

General Terms and Conditions of Business of plenamedia.tv

GT&Cs for film customers

***General Contractual Provisions of plenamedia.tv for Contracts with Entrepreneurs
for the Production of Industry Films***

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Section 1 Conclusion of a Contract

1.1 plenamedia.tv is a production company for audio-visual media. The focus of its business is on the production of so-called industry films (image, event and trade fair films, interviews, etc.) on behalf of third parties (hereinafter collectively called "Production").

1.2 Contracts between plenamedia.tv and entrepreneurs for the production of industry films shall be governed exclusively by these Terms and Conditions of Business. Deviating provisions in the customer's General Terms and Conditions of Business are expressly objected to.

1.3 Offers from plenamedia.tv in brochures, advertisements etc. as well as on plenamedia.tv's websites or the like shall – also with regard to the prices quoted – be subject to change without notice and be non-binding, except where a binding guarantee has been expressly given.

1.4 plenamedia.tv shall diligently research and calculate for its work. As plenamedia.tv sometimes needs some time to do this, the customer shall be bound by its order for 10 days. If plenamedia.tv does not decline an order within 20 days of receiving the order, the order shall be deemed confirmed.

1.5 Adherence to a set performance period shall depend upon plenamedia.tv being supplied in due time by its suppliers.

1.6 The finished Production shall be made available to plenamedia.tv's customer in the form of a download link at a point in time to be specified to plenamedia.tv's customer in each case.

Section 2 plenamedia.tv's Services

2.1 plenamedia.tv shall create the contractual Production and, in the course thereof, render in particular the contractually agreed services.

2.2 The conceptualisation and content of the Production and the key data relating thereto shall be agreed upon between the parties. However, plenamedia.tv shall solely and exclusively have the final say in respect of the artistic realisation.

2.3 If it appears to be appropriate to alter or change the editorial concept at short notice in light of current events, the parties shall reach an agreement thereon promptly and without delay. If the parties cannot reach an agreement in due time, plenamedia.tv shall make the necessary determinations at its reasonable discretion.

Section 3 The Customer's Services

3.1 The customer shall make utmost efforts to support plenamedia.tv during the making of the Production. For this purpose, the customer shall designate one or more competent employees who shall be available to plenamedia.tv during the Production in an advisory capacity, also as contributors where necessary.

Additionally, the customer represents and warrants that plenamedia.tv shall receive unrestricted access to the filming locations agreed upon between the parties.

3.2 In respect of any so-called third-party material used in connection with the Production, i.e. visual/audio recordings not created by plenamedia.tv under this contract, the customer grants plenamedia.tv all rights of use, ancillary copyrights and other rights to the extent shown in the respective list of rights, including in particular the right of use with regard to all types of use unknown hitherto. For clarification, it is laid down that, where the customer acquiesces to, or has acquiesced to, its employees being filmed or photographed, it permits plenamedia.tv to utilise this visual and audio material to the same extent as the Production itself, and that its employees have correspondingly consented to being filmed or photographed. The customer guarantees that it is permitted to dispose of the corresponding rights in the third-party material. In all other respects, the customer shall indemnify plenamedia.tv against all third-party claims in connection with the granting of these rights and/or in connection with their use by plenamedia.tv, including resulting legal defence costs.

Section 4 Fee

4.1 In return for all contractual services and the granting of rights, the customer shall pay to plenamedia.tv a fee equal to the agreed amount plus value-added tax at the respective valid statutory rate. The fee shall be payable in three instalments and be due as follows:

1st instalment: 40 % of the fee upon the conclusion of the contract,

2nd instalment: 30 % of the fee upon the commencement of filming of the Production,

3rd instalment: 30 % of the fee upon the hand-over of the Production to customers,

subject to proper invoicing in each case.

4.2 The costs arising under the contract shall be deemed settled by payment of the flat-rate fee. Any further costs arising in connection with the Production shall be reimbursed by the customer only according to separate prior agreement with the customer.

4.3 If the customer requests changes that result in extra costs, plenamedia.tv shall specify these costs beforehand and invoice these if an order incorporating these change requests is placed.

