

The General Terms and Conditions for Product Placement in Programs in Czech Television Broadcast

1. Applicability

These General Terms and Conditions for Product Placement in Programs in Czech Television Broadcast regulate the basic rules for product placement in programs produced or co-produced by Czech Television and broadcast on channels operated by Czech Television (hereinafter referred to as “the General Terms and Conditions”).

2. The basic terms and conditions

Compliance with the legislation and other regulations

The product placement in programs produced or broadcast by Czech Television must be in line especially with Act No. 231/2001 Sb., the Radio and Television Broadcasting Act as Amended, Act No. 40/1995 Sb., the Advertising Regulation Act as Amended, and the Code of Czech Television.

Czech Television

Czech Television is a legal entity established by Act No. 483/1991 Sb., which is, by virtue of law, a broadcaster.

The Advertiser

The Advertiser means a legal entity or an individual who has ordered from Czech television product placement in programs produced by Czech Television or broadcast by Czech Television.

The Purchase Order

The Purchase Order means the Advertiser’s offer to enter into an agreement using a Czech Television model purchase order form. Czech Television is not obligated to accept the Purchase Order.

Product placement

Product Placement in programs means any form of incorporation of a product, a service or a trademark attached to the product or service or a reference to a product or service in a program in return for payment or for similar consideration.

The specific way of the product placement will always be subject to individual negotiations, reflect the character of the product which is offered to be placed in the program and the character of the program in which the product is to be placed, and respect all the legal requirements in respect of product placement.

The product may only be placed in programs and not in other parts of the broadcast.

The value of the product incorporated in the program itself is not considered to be a payment or similar consideration.

The product can only be placed in programs produced after 19 December 2009.

Editorial responsibility and independence of Czech Television

The content and the broadcasting time of the programs containing product placement may not be influenced in any way which would affect the editorial responsibility and independence of Czech Television. The editorial responsibility and independence are not considered to be affected if Czech Television and the author of the script of the program, by their own choosing, accept the offer of the Advertiser of the placed product.

The editorial responsibility and independence are affected in the event that Czech Television loses control over the content or the selection of the programs and other parts of the broadcast and over their organisation in the chronological schedule of the given channel.

Program

For the purposes of television broadcasting, a program means a set of moving images with or without sound, whose content, form and function constitute a closed unit of broadcasting and which represents an individual item of a television schedule.

Channel

A channel means channel CT1, channel CT2, channel CT24, channel CT sport, channel CT: D, channel CT Art.

Categories of programs in which product placement is admissible:

- 1) Product placement in programs for which there is a payment is only admissible in cinematographic works, films and series made for television broadcasting or for audiovisual media services on demand, sports programs, and light entertainment programs provided that they are not programs for children.
- 2) Product placement is further admissible in programs regardless of their genre in cases where there is no payment but only the provision of certain goods or services free of charge, such as production props and prizes, with a view to their inclusion in a program.

Prohibition of certain types of product placement

- 1) Cigarettes or other tobacco products,
- 2) products of persons, whose principal activity is the manufacture or sale of cigarettes and other tobacco products,
- 3) medicinal products and medical treatment available only on prescription in the Czech Republic.

The product placement presentation

Product placement must be made in a way so as:

- a) not to directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;
- b) not to give undue prominence to the product in question.

The identification of programs containing product placement

Programs containing product placement shall be clearly identified as such at the start and at the end of the program, and when a program resumes after an advertising break, in order to avoid any confusion on the part of the viewer as to the nature of these programs. The

programs containing product placement shall be identified clearly, using a neutral graphical logo containing the “PP” symbol or, as the case may be, in another appropriate way. The “PP” symbol or, as the case may be, the other appropriate way of identification, shall be arranged by Czech Television.

The distinction between product placement and sponsorship

The decisive criterion distinguishing sponsorship from product placement is the fact that in product placement the reference to a product is **built into** the action of a program. This shall not affect the fact that a program containing product placement may also show sponsor references. These types of commercial communication must be inserted in programs in a very careful way, so as not to breach the law.

The relationship between product placement, sponsorship and television advertising

Product placement, sponsorship and television advertising are different forms of commercial communication.

