

## General Regulations

### Art. 1 General, application of the Contract Terms and Conditions

1. The following Contract Terms and Conditions ("Contract Terms and Conditions") shall exclusively apply to the entire relationship of Leo Burnett GmbH ("LB") with the Contractor. By accepting an order from LB, but at the latest when production of the agreed work or performance of the agreed service commences, the Contractor agrees to be bound exclusively by these Contract Terms and Conditions. If the Contractor uses contradictory, deviating or supplementary general terms and conditions, their applicability vis-à-vis LB shall be excluded even if LB fails to reject them expressly or the Contractor indicates that it wishes to perform only according to the Contractor's general terms and conditions.
2. These Contract Terms and Conditions also apply to any future transaction with the Contractor.

### Art. 2 Conclusion of a contract, content of the order

1. Orders by LB shall only be binding if given in written form. Verbal orders or orders by telephone shall not be binding unless confirmed in writing. Modifications, changes to orders and collateral agreements shall also only be valid when given in writing.
2. Orders by LB according to Art. 2 (1) shall be accepted by the Contractor in writing within 10 days of the date of the order. Any order confirmation which deviates in content from the order shall constitute a new quotation and must be accepted by LB in writing. Under no circumstances shall LB's silence be deemed acknowledgement of an order confirmation with deviating content.

### Art. 3 Execution of orders

1. The Contractor is obliged to provide the work in the form determined by LB and, if work is to be performed, produce the work due with the specifications described in detail by LB in the order. Work relating to the design and/or production of advertising material must meet the requirements of the task. In executing the orders, the Contractor must comply with documents provided by LB and/or the client, must follow instructions issued, produce work due according to the state-of-the-art, and in so doing comply with the technical, advertising and artistic level resulting from the work samples submitted by the Contractor prior to placement of the order.
2. In relation to the details of the execution of special work, the special regulations of Arts. 15 et seq., 20 et seq. or the regulations concluded in the individual agreements shall apply.
3. Before starting production ("production") of (physical) work itself, LB shall be provided with proofs, proof copies, first samples, colour samples and all other documents which LB deems necessary to check the work. Only after release by LB may the Contractor start production of the work.
4. After production starts, the Contractor must provide LB with outturn samples free of charge.
5. The finished work may only be delivered to LB or the client after release by LB.
6. The Contractor may use sub-Contractors for the production only with LB's express written consent.

### Art. 4 Dates and deadlines

1. Agreed production dates shall be deemed met if the Contractor has produced the work by the scheduled date and delivered it in full to LB (delivery) or has provided the due service in full by the scheduled date. Without prejudice to the rights provided under Art. 4 (2), LB may grant, at its own discretion, an extension of the deadlines. If instructions require significant rescheduling, LB shall reasonably extend the agreed deadline.
2. The Contractor shall notify LB immediately in writing, stating the reason, the expected duration and all circumstances which could adversely affect the timely delivery of the work or provision of the service as soon as such circumstances become apparent. If the agreed deadlines for performance are exceeded, LB reserves the right to rescind the contract by written declaration and/or to request damages in lieu of performance in accordance with statutory provisions.
3. If performance is interrupted due to unforeseen events such as force majeure, war, natural disasters or industrial disputes and other unavoidable and serious events which are outside the Contractor's sphere of influence and beyond the Contractor's control, the parties shall be released from their contractual obligations for the duration of the disruption and to the extent of its effect. The parties shall be obliged to adjust their mutual contractual obligations to the changed circumstances in good faith. This may mean that, after the disruption is remedied, LB shall either waive the remaining performance or may request that performance be continued on conditions to be determined by LB.
4. The Contractor shall bear the risk of accidental loss or destruction of work until the work is delivered.
5. Part deliveries shall only be permitted with the express consent of LB.

### Art. 5 Approval of work

LB is obliged to approve work produced as provided in the contract.

### Art. 6 Shipment of work

Works shall be shipped according to instructions provided by LB (in robust packaging by express rail or air freight) and to the shipment address specified by LB. If LB issues no shipment instructions, the Contractor shall be obliged to select the most reasonably priced and most suitable customary shipment and packaging option. Shipment costs shall be borne by the Contractor.

### Art. 7 Remuneration, reimbursement of expenses

1. The Contractor shall receive the agreed remuneration for the performance it provides or, in absence of such agreement on the remuneration, the usual remuneration.
2. The agreed remuneration shall discharge in full all claims by the Contractor against LB for performance as provided in the contract (especially for performance of the work, the transfer of the rights of use according to Art. 10, travel by the Contractor and/or its employees, agents etc. to meetings at LB's premises and for approval of work and for the sending of courtesy copies