

Bright River's Additional Terms & Conditions for Enterprise clients (US)

These Additional Terms & Conditions ('T&C') apply to all agreements pursuant to which Bright River will provide its Services.

Service

1. Bright River will process the Visual Content within the timeframe as described in the Client Agreement. The Client accepts that additions or amendments demanded to the agreed Service by the Client or modifications of the the forecast may influence the Turnaround Time and the reciprocal responsibilities of Bright River and the Client.
2. The Visual Content as provided by Bright River shall be deemed to be in conformity with the Agreement if it substantially meets the specifications described in the Agreement. If it does not substantially meet the applicable specifications, the Client is, as an exclusive remedy, entitled to request Bright River to re-execute the relevant Service at no additional costs by rejecting the relevant Visual Content, using the review tool in the online application.
3. The Client's right to request Bright River to re-execute the Service will lapse after 14 days following notification by Bright River of delivery of the Visual Content. Upon the lapse of the 14 days' period, the Visual Content will be deemed to have been accepted and to be in conformity with the Agreement.

The Service Network

1. The Client acknowledges and agrees that Bright River will be permitted to engage its Service Network for the provision of the Services. The Service Network Bright River has established consists of a number of carefully selected professional partners with which Bright River has agreements in place. The Bright River Service Network includes both the Bright River production facilities and software providers engaged to provide the Services. Everything Bright River commits itself to pursuant this Agreement, also applies to the Bright River Service Network. Bright River regards their services as part of its own responsibility towards clients.

IP Rights & Data

1. Bright River grants the Client an unlimited, personal, exclusive license to use the Visual Content as created by Bright River.
2. All pre-existing Intellectual Property of each party will remain the exclusive property of that party and, except as specifically provided in this Agreement, no party will acquire any rights or interests in the other party's pre-existing Intellectual Property.
3. Bright River may store and use Visual Content inputs (e.g. image and video inputs) processed by the Service to provide and maintain the Service and to improve and develop the quality of its editing automation and to train its designers. Bright River shall not store or use any personally identifiable information such as contact details (name and email address) that may be contained in the Client's content for these purposes.

Price and Payment

Bright River USA LLC

85 Broad Street, 16th Floor New York, NY 10004 United States **Telephone** +1 (646) 396 5460

Rabobank NA Accountnumber 9614112743 **Routing number** 122238420

1. If payment (in full) has not yet been received by Bright River on due date, Bright River will first contact the Client either by email or by phone. After that the Client will be in default without prior demand or notice of default being required.
2. If the Client, despite demand or notice of default, still fails to pay the amounts due, Bright River may hand over the claim for collection. In that event all costs incurred by Bright River, in connection with overdue payments will be on the Client's account. The extrajudicial costs are fixed at no less than 15% of the invoiced amount subject to a minimum of USD 150,00 excluding VAT since Bright River's insurance company requires to demand that.
3. Complaints in relation to invoices and/or our Services will not suspend the Client's payment obligations.

Privacy

1. Bright River respects the Client's privacy and the [Bright River Privacy Policy](#) informs the Client of the actual policy regarding the collection, use and disclosure of personal information Bright River receives when the Client makes use of the Services. By using the Services, the Client agrees to the collection and use of information in accordance with the Bright River Privacy Policy.
2. Bright River will use the collected Personal Data to provide the Service and to manage Client's account and to enable invoicing. Bright River may use the collected data for marketing communication purposes as well. Subject to the provisions regarding 'The Service Network' in these T&C, Bright River will not share Personal Data with third parties without Client's prior consent except where Bright River is required to do so by law. If Bright River processes Personal Data on Client's behalf, Bright River complies with all obligations under the European General Data Protection Regulation.

Guarantees and Indemnities

1. Bright River depends on the Visual Content provided by the Client. In that regard Client guarantees the following:
 - a. Client is fully entitled to upload the Visual Content and has obtained any necessary consents with respect to any individual's data protection and the protection of privacy;
 - b. the Visual Content is correct, complete, unencumbered and not limited or restricted by, and does not infringe upon, any third parties' rights, including IP Rights, and the use of the images by Bright River is not in any other way unlawful in respect of third parties;
 - c. Client will never submit Visual Content that is in any way discriminating, offensive, obscene, violent, unlawful or harming the interests and reputation of Bright River.
2. To ensure that all clients can make use of the Services, the Client guarantees fair use of the Services. Hence, the Client will not use the Services unreasonable and will not intentionally use or enable or demand any third party to use or enable viruses, Trojan horses, worms, bots, or other software which may cause damage to the Services, the website, or any other technical aid which may render them inaccessible or which are intended to circumvent technical protective measures. Bright River reserves the right to block access for unauthorized use of the system.
3. The Client shall indemnify Bright River and holds Bright River harmless from and against any and all costs (including reasonable legal fees) and damages incurred by Bright River as a result of:

- a. any third party claim which is made against Bright River arising out of or in any way connected with an alleged breach by the Client of its obligations under the Agreement, including these T&C; or
- b. the Client's other unauthorized use of the Service.

Limitation of liability

1. Except for indemnified claims that are fully covered by the other party's insurance policies in place, the total liability of each party towards the other for breach of contract, in tort (including negligence) or otherwise, in any calendar year shall be limited to compensation of the direct damage the amount of which shall not exceed the total aggregate amount of the Service Fees paid or payable by the Client to Bright River during the calendar year immediately preceding the year in which the damage occurred.
2. Bright River must be informed concerning any claim to damage on the shortest notice after the occurrence of the damage. Any claim for damages shall lapse by the mere expiration of 4 weeks after the claimed damage occurred.
3. Parties can only be held liable for direct damage and neither party shall be liable for any indirect or consequential damages, or loss of exploitation, productivity, reputation, profits, contracts, investments, time, data, files, programs and/or documentation.
4. Neither party limits or excludes its liability for wilful misconduct, gross negligence, fraud, fraudulent misrepresentation, death or personal injury.