3. Entering into product placement agreements

3.1. Czech Television places the product in a program based on an agreement made between Czech television and the Advertiser, by which, under the conditions stated therein, Czech Television undertakes to embed the given product in the program and the Advertiser undertakes to pay Czech Television a fee (hereinafter referred to as the “Fee”) or, if there is no payment, to provide certain goods or services, such as production props and prizes, with a view to their inclusion in a program (hereinafter referred to as the “Agreement”).

3.2. The Agreement is made in writing (the contracting parties expressly accept as signature also its scanned image). The Agreement is made using the purchase order form duly completed, signed and delivered to Czech Television by the Advertiser. The Agreement is entered into at the moment when the Advertiser’s purchase order is also signed by Czech Television. The Agreement can only be amended or cancelled in writing.

3.3. In case that the Advertiser is an agency, Czech Television has a right to request the delivery of a written exclusive authorization by the client listing the products or services covered by the authorization as a precondition to enter into the agreement.

3.4. These General Terms and Conditions are part of the Agreement In accordance with the provisions of S. 1751 (1) of Act No. 89/2012 Sb., the Civil Code as Amended (“the Civil Code”). Divergent arrangements in the Agreement take precedence over the text of these General Terms and Conditions.

3.5. To be able to enter into an Agreement for product placement, it is necessary for the draft Agreement – Purchase Order to provide a precise specification of the program which is to embed the product placement, a precise designation of the channel which is to broadcast the program, the precise name and surname of the individual or the name of the legal entity that ordered the product placement (the client) and also a precise description of the product which is to be embedded in the program.

3.6. The Agreement and the legal relation created thereby are governed by the Civil Code.

4. Product delivery

4.1. The Advertiser undertakes that the product intended to be placed in the Program as well all the other materials relating thereto will be delivered to the shooting location of the Program at the Advertiser's own expense sufficiently in advance. If the product is agreed to be returned to the Advertiser, the Advertiser is obliged to take it over again at the Program shooting location at the time specified by Czech Television. Czech Television is responsible for returning the product and the materials in the condition in which they were taken over apart from common wear and tear and wear and tear caused by the agreed usage. Should the Advertiser fail to fulfill its duty stated in this provision, the Advertiser is obliged to pay Czech Television a **contractual penalty** in the amount of the agreed Fee and Czech Television is, at the same time, entitled to **withdraw** from the Agreement. This provision does not affect the right of Czech Television to a full compensation for damage

4.2. The Advertiser undertakes and guarantees that it has, in connection with the product to be placed in the Program and with the form of the potential reference to the product, obtained and paid for all the rights (in particular moral rights, copyright and rights related to copyright, rights to any intellectual property) needed by Czech Television to be able to use the Program without any restrictions as to the substance, time, territory or quantity. The Advertiser is obliged to prove the fulfillment of the conditions set out by this provision upon Czech Television's request. Should the Advertiser fail to fulfill the duty stated in this provision, the Advertiser is obliged to pay Czech Television a **contractual penalty** in the amount of the Fee agreed under clause 8 paragraph 8.1. This does not affect the right of Czech Television to a full compensation for damage

4.3. The Advertiser undertakes that the delivered product that will be placed in the Program will be of sound and fair merchantable quality and appearance, fully functional, without defects and additional adjustments; otherwise, Czech Television has a right to request replacing the specific product with another product of the same type.

5. Declaration of the Advertiser

5.1. The Advertiser declares and guarantees that no justified claims of right-holders, rights of performing artists and producers' rights or justified claims of other third parties will be asserted against Czech Television in connection with the use of their protected subject matter or personal attributes as part of product placement in the way and to the extent set out by the Agreement. Should such claims be asserted against Czech Television, the Advertiser undertakes to satisfy these claims and to compensate Czech Television for any actual costs incurred in connection with the assertion of these justified claims.

5.2. The Advertiser notes that, by the Agreement, it does not acquire the sound-and-video-recording producer's rights, nor are any rights to use the Program or Channel transferred to the Advertiser.

6. Withdrawal from the Agreement

6.1. Czech Television reserves the right to withdraw from the Agreement with ex nunc effects for the following reasons:

- a) in cases specified by these General Terms and Conditions (clause 4 paragraph 4.1.; clause 8 paragraph 8.4.);
- b) should the product placement be, according to the legal opinion of Czech Television, found contrary to the applicable laws of the Czech Republic;
- c) should it be impossible to ensure the product placement due to channel changes;
- d) should the Advertiser be in delay of payment of the Fee and/or another due debt to Czech Television.