Section 5 Cancellation Fee

5.1 If the customer wishes to cancel an agreed date for the rendering of the service by plenamedia.tv, or if the customer cannot meet its duties to co-operate in this respect, or if it wishes to postpone the set date for any other reason, it shall, in order to maintain its claim to the service, notify plenamedia.tv thereof in text form immediately, but no later than two weeks before the agreed date.

5.2 If notification within the meaning of subsection 1 is given between two and one week before the set date, the customer shall owe plenamedia.tv a cancellation fee at the rate of 50 % of the fee agreed upon for this date.

If notification is given less than one week before the set date, the customer shall owe plenamedia.tv a cancellation fee at the rate of 80 % of the fee agreed upon for this date. This shall apply only if and insofar as plenamedia.tv has not succeeded in allocating the respective date elsewhere. If the sum of the fee for the agreed date has not been fixed, it shall be determined according to the proportion of the agreed date cancelled in relation to the Production as a whole.

5.3 If the customer cancels, without prior notification, a firmly agreed date for the rendering of the service by plenamedia.tv, or notification is not given until within a period of 24 hours before the agreed date for the rendering of the service by plenamedia.tv, the customer shall owe plenamedia.tv a cancellation fee at the rate of 100 % of the fee agreed upon for this date. If the sum of the fee for the agreed date has not been fixed, it shall be determined according to the proportion of the agreed date cancelled in relation to the Production as a whole.

5.4 If a filming date is postponed by the customer later than fourteen days before the agreed date, plenamedia.tv shall additionally be entitled to compensation for the extra costs incurred as a result of this postponement.

5.5 Any off-setting of the cancellation fees against alternative dates agreed upon between the customer and plenamedia.tv shall be subject to a separate agreement fixing the sum of the amount of the cancellation fee to be offset.

5.6 Cancellation fees shall be due upon the notification by the customer or, in the absence thereof, upon the expiration of the agreed date cancelled.

Section 6 Acceptance

6.1 Within two weeks of delivery of the complete Production by plenamedia.tv or a service provider contracted by plenamedia.tv, the customer shall declare acceptance or report any defects. If the customer omits to declare acceptance or report any defects, the Production shall be deemed accepted. This shall not apply in the case of hidden defects that are not detectable within two weeks of delivery.

6.2 The customer shall be entitled to declare non-acceptance of the work, setting out the reasons for its respective decision, if in particular plenamedia.tv declines or fails to perform the rectification and/or alteration requested by the customer, and this results in

the customer being unable to use the Production as planned. For clarification, it is laid down that non-acceptance for editorial or artistic reasons is impermissible.

Section 7 Liability for Defects in Quality or Title and Breaches of Duty

7.1 Defective deliveries or services shall be rectified or exchanged by plenamedia.tv following a corresponding notification from the customer.

7.2 There shall be no defect-related claims in the case of a merely insignificant defect, i.e. in particular a defect that does not significantly affect the agreed use. plenamedia.tv shall not be liable for defects attributable to the customer. In particular, defects attributable to the customer shall include defects due to information, texts, images, graphics, documents or material provided by the customer.

7.3 If supplementary performance is not successfully rendered within a reasonable period set by the customer, the customer may rescind the contract or reduce the fee.

7.4 Obvious defects easily apparent to an average customer must be reported in writing by the customer to plenamedia.tv within 10 business days of the delivery. Non-obvious defects must be reported to plenamedia.tv within 10 business days after they have been detected. Otherwise, there shall be no right to assert claims arising from such defects.

7.5 Except where otherwise provided for above in this Section 7, plenamedia.tv shall not be liable for defects. This shall apply in respect of any loss or damage caused by the defect. This limitation of liability shall not apply to loss arising from mortal injury, physical harm or health damage due to an intentional or negligent breach of duty, or to other loss due to an intentional or grossly negligent breach of duty. Furthermore, the limitation of liability shall not apply in the case of culpable breach of material contractual duties.

7.6 In cases of slight negligence, plenamedia.tv shall be liable only for the foreseeable loss typical of this type of contract.

7.7 The limitation period for defect-related claims is one year.

7.8 Mandatory liability under the *Produkthaftungsgesetz* [Product Liability Act] shall remain unaffected. Likewise, the aforementioned limitations of liability shall not apply in the case of defects fraudulently concealed by plenamedia.tv or in the case of defects in the context of a guarantee undertaking.

