

Terms of use**1. Subject of terms**

- (1) Subject of these terms of use is the legal relationship between Picter (Picter GmbH, Bismarckstrasse 3, 86159 Augsburg, Germany) and the customer/user (hereinafter "Customer") of the platform and services available under picter.com.
- (2) Any Customer terms (and conditions) regarding this legal relationship are hereby expressly invalidated. Any differing, conflicting or additional terms and conditions of the Customer shall not become part of the contract - even upon knowledge thereof by Picter - unless Picter has expressly authorized their validity in writing. The right of the Customer to use its own terms and conditions regarding its own relationship with its customers remains unaffected.

2. Subject matter and services

- (1) The content and scope of the platform and services provided by Picter are governed by these terms and/or defined by the features available via the platform. The range of features related to the contractual relationship with Picter is described in detail in the service description (on the website or in respective written offers) and depends on the Customer's respective selection of services offered via the Picter website.
- (2) Picter has the right to modify the features that it provides free of charge and to make available new features, whether fee-based or free of charge, and/or to cease the provision of free of charge features at any time. Should it do so, Picter will consider the Customer's legitimate interests in each case.

3. Account

- (1) To use the Picter platform and services, it is necessary to create an account. This requires the Customer to enter a name, email address and password. The email address and password entered also constitute the Customer's access data (hereinafter "Access Data") for the platform.
- (2) The Customer commits to keep confidential the Access Data required to access the platform and to make such data available only to users authorized by the Customer. The Customer accepts full responsibility for any and all actions performed by unauthorized users using the Customer's Access Data. The Customer shall inform Picter in a timely manner if a third party has obtained the Access Data without the Customer's authorization.

4. Conclusion of contract

- (1) For any free of charge as well as fee-based version, the contract is concluded in the following manner: completion of the registration procedure initiated by a Customer to create an account constitutes a legally binding offer on the part of such Customer for the conclusion of a contract for the use of the free of charge or fee-based version. Picter accepts the Customer's offer in a legally binding manner by activating the account or confirming through written signature. The contract between the Customer and Picter is formed only upon such activation.
- (2) Picter is not obligated to accept the offer submitted by the Customer and therefore not obligated to enter into such a contract.

5. Use of Picter and users' responsibility

- (1) Picter provides its Customers a technical infrastructure to be used at their own liability. In doing so, Picter is unable to influence the specific use of the platform and its content. As a result, the Customer is solely responsible for the use of Picter, the content of any service description prepared by using the platform, and its own profile.
- (2) The Customer commits to verify and ensure that the content offered does not violate any statutory prohibitions and that it neither contradicts public policy nor infringes any third-party rights (including but not limited to name and trademark rights, personality rights, copyright, data protection rights or design rights). In particular, the Customer commits to not provide any content through Picter that
 - (a) refers to sexual, pornographic or content otherwise harmful to juveniles;
 - (b) refers to content glorifying violence or inciting the people;
 - (c) incites others to commit crimes or constitutes instructions for committing crimes;
 - (d) insults, defames, harasses or otherwise harms other persons or constitutes an aggressive or provocative attitude towards the same;
 - (e) is otherwise unlawful, obscene, vulgar, disturbing of the privacy of other persons, defamatory or offensive or contains untrue factual claims or abusive criticism;
 - (f) contains business or trade secrets of individuals or legal entities or other content which the Customer is not authorized to disclose, for example, due to nondisclosure agreements;
 - (g) contains links or other connections to content which is inadmissible according to the above criteria/s and/or
 - (h) invites others to violate the above content restrictions.
- (3) Picter is not contractually obligated to check the content and data uploaded by the Customer on the platform. As a matter of principle, Picter does not check any content or data uploaded by the Customer. However, Picter will investigate any information submitted regarding potential nonconformity of content with statutory or contractual provisions and – should the nonconformity be verified – take appropriate action to end such situation. Where content uploaded by a Customer is unlawful or violates these terms of use, Picter has the right to block and/or delete content and, in addition, to block the Customer's profile and/or account in their entirety. At its sole discretion, Picter may assess the conformity of uploaded content but will take into account in its

assessment the legitimate interests of the Customer and select the least severe means to remedy such violation.

