

The company **E-Productions GmbH, Kölner Str. 4, 60327 Frankfurt am Main** (hereinafter referred to as „Producer“)

The following General Terms and Conditions in the version valid at the time the order is placed shall apply exclusively to the business relationship between the Contractor and the Client for all offers and services of the Contractor, unless something else is agreed individually by contract in addition or in deviation. By placing the order and not objecting to them, the customer agrees to them. The acceptance of a commercial confirmation letter, the written order confirmation or the delivery of the ordered work/product to the client at the latest shall constitute the inclusion.

Clients can access, print and download the General Terms and Conditions at any time at the web address via the link [www.e-productions.de/ctcs](http://www.e-productions.de/ctcs).

## **§1 Scope of application and conclusion of contract**

**(1)** These terms and conditions shall apply to all contracts and services of the Producer and its auxiliary persons insofar as the Client is an entrepreneur within the meaning of § 14 BGB (German Civil Code), a legal entity under public law or a special fund under public law and insofar as nothing to the contrary has been agreed in writing.

**(2)** Divergent, conflicting, or supplementary terms and conditions of the Client are not binding for the Contractor, unless he has expressly agreed to their validity in writing. This also applies if the Producer does not expressly object to the validity of the Client's terms and conditions or provides the service to the Client without explicit reservation.

**(3)** Ancillary agreements do not exist in principle. If, in exceptional cases, deviating legally relevant agreements are made after conclusion of the contract, they must be fixed in writing or text form.

**(4)** The producer provides various services. These include in particular:

- Film, TV and video productions,
- Development of material, ideas and formats,
- Conception,
- Consultancies in production, social media, corporate communications, marketing, design, copywriting,
- Strategy development for marketing and communication,
- Web and print design

**(5)** The client specifies the subject matter of the contract. The fulfillment of the order is planned on this basis. The producer can submit a written concept for this and take over the project management after consultation with the client. Unless otherwise set forth, the conception is a separate, chargeable service of the producer.

**(6)** The written order confirmation, the letter of confirmation or the contract shall be exclusively authoritative for the scope of the contract and its fulfillment; orders going beyond this scope shall be deemed additional orders which are to be remunerated separately and upon which an additional written agreement is to be made. The offer, the order confirmation and/or the letter of confirmation shall carefully describe the services to be performed. Any legal consequences caused by the inobservance of the written or text form shall be borne exclusively by the customer.

**(7)** If the client does not object or declare himself in writing or text form within five days at the latest after receipt of the confirmation letter or the order confirmation, this is deemed to declare consent and the contract is deemed to be settled with the content of the letter. After receipt of a previously discussed offer and any proposals of the producer contained therein for the execution of the order, it is considered accepted by the client and the order is considered placed, if he does not answer back within five days in writing or text form.

**(8)** The client assumes full material and legal liability for the raw materials delivered by him and other items, materials or similar to be procured. He indemnifies the producer from any claims of third parties.

**(9)** The producer makes all relevant decisions, acquires any rights of use that may become necessary unless otherwise provided for in § 9 Para. 3 of these General Terms and Conditions or expressly agreed otherwise in writing between the parties, the Supplier shall conclude contracts with subcontractors, performers, freelancers and other persons necessary for the execution of the order in its own name and for its own account.

**(10)** Commitments of any kind whatsoever which establish an obligation on the part of the Producer that exceed the terms of the contract require the express written confirmation of the Producer.

**(11)** The reference to statutory provisions are only declaratory. Insofar as the statutory provisions are not directly amended or expressly excluded in these terms and conditions, they shall, however, apply without such clarification.

## **§2 Scope and conclusion of contract**

**(1)** The Producer is entitled to engage employees and third parties as vicarious agents and subcontractors in order to fulfil the contractual obligations. In doing so, the producer will exercise the care that he is accustomed to exercising in his own affairs.

