

# General Terms and Conditions of Weischer.Cinema Austria GmbH

## 1. Validity

- All deliveries and services, including consulting, offers and other ancillary services of Weischer.Cinema Austria GmbH (abbreviated to: Weischer) are exclusively subject to these General Terms and Conditions (abbreviated to: GTC). The GTC are an integral part of every contractual relationship concluded with Weischer. The client declares that it is aware of the GTC and agrees to them.
- Purchasing or other terms and conditions of the client are not valid. Any reference or counter-confirmation by the client with reference to its terms and conditions is hereby expressly rejected by Weischer.
- Deviations from these GTC and subsequent amendments are only effective with written confirmation from Weischer. Verbal agreements shall have no legal consequences.
- Deviations from the written form requirement can only be made in writing. Amendments, supplements or cancellations of the contract or individual parts of the contract must be expressly designated as such and can only be made in writing in paper form, otherwise they are legally invalid. In other business transactions between the client and Weischer, the written form requirement is also met if communication takes place via fax, e-mail or other electronic media.

## 2. Offers, conclusion of contract

- Offers made by Weischer are subject to change and non-binding, subject to availability and interim bookings. .
- Orders/commissions placed by the client must be made in writing. Acceptance or rejection shall be made in writing. Weischer reserves the right to reject orders without giving reasons.
- In the event of a difference between Weischer's client and the advertising client, with whom Weischer does not establish a contractual relationship in this case, the advertising client must be disclosed to Weischer in the order. Even if the client is an advertising agent working for an advertising client, only the client shall be the authorised and obligated party under the contractual relationship established by it with Weischer.

## 3. delivery/service deadlines and dates

- Deadlines and/or dates within which a delivery/service is to be provided must be agreed separately. Delivery/service deadlines and dates shall only be binding if they have been expressly agreed as such.
- Impediments to performance that are due to temporary, unforeseeable events authorise Weischer to postpone the deliveries/services and/or agreed deadlines by the duration of the impediment and a reasonable start-up time. This also applies if such events occur during an existing delay. Such impediments to performance include, for example, cancellation of individual cinema screenings, brief interruption of cinema operations in a cinema intended for the advertising material, occupancy of a cinema with advertising, technical defects, cases of force majeure and all other circumstances that make deliveries and services significantly more difficult or impossible. It is irrelevant whether these circumstances occur at Weischer itself or at one of its suppliers/subcontractors.
- If Weischer is unable to provide a delivery/service for reasons for which the client is responsible, Weischer is entitled to withdraw from the contract and any additional deliveries/services ordered in this context if the client fails to comply with a reasonable grace period set by Weischer. In this case, the client must pay Weischer the agreed remuneration plus VAT without deduction as liquidated damages.
- Weischer shall endeavour to adhere to the screening dates agreed with the client in the specified cinemas. Weischer accepts no liability for fixed dates for the start of the term of the order or for the duration of the screening. If it is impossible to carry out an order in one or more cinemas through no fault of the client or Weischer, the order for the cinema in question must either be rescheduled or another cinema must be specified, depending on the agreement. Orders will only be cancelled in exceptional cases. This does not affect the order for other cinemas in which the order placed can be carried out. In the event of the cancellation of individual screenings and in the event of an interruption to the screening through no fault of the client or a delayed start of the screening, cancelled or interrupted advertising screenings will be made up after the end of the scheduled screening period.
- Weischer may withdraw from the contract at any time for good cause. Good cause exists in particular if cinema locations are closed, Weischer's contracts with the cinema operators end or the cinema operator prohibits the broadcasting of the advertising film.

- Weischer reserves the right to play advertising films that could come into conflict with the protection of minors only after 18:45. Discounts cannot be granted for broadcasting after 6.45 pm.

