

# General order and delivery conditions of NAP FilmworX KG

## 1 GENERAL

- 1.1 The general order and delivery conditions of NAP FilmworX KG ("Producer") apply to all contract productions. They are fundamentally for legal transactions between businesses and are an essential part of every offer and every contract.

Should there be exceptional legal transactions made with clients, under the current Consumer Protection Act BGBI Nr 140/1979, they are only valid insofar as they do not contradict the first main part of this law.

A legal binding of the producers occurs only through the business confirmation of the offer/order (confirmation is permitted through e-mail) or with the undersigned contract. With the undersigning of the contract, or with the order-confirmation, the general order and delivery conditions will have been accepted.

- 1.2 The client's production of the film, regardless as to the carrier material, follows on the basis of the approval of the screenplay, treatment or alike being made available to him, or his acceptance of the written conditions of the offer. The producer's, or on his behalf developed treatments, scripts, drawings, plans and similar documents, remain as his intellectual property, provided that no use for this can be found in the film or no fee has been agreed upon. Any use, in particular the disclosure, reproduction and publication require the explicit approval of the producer. Any delivered contracting documents to the client, may be required to be returned.
- 1.3 In the production contract or the accepted offer, it is stipulated for which distribution areas, media coverage and time periods the film is to be produced.

## 2 COSTS

- 2.1 In the contractually agreed price, are all the production costs and a demonstrable first copy as in the intended measures contained in the rights granted, in accordance with section 7.2.
- 2.2 Filming postponements due to weather (weather risk), are usually not included in the calculated production costs. In this bracket, additional costs plus OPEX will be included in the invoice.
- 2.3 An extra contract can be drawn up for the production of treatments or scripts. In this contract, the agreed price by the client must also be paid when the treatment or script cannot be filmed, or resignation of the contract takes place.

If a screenplay or a previously existing film is made available by the client or a from him appointed trustee, the full legal transfer is to be carried out with the producer.

- 2.4 If the client requires the completion of a particular insurance, he is to inform the producer of this no later than the conclusion of the contract and reimburse the costs.

- 2.5 The client bears the cost of any expert advice he may seek out of his own accord.

## 3 PRODUCTION, MODIFICATION, FOREIGN LANGUAGE VERSIONS, DELIVERY DEADLINE

- 3.1 Filming begins at the earliest, only after the undersigning of the production contract or the acceptance of the offer has taken place.

- 3.2 The responsibility of the artistic and technical design of the work, lies by the producers.

The producer is to instruct the client as to the location and intended running of the film.

- 3.3 Should the client require changes in the film's timing arrangements, the manuscripts, the script or already produced parts of the film, these are to be made at his own expense with the exception of legitimate complaints. The producer is to inform the client without delay, of the anticipated cost of these changes.

- 3.4 Should the client, after acceptance of the film have further requirements for change, he is to put these changes in writing. The producer has the only authority to make these changes, the costs of which are to be borne by the client.

- 3.5 If, for artistic or technical reasons, any amendments are proposed by the producers after the approval of the script has taken place, that lead to additional costs beyond the agreed upon production price, they will require prior written consent of the client. Not explicitly approved additional costs cannot be claimed.

The length of the film is stipulated in the production contract. The terms are considered to be met if the difference in length of the final cut is no more than 5% of the agreed upon length.

- 3.6 In the case of the production of foreign language versions of the film through subtitling or dubbing, a corresponding agreement must be made.

## 4 LIABILITY

- 4.1 The producer is committed to produce a technically perfect product. He expressly provides a guarantee that the production has faultless sound and picture quality.

- 4.2 If in the production of the film circumstances occur, which make conventional production not possible, so the producer must expect to represent himself for gross negligence.

The same applies if the film is not completed in the arranged time. The inability to manufacture, or the non-timely completion of the film, for which neither the client nor the producers are responsible, allows only that the client withdraws from the contract. The previously provided services plus OPEX will however be charged.