**(2)** The producer's services are determined by the content of the order confirmation.

**(3)** The production of the film product or the respective agreed

product shall take place on the basis of the script/storyboards, layout film and/or the written result of the joint last meeting before the start of shooting or before the execution of the order provided or approved by the client. After the acceptance of a written order or after a pre- production meeting confirmed in writing, the production of the film or the respective product begins. Prior to the start of the production, the client will appoint a responsible employee who is solely authorized to decide on pending questions of the producer during the fulfillment of the contract.

**(4)** The responsibility for the technical and artistic design of the product as a whole and its parts lies with the producer. The responsibility for the factual correctness of the content of the product as well as its legal admissibility shall be borne by the client, insofar as his instructions have been followed.

**(5)** It can be determined that the client's own (film) material or products are to be used. Insofar as the client wishes to use his own material, he undertakes to make it available in a customary and usable format. The material must be handed over within a reasonable period of time for its use before the beginning of the agreed (shooting) date. If this material has to be adapted by the Producer, the Client shall bear the costs incurred. The client shall ensure that the producer obtains the rights necessary for the use and processing of these materials.

**(6)** The client assures that he has the necessary rights for further processing for the material provided by him and transfers these to the producer. The producer is liable for loss or damage of provided material only within the scope of a replacement delivery of the lost or damaged raw material and only in case of intent or gross negligence. The producer is not liable for the loss of data and programs on this material, as the client is obliged to carry out data backups. The risk for loss, damage or defects caused by gross negligence lies with the producer until acceptance of the product, unless the loss or damage is the fault of the client or a third party.

**(7)** If the client wishes the use of a certain music title, he assures that it is exclusively GEMA-free material or that he has cleared all necessary rights to the distributed music. The customer guarantees to the producer that any material used which is subject to GEMA that this material can be used by the producer for the execution of the project. Otherwise, he shall be liable to pay damages to the producer. The same applies to any other titles or production materials that are protected by copyright.

**(8)** The producer shall not be liable for any disruptions of operations caused by recordings made by the client in external companies.

### **§3 Duty to cooperate and default of acceptance**

**(1)** The client is obliged to cooperate diligently for the proper execution and processing of the contract. Necessary documents for the execution of the project are to be handed over completely and in time. Only then it is guaranteed that the producer fulfils the contractual obligations in the agreed time frame.

**(2)** If the cooperation of the Client is required for the producer's performance, the performance time shall be extended by the time the Client has not fulfilled this obligation. This shall apply in particular in the event of delays as a result of:

1. changes in the requirements of the client or
2. insufficient prerequisites in the application environment (hardware or software deficiencies), insofar as they were not known or should have been known to the producer.

**(3)** If the client orders changes or additions that are not only minor in scope, deadlines and periods that are based on the original subject matter of the contract shall lose their validity and are to be redefined.

**(4)** The delivery time is determined between the producer and the customer at the last meeting before the start of production. This can also result from the order confirmation. At the request of the client, the producer shall inform the client about the time schedule of the production work. If the producer is unable to meet binding deadlines for unforeseeable reasons for which he is not responsible (unavailability of the service), the deadline will be extended accordingly. The Producer shall inform the Client of this fact without delay and provide an estimated new deadline.

**(5)** The producer's obligation to fulfill is subject to correct and timely delivery to the producer, if required.

**(6)** If the client does not fulfil his obligations from this contract or if he is in default with the acceptance of the offered services, the producer is entitled to set a reasonable deadline and to terminate the contract without notice after the deadline has expired without result. The costs and expenses incurred by the producer until then remain unaffected and are due immediately. The producer expressly reserves the right to further claims for damages.

**(7)** In case an order is not carried out at the instigation of the client, the producer can demand an additional 60% of the agreed remuneration as flat-rate compensation. If an order that has already been started is not completed for reasons beyond the producer's control, the producer is entitled to the full remuneration.