- (4) In the event of such violation of these Terms of Use for which the Customer is responsible, Pictor reserves the right to terminate the contract concluded with the Customer for cause without notice.
- (5) The Customer shall indemnify Pictor against all third-party claims to which such third party is entitled vis-à-vis Pictor as a result of an infringement of such third party's rights, including but not limited to copyright, signatory rights, designs, rights under competition law, personality rights or other proprietary rights, by content uploaded by the Customer. The same shall apply whenever Pictor is held liable by any public authority or other body due to an infringement of rights by content uploaded by the Customer. Each of the foregoing shall not apply where the Customer is not at fault with respect to such infringement of rights.
- (6) Furthermore, the Customer commits to reimburse Pictor all necessary expenses incurred by Pictor as a result of third parties legitimately taking legal action against Pictor arising from infringement of their rights by content uploaded by the Customer. The foregoing includes, without limitation, the necessary costs of reasonable legal defense.
- (7) Should Pictor be held liable by a third party for possible infringement of such third party's rights by content uploaded by the Customer, the Customer shall use its best efforts to support Pictor in defending against any claims asserted by such third party. This includes, without limitation, the Customer providing Pictor upon the latter's written request with copies of any documents the Customer may possess relating to the allegedly infringing content. Any costs associated therewith shall be borne by Pictor if the Customer is not at fault with respect to such infringement of rights.
- (8) If the Customer's payment is overdue by ten or more days or if the Customer's payment method becomes invalid during its participation with Pictor or if the charge is refused for any other reason beyond Pictor's control, the Customer must provide an eligible payment method within ten days or the account will be blocked until payment.

6. License

- (1) The Customer has the right to use the Pictor platform and services within the limits of and with restriction of the purposes of the services provided by Pictor for the term of and subject to the relevant contract. To this extent, Pictor grants the Customer a simple, non-transferable and non-sublicensable license to use the platform and services.
- (2) By adding content to the profile, the Customer grants Pictor a simple, non-transferable, non-licensable and non-sublicensable license for such content, without restriction in terms of territory or content, limited in time to the term of the contract for the use of the Pictor platform, for the purpose of publishing such content solely at Pictor in connection with the performance of the contract with the Customer, particularly on the Pictor website. This includes, in particular, the right to use such content by
 - (a) storing it in Pictor databases and
 - (b) editing (resizing and cropping) such content in whole or in part. The Customer acknowledges that the right to edit content is necessary to present such content in the best possible manner and to use it for the purposes and as part of its publication in Pictor, in particular on the Pictor website, platform and services.
- (3) The Customer guarantees that it holds unlimited authorization to grant these rights under section 6 (2) above and to exercise these rights in this respect and that, in the granting of these rights, no third-party rights are infringed, in particular no personality rights or rights protected under copyright law held by any third party involved in the development of such content.

7. Availability

- (1) Pictor endeavors to ensure an annual average availability of 99% for the operation and use of the platform and services.
- (2) In the calculation of the availability percentage, figures are rounded to one digit after the decimal point in accordance with business principles. Operating hours are 24 hours seven days a week (24/7). This particularly excludes downtimes due to planned interruptions for maintenance work and the following downtimes due to circumstances beyond the immediate control of Pictor:
 - (a) downtimes due to virus or hacker attacks
 - (b) downtimes resulting from downtimes of parts of the Internet or external DNS, routing issues beyond the immediate control of Pictor
 - (c) downtimes due to third-party operating errors
 - (d) downtimes resulting from third-party fault due to faulty or insufficient maintenance of third-party hardware or software (including by third parties deployed by Pictor (e.g., host providers)).
 - (e) downtimes relating to the use of software not supported by the Pictor platform and services, particularly operating systems, browsers and terminals.