Section 8 Liability on any other Legal Basis

8.1 Liability for damages beyond Section 7 shall be excluded, regardless of the legal nature of the claim asserted. This shall particularly apply to damage claims on the basis of *culpa in contrahendo* or on the basis of other breaches of duty or on the basis of tort claims for damages under Section 823 *BGB* [German Civil Code].

8.2 Where liability for damages is excluded or limited, this shall also apply to personal liability for damages on the part of our employees, workers, personnel, representatives and authorised agents.

Section 9 Rights of Use

9.1 plenamedia.tv grants the customer an ordinary and non-transferable right of use in respect of the film to the extent (in terms of time and territory) agreed upon in the main contract. If the scope of the rights granted in the main contract has not been explicitly agreed upon, the rights granted shall encompass only the rights necessary for fulfilling the purpose of the main contract.

9.2 If, after having placed an order, the customer intends to expand the right of use in terms of any restriction in time or territory, plenamedia.tv shall, where possible, grant the customer the corresponding rights of use in return for payment of the customary fee or, where such fee cannot be determined, an appropriate fee.

9.3 The rights in third-party material provided by the customer or used at the customer's request, in particular in works of music, shall be excluded from the rights granted by plenamedia.tv. In respect of all third-party material provided by the customer or used at the customer's request, the customer shall be responsible for ensuring that it holds, to the necessary extent, the rights for plenamedia.tv's contractually agreed use (e.g. editing) as well as for the customer's intended use.

9.4 Ownership of all raw material arising during the film production, of intermediate products resulting therefrom and of material created by plenamedia.tv itself, such as film scripts, documents and concepts, shall remain with plenamedia.tv.

9.5 The rights shall be deemed granted upon the delivery of the master copy or the provision of the download links to the customer, and payment of the amounts invoiced for this. Until full payment, the customer shall only be revocably permitted to use the film. If the customer defaults on paying the fee for services, the use of these services may be revoked by plenamedia.tv for the duration of such default.

Section 10 Naming and Reference Records

10.1 plenamedia.tv shall be entitled to place its own name in the Production, particularly in the opening or closing credits, in an appropriate manner and at an appropriate size, including the depiction of plenamedia.tv's logo.

10.2 plenamedia.tv reserves the right to use rendered services (including drafts and raw material) for presentation purposes, even if these are based on customer templates, in particular the right to include these services in a reference list for advertising purposes and to create corresponding links. This shall also apply to use in social networks and Twitter.

Section 11 Secrecy Clause

11.1 The parties shall maintain secrecy in respect of all occurrences that come to their knowledge in connection with the rendering of their services. This obligation of secrecy shall extend to all employees and authorised agents.

11.2 Additionally, the parties undertake to use exclusively for the rendering of their contractual services the data and documents made available to them, and to fully return these to the customer of their own accord, no later than after the Production has been accepted by the customer, unless the parties expressly agree otherwise.

Section 12 Termination of the Contract by the Customer

12.1 If the customer terminates the contract before the film is completed, plenamedia.tv may demand the agreed fee from the customer, subject to setting-off of the expenditure that plenamedia.tv saves as a result of the nullification of the contract, or of the earnings that plenamedia.tv makes, or maliciously omits to make, as a result of using its labour elsewhere. plenamedia.tv shall also be entitled to demand instead a flat rate of 25 % of the total order amount falling to the service terminated. The customer expressly reserves the right to prove that a lower loss, or no loss at least, was incurred upon plenamedia.tv.

Section 13 Final Provisions

13.1 Amendments and supplements to this contract, in particular additional fee claims, shall only be effective if confirmed at least in text form by the respective other contractual partner. The same shall apply to any waiver of confirmation in text form.

13.2 If one or more provisions in this contract are or become ineffective, this shall not affect the effectiveness of the remaining provisions. The general statutory provisions shall take the place of any ineffective provision.

13.3 German law shall apply, excluding the UN Sales Convention (CISG) and the law on conflict of laws (international private law). The place of jurisdiction is – where legally permissible – Cologne.