

# COMMISSIONED FILM CONTRACT

between

Name: .....  
Address: .....  
E-Mail: .....  
Telephone:.....  
Fax: .....

Represented by: .....

- Referred to after this as the Producer;

and

Name: .....  
Address: .....  
E-Mail: .....  
Telephone:.....  
Fax: .....  
Responsibility for production (optional): .....

- Referred to after this as the Client.

## 1. Subject

1.1 The Client commissions the Producer on the following conditions and the attached General Production and Delivery Conditions of Austria's audiovision and film industry trade association with the creation of an:

Advertising spot / Image film / Documentary / Visualisation / Other

1.1.1 Title (working title) of the production: .....  
.....

1.1.2 Total length: \_\_\_\_\_ minutes \_\_\_\_\_ seconds  
Length tolerance +/- \_\_\_\_\_%

- 1.1.3 Technical process:  
.....
- 1.1.4 Planned locations: .....  
.....
- 1.1.5 Planned start of shooting: .....
- 1.1.6 Planned end of shooting: .....
- 1.1.7 Planned acceptance of rough cuts:.....
- 1.1.8 Planned delivery:.....
- 1.1.9 Writer:.....
- 1.1.10 Director:.....
- 1.1.11 Persons also involved:.....
- 1.1.12 Particular features of the production: .....

1.2 The film shall be created on the basis of the idea accepted by the Client and the Producer. The idea is attached to this contract and forms an integral part of it.

**2. Remuneration**

2.1 The Client shall pay the sum of .....<sup>1</sup>euros (.....<sup>2</sup>euros) exclusive of VAT on the basis of the calculation he has approved in settlement of all the performances owed by the Producer under this contract. The calculation forms an integral part of the contract.

2.2 The following payment terms apply:

2.2.1 One third at the time of signing the contract

2.2.2 One third at the time shooting starts

2.2.3 One third within, at the most, 14 days of delivery and final acceptance.

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<sup>1</sup> Sum in figures  
<sup>2</sup> Sum in words

### 3. Assignment of rights

3.1 The provisions of the law on copyright and exploitation (§ 7 of the General Production and Delivery Conditions of Austria's audiovision and film industry trade association) in the version attached apply basically and analogously.

3.2 Under § 7.2 of the applicable version of the General Production and Delivery Conditions of Austria's audiovision and film industry trade association, the Producer assigns to the Client the following rights of use or usage permissions to the film.

3.2.1 The

- exclusive

or

- non-exclusive right

to use the film

- for an unrestricted period of time

- for the period from ..... to .....

in accordance with subsection 3.2.3 below.

3.2.2 The right of use applies

- without any territorial restriction

- territorially restricted to .....

3.2.3 The right of use encompasses:

The broadcasting right, irrespective of the type of technical procedure, the right to public performance including showing the film in cinemas and at film festivals, the trade fair law, closed circuit performances in aircraft, ships, and hotels, and the right to make it available to the public (for instance via video on demand, near on demand, wireless or cable-linked, online rights).

3.2.4 Types of use unknown at the time of drawing the contract up are not covered by it.

3.2.5 Excepted from the assignment of rights are the rights specified in § 7.3 of the General Production and Delivery Conditions of Austria's audiovision and film industry trade association, i.e. in any case the rights to the duplication,

processing, changing, supplementing and foreign language synchronisation, and the use of excerpts in the form of images and/or soundtrack, unless they have been explicitly and contractually agreed and unless they are paid for separately. The lost production profit must, in any case, be estimated for remunerating such assigned rights of use.

- 3.2.6 In order to secure his rights of exploitation under copyright, the source material (film and tape) and especially the negatives, master tape and residual material, remains with the Producer.

#### **4. Liability**

- 4.1 The Producer commits itself to creating a technically impeccable product. He expressly guarantees that the production has perfect image and sound quality.
- 4.2 If any circumstance occurs during filming that renders its contractual creation impossible then the Producer is answerable only if he has acted wilfully or been grossly negligent. The same applies in the case of the film not being created in good time. The impossibility of creating the film or of not finishing it in good time for which neither the Producer nor the Client has to answer shall only give the Client the right to withdraw from the contract. The services provided up to that point including general expenses shall, however, be charged. The Producer is not, under any circumstances, liable for lost profit.
- 4.3 The Producer must remedy defects that he acknowledges. If it is impossible to undertake such corrections without the co-operation of the Client or his specialist adviser then the Producer may, after fruitless expiry of a period of grace of two weeks, consider the contract to have been fulfilled. The Producer has the right to refuse to remedy defects until the payments due up to the time of the correction have been made.
- 4.4 The Producer is liable for all infringements of rights that he may possibly cause during the production but the Client bears the risk in the props that he has made available.

#### **5. Withdrawal from the contract by the Client**

- 5.1 If the Client withdraws his order prior to the start of shooting through no fault on the part of the Producer then the latter has the right to charge the net costs that have actually arisen together with proportionate general expenses and the overall profit lost.

- 5.2 In the event of the order being withdrawn in the period from 10 days to 4 days prior to the shooting start the Producer has the right to charge 2/3rds of the net costs calculated and accepted by the Client plus general expenses and lost total profit.
- 5.3 If the Client withdraws between the third day and the final day preceding the planned shooting start then the total sum calculated and commissioned shall be charged.

## **6. Other provisions**

- 6.1 The Producer has the right to display his trading name and trademark as his copyright notice. He has, furthermore, the right to present or to have presented the cinematographic work at film competitions and festivals and to use it for his own publicity (sample reel). The Producer also has the right, for the purposes of his own advertising, to use an excerpt from the film in his own promotional material, especially on his homepage or when other credits are rolling.
- 6.2 In the event of more than one client placing an order for a particular cinematographic work on the Producer, then it must be recorded in writing well before shooting starts which client must, formally representing the other clients, submit statements to the Producer by way of clarification of the preceding points. This applies in particular to naming the person who is responsible for accepting the cinematographic work.
- 6.3 Amendments to the production contract and/or these production conditions must be confirmed in writing. Should any clause in the production contract contradict the production and delivery conditions then the production contract shall have precedence. That shall not affect the validity of the other provisions.
- 6.4 The headquarters of the Producer is the place of fulfilment.
- 6.5 The competent court for the Producer's headquarters is agreed as the jurisdiction for the eventuality of legal disputes. This court must apply Austrian law, exclusively.
- 6.6 The contracting parties agree herewith on written form for their business relationship; fax and E-Mail shall be equivalent to written form. There are no oral ancillary agreements. Amendments and supplements to the contract must also, absolutely, be in writing.
- 6.7 Should any provision of the contract turn out to be invalid then the contracting parties shall endeavour to replace the contract provision that has become invalid with whatever provision comes closest in commercial terms to their intentions at

the time of entering into the contract. All other contract provisions shall not be affected by the invalidity of the individual provisions and the contract shall therefore remain in force in its other legally enforceable parts.

6.8 The attachments, especially the calculation and the idea as per subsection 1.2 above and the attached version of the General Production and Delivery Conditions of Austria's audiovision and film industry trade association are integral components of this contract.

xxxxxxx, on xxxxx (date)

.....  
The Client

.....  
The Producer