### **§4 Term / Termination**

**(1)** The term of the contractual relationship results from the underlying order confirmation.

**(2)** The client can cancel the contract at any time. If the cancellation takes place before the beginning of the service, the producer is entitled to demand the agreed remuneration as follows:

- up to 30 days before start of performance: 30 % of the total order value
- up to 14 days before start of performance: 40 % of the total order value
- up to 7 days before start of performance: 50 % of the total order value

- up to 2 days before the start of performance:  
70 % of the total order value
- up to 1 day before start of performance:  
80 % of the total order value

If the cancellation takes place within 24 hours before the start of the service or after the start of the service, 100 % of the total order value shall be due. Expenses saved by the producer due to the termination of the contract are to be deducted from this.

**(3)** The right to extraordinary termination for good cause remains unaffected for both parties. For the Producers, good cause exists in particular if:

- the fulfilment of the contract becomes legally or actually impossible for reasons for which the producer is not responsible,
- the client is in default of payment,
- the client repeatedly fails to comply with his obligation to cooperate despite being requested to do so by a deadline,
- the client has filed an application for the opening of insolvency proceedings against his assets,
- insolvency proceedings have been instituted against the assets of the client.

**(4)** If the Producer terminates the contractual relationship extraordinarily for an important reason for which the Client is responsible, the Client is obliged to compensate the Producer for the damage incurred. The producer can demand a lump sum compensation in the amount of the order value or the agreed remuneration for the agreed term of the contract. The client has the right to prove that the producer has suffered no or less damage as a result of the termination.

**(5)** If the producer defaults on the performance owed, the extraordinary termination by the client requires, irrespective of the further prerequisites, that the producer does not comply with a period of grace of at least ten working days set by the client.

**(6)** Any termination must be in writing.

## §5 Acceptance

**(1)** The client shall inspect the result of the order after completion and provision of the service within a period set by the contractor, at the latest seven calendar days after handover of the work/product or notification of completion, and either declare acceptance in writing or notify the contractor in writing of any defects found with a precise description. If the client does not declare acceptance within the period and refuses acceptance in writing on the basis of a notice of defect and does not point out at least one significant defect, the service shall be deemed accepted. Concealed defects have to be named within seven calendar days after their discovery and the producer has to be informed in writing under refusal of acceptance. Insignificant defects do not entitle to refuse acceptance.

**(2)** For live productions, acceptance must be declared immediately. Any defects found must be reported immediately.

**(3)** Immediately after completion, the producer hands over the product to the client either as a data carrier or provides it via a download link.

**(4)** The client is obliged to accept the product if it complies with the previously made agreement or the concept/script, unless acceptance is excluded according to the nature of the product. Even if the product deviates from the agreements made or the concept /script, but these deviations were incorporated at the request of the client or are completely minor and have no influence on the entire order as such, the client is obliged to accept. Returns for purely taste-related reasons are excluded.

**(5)** If a work performance involves several individual works/individual products that can be used independently of one another by the Client, these shall generally be accepted separately. If partial works/partial products are defined in a contract, the Contractor may provide partial works/partial products for acceptance.

**(6)** If the contract contains the preparation of a screenplay, production concept or other concept, in particular for the development, modification or extension of the service, the producer may demand a separate acceptance for the concept.

**(7)** Complaints must be submitted in writing within a period of 14 calendar days after delivery of the ordered product. Later complaints will not be considered.

## §6 Remuneration, expenses and payment modalities

**(1)** The Producer's remuneration is the agreed production price plus the applicable sales tax, if applicable. The Producer is entitled to demand an appropriate advance payment before the start of production, up to a maximum of 50% of the order sum.

**(2)** If the Client withdraws from the agreed contract through no fault of the Producer, the Client shall be liable for all costs incurred up to the time of withdrawal.

**(3)** Exceeding the remuneration by up to 10% is deemed in accordance with the contract. In the event of deviations exceeding this limit, the Producer shall inform the Client thereof without delay, stating the anticipated additional remuneration amount. The additional remuneration shall be deemed to have been agreed if the Client does not object within five working days of receipt of a written notice from the Producer.

