

# Terms of Usage

[www.clipgenerator.com](http://www.clipgenerator.com)

[www.clipgenerator.de](http://www.clipgenerator.de)

[www.clipgenerator.eu](http://www.clipgenerator.eu)

- **1. Conclusion of Contract, legal relationships, registration**

- - a. By using clipgenerator you submit to these terms of use and acknowledge them as binding. We (name and address can be found under “Imprint”) will not accept any other terms of use.
  - b. By using our services, only a framework agreement will be concluded, which will permit you to make use of our services to generate video-clips. All offers made on our sites (especially those to generate video-clips) are made without engagement.
  - c. A contract regarding the generation of a specific video-clip will only be concluded, if the video-clip in question is not free of charge. This contract will then be entered into by submitting your clip for generation. Video-Clips that are free of charge will be generated as a mere favour; they are not subject to legal obligation. Therefore there is no title on your side for the generation or transmission of such free clips. While generating free clips, the measures of the framework agreement must comply with by both parties.
  - d. You are not obliged to generate clips. We are not obliged to hold ready offers for generating clips at any and all times on our sites.

- **2. Responsibility for contents, third party rights**

You are responsible for the clips generated by you and the pictures used therefore (collectively referred to as “your contents”). You assert to us that you will thoroughly check your contents and ensure that they comply with all relevant provisions of law (including German law and any other applicable law) and do not violate the rights of third parties. We cannot check your contents in advance. You assure us that the recipients of emails sent by you using our sites have agreed to receive such emails and that these emails do not molest their respective recipients. For checking your contents, we provide

you with the following guidelines: You should especially ensure that your contents

- - a. do not infringe the copy rights or other industrial property rights (e.g., trademarks, design patents, patents, utility patents etc.) of third parties. For that reason, we recommend to use only photos that are your own work.
  - b. do not violate the personality rights of third persons. Note that you are not entitled to take photos aimed at persons without their consent.
  - c. do not insult third persons and are not capable of causing sedition, cannot be considered racist or anti-semitic and do not vilify ethnic or religious groups or other parts of the population
  - d. do not contain sexually explicit material, especially any sexually explicit presentation of children is prohibited.
  - e. do not relate to illegal gambling or promote such gambling. Note that gambling sites on the internet accessible from Germany contravene German criminal law if the provider of such gambling site does not possess a license issued by German authorities, even if he were in possession of such license issued by another European country (ruling of the Supreme Court of Germany of April 1st, 2004, I ZR 317/01, published in NJW 2004, 2158).
  - f. do not infringe the law on unfair competition (Gesetz gegen unlauteren Wettbewerb, UWG), especially do not contain immoral or misleading advertisement. Note that especially chain letters contravene this law.
  
- **3. Protection of Privacy**

We comply with the federal law on privacy protection (Bundesdatenschutzgesetz). Your data will not be sold to third parties. Note that – in order to avoid being held liable ourselves – we will cooperate with third parties whose rights have been infringed and that we will provide such persons and public authorities with all data that can be submitted in accordance with the laws on privacy protection. You permit us to retain your IP address (unambiguous identification code of a computer connected to the internet) and the data you submitted during the registration process) to ensure secure user identification.

- **4. Third party claims**

In case you violate any provision of law, you agree to indemnify clipgenerator.de, its officers, employees and partners (each an “indemnified party”) of all and any claims that third parties assert against such an indemnified party due to the infringement of that provision or right (especially a copyright, licensing rights, competition rights or other industrial property rights).

- **5. Registration Data, Update of Data**

You undertake to provide accurate, complete and comprehensible data during the process of registration (Email-validation) and to update such registration data if any changes occur. In particular, you are not entitled to register under a false name or identity.

- **6. Termination of the Contract**

**In case of a important reason, both parties can terminate the framework agreement (see above, no. 1) extraordinarily without observing any deadline or granting a grace period. Without such good cause, the framework agreement can be terminated subject to a deadline of one week to the end of each month. Once a termination (ordinary or extraordinary) enters into effect, the access to clipgenerator.de will be blocked. TRIVID is especially entitled to immediate termination of the contract if:**

**- The customer seriously violates the conditions of the contract or contract guidelines.**

**- The content of the customer’s created video-clips violate lawful bans/dictates, common morality and/or rights of third parties. If the termination occurs after previous warning by TRIVID, TRIVID is not responsible for keeping the contract.**

**Upon termination for important reasons, TRIVID is entitled to block the customer from usage.**

- **7. Generation of Video Clips, Accessibility of the Service**

- - a. Note that the pictures to be used have to meet the technical criteria set out on the web site (especially file format, size of file and picture, quality of the picture). We are not responsible for defects of the pictures used and the contents generated out of such pictures (especially poor quality of clips due to insufficient picture quality).
  - b. Usually, the video clips are dispatched promptly. However, delays in generation and/or dispatch may occur. We cannot guarantee that a video clip that has been sent will reach its recipient. Such video clips are sent on your own risk. We are entitled to suspend the service for maintenance purposes.

