

**General terms and conditions of LM agency, 27 avenue Georges Pompidou, 92150 Suresnes, France, as at June 2017:**

**// GENERAL**

- a) The following terms and conditions apply exclusively to all services agreed upon between the Contractor LM agency and the Client. This also applies in particular if the Client uses general terms and conditions and said general terms and conditions contain conflicting provisions or provisions that deviate from the provisions stipulated herein.
- b) Deviations from the provisions stipulated herein are only valid if the Contractor, LM agency, expressly agrees to them in writing. Any special agreements reached between the Contractor and the Client concerning the rendering of one or more services are to be laid down in writing in an additional service agreement.

**// FREEDOM FROM INSTRUCTIONS**

When executing the contract and undertaking the activity it has taken on, the Contractor is not required to follow any instructions issued by the Client with regard to the location, scheduling and organisation of the activity unless this is determined by the nature of the order.

**// ORDER FULFILMENT**

- a) The following apply:
  - The service description provided by the Client
  - The Contractor's offer
  - In all other respects, the provisions of the French Civil Code
- b) Order confirmation: Written confirmation of orders within 24 hours.
- c) The Contractor's services are deemed to have been completed and accepted if the Client does not immediately raise any objections. In the event of objections, the project concerned and the nature and scope of the defect must be described in detail. Complaints of any kind must be submitted to the Contractor in writing within 10 calendar days of delivery of the work. Once this 10-day period has passed, the work is deemed to have been accepted and free of defects. If the Client raises a complaint regarding defects in the contractually specified service, the Contractor is obligated and entitled to render subsequent performance.
- d) The Contractor undertakes to complete each order with the utmost care, and in particular to treat models, documents, samples etc. with care.

**// COPYRIGHT AND RIGHTS OF USE**

- a) The Contractor shall transfer to the Client the rights of use to the graphic projects upon handover of said projects. The Client is entitled to use the graphic works further and to adapt the graphic works at its company.
- b) The rights of use are transferred to the Client automatically upon completion of each project.
- c) The Contractor has the right to use the projects that it has completed and are ultimately published by the Client as references in its portfolio.
- d) All drafts and final artwork are subject to copyright law. The provisions of copyright law apply between the parties even if the required preconditions for protection are not met in individual cases. The graphic designer is therefore entitled in particular to the copyright claims arising from Article L. 111-1 of the Code de la propriété intellectuelle (CPI) = French copyright law (LA PROTECTION PAR LE DROIT D'AUTEUR).
- e) The drafts and final artwork may not be modified in the original form or in any reproductions without the Contractor's express written consent. Any imitations – including of parts thereof – are prohibited. In the event of a violation of these provisions, the Contractor is entitled to demand a contractual penalty of six times the agreed remuneration.
- f) The Contractor shall transfer to the Client the rights of use required for the relevant purpose. Unless agreed otherwise, only a non-exclusive right of use will be transferred in each case. The Client may only transfer rights of use to a third party if a written agreement has been reached between the Contractor and the Client beforehand.
- g) The rights of use will only be transferred to the Client upon full payment of the remuneration by the Client.
- h) The Contractor has the right to be named as the originator on copies and in publications concerning the product and will be sent a copy of the reproduced product unprompted. In the event of an infringement of the right to be named, the graphic designer is entitled to compensation. The graphic designer may request 100% of the agreed remuneration as compensation without furnishing proof.
- i) Any suggestions and instructions given by the Client or its employees and agents will not affect the amount of remuneration.

**// RETENTION OF TITLE**

- a) Only rights of use are granted for drafts and final artwork; no property rights are transferred.
- b) The printed/created originals must therefore be returned to the Contractor undamaged as soon as the Client no longer absolutely requires them in order to exercise the rights of use unless expressly agreed otherwise. In the event of damage or loss, the Client must reimburse the costs required to restore the originals.
- c) Any works, models and data that are required for the completion of the order are sent for the account and at the risk of the Client.
- d) The Client undertakes to treat goods subject to retention of title with care, to store such goods separately and to label the goods accordingly in storage, and to adequately insure the goods against fire and water damage and theft at replacement value at its own expense.



- e) If the Client is in breach of contract, in particular in the case of delayed payment, the Contractor is entitled to stop the handover of finished projects to the Client.

#### // REMUNERATION

- a) Remuneration for drafts, final artwork, completed graphic implementations and the granting of rights of use is based on the quote accepted by the Client for the requested services (latest version 2016/2017) unless other agreements have been reached. The remuneration amounts are net amounts that are to be paid plus the statutory VAT rate insofar as the Contractor's services are performed for companies based in France. VAT is not applicable if the service being invoiced is going to a country outside of France because in this case it will fall under the scope of cross-border VAT.
- b) If drafts are used to a greater extent than originally planned, the Contractor is entitled to retroactively request payment of the difference between the higher level of remuneration for actual usage and the remuneration originally received. Unless agreed otherwise in writing between the contracting parties, the publication level is deemed to be moderate (see also LM agency 2016/2017 tariff list), that is up to 3000 produced, published copies.

#### // DUE DATE FOR REMUNERATION

- a) Unless stipulated otherwise in the order confirmation, remuneration is due within 10 days of the invoice being issued without deductions.
- b) If an order extends over a longer period of time, or if it requires significant financial outlay on the part of the Contractor in advance, appropriate advance payments are to be made: 1/3 of the total remuneration upon order placement, 1/3 following completion of 50% of the work and 1/3 following delivery.