Force Majeure

1. Bright River shall not be liable for any delay or failure to perform its obligations under the Agreement if that delay or failure arises directly or indirectly through force majeure, which is deemed to include an act of God or (without limitation), war, terrorism or other civil disturbance, decisions of any civil authority, fires, flood, strikes or any other circumstances that affect the operations and that can reasonably be deemed beyond the control of Bright River including, without limitation, the failure of internet services.
2. If Bright River cannot perform its obligations under the Agreement as a result of force majeure for a period of more than six (6) weeks, the Client shall have the right to terminate the Agreement with immediate effect without Bright River limiting its other rights or remedies or incurring any liability towards the Client in respect of such termination.

Confidentiality

1. Parties shall maintain all information they receive from or about each other strictly confidential, including but not limited to information concerning Visual Content and the Services. Information will in any case be regarded to be confidential, if one of the Parties indicates in writing that it is confidential.
2. Parties will impose this obligation of confidentiality also on their employees and third parties hired for the performance of their obligations hereunder, in particular Bright River shall impose this confidentiality obligation on the members of its Service Network.
3. A party shall not be required to maintain confidentiality with respect to any information that i) was already in the possession of such party on a non-confidential basis ii) has lawfully come into the possession of such a party on a non-confidential basis or iii) is legally required to be disclosed to a judicial or administrative authority.

Term and termination

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1. The Agreement becomes effective once the parties have signed it and shall be in effect for the term as agreed by the Parties or for as long as Bright River performs Services for the Client. Except as set out in these T&C, the Client is not entitled to terminate the Agreement early.
2. Either party may terminate the Agreement with immediate effect upon written notice to the other party, if:
 - a. the other party applies for a moratorium of payments, is declared bankrupt or otherwise will no longer be able to meet its financial obligations under the Agreement;
 - b. the other party materially breaches the Agreement and, if such breach can be remedied, fails within a reasonable period, after having been given notice of such breach in writing by the non-breaching party to remedy such breach.
3. If the Client acts in a manner reasonably adjudged by Bright River to be detrimental, in particular when the Client does not fulfil its obligations and guarantees under the Agreement, Bright River is entitled to suspend provision of the Service. Bright River shall not be liable for any loss arising in respect of the foregoing.

Governing Law

The Agreement and any use the Client makes of the Service are subject to New York law, excluding its conflict of laws principles. Any dispute relating in any way to the Client's visit to the Website and the Service, shall be submitted to arbitration in New York City, except that, to the extent the Client has in any manner violated or threatened to violate Bright River's Intellectual Property Rights, Bright River may seek injunctive or other appropriate relief in a federal or state court in New York City, and the Client consents to exclusive jurisdiction and venue in such court. Arbitration shall be conducted under the Expedited Procedures and Rules of the American Arbitration Association. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction.

General provisions

Survival: the provisions on IP Rights, Privacy and Confidentiality shall survive termination of the Agreement for whatever reason, and, in addition, the obligations of the Parties under the Agreement that by their nature continue beyond the expiration of the Agreement, shall survive any termination or cancellation of the Agreement.

Language: the Agreement is concluded in the English language, which language shall be controlling in all respects.

Invalid or unenforceable clauses: If any part of the Agreement including these T&C, is found invalid or unenforceable, that part will be enforced to the maximum extent permitted by law and the remainder of the Agreement will remain in full force.

Definitions

The following terms shall have the meaning set forth below:

Additional Terms & Conditions ('T&C'):	The present part of the Agreement describing the additional terms & conditions for Enterprise clients, other than the Client Agreement;
Agreement:	The entire agreement, including these Terms and Conditions, concluded between Bright River and the Client for provision of the Service

Bright River:	A Delaware limited liability company with its principal place of business at 85 Broad Street, 16th Floor New York, NY 10004;
Client:	Any individual or business that has entered into an Agreement with Bright River;
Client Agreement:	The part of the Agreement describing the specific agreements with the Client, other than the Additional Terms & Conditions;
Guaranteed Services Value:	The Client's guarantee to reach the forecasted Services Value each Service Period as of the Service Start Date.
IP Rights:	All intellectual property and ancillary rights, such as copyrights, trademark rights, patent rights, design rights, trade name rights, as well as know-how rights;
Parties:	Bright River and Client, each being a Party;
Personal Data:	Any information relating to an identified or identifiable natural person. More specific in this Agreement it is limited to the contact details (name and email address) of natural persons working for Client to the extent necessary in the fulfilment of this Agreement.
Service:	The services provided by Bright River to Client under the terms of this Agreement;
Service Fee:	The charges, fees or price for the Service;
Service Start Date:	The service period that starts immediately after the onboarding period (if any);.
Service Network:	The service network Bright River has established, apart from its own corporate group, and which consists of a number of carefully selected professional companies, with which Bright River has agreements in place and which are engaged in the provision of the Bright River Service;
Turnaround Time:	The amount of time taken to complete the Services starting at the moment Bright River has received the Visual Content from the Client properly in its systems until the return of the complete output to the Client.
Visual Content:	All visual content (e.g. image, video and 3D inputs) submitted by the Client to be processed by Bright River.