**(4)** The remuneration shall only cover services that have been agreed upon in the offer and the order confirmation. All services that are not expressly covered by the agreed remuneration can be charged separately by the producer; these are so-called additional services. This applies in particular to ancillary services and expenses.

**(5)** If additional services of the Producer become necessary due to changes in the services or due to a breach of the Client's duties to cooperate or obligations, an appropriate additional remuneration is to be paid.

**(6)** Any expenses incurred by the Producer for licenses of content to be included shall be borne by the Client. He shall also bear any costs and expenses incurred by the order (e.g. material costs, model fees, costs for necessary props, travel costs, board and lodging costs, necessary expenses, studio costs), unless otherwise agreed in the offer or the order confirmation.

**(7)** Weather-related postponements of shooting times are not included in the calculated production costs. The additional costs incurred for this reason will be invoiced and shown separately. The same applies to additional shooting times which are not due to gross negligence or intentional behaviour on the part of the producer and which are caused, for example, by other unforeseeable, unavoidable or serious events such as force majeure, riots, strike, official measures and/or a pandemic. The aforementioned causes shall release the contracting parties from their contractual obligations for the duration of the disruption to the extent of its effect.

**(8)** The selection of models, speakers or actors for the production of the product can be agreed with the client. If the client wishes to employ actors or other participants who, due to their special position, demand fees above the industry average, the client shall bear the additional costs incurred.

**(9)** The remuneration shall become due upon invoicing and shall be paid to the Producer at the latest within 14 calendar days after acceptance and receipt of a correct invoice.

**(10)** Upon expiry of the aforementioned payment deadline without payment, the client shall be in default. During the period of default, interest shall be charged on the remuneration and any expenses at the statutory default interest rate applicable at the time. The producer reserves the right to claim further damages caused by default.

**(11)** The producer can demand partial payments, full advance payment or securities in the form of guarantees, credit securities, rights of lien, etc., if there is no business relationship with the client, if the delivery is to be made abroad or if the contractual partner is based abroad or if there are reasons to doubt the punctual payment by the client.

**(12)** The Client is only entitled to offset or withhold payment if the counterclaims are undisputed, acknowledged by the Producer or have been legally established and arise from the same legal relationship.

**(13)** The transfer of the rights of use takes place under the condition precedent of the complete fulfilment of all remuneration claims of the producer by the client.

## **§7 Rights of use/Intellectual property**

**(1)** Unless otherwise agreed in individual cases, the entire intellectual property of the producer existing at the time of the conclusion of a contract or acquired later as well as adaptations, modifications and further developments or creative developments and productions shall remain the property of the producer.

**(2)** Unless otherwise agreed in individual cases, the Producer grants the Client, subject to the condition precedent of full payment of the agreed remuneration and any expenses, a non-exclusive, non-transferable right, limited in content and time and space, to use the Products produced and created by him as well as any content and elements integrated and/or contained therein, in particular those produced by the Producer himself, The customer basically grants the producer a non-exclusive, non-transferable right, limited in content, time and space, for all known and unknown types of use, to use the intellectual property of the producer, as far as this is necessary for the contractually intended use of the contractual services and/or service results. A further transfer of the rights of use and exploitation does not exist in principle. If the Producer exceptionally considers a transfer beyond the aforementioned rights to be necessary and/or in accordance with the underlying order, this shall only be effective if this has been stipulated in the specific individual case on the basis of an individual written agreement. If the sound carrier, performance and broadcasting rights have to be acquired separately from the rights holders for this purpose, the Client shall bear the costs and responsibility for this.

**(3)** Exclusive rights of use must be agreed separately and require a surcharge of at least 100% on the respective agreed remuneration. Individual, deviating agreements on rights of use and their use require the written form to be effective.

**(4)** Unless expressly set forth otherwise, the client is not entitled to transfer the rights of use granted to it in whole or in part to third parties, including other group companies or subsidiaries, nor is he entitled to sublicense the rights acquired.