#### // SPECIAL SERVICES AND ANCILLARY EXPENSES

- a) If external services are required to complete the order, the Client is free to decide whether the project is to still go ahead. If this is the case, the Contractor will receive written authorisation to order the necessary external services on behalf of the Client and to invoice the Client for these services. For websites, for example, domain name costs are to be paid to the domain name registrar and host. These types of costs are borne by the Client.
- b) Expenditure for technical ancillary expenses, in particular for special materials, for the creation of models, photos, draft versions, reproductions, typesetting and printing etc., is to be reimbursed following written confirmation from the Client.
- c) With regard to the designing of websites, the Contractor is not obligated to disseminate the Internet address ordered externally by the Client in search machines and regional print media, or to make entries in industry, brand, hotel or restaurant guides, unless a written agreement to the contrary has been concluded between the Contractor and the Client.
- d) Furthermore, when designing websites, the Contractor is entitled to specify itself as the webmaster in the legal notice along with its address and a link to its own website in order to protect its copyrights.

#### // LIABILITY

- a) In the case of damage that is demonstrably caused by the Contractor, the Contractor is liable within the scope of the business liability insurance it has taken out.
- b) The Contractor assures the Client that it shall strictly comply with the French minimum wage regulations at its company. The Contractor also gives this assurance for any subcontractors it may use.
- c) Once the Client has approved the drafts and completed projects, the Client takes responsibility for the accuracy of the relevant text, images and design. The Contractor is not liable for any typographical errors or erroneous information in projects confirmed by the Client. The Contractor is also not liable for the admissibility and registrability of the works under competition and trademark law, nor for the innovative nature of the product.
- d) For orders that are placed with a third party on behalf of and for the account of the Client, the Contractor does not assume any liability or provide any warranty provided that the Contractor bears no fault for selecting the third party. In such cases, the Contractor acts only as an intermediary.
- e) The Contractor is liable only in the event of wilful intent and gross negligence unless a specially agreed service agreement between the contracting parties contains provisions to the contrary. In the case of slight negligence, the Contractor is liable only in the event of the breach of material contractual obligations. In such cases, however, liability for indirect damage, consequential damage resulting from defects, and loss of profit is excluded. The limitation of liability does not apply in the case of injury to life, limb or health.
- f) In the case of injury to life, limb or health, the statutory provisions apply.
- g) The Client shall indemnify the Contractor against any claims that third parties may assert against the Contractor as a result of behaviour or the implementation of a project for which the Client is responsible or liable following project completion. The Client shall bear the costs of any legal action.

#### // OTHER PROVISIONS

- a) The Contractor is responsible for the acquisition of any visual elements that it requires for the graphic implementation of projects, such as photos, pictograms, video clips and sounds.
- b) The Contractor shall maintain an up-to-date overview of requested, ongoing and completed projects in the form of a task list or using simplified pipeline software. Upon written request, the Client will be granted access to an assigned area in this pipeline and be able to view the progress of its projects.
- c) The Contractor has the right to use graphic ideas and concepts in the implementation of projects for third parties provided that said ideas and concepts have not been accepted and implemented by the Client.
- d) The Contractor shall not disclose any business secrets that it learns during the collaboration with the Client to third parties, nor will it exploit said business secrets itself.
- e) The name and address of the Client, as well as any information and files relating to the projects accepted by the Contractor that are required to process the order, will not be passed on to third parties or institutions.

#### // DIGITAL DATA

- a) The Contractor is not obligated to surrender open files or original layouts that have been created and stored on a computer to the Client unless an additional signed, written agreement has been concluded between the contracting parties. If the Client requires open computer data to be surrendered, this must be agreed and remunerated separately.
- b) If the Contractor has made files available to the Client, these files may only be used further with prior written consent. The implementation of changes to the data by third parties or the Client (excluding the Client where agreed otherwise in writing in special cases) is fundamentally prohibited and violates the Contractor's copyrights.



- c) The Client shall make a backup copy of data and documents of all types and shall surrender said backup copies on request free of charge, particularly in the case of data loss.
- d) Before the Client implements modified reproduced works based on the Contractor's drafts, samples must be submitted to the Contractor for approval.
- e) The Contractor shall only undertake production monitoring on the basis of specific agreements confirmed in writing. When taking over production monitoring, the Contractor is entitled to make the necessary decisions and give corresponding instructions at its own discretion.

**// DESIGN FREEDOM AND MODELS**

- a) There is design freedom in the context of the order. Complaints relating to the artistic design and the correctness of content are excluded following acceptance of the project by the Client. If the Client wishes for changes to be made following completion of production, it must bear the additional costs. The Contractor is entitled to compensation for work already started.
- b) If the time taken to complete the order is extended for reasons for which the Client is responsible, the Contractor may request an appropriate increase in remuneration. In the event of wilful intent or gross negligence, the Contractor may also assert claims for compensation.
- c) The Client warrants that it has the right to use all of the models given to the Contractor. Should the Client, contrary to this assurance, not be entitled to use said models, the Client shall indemnify the Contractor against any third-party claims for compensation.

**// FINAL PROVISION**

- a) Unless stated otherwise in the order confirmation, the place of performance is always the registered office of the Contractor, LM agency.
- b) Should any of the individual provisions set out here be ineffective, this will not affect the validity of the remaining provisions.
- a) Unless stated otherwise in a service agreement concluded separately between the Contractor and the Client, the place of jurisdiction is Suresnes, France.