

General terms and conditions of DEWE MEDIEN GmbH. Version 2014

1. General

The general terms and conditions primarily affect the areas of film, video, and radio production.

1.1. Validity

A deviation to these general terms and conditions requires written confirmation of both contracting parties. Oral ancillary agreements are invalid. The possible ineffectiveness of specific conditions does not affect the validity of the other general terms and conditions. In lieu of the ineffective provision, an effective provision that most nearly approximates the economic and legal intent, shall be agreed.

1.2. Modifications and current version

The general terms and conditions can be revised and modified without special announcement. The customer is obligated to inform himself and read the terms and conditions before placing the order.

2 Quotation and contract conclusion

Quotations are subject to change and are non-binding. A contract shall only go into effect and shall be deemed to be concluded, when the provider has confirmed an order in writing through order confirmation per fax or email, or has sent a delivery to the address last specified by the contracting party, or when the DEWE MEDIEN has started with the actual provision of service.

3. Data privacy

Within the framework of the concluded contract, the customer data necessary for invoicing will be stored, modified, and/or deleted and if necessary, communicated to third parties. The customer declares that he agrees with this procedure.

4. Prices and payment

If not otherwise agreed in writing, prices cited in the quotation or order form shall apply. The prices are based on the costs at the time of first price quotation. If costs should increase by the time of delivery, DEWE MEDIEN shall be entitled to adjust the prices. The legal value added tax, as well as other legal taxes and fees will be billed in addition.

4.1.1. Payments

Payments shall be due and payable with receipt of invoice and in accordance with the due data payment amount shown. Deduction of discount amounts is only allowed, if this is specified on the invoice. Ongoing services and fees will be billed quarterly or yearly, if nothing to the contrary is agreed in writing. Terminations can only be made in writing at the end of the quarter with one month notice of termination, thus the shortest contract term is 3 months. Reimbursement or cancellation of amounts in the event of premature termination of a yearly contract is not possible.

4.1.2. Modes of payment

Bank transfer is accepted. Payments via credit cards, bills of exchange or similar methods are not accepted. Payments with debt-releasing effect shall be made exclusively to the bank account specified on the invoice.

4.1.3. Advanced payment

For extensive projects, an advance payment is required so that the order can be started. This advance payment will be based on the scope of the projects and will be defined in writing (usually 40%). After completion of the respective project, the result will be submitted to the customer. After acceptance of the work on the part of the customer, the work will only be released after final payment.

4.2.1. Delay in material provision/delay in acceptance

The customer will be informed immediately after completion of the project and will be requested to accept the project. The acceptance period shall be 14 days after receipt of written communication from DEWE MEDIEN. If this period is not complied with, the project shall be automatically considered as accepted and the residual payment must be made immediately. Moreover, work can only commence when all documents required for the project have been received by DEWE MEDIEN. All materials must be present in a suitable format and in appropriate quality. If the documents are not made available within an acceptable period of time, a different project will be given priority. Withdrawal from the contract or liability on the part of DEWE MEDIEN cannot be derived from these delays. If specific documents should be missing for final completion, the client shall be obligated to provide the documents within 14 days, if not the residual sum shall be invoiced and due for payment.

4.2.2. Withdrawal from the contract

If the customer entirely withdraws from the contract or if the customer does not accept the goods/provided service, in whole or in part, the customer shall be in default with acceptance. In this case the company, DEWE MEDIEN, as provider shall be entitled to insist that the contract be fulfilled or to demand compensation for damages due to non-fulfillment. As compensation for damages, the company, DEWE MEDIEN, shall be entitled to demand at least 50% to 100% of the agreed sales price that serves as the basis for the purchase order or order, depending on the efforts that has been made.

4.2.3. Warranty and notice of defects

The customer is obligated to examine the delivered goods or service for defects or errors, immediately after receipt or inspection. The customer is obligated to report any defects without delay, at the latest however ten days after receipt of the goods/service, per fax or email (notice of defects). Defects that are covered by the warranty will be rectified either through rework or replacement delivery at the discretion of DEWE MEDIEN. The warranty obligation shall be invalidated as soon as changes or repairs have been made by third parties or by the customer himself, without the express (written) consent on the part of DEWE MEDIEN.

4.3. Objections to an invoice

Objections to invoices must be made by the customer within 14 days after invoicing. If this period is with no objections on the part of the customer, the customer acknowledges the correctness of the invoice.

