

Palaces and Collections Department  
Documentation and information centre

Photothek  
Am Grünen Gitter 7  
14469 Potsdam

Phone: (0331) 96 94-378  
Fax: (03 31) 96 94-380

## **General Terms and Conditions to use pictures and photos for reproduction purposes**

### **Preliminary Remark**

The photo archive contains a comprehensive stock of photograms, diapositives, ektachromes, black-and-white and coloured hardcopy photos and other picture material of the art objects and cultural monuments the Foundation is entrusted with. They are mainly used for practical preservation purposes of buildings and monuments, scientific research, and for publications and other print materials. It is the goal of the photo archive to maintain, increase and to complete the archived stock. Within the framework of the possibilities and limits given in this connection, the photo archive provides photocopies and reproductions (picture material) that can be used against payment of a user fee.

### **1. General**

Principally, the Foundation provides the picture material in line with the following conditions. These conditions may only be rejected by the ordering party, if the picture material that has been delivered, is returned immediately without using it before. In this case, no contract is being concluded. In case any provision shall be void, this does not affect the validity of the contract. Different regulations need to be expressly agreed upon in advance. The terms and conditions of the ordering party shall not become part of the contract.

### **2. Supply**

2.1 The picture material shall be provided to the ordering party for a limited period of time only. It shall remain in the ownership of the Foundation, unless - in exceptional cases - a purchase is agreed upon. It shall be returned within the agreed period of time. Any picture material which the ordering party did not select for use shall be promptly returned.

2.2. The picture material shall only be used for a certain purpose that is stipulated precisely in advance. Any other use, including a later repetition of the same, requires the explicit prior consent of the Foundation and needs to be paid again. The ordering party shall be obliged to inform the Foundation comprehensively on the intended use (e.g., type of publication, print run, publication size, distribution area, etc.).

Any pictures of the Foundation must not be reproduced, copied, digitalised, duplicated, archived, stored (e.g., litho, films, electronic media), altered or used in any other way unless with the prior written consent of the Foundation. This also applies if the photos came into the possession of the ordering party through another third party (for example, by taking over publishing houses, etc.), or through other sources (e.g., from printed materials). Any copies etc., that have been probably made thereof, are the property of the Foundation and shall be returned to it. As for them, the valid Terms and Conditions shall also apply. It is not allowed to pass on any pictures and photos of the Foundation and/or to assign the reproduction right to any third party.

### **3. Complaints**

Complaints shall be asserted no later than one week from receiving the pictures and photos in writing. If complaints are justified the Foundation shall be obliged - within the realms of its possibilities - to make a substitute delivery. If no substitute delivery can be made, the ordering party may withdraw from the contract, or may claim a reduced price.

### **4. Liability**

4.1. The Foundation shall only be liable in case of wilfulness or gross negligence, however, the liability shall be limited to the damage that can be expected from the ordinary course of events.

4.2. The ordering party shall be responsible for the undamaged return and contractual utilisation of the pictures and photos as well as for all claims resulting from its use.

4.3. In case of neglect of the contractual terms, delayed return of the pictures and photos, its damage or loss, additional user fees or contract penalties in the following amounts will be invoiced:

- In case of lacking or wrong proof of origin, the user fee increases by 100 per cent.
- In case of misuse of the pictures and photos supplied, the user fee increases by 500 per cent.
- In case of delayed return of the pictures and photos, EUR 8.00 shall be paid for black-and-white copies, and EUR 15.00 for coloured copies and originals.

4.4. Compensation shall be paid for damaged or lost pictures and photos, i.e., EUR 102 per black-and-white copy and EUR 256 for coloured copies. Further claim of damages shall not be excluded thereby. The amount depends on the type and condition of the picture material and on the replacement costs. The payment of any damage shall not entitle the ordering party to obtain any property or other rights in this picture material.

## 5. Proof of origin

The ordering party is obliged to mention the proof of origin of the Foundation's pictures and photos to be the picture source: Prussian Palaces and Gardens Foundation Berlin-Brandenburg/ name of photographer.

## 6. Specimen copy

If any pictures are used in printed publications, the Foundation is entitled to receive two specimen copies without being asked for and free of charge.

## 7. Protection of third-party rights

It is within the responsibility of the ordering party to protect the rights of third parties (personal rights and copyrights, rights from the Brandname's Act). The ordering party shall also be responsible of obtaining any required permits, consents etc. and to pay for them. This does not apply for any rights the Foundation explicitly transfers to the ordering party.

## 8. Refund of costs

8.1. The Foundation charges the ordering party with all expenses in relation to the use of the material. This includes, in particular, the costs for photographers, shipping, film and paper. Additionally, the Foundation charges handling costs accrued due to the processing of the order. These costs are charged as lump sums. They are as follows; in case an order includes

1-5 photos	EUR 20.00
6-15 photos	EUR 26.00
16-30 photos	EUR 38.00
31-50 photos	EUR 51.00

8.2. These costs must be paid in advance. If the payment is not made in due time, the Foundation is entitled to withdraw from the contract.

## 9. User fee

9.1 Any kind of use of the pictures and photos is subject to a user fee. The amount of the user fee depends on the type and scope of the use (medium, print run, publication size, circulation area, etc.). The price recommendations of the German photo marketing association of medium-sized enterprises ("Deutsche Mittelstandsgemeinschaft Foto-Marketing, Mommsenstrasse 21, 10629 Berlin"), shall be applicable.

9.2. The Foundation may refrain from charging a fee, fully or in parts, in the following cases:

- reproductions of minor scope,
- reproductions in scientific publications up to a circulation of 1,000 copies,
- reproductions in Diploma and Master papers as well as in doctoral theses,
- insofar these reproductions aim at an appropriate advertisement for the Foundation, in particular in case of publications issued by third parties but ordered by the Foundation,
- if, within the frame of cooperation with other corporations under public law, or with other institutions serving the public, no costs are charged from both sides

9.3. No user fee will be charged for

- current news reports,
- reports with a public interest, in particular because of a contemporary event,
- for films of the universities for TV and film, and similar comparable state or state-funded institutions.

## 10. Maturity of payments

10.1. The user fee shall be due when the reproduction has been published unless the ordering party did not offer the service before. The user fee shall be due immediately with the delivery of the photographic works, if it can be assumed that the Foundation will not be informed on the publication, or if the collection of the fee might be

difficult. Principally, this applies to orders from abroad.

10.2. The user fee may be repaid upon request - after deducting an appropriate handling fee (for the repayment), if no reproduction is being made.

#### **11. Legal Venue**

The legal venue shall be Potsdam. Even deliveries into other countries are subject to the Laws of the Federal Republic of Germany.