

GENERAL TERMS AND CONDITIONS

of Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens (Association to Promote Independent Film Creators) in
1070 Vienna, Austria, Association Register no. ZVR: 551380685 (hereinafter also: Independent Cinema)
for the use of the VoD/streaming platforms “VIENNA SHORTS” (viennashorts.filmchief.com)
and “THIS IS SHORT” (thisisshort.com/thisisshort.eu/thisisshort.filmchief.com)
Version 01/2021, as of: April 1, 2021

1. General Provisions

VIENNA SHORTS and THIS IS SHORT are streaming platforms that enable both live streaming and on-demand provision of short films and that will be offered from April 1 to July 30, 2021 (THIS IS SHORT) and May 27 to June 1, 2021 (VIENNA SHORTS). VIENNA SHORTS and THIS IS SHORT (hereinafter also the SERVICE) is operated by Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens.

These general terms and conditions (hereinafter “terms”) apply for the use of the SERVICE, for the transmission, storing and processing of information, texts, graphics or other materials by the user of the SERVICE or by a person commissioned by him or her (jointly also referred to as “content”) and for all contracts concluded between the user of the SERVICE and Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens pertaining to the use of the SERVICE.

These terms, in the version valid at the time of the respective contract’s conclusion, apply exclusively. Terms of the other contracting party do not apply to this contractual relation. By registering with VIENNA SHORTS, the user accepts these terms.

2. Registration

To use the SERVICE, the user must register with VIENNA SHORTS. The use and administration of the services provided on the platform are only possible after registering an account. Every user receives his or her own account, unlimited in time.

Registration requires amongst others providing the name and the email address of the user, the country, the town including postal code, and a password. The information provided at registration must be correct and complete. If the personal data of the user should change, he or she must notify Independent Cinema of this change.

Independent Cinema is entitled to verify the correctness of the provided data at any time. In addition to other reasons for suspending or terminating the right to use the SERVICE, Independent Cinema is entitled to block access temporarily or permanently and to exclude the user from all use should information he or she provided be untrue, inaccurate, outdated or incomplete, or should Independent Cinema have reason to assume that information he or she provided was untrue, inaccurate, outdated or incomplete.

By registering, the user concludes a contract with Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens regarding the use of the SERVICE.

The registration is only open to natural persons aged 18 or more, and only for private purposes.

One user may only open one account. The user may not transfer his or her account and all the contents and rights of use associated with it to another person.

The user is obligated to handle the access data to his or her account confidentially and to not pass it on to third parties. The user is liable to Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens for any misuse of his or her account by third parties if he or she is at fault.

Users may only stream contents digitally. The streaming of films by the user may only be done from a device located in the geographical territory for which the film is available. VIENNA SHORTS and THIS IS SHORT are entitled to verify this by placing so-called cookies on the device of the users and/or by verifying the login data, IP address, access and/or payment data.

3. Services for a fee – video-on-demand

3.1. Conclusion of contract

To use the services of VIENNA SHORTS and THIS IS SHORT, a one-time fee needs to be paid (VIENNA SHORTS Pass+ or VIENNA SHORTS Industry Pass+). The user will be informed of the amount of the fee in a timely manner before ordering the respective service. By clicking the button “Buy now” for the respective service, the user makes a binding offer to Independent Cinema to purchase the service. The contract is concluded when Independent Cinema informs the user that the offer was accepted or starts fulfilling the contract. For the right of withdrawal of consumers, see Section 6. The warranty is based on the legal provisions.

The SERVICE currently includes the following services:

Short films and curated short film programs can be viewed from April 1 to June 30, 2021 as streams on THIS IS SHORT, and from May 27 to June 1, 2021 as streams on VIENNA SHORTS. In certain cases, access will be granted to users until July 21, 2021. THIS IS SHORT further enables access to contents that are not within the responsibility of THIS IS SHORT and for which other terms of use may apply. Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens is only responsible for the contents of VIENNA SHORTS and THIS IS SHORT. The contents of the video-on-demand offerings of the festival partners can be used with the purchased festival pass; however, the rights to these belong to the festival partners. The terms of use of the festival partners may apply.

Independent Cinema may restrict access to contents based on territory for licensing reasons. Certain contents may therefore be used only within certain territorial borders and will only be released for these by Independent Cinema.

3.2. Usage rights

All contents of VIENNA SHORTS and THIS IS SHORT are protected by Austrian and international law. All rights to all the contents that are guaranteed by copyright law and other laws, in particular rights of use and ancillary rights, proprietary rights and other rights, are expressly reserved. The contents may only be used by the user within the framework of this license agreement; any use beyond this scope requires the prior written consent of the rights holders.

The user is entitled to use the contents for the intended private use. The user thus is granted the right to use the contents within the contractually agreed period for private screenings for non-professional and non-commercial purposes and having regard for the remaining provisions of the license agreement. The user is not granted any further rights of use. The user license is not transferable to third parties.

The user is in particular not entitled to in any way process the contents, distribute them or make them publicly accessible, provide them to the public, reproduce them publicly, present them publicly, make them publicly perceivable, or exploit them in any other form—whether commercial or not.

A use of the contents beyond the respectively granted scope of use may result in a right to claim injunctive relief, information and compensation under civil law for Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens and for other respective rights holders, as well as in criminal prosecution.

3.3 Fee/payment modalities/invoice

The prices listed on VIENNA SHORTS (hereinafter “usage fees”) are deemed agreed.

