellectual property rights to all photos uploaded by the Customer on ProFotonet's platform are and remain the property of the Customer.
- 5.2 ProFotonet reserves all rights, title and interest in its platform and its website (and the underlying software/cloud services), including all related intellectual property rights.
- 5.3 ProFotonet is the exclusive owner of all rights (including intellectual property rights, such as but not limited to copyright and trademark rights) to, ownership of and interests in both the software, software codes, algorithms and know-how, capabilities or data collected in the performance of its work and the operation of its website and platform.
- 5.4 Images uploaded by the Customer on ProFotonet's website remain available for 1.5 years for (subsequent) orders. Thereafter, ProFotonet deletes the relevant images.
- 5.5 The Buyer will only upload Photographs that do not infringe the (intellectual property and portrait) rights of third parties or otherwise contain illegal material. ProFotonet is at all times free to refuse orders and/or report any doubts in this regard.

Article 6 Access, availability and conditions of use of the website

- 6.1 Unless specifically agreed otherwise, access to the website and the right to use ProFotonet's services and functionalities offered there is provided without guarantees. ProFotonet

- endeavours to provide the best possible functioning of its website, but expressly gives no guarantee regarding the availability of its website and services
- 6.2 ProFotonet has the right to modify or limit its services, its products and its offer on its website at any time. It does not require the consent of the Customer to do so.
- 6.3 ProFotonet has the right to suspend access to its website and/or the delivery of products to the Customer (in whole or in part) if the Customer, in ProFotonet's reasonable opinion, fails to fulfil one of the obligations in the agreement, in full or in a timely manner.
- 6.4 The Customer is responsible for keeping all access details to its account confidential.
6. The Customer shall be responsible for any unintended use of its account by a third party if that third party has accessed the Customer's account on the Website through the Customer (even if the Customer has not consented to or was not aware of such use). The Customer shall ensure that, unless expressly stated otherwise, account information (including usernames and passwords) and any individual use of the Services through such account is limited to a specific person, and e.g. not shared with other persons.

Article 7 Deliveries by ProFotonet: quality and guarantee

- 7.1 ProFotonet guarantees that its products comply with the agreed specifications at time of delivery.
- 7.2 In the event of defects in products delivered that fall under the guarantee, ProFotonet will, at its discretion, replace the products concerned (as a rule: reprint) or refund the cost price to the Customer
- 7.3 Products eligible for warranty work may be sent to ProFotonet carriage paid. The Customer will ensure, at ProFotonet's expense, the transport and adequate packaging of goods sent to ProFotonet for warranty work.
- 7.4 If, in the opinion of ProFotonet, the products offered for repair or restoration do not show any defects, all costs incurred will be passed on to the Customer, including during the guarantee period
7. Fulfilment of the guarantee obligation constitutes the sole and total compensation in the event of a defect in a Product. ProFotonet is not obliged to compensate any indirect damage or other damage caused by defects in the Products or delayed delivery.
- 7.6 The risk relating to the products sold and/or delivered by ProFotonet to the customer is transferred to the customer at the moment when ProFotonet hands the products over to the delivery or postal service, unless otherwise agreed in writing. Damage, theft or loss during transport (and any consequential damage) are the responsibility of the Buyer. However, ProFotonet will without obligation contact the carrier (generally PostNL) in the event of complaints about damage or failure to deliver/deliver to the Customer's address.
- 7.7 The Customer must notify ProFotonet in writing of any shortages, defects and damage within 8 days of the transfer to the delivery or postal service or, if ProFotonet sent the products directly to the Customer's customer, within 8 days of receiving a complaint from a customer. In the absence of such notification, products will be deemed to have reached the Buyer or the Buyer's customer in good condition, complete and without damage.
- 7.8 ProFotonet is entitled to make partial deliveries, which may be invoiced separately, and the Customer is in that case obliged to pay these separate invoices.
- 7.9 If products are not taken up by the Customer within the delivery time or delivery period, or if the Customer does not observe an agreed call period, ProFotonet is entitled to charge the Customer for the products in question and ProFotonet is also entitled to destroy these products after 6 months. Even then, payment remains due.
- 7.10 Given the nature of the products (particularly prints of images to be supplied by the Customer), the cancellation, modification or dissolution of an order is in principle impossible. Only if an order has not yet been processed can ProFotonet still cooperate in cancelling or making changes upon request - however, it is not obliged to do so.

Article 8 Processor agreement and privacy statement

- 8.1 ProFotonet's privacy statement applies, this statement can be found at: <https://www.profotonet.com/nl/privacyverklaring/>.
- 8.2 If personal data are processed, at ProFotonet's first request, the Buyer will immediately cooperate in the formation of a processing agreement.
- 8.3 The Buyer is explicitly responsible for correct compliance with privacy legislation and the AVG vis-à-vis the (parents of the) persons he or she photographs and enters into agreements with.

Article 9 Liability

- 9.1 ProFotonet is not liable if it fails to fulfil any agreement, order or service or fails to do so properly or in full due to force majeure. Force majeure is understood to mean any cause or circumstance that cannot reasonably be attributed to ProFotonet. This includes in any case the non-fulfilment or late fulfilment by any third party of its obligations, irrespective of the cause, strikes, blockades, government measures, traffic jams, fire, natural disasters, explosions, epidemics and/or pandemics, software hacks, consequences of malware, software malfunctions, the unavailability of electricity or internet connections, lightning strikes or bad weather or the non-, untimely or inadequate fulfilment of the order by ProFotonet due to the provision of incorrect data by the Customer.
- 9.2 Except in the case of intent or gross negligence on the part of ProFotonet's senior management, any liability of ProFotonet on any account whatsoever is limited to the amount paid out by ProFotonet's insurer in the case in question. If for any reason no payment is made by an insurer, any liability of ProFotonet (except in the case of intent or gross negligence on the part of ProFotonet's senior management) is limited to a maximum of EUR 10,000. Under no circumstances is ProFotonet liable for consequential and/or indirect damage. ProFotonet is also not liable for any damage caused by unsafe electronic communication, viruses, spam filters, virus scanners et cetera.
- 9.3 ProFotonet will take reasonable measures to ensure that its platform is as usable and accessible as possible. However, it cannot guarantee 24/7 access and/or use and is not liable for any damage if, due to maintenance, breakdowns, hacks, malware, viruses or any other cause, its platform is not, not continuously and/or not fully usable and/or accessible. ProFotonet is never liable for lost turnover or profit of the Customer as a result of temporary unavailability of the platform.
- 9.4 In the event of defects in products or defective performance of its services, ProFotonet is not obliged to do more than (at its discretion) replace the products and/or refund the purchase price.
- 9.5 Only damage reported in writing to ProFotonet within 14 calendar days of its discovery is eligible for compensation, under penalty of the loss of the right to compensation.
- 9.6 Legal claims in respect of damages shall lapse within 12 months after discovery of the damage.

Article 10 Force majeure

- 10.1 ProFotonet cannot be obliged to comply if there is a case of force majeure.
- 10.2 If the force majeure on the part of ProFotonet persists for more than 6 weeks, the Customer is free to immediately terminate his/her agreement with ProFotonet in writing

Article 11 Applicable law and choice of forum

- 11.1 Only Dutch law applies to all agreements with and offers, deliveries and activities of ProFotonet.
- 11.2 Any disputes shall in the first instance be submitted to the competent Court of Rotterdam, location Rotterdam.
- 11.3 The Vienna Sales Convention (CISG) does not apply to agreements with ProFotonet and all deliveries by ProFotonet to the Customer.