- **8. Disclaimer, Limitation of Claims**

If you are an entrepreneur (i.e., acting in relation to a commercial business or other independent professional occupation), the following provisions (a to c) shall apply:

- - a. We are only liable for damage claims resulting from breaches of contract committed by our auxiliary person in case of wilful misconduct or grossly negligent conduct of the respective auxiliary person. For own breaches of material contractual obligations, we are also liable in case of a normal degree of negligence. These limitations of claims do not apply to damages to body, life and health
  - b. Claim for damages prescribe within five years at the latest. This period of time will begin with breach of duty leading to the respective claims. However the claims for damages will prescribe earlier, if this is regulated by law. This acceleration of prescription shall not apply in case of wilful misconduct or grossly negligent behaviour.
  - c. As far as we will not be liable vis à vis you due to a. and or b., you undertake to exempt us from any third party claims resulting from the same facts.
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These limitations do not apply to you, if you are acting as a consumer.

- **9. References and Hyperlinks, Disclaimer**

- - a. We have no influence on the present and future presentation and contents of the external sites linked/referred to by us. Hence we expressly dissociate ourselves from all contents of all external sites that are linked or referred to. This applies to all links and references on our pages, as well as to all guest

entries made into guest-books provided by us, as well as in discussion forums and mailing lists.

- b. The provider of the external site, that is being linked / referred to, is liable for any illegal, faulty contents, especially for damages that occur due to the use or non-use of such information and not we, for we only refer to the relevant publication.
- c. We also disassociate ourselves from clips made by means of our site and our services. We do not have any influence on their content, especially the pictures used. The clips are generated automatically, without any previous check being possible by us. Furthermore, we disassociate ourselves from clips generated by users that are being provided at our site, especially within public video pools and competitions.

- **10. Copy-right and law of trademarks**

- - a. We are anxious to respect in all publications the copy-rights of all pictures, pieces of music, video sequences and texts used. As far as possible we revert to pictures, pieces of music, video sequences and texts created by us or to pictures, pieces of music, video sequences and texts available on public domain. The trademarks mentioned within our site are property of their possible respective owner and are subject to the provision of any applicable trademark law.
  - b. The copy-right for published objects created by us will remain with us as the operator of the site. Any reproduction or use of such picture-, music- or video sequences in any other electronic or printed media is not permitted without our prior written consent.

- **11. Set-off**

Your are only entitled to set-off with counter-claims, as far as such counter-claims have been established by final judgement and/or are acknowledged by us.

- **12. Change of terms of contract, changes of service**

- - a. We reserve our right to change the provided service at any time without prior notice.
  - b. Changes in these terms of use shall be deemed as accept by you, if you do not object to those change within four weeks after a respective notice to you. Such change of terms of use shall also be deemed accepted by you, if you continue to use the service without reserving your right to objection.

- **13. Data Protection**

Personal data related to the customer are processed, used and stored by TRIVID during the contractual relationship without other explicit approval only for the purposes of contract processing, including billing. The data retrieval, data use and data processing occurs electronically. TRIVID may transmit the account data of the customer to other official suppliers and third parties, as long as this is necessary for the inquiry into remuneration and for the customer account. TRIVID is entitled to transmit the account data of the customer to the third party responsible for remuneration, as long as it is necessary for this purpose. For the rest, TRIVID will pass on to third parties neither the data of the customer, nor the contents of private news of the customer without his consent. TRIVID points out expressly to the customer that data protection and data security cannot be guaranteed for data transfers in open nets like the Internet according to the present state of the technology. The customer knows that the provider can see a technical view of the side offer stored on the web servers and under circumstances can also view at any time other data of the customer stored there. Also other participants on the Internet are able under circumstances to technically intervene on an unauthorized basis in network security. The customer takes full responsibility for the security and protection of himself for stored data transmitted over the Internet and on web servers.

- **14. PRIVACY PROTECTION**

Clipgenerator will never access or save data of users address books. The very latest, recognized data protection and encryption technologies are used to protect user's personal information.

- **15. Place of jurisdiction, choice of law**

- - a. These terms of use and the entire legal relationship between you and us are subject to German law.
  - Germany shall be the exclusive place of jurisdiction and performance.

- **16. Severability**

In case a provision of these terms of use should be invalid or inexecutable, it will be replaced by a valid or executable provision that shall best meet the respective invalid/inexecutable provision. The remaining provisions of the terms of use will be unaffected.

- **Please note:**

We have translated these terms of use thoroughly and in good faith. If, however, any collisions and/or contradictions between the German and the English Version of these terms of use should occur, the German version shall prevail.