- 4.3 Defects, recognised by the producers are to be removed by him. If these corrections cannot be carried out without the participation of the client or his advisor, the producer can, after unsuccessful corresponding attempts at correction over a statutory period of at least two weeks, regard the contract as fulfilled. The producer is entitled to refuse the elimination of the mistakes until the time designated for the correction of the mistakes is over.
- 4.4 The producer is liable for all legal violations committed by him during the production. However the client carries the risk of any props that have been made available to him.

## 5 RESIGNATION OF THE CLIENT FROM THE CONTRACT

- 5.1 If the production contract has been issued and the client, through no fault of the producers resigns from the contract, the producer is entitled to include the actual net cost, the share in OPEX and the total profit loss in the invoice.
- 5.2 In the event of an order resignation which occurs in the period between 14 and 8 days before filming begins, the producer is entitled to include 50% of the calculated net cost accepted by the client, plus OPEX and the total profit loss, in the invoice.
- 5.3 By an order resignation from the client which occurs within 7 days before filming begins, the total calculated commissioned cost will be invoiced.

## 6 PAYMENT

- 6.1 Unless otherwise agreed, the following payment conditions apply:
- 100% when the contract is issued
- In the event of a production volume of at least € 10.000,- excluding VAT:
- 1/3 when the contract is issued  
1/3 when the filming commences  
1/3 at the time of delivery

## 7 COPYRIGHTS, PATENT RIGHTS

- 7.1 The film will be produced on the basis of the script accepted by the client and the film producer. The producer has § 38/1 Urh.g at his disposal concerning all the necessary patent copyright rights (except if they concern a copyright company), in particular those necessary in fulfilling the contract's requirements for distribution, transmission, performance and protection even after the completion of the work managed by him.
- 7.2 It is to be agreed upon in the production contract, after the full production costs have been paid, to what extent the utilisation rights (spatially, temporally) are permitted.
- 7.3 Excepted from the rights in every case from those permitted, are the rights for duplication, adaption, addition, foreign language dubbing and the use of excerpts in picture and/or sound, in as far as they have not been contractually, expressly agreed upon and for which at least lost profits to the production

have been paid separately.

This is without prejudice to any claims for damages.

- 7.4 The client should expressly declare himself in agreement, with the statutory declarations made by the producer to the appropriate copyright companies.
- 7.5 To secure the copyright rights, the raw material (picture and sound), in particular negatives and mastertape as well as the rest-material, remain with the producers.
- 7.6 The producer commits himself, in lieu of costs, to the appropriate professional storage of the original of the delivered visual and audio material, if explicitly demanded by the client. The storage period is seven years for television productions and two years for all other productions.
- 7.7 In as far as the rights excepted from those permitted, as in section 7.3, are compensated and contractually assigned for utilisation by the client, he claims liability as in section 7.6 for the storage, insofar as not otherwise agreed.
- 7.8 With the delivery of the film the risk for the copied documents goes to the client, even if the film is in storage by the producer or a printing laboratory assigned by him.

## 8 OTHER PROVISIONS

- 8.1 For television productions, the opening title credits and the closing credits are part of the script and are to be approved by the client.
- 8.2 The producer is entitled to display his company name and it's logo as part of a copyright notice. He also has the right to show, or have shown, the film for competitions and festivals as well as for self-promotion (showreel or example). For self-promotion, the use of excerpts, or other audiovisual material, is permitted without any limitations concerning time and place. In particular, this is valid for publication in the internet, on the producer's own webpage or other analog or digital platforms (so-called new types of exploitation, e.g. mobile devices) is permitted.
- 8.3 In the case where a number of clients are granted the contract for a film, it must be retained in writing which client has the power of attorney over the other clients as to the clarification of the producer's preceding delivered points. This applies particularly to the notation of those persons responsible for the inspection of the film.
- 8.4 Insofar as several co-producers are contracting-partners of the clients is the definition of point 8.3 logical.
- 8.5 Changes in the production contract and/or the production conditions require written confirmation. Should, through a provision in the production contract, manufacturing and supply conditions be ineffective, so is the validity of the remaining provisions not affected.
- 8.6 The completion of the contract is to be carried out at the headquarters of the producer.
- 8.7 In the event of disputes, an agreed upon competent court is to be summoned to the producer's

headquarters. This court must be in compliance with Austrian law.