6.2. Furthermore, the Advertiser and Czech Television are both authorized to withdraw from the Agreement in cases specified by the law, in all cases with ex nunc effects.

6.3. The withdrawal from the Agreement takes effect upon delivery to the other Party; after that day, the effects of the withdrawal may not be revoked or altered without the consent of the other Party.

7. Liability for defects

7.1. Given the fact that the specific way of product placement will always be the subject of individual negotiations, it will reflect the character of the product offered for placement in a program and the character of the program into which the product is to be placed, and it will respect all the legal requirements for product placement, the Advertiser has a right to request, only in the case of apparent defects:

- a) the elimination of the defects (if possible); and/or
- b) a reasonable discount on the Fee, the reasonable discount corresponding to the nature and extent of the defect.

7.2. The Advertiser is obliged to assert its claim resulting from Czech Television's liability for defects referred to in paragraph 7.1. against Czech Television in writing within five (5) days of the day when the defect could have first been detected, however, no later than within five (5) days of the day when the Program containing the product placement was broadcast; otherwise, the claim becomes extinguished. Apart from the asserted claim, the Advertiser is obliged to precisely specify the defect which justifies the claim. The asserted claim may not be changed by the Advertiser without Czech Television's consent.

7.3. The Advertiser's claims resulting from Czech Television's liability for defects referred to in paragraph 7.2. will not be created if the broadcast of the Program which embedded the defective product was caused by circumstances excluding liability. These circumstances shall be deemed to include, in particular, civil disturbances, military operations, crises, interventions by courts or public administration, black-outs, technical defects on the part of third parties or technical defects caused by third parties, strikes or lockouts, or other events beyond Czech Television's control.

8. Payment conditions

8.1. Unless the Agreement provides otherwise, the Advertiser is obliged to pay Czech Television a Fee for product placement agreed by the Agreement.

8.2. The Fee shall be paid on the basis of a VAT invoice, which shall be issued by Czech Television within fourteen (14) days from the signature of the Agreement, unless the Agreement provides otherwise. The invoice will be payable within thirty (30) days from the day of its issue, unless the Agreement provides otherwise. The date of payment means the day when the Fee is credited to Czech Television's bank account stated on the invoice.

8.3. In the case of delay in the Fee payment, Czech Television is entitled to charge, in addition to the due amount, a contractual late payment interest in the amount of 0.03 % of the due amount for each new day of delay.

8.4. Furthermore, in the case of the Advertiser's delay in the Fee payment, Czech Television has a right to **withdraw** from the Agreement and the Advertiser is obliged to pay a **contractual penalty** in the amount of the Fee. This does not affect Czech Television's right to be compensated for damage, if any.

8.5. Unless the Agreement expressly provides otherwise, the VAT will be added to all the amounts stated in the Agreement in accordance with the applicable legislation in force.

8.6. Should Czech Television become entitled to a contractual penalty pursuant to the Agreement or to the General Terms and Conditions, it will issue the Advertiser with an invoice for the given amount due in 30 days.

9. Liability for damage

9.1. If, in consequence of the performance under the Agreement, Czech Television or another person suffers damage, the Advertiser undertakes to cover the damage in full, even provided that it was caused by circumstances excluding liability under the provisions of S. 2913 (2) of the Civil Code. The Advertiser will also cover all the claims and expenses incurred in the case that Czech Television is addressed by a third party due to a breach of rights in connection with the performance pursuant to the Agreement.

9.2. The amount of the damage for which the Advertiser must be compensated by Czech Television as part of its liability for damage caused by a breach of an obligation arising for Czech Television from the conclusion of the Agreement is limited to the amount of the Fee agreed in the Contract.