## 4. Delivery obligations, scope of services

- The scope of the contractual deliveries/services shall be determined by the respective object of performance agreed with the client. Broadcasting of the advertising material(s) with the data and information provided by the client shall only take place with the client's authorisation. Authorisation for broadcasting is deemed to have been granted if the client does not object in writing within one working day of delivery of the advertising material(s) created by Weischer.
- The confirmation of screening dates for auditorium bookings and individual film bookings is subject to the proviso that these can be unilaterally rescheduled by Weischer if this is necessary due to limited scheduling options in the respective cinema. Unless otherwise agreed in writing, in this case Weischer is also entitled to rebook to other cinemas of the same type available at the agreed time.
- The contact-related booking is dependent on the cinemas/halls used and the resulting visitor performance. The end of the campaign can therefore not be clearly guaranteed in advance. In cases of limited availability (point 4.2.) for a time-limited campaign, Weischer cannot guarantee that the booked contacts will be reached.
- Unless otherwise agreed, the client will provide Weischer with all data and information (image and/or sound carriers) required for the proper execution of the order with the necessary characteristics and the corresponding quality and data carrier form.
- Motifs, length specifications, approvals and changes must be communicated or made available at least 10 working days before the start of the installation. Data for digital use must be available at least 7 working days before the start of use. The costs incurred for this shall be borne by the client.
- Weischer provides its services within the scope of the scope of services contractually specified and finally regulated with the client. Services provided by Weischer that are not covered by the contractually agreed scope of services will be invoiced separately in accordance with Weischer's generally applicable rates and prices.
- The Client bears sole responsibility for the form and content of the advertising films and compliance with official regulations. Weischer is entitled to withdraw from a confirmed order if the form and content of the advertising films were unknown to Weischer at the time the order was accepted and if they violate common decency, legal provisions or official regulations, etc. In such a case, the client must nevertheless pay the full screening fee. In such a case, the client must still pay the full screening fee.

## 5. Rights and obligations of the client

- The client will do its best to ensure that Weischer can properly fulfil its contractually agreed deliveries/services. The client is liable to Weischer and third parties for the completeness and accuracy of its information.
- The client bears sole responsibility for the content and legal admissibility of the transmitted data and/or other information (including labelling, logos, equipment, etc.) and declares to indemnify and hold Weischer harmless from all claims that could be asserted against Weischer in connection with the advertising placements carried out for the client. This includes in particular the acquisition of all copyright and ancillary copyright consents for production, for transmission of the image and/or sound carriers to Weischer and for broadcasting in the cinemas booked. Weischer is under no obligation to the client to check the legal admissibility of the content of the advertising programmes.
- The client must pay for any production costs incurred, including compensation for all copyrights and neighbouring rights.
- Complaints about the advertising screening can only be taken into account if they are immediately reported by the client to the cinema management. In addition, Weischer must be notified immediately in writing, stating the cinema, the auditorium, the day of the screening, the time of the screening and the reason for the complaint.
- All spot documents (data carriers, image and sound carriers) must be made available to Weischer by the agreed delivery dates at the latest.

## 6. assumption of risk and despatch, property rights, storage of film material

- The client shall provide Weischer with all required data and information as well as image and sound carriers free of

# General Terms and Conditions of Weischer.Cinema Austria GmbH

charge by data carrier or FTP upload/download. Shipping and other costs in connection with the transmission or provision (including any desired return shipment from Weischer to the client) shall be borne by the client.

- Weischer shall organise the distribution of the client's image and sound to the contractually agreed cinemas.
- The image, sound carrier and film material provided by Weischer for the advertising films produced by Weischer remains the inalienable property of Weischer. The client has no right to the transfer of these advertising films.
- Advertising films will be archived by Weischer free of charge for a maximum of one year after the date of the last placement. Thereafter, Weischer is authorised to destroy or delete them.

## 7. Tariffs, prices, expenses, fees and charges

- All rates and prices are subject to the applicable statutory sales tax and advertising tax.
- Special discounts and promotions cannot be combined with each other.
- All remuneration for deliveries and services provided by Weischer will be invoiced in accordance with the applicable Weischer rates. Weischer reserves the right to make any changes to its rates, which shall also take effect immediately for existing orders or orders that are only executed at a later date.
- The client shall bear all charges and fees (e.g. advertising tax, etc.) incurred in connection with the provision of the commissioned service and shall indemnify and hold Weischer harmless in this respect.
- Weischer is authorised to use external services from suppliers/subcontractors in the name of and on behalf of the client. If Weischer is utilised by suppliers/subcontractors, the client must indemnify Weischer from all obligations upon first request. For external services obtained from suppliers/subcontractors in agreement with the client, Weischer shall charge the client a handling fee of 15% of the respective individual order value.

## 8. Digitisation

- The Contractor reserves the right to use the respective advertising films in digitalised form in databases. This applies in particular to the feeding, storage and/or provision.