The user undertakes to pay a one-time fee for the SERVICE. The usage fee is billed through a payment system provided on the SERVICE and remunerated by payment to Independent Cinema. The usage fee is due immediately, before delivery of the service.

The fees can only be paid using the payment methods provided in the SERVICE. The payment procedure is based on the selected payment method. For payment with credit card or another payment service (e.g. PayPal, EPS etc.), transaction costs may arise; these are borne by the user. The invoices will be sent to the user by email after the payment process.

4. Technical requirements for streaming the films

For the use of VIENNA SHORTS and THIS IS SHORT an Internet access that has the technical capabilities to call up/stream electronic services and media and a corresponding, contemporary device including software (browser) are required. Independent Cinema recommends a broadband Internet connection (3 MB/s for the default resolution or higher).

Large fees may be incurred depending on the user’s telephone or data contract—Independent Cinema has no influence over these.

5. Interruption of the SERVICE/termination of access to the SERVICE

The user is aware that it is not possible to preserve the SERVICE's availability at all times and that interruptions of the SERVICE due to technical reasons (e.g. updating, maintenance etc.) may occur. The user has no legal claims of any kind resulting from the temporary interruption or termination of access to the SERVICE.

The user has the right to delete his or her account at any time.

Should the user be in breach this contract or applicable law, and should the user fail to cease the behaviour causing the breach within seven working days from receiving a written warning, Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens is entitled to terminate access to the SERVICE with immediate effect, without further notification and without observing a notice period, and to immediately deactivate the account and all information and files on it or delete them, and/or to block any further access to these files or the SERVICE.

Outstanding claims of Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens remain unaffected by a deletion of the account.

The user acknowledges that Independent Cinema is not liable to the user or to third parties for the interruption or suspension of the SERVICE or for the termination of a user's access to the SERVICE.

The user also explicitly acknowledges that Independent Cinema is entitled to terminate the SERVICE, including with regard to individual films, with immediate effect should the granting of rights by the respective producer or rights holder to carry out this SERVICE end or be effectively revoked.

6. Information for consumers/right to withdraw

6.1. In general, consumers have the right to withdraw from contracts concluded via distance selling or outside business premises within 14 days from the conclusion of the contract without providing a reason (Austrian Distance and Off-premises Selling Act, *Fern- und Auswärtsgeschäftegesetz* – FAGG – BGBl (Austrian Federal Law Gazette) I No. 33/2014). This could have as a consequence that the contents of VIENNA SHORTS and THIS IS SHORT would only be made available after the end of the 14 days from the purchase of an online festival pass. But to enable immediate streaming of digital contents, the lawmakers provided for the possibility of an exception in the law to the right to withdraw for digital contents. This requires the explicit assent of the user to the waiving of the right to withdraw.

6.2. The user can obtain additional information on the right to withdraw at https://www.viennashorts.com/assets/media/Withdrawal-information_Vienna-Shorts2021.pdf.

7. Liability of Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens

Independent Cinema is only liable for itself or its vicarious agents in cases of wilful intent or gross negligence, with the exception of personal injury. This restriction of liability applies for contractual and non-contractual claims. Liability based on mandatory statutes is unaffected.

Independent Cinema cannot ensure that access to the platform is possible at all times without interruption or errors. Independent Cinema will endeavour to ensure a constant availability of the SERVICE. Downtimes due to maintenance or updates, or due to circumstances (such as technical problems of third parties, force majeure) not under the control of Independent Cinema and for which Independent Cinema is therefore also not responsible, and which cause the SERVICE to be unavailable over the Internet, cannot be excluded.

The user is responsible for regularly updating the software he or she uses and for backing up his or her data, as well as for contemporary anti-virus protection and firewall systems.

Independent Cinema does not guarantee any universal playback of the contents provided on every player software or with every technology used by the user. Should retrieved files fail to play, or be incomplete, even when using standard software, Independent Cinema requests that it be notified of this.

8. Protection of minors

The user is obligated to not assist persons under 18 years of age in accessing contents destined for adults. The user undertakes to only screen or make accessible to children or youths such contents as are approved for the respective age group.

9. Data protection

The processing of data is in line with the conditions stated in the Privacy Policy of Independent Cinema – Verein zur Förderung unabhängigen Filmschaffens. These can be reviewed at the link <https://viennashorts.filmchief.com/hub/privacy-policy> and stored as a PDF file.

10. Changes to the terms

Independent Cinema reserves the right to change these terms at any time. Independent Cinema will inform the users in advance of changes to the terms. Should a user not consent to the new terms, his or her account will be deleted with a notice period of three months to the end of the month. Section 5 of these terms applies accordingly.

The new terms replace the old version and form the basis of newly concluded contracts from the day of their publication.



11. Miscellaneous

These terms and all contracts concluded on their basis are subject to Austrian law. The sentence above notwithstanding, those provisions of your state of residence apply which may not be waived by agreement according to the laws of your state of residence. The application of international conflict of laws norms and the UN Convention on the International Sale of Goods is excluded. The exclusive place of jurisdiction is Vienna, Austria, provided that the applicable consumer protection provisions for consumer transactions do not state otherwise. These terms and all contracts concluded on their basis may only be changed or supplemented in writing. Should individual provisions of these terms not be compatible with legal statutes, the remaining provisions of these terms remain unaffected.

These terms valid from: April 1, 2021