4.4. Late payment

In the case of late payment, the customer will be reminded two times in writing, thereafter the matter will be turned over to the lawyer or collection agency without further notice. The usual default interest and attorney's costs incurred will be invoiced in addition. Payments will be credited to the oldest receivable, including any interest and reminder fees incurred. Ongoing services will be suspended with transfer of the receivable to the attorney/collection agency until all outstanding receivables are paid in full. The company DEWE MEDIEN assumes no liability in this regard or for the ensuing damages.

4.5. Service and maintenance tasks

With acceptance of a project by the customer, and payment made, the contract will be considered as concluded. More extensive tasks and support will be invoiced at the respective current hourly rate.

5. Delivery and retention of title

Delivered goods and services provided shall remain the property of DEWE MEDIEN until complete payment. The delivery period shall begin with the latest of the points in time specified below:

- Date of order confirmation
- Date of fulfillment of all technical, commercial or other prerequisites to which all contracting parties are obligated.
- Provision of all documents and materials necessary for processing of the order.
- Date on which DEWE MEDIEN receives the agreed advance payment either for goods or services.

DEWE MEDIEN expressly states that the sending of data via the Internet occurs without encryption and at the express request of the customer. For any damages that occur to the client, through unpermitted access of third parties, the contractor assumes no warranty.

5.1. Delayed delivery

If DEWE MEDIEN should be delayed with delivery for more than 14 days, the customer must specify a grace period of at least another 14 days. Only after this grace period elapses without success, shall the customer be entitled to enforce rights. This only affects projects in the production area with an agreed delivery date. Scheduled dates for deliveries of hardware or software depend on the appropriate manufacturers and suppliers. Consequently, we can only forward non-binding delivery dates.

5.2. Use rights and copyrights

For all productions the customer receives the right to use the agreed application. More extensive use of the provided services is not permitted, or authorizes the company to bill for additional license fees. This applies for the general layout and the respective structure of the content, as well as for all the individual components (graphics, processed images, audio, video, animations, etc.). Self-contained productions (web design, film production, multimedia production, etc.) are complete works that cannot be integrated in other productions without appropriate agreements. Changes to the works by third parties must not impair the overall appearance of the production. The copyright remains hereby unaffected, likewise the copyright notice must remain intact.

6. Withdrawal

DEWE MEDIEN is entitled to withdraw from the contract and to stop provision of services with immediate effect if:

- Legitimate concerns arise concerning the financial solvency of the contracting party and if the contracting party neither provides the agreed advance payment nor a suitable security on the request of DEWE MEDIEN, prior to delivery/provision of the service.
- The contracting party uses the services of DEWE MEDIEN for transmission of obscenities, threats, harassment, or damage, or violates applicable laws.

The contracting party is expressly notified that with termination of the contract relationship (regardless of the reason), DEWE MEDIEN shall no longer be obligated to continue the agreed service. Consequently, in this case DEWE MEDIEN shall be entitled to delete the stored content data. Timely call-up of such data at contract termination is the sole responsibility of the contracting party. The contracting party cannot derive any claims against DEWE MEDIEN from this deletion.

7. Liability

DEWE MEDIEN is only liable for damages outside the scope of the product liability act for intent and gross negligence within the limits of statutory regulations. Liability for negligence, compensation for consequential damages and financial losses, lost profit, interest losses and damages arising from the third party claims against DEWE MEDIEN are excluded. DEWE MEDIEN is not liable for damages that have been caused by the actions of third parties, force majeure, or the effects of devices connected by the customer.

8. Device rental

In the event of device rental, appropriate securities must be deposited by the customer or DEWE MEDIEN will obtain insurance coverage at the customer's expense. We expressly state that the customer is solely responsible for insurance coverage. The renter will be charged for damages in the amount of the repair costs or for the new value if a new purchase is required.

9. Other provisions

Unless otherwise agreed and with reservation of mandatory provisions of the Consumer Protection Act, the statutory provisions applicable to full merchants shall exclusively apply.

DEWE MEDIEN shall be entitled at its own risk to commission other companies to provide services arising from this contractual relationship. Such commissioning does not have to be separately shown to the customer.

The customer is obligated to notify DEWE MEDIEN without delay of any changes in the customer's name or designation, changes in the customer's address, or changes in legal form. If the customer does not provide this data, legally material declarations on the part of DEWE MEDIEN shall be deemed to have been received if they were delivered to the last known address. No claims that entail a non-fulfillment of the contract or failure to pay the agreed amount can be derived due to an unreported change in the company data. The legal form of the company at the new address automatically takes over legal succession.

The court of jurisdiction is Stuttgart, Germany.