8. Term and termination of the contract

- (1) The contractual terms of the services provided by Pictor are defined in accordance with the features chosen by the Customer.
- (2) The contract for the use of the free of charge version can be terminated by either party at any time with immediate effect. The contract for the use of the fee-based version can be terminated by one of the parties prior to the end of each month (monthly subscription) or at least three months prior to expiration before the end of each year (yearly subscription).
- (3) The term of the contract shall automatically extend by the duration of the relevant previous term in each instance unless terminated by either party prior to the expiration of the relevant term.
- (4) Both parties have the right to terminate the contractual relationship at any time without notice in the event of an important reason. An important reason for the extraordinary termination is provided if continuation of the contractual relationship up to the expiration of the statutory period of notice is not reasonable for the terminating party, taking into account all circumstances of the

individual case and weighing the interests of both parties. Reasons important to Picter specifically include the following:

- (a) Disregard of legal regulations by the user;
 - (b) the user's violation of its contractual duties.
- (5) The user's right to reimbursement of prepaid fees for termination is excluded unless the user terminates due to an important reason to be presented by Picter. In the following cases, the user's right to reimbursement is excluded in advance:
- (a) Picter renounces the contract due to important reason; or
 - (b) Picter blocks access by the user according to Section 8 (4).
- (6) Notices of termination must be given in writing (Sect. 126 b of the German Civil Code) to be effective.

9. Remuneration and billing

The remuneration for the use of the fee-based version will be billed each month in advance. The billed amount shall be due for payment within 10 days from the date of the invoice unless otherwise agreed upon or offered by Picter. All prices are exclusive of VAT and added where applicable.

10. Liability

- (1) Picter shall be liable without limitation for willful intent or gross negligence or for injury to life, body or health under the provisions of the German Product Liability Act and to the extent of any guarantees assumed by Picter. The free of charge version is not affected and any liability is excluded.
- (2) In case of ordinary negligence in the violation of a duty essential for achieving the purpose of the contract (material duty), liability by Picter shall be limited in amount to damage which is foreseeable and typical according to the nature of the transaction concerned. The maximum amount is limited by the Customer's total annual fees for use of the Picter services.
- (3) In all other respects, liability of Picter shall be excluded. In particular, no-fault liability on the part of Picter for any defects already existing at the time of conclusion of the contract (Sec. 536a (1) 1st alt. of the German Civil Code) does not exist except where the conditions set forth in subsections 10 (1) or (2) above are fulfilled.
- (4) The above limitation of liability shall also apply to personal liability on the part of the employees, representatives and bodies of Picter.
- (5) The Customer is obligated to generate its own regular backups and copies of data uploaded to the profile. In the absence of any other written agreement, Picter is not responsible for any data backups and archiving services on behalf of the Customer and therefore not liable for any data loss.

11. Data protection

Picter attaches great importance to the protection of personal data, and it collects, processes, and uses personal data in strict observance of the applicable data protection laws (especially the GDPR and the German Federal Data Protection Law – BDSG) and in accordance with the principles described in the privacy statement accessible at <https://www.picter.com/privacy-policy>.

12. Reference

The Customer grants Picter the right to refer to the Customer in publications of any kind as a reference customer and to use the Customer's names, trademarks and logos in this context to the extent that the Customer does not explicitly object in writing to such use (Sect. 126 b of the German Civil Code).

13. Confidentially

Details of the contract and pricing conditions are confidential. Therefore, and unless otherwise provided by law, the Customer hereby agrees to keep this information confidential and will not use this confidential information in furtherance of its business or any other business.

14. Final provisions

- (1) Except for any possible amendment or supplementation of these Terms of Use, supplementations and amendments to agreements reached must be made in writing (Sect. 126 b of the German Civil Code) to be effective. This shall also apply to any change or cancellation of this provision.
- (2) These Terms of Use and the contractual relations between Picter and the Customer shall be governed by the laws of the Federal Republic of Germany to the exclusion of substantive uniform law, above all the UN Convention on Contracts for the International Sale of Goods. The place of provision of services and the place of performance shall be Munich, Germany. The courts of Munich shall have jurisdiction.
- (3) In the event of legal disputes, the Customer has the option to use an alternative means of resolving a dispute. The following link from the EU Commission (also known as the OS platform) contains information on online dispute resolution and serves as a central point of entry for the out-of-court settlement of disputes arising from online purchase contracts: https://webgate.ec.europa.eu/odr/main/index.cfm?event=main_home_show&lng=EN. However, Picter does not participate in dispute resolution proceedings before a consumer mediation agency and is not legally obligated to do so.
- (4) If individual provisions of the agreements made, including these Terms of Use, are or become ineffective or unenforceable, the effectiveness of the remaining provisions shall not be affected thereby.