**(5)** The production of copies of the intellectual property of the producer as well as the processing or modification of its or the manufactured products are not permitted. Passing on to third parties is also not permitted. The producer does not assume any guarantee for the copyrightability. If a contract between the client and the producer is not concluded, all objects handed over are to be returned, deleted or destroyed. Preliminary work on services and service results (e.g. concepts, scripts, raw material, footage etc.) are not subject of the granting of rights, unless otherwise expressly agreed upon in the contract.

**(6)** For the purposes of the preceding paragraph, „Intellectual Property“ shall include all industrial property rights and rights similar to industrial property of any kind, such as patent rights, trademark rights, utility model rights, design rights, personal rights, copyrights and rights of use and exploitation, whether registered or not, including the right to apply for such rights, and know-how, currently existing or acquired at a later date.

**(7)** Unless otherwise set forth, the client is obliged to present the name of the producer as the creator of the product in a usual manner.

**(8)** Changes of the produced film material or the produced product as well as the individual elements by the client for the creation of a new, copyrighted work are only permitted after prior written consent of the producer, otherwise excluded. As far as a written agreement has been made and the producer has given

the client the right to edit, change, complete, extend or delete the product or single elements completely or partially, the client has to inform the producer in these cases of the editing of the product, so that the producer can demand not to be named as author in connection with the product and/or single elements anymore. In the event of a corresponding request by the producer, the client must implement this immediately. Otherwise an appropriate contractual penalty will be agreed upon, at least however 15.000,00 Euro. Any right to claim for damages remains unaffected by this.

**(9)** The scope of the granting of rights in the case of third-party rights procured by the Producer or the Client shall be determined by the rights of use granted by the third party and the licensing provisions applicable thereto.

**(10)** The granting of the rights is subject to the full payment of the remuneration owed and any expenses. The client can be provisionally permitted to use the products or individual components without the granting of rights being associated with this. The provisional permission of use requires a written declaration by the producer. The rights of use shall not pass to the client until the conditions have been fulfilled.

**(11)** The Client grants the Producer the unrestricted right, in terms of time and space, to use the products made by him or parts thereof for his own operational needs for advertising purposes, for example for presentation to customers, at trade fairs, at events or in his own produced showreels, subject to expressly divergent agreements. The Producer is entitled to include the product within the scope of the Client's order in a reference list for advertising purposes and to set corresponding links.

**(12)** In the event of separately agreed processing, the client undertakes to have all processing carried out by the producer himself, unless this is unreasonable for urgent economic reasons. Urgent economic reasons as well as the unreasonableness must be presented and justified to the producer.

## **§ 8 Warranty**

**(1)** The rights of the customer in the event of material defects and defects of title shall be governed by the statutory provisions, unless otherwise stipulated below.

**(2)** Defects in a work/product must be notified in writing within seven calendar days of delivery - in the case of hidden defects within seven calendar days of their discovery. A written notice of defect must also contain the designated defect.

**(3)** The manufacturer can primarily provide warranty by rectifying the defect. The urgency of the fault rectification depends on the type of production and the degree of operational hindrance.

**(4)** If it turns out that the work/product sent in by the Client for rectification is free of defects, the Producer may charge the Client for the expenses incurred in checking the defectiveness of the work.

**(5)** Following the rectification of defects, the customer shall declare acceptance in writing without delay after a successful functional test has been carried out.

**(6)** Claims for damages and claims for reimbursement of futile expenses shall only exist in the case of defects in accordance with § 9 of these General Terms and Conditions and are otherwise excluded.

## **§ 9 Liability**

**(1)** The Producer shall be liable to the Client in accordance with the statutory provisions for damages and reimbursement of expenses in the event of culpable injury to life, limb and health as well as in the event of intent and gross negligence, fraudulent concealment of a defect or a guarantee assumed by the Producer. The liability is limited to the amount of the available sum insured of the pecuniary damage liability insurance and the professional liability insurance. The maximum amount refers to one insured event; if there are two or more competing injured parties, the maximum amount for each individual injured party is to be reduced in proportion to the amount of the claims.