## 9. right of cancellation, postponement of insertion dates

- The client has the right to cancel the order by written declaration. Ordinary cancellation is excluded from the start of delivery to the cinema. Cancellation fees are payable as follows for cancellation before delivery:
  - 6 to 5 weeks before the start of the campaign: 25% of the order amount
  - 4 to 3 weeks before the start of the campaign: 50% of the order amount
  - up to 7 days before the start of the campaign: 75% of the order amount
  - From 6 days before the start of the campaign: 100% of the order amount.
- Cancellation is only effective if and as soon as Weischer has expressly agreed to it in writing.
- Production costs already incurred at the time of cancellation shall be invoiced in full.
- A postponement of booked orders within a calendar year is permitted if a written declaration is submitted at least 4 weeks before the start of the production. A new switch-on date must be agreed at the same time. Postponed weeks may not be cancelled.

## 10. Terms of payment

- Invoicing shall take place at the start of the placement in the cinema.
- Invoices from Weischer are payable promptly, net cash, without charges or deductions, upon receipt of the invoice.
- For new customers of the contractor, advance payment of the invoice amount shall apply when the order is placed.
- In the event of a cash discount agreement with the Client, a cash discount deduction on offset credit note amounts is not permitted.
- Transfers are deemed to have been received on the day they are credited to a Weischer account and are credited to the oldest outstanding claim, first to costs and other ancillary charges, then to interest and then to the capital. Payment dedications are ineffective.
- In the event of late payment, Weischer may charge interest on arrears at a rate of 12% p.a. and will also charge the client any reminder, legal and collection fees as well as postage costs.

- The assertion of a right of retention against claims by Weischer is excluded. Offsetting against counterclaims of the client is only permitted if the counterclaim is undisputed or has been recognised by declaratory judgement.
- If the client does not pay agreed and due remuneration in full or on time, or if the client's financial circumstances deteriorate so that payment of the remuneration agreed for Weischer appears to be jeopardised, or if an application for the opening of insolvency proceedings is filed against the client, Weischer is entitled to declare all outstanding claims due immediately and to perform further services for the client only against advance payment and to withdraw from the contract in the event of default of payment, setting a grace period of five working days.

## 11. Liability

- Weischer is only liable for contractual and non-contractual claims of the client insofar as it can be accused of wilful or grossly negligent behaviour. Under no circumstances shall Weischer be liable for consequential damages, indirect damages or financial losses, including lost profits, or for other damages of any kind incurred by the client as a result of the cancellation or interruption of its advertising performances.
- Damages and any recourse claims against Weischer must be asserted in court within six months, otherwise they will lapse.

## 12. Miscellaneous

- The exclusion of competitors is not guaranteed. However, Weischer will not broadcast advertising films of competing products in immediate succession, depending on the space available.
- The place of fulfilment for deliveries and services for Weischer and for all payments to Weischer is Vienna.
- All contractually agreed rights and obligations are transferred to any legal successors on the client's side. The client undertakes to expressly transfer them and to transfer this legal succession clause. Weischer is authorised to transfer obligations arising from this contractual relationship to other companies.
- The client must notify Weischer in writing of any changes to its name or company name, address, legal form, company register number, paying agent, bank or credit card details, any collection orders and its VAT number immediately, but at the latest within one month of the change.
- The date of posting shall apply to the observance of deadlines, unless otherwise expressly agreed.
- If the client does not notify Weischer of changes in accordance with point 12.4. or does not do so in good time and therefore does not receive legally significant documents from Weischer sent to the address last notified by him, in particular reminders or the declaration of cancellation of the contract, the documents shall nevertheless be deemed to have been received. Invoices and reminders from Weischer are deemed to have been received under the same conditions if they have been sent to the last payment office notified by the client.
- The client is prohibited from assigning claims and rights arising from this contractual relationship without the written consent of Weischer.
- The contracting parties agree that for the duration of the business relationship, these GTC shall also apply to all services or business transactions not covered by this contract.
- Any taxes or fees incurred in connection with the conclusion of this contract shall be borne by the client, who shall indemnify and hold Weischer harmless in this respect.
- The contractual relationship between the contracting parties shall be governed exclusively by Austrian law, with the exception of its conflict of law rules (IPRG, EVÜ).
- Should any provision of these GTC be or become invalid, this shall not affect the validity of all other provisions; invalid provisions shall be replaced by valid provisions that come as close as possible to the intended purpose.
- The place of jurisdiction for all disputes arising from the contractual relationship or future contracts with the client is the competent court for 1010 Vienna, Innere Stadt. However, Weischer is also entitled to sue the client at its general place of jurisdiction.

Valid from 01.02.2020