10. Other provisions

10.1. Czech Television and the Advertiser have agreed that the content of the Agreement as well as any information which will become known to the Contracting Parties in connection with the negotiations over the Agreement, its performance and in connection therewith will be regarded as confidential, and that none of the Contracting Parties is, without the prior

written consent of the other Contracting Party, authorized to disclose this information to third parties, not even after the termination of the performance of the Agreement or after the termination of the Agreement, except for the information: (i) which a Contracting Party learnt independently of the other Contracting Party; (ii) which Czech Television itself communicates to third parties in connection with the preparation, production, distribution and/or promotion of its program content which is covered by this Agreement and/or in connection with its promotion (with the exception of the information designated by the Advertiser as its trade secret); (iii) which a Contracting Party provides or publishes based on a piece of legislation or of an enforceable decision of a court or of another administrative body; and (iv) which a Contracting Party provides to its expert advisers and/or other associates bound by a legal duty and/or the contractual duty not to disclose information. In case the Agreement is, at present or in the future, subject to the non-disclosure duty under Act No. 340/2015 Sb., the Contracts Register Act (hereinafter referred to as “**the Contracts Register Act**”)(e.g. in consequence of the adoption of an appendix), the Contracting Parties have, after mutual agreement, marked in their counterparts in yellow (or using another clear marking, i.e., in shades of grey if, when entering into the Agreement, the Agreement was exceptionally scanned in shades of grey) the information which will be made illegible in accordance with the Contracts Register Act. This is the way to mark primarily, although not exclusively, the trade secret the confidentiality of which is ensured by the Contracting Parties in an adequate way. The information that is not marked in yellow (or using another clear marking, i.e., in shades of grey) in the Agreement is not subject to the non-disclosure duty under this paragraph. This Agreement may only be published by Czech Television using the procedure set out by the Contracts Register Act; the Agreement must be published within 30 days of its conclusion. Should Czech Television fail to publish the Agreement within that period, the Agreement may be published by any Contracting Party using the procedure set out by the law. The injured Contracting Party is, for any breach of any obligation under this paragraph, entitled to request from the Contracting Party in breach the payment of a contractual penalty in the amount of CZK 100,000.

10.2. The Advertiser may not interfere in the editorial responsibility and independence of Czech Television. Should the Advertiser fail to fulfill the duty stated in this clause, the Advertiser is obliged to pay Czech Television a **contractual penalty** in the amount of the Fee agreed under the Agreement. This shall not affect the right of Czech Television to a full compensation for damage

10.3 Should any of the provisions of the Agreement become invalid, void or unenforceable, that provision will, to the full extent, be severed from the other provisions and will not have any impact on the validity and enforceability of the other provisions of the Agreement or, as the case may be, of the provisions of these General Terms and Conditions. The Contracting Parties undertake to replace such invalid, void or unenforceable provision with a new provision which will be valid and enforceable and the subject matter of which will, from the economic perspective, be as similar as possible to the subject matter of the original provision. The Agreement can only be amended in writing.

10.4. Under S. 1765 of the Civil Code, the Advertiser has taken on the risk of a change in circumstances. Prior to entering into the Agreement, the Parties fully considered the

economic, financial and factual situation and are fully aware of the Agreement circumstances.

10.5. The Contracting Parties have agreed that they replace any rights and obligations which may have arisen from the performance within the framework of the subject matter of the Agreement which was made prior to the effective date of the Agreement with the obligation arising from this Agreement. Any performance within the framework of the subject matter of the Agreement made prior to the effective date of the Agreement is considered to be performance under the Agreement and the rights and obligations arising therefrom are governed by the Agreement.

10.6. The Contracting Parties expressly exclude the application of the provisions of S. 2050 of the Civil Code and, furthermore, expressly declare that there is no established practice and/or trading habits between the Parties the application of which is expressly excluded by the Parties. The Contracting Parties agree that writings pursuant to the Agreement or these General Terms and Conditions can be sent by the Contracting Parties in the form of a scanned copy by e-mail.

10.7. All the relations that are not regulated by these General Terms and Conditions are governed by the Civil Code and by the other applicable legal regulations of the Czech Republic, excluding the conflicting rules of international private law. In the case that the relation created by the Contract involves an international element, the Contracting Parties agree that any disputes arising in connection with the Agreement will fall under the jurisdiction of the courts of the Czech Republic. The Contracting Parties further agree that, as regards the relationships arising from the business activity of the Contracting Parties, it is the general court of Czech Television which has the territorial jurisdiction over the dispute.

The General Terms and Conditions take effect on 1 July 2017.