**(2)** The producer is also liable in the event of intentional or grossly negligent breach of an essential contractual obligation. Essential contractual obligations are those whose fulfilment makes the proper execution of the contract possible in the first place and on whose compliance the client regularly relies and may rely. In these cases, however, the liability of the producer is limited to the compensation of the foreseeable, contract-typical damage. The damage typical for the contract is limited to the contract value of the individual contract.

**(3)** The producer assumes no liability for the violation of rights of depicted persons or objects. The client is responsible for obtaining permission for publication if filming or photo shoots take place on his premises and with the assistance of his staff or persons commissioned by him. In this case, the client shall be obliged to obtain the consent of the persons depicted for the release of publications before placing the order, at the latest at the beginning of the order, insofar as this is necessary for legal reasons. In this respect, the client shall be exclusively liable for any damages. In this respect, the client expressly releases the producer from any claims for damages by persons and companies.

**(4)** The client is obliged to inform the producer adequately if third party rights are affected. As far as an acceptance has not yet taken place, the producer is entitled to all rights. This also applies to material, word, picture and sound. The producer is the owner of all rights and ideas. All products are subject to copyright and are protected intellectual property.

**(5)** Damages caused by improper or contrary to contract measures or operation of the client do not justify any claim against the producer.

**(6)** Before sending in a defective product, the customer must make a complete data backup at his own expense and risk.

(7) In the event of a loss of data for which the Producer is responsible, the Producer shall only be liable for such damage that would have occurred despite regular and, in view of the nature of the data, the risk of loss and the imminent consequences of a loss of data, reasonable data backup.

(8) In all other respects, liability for damages and reimbursement of expenses - on whatever legal grounds - is excluded.

(9) Insofar as the Producer's liability is excluded or limited in accordance with the above paragraphs, this shall also apply to the liability of its vicarious agents and assistants.

## § 10 Limitation and preclusion periods

(1) Warranty claims due to material defects and defects of title shall become statute-barred 12 months after acceptance. The statutory limitation period shall apply to claims in the event of intent, gross negligence, injury to life, limb or health or claims under the Product Liability Act.

(2) All claims of the parties arising from the contractual relationship must be asserted within three months of knowledge or possible knowledge of the reason for the claim by the claimant. A later assertion is excluded. If the contractual partner does not fulfil the claim after this, the claims must also be asserted in court within a further 3 months. Otherwise the claims shall be forfeited.

## § 11 Data protection

The Producer shall ensure compliance with the applicable data protection provisions with regard to personal data of the Client and its vicarious agents processed by it within the framework of the contractual relationship. Further information on the processing of personal data can be found in our data protection declaration.

## § 12 Confidentiality

During the order and the associated joint cooperation, both contracting parties are obliged to maintain confidentiality about all contract contents and related activities, deadlines, data, personal data, ideas, materials, creative designs, services and developments. This also applies to the employees of the client and the producer. In addition, a separate confidentiality agreement may be concluded. The obligation to maintain secrecy shall only cease to apply if this has been expressly agreed. Insofar as publication of information is required within the scope of the contract, this obligation shall also not apply.

## § 13 Final provisions

(1) The contracting parties agree with respect to all legal relationships arising from and in connection with the contract and/or agreement shall be governed by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods and German international private law.

(2) The place of performance is the registered office of the producer's branch, Frankfurt am Main.

(3) If the client is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, the exclusive - including international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the registered office of the producer.

(4) Subsidiary agreements to the contract or to these general terms and conditions do not exist in principle and must be in writing to be effective.

(5) The possible invalidity of one or more provisions of these General Terms and Conditions shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a provision that comes as close as possible to the economic purpose pursued by the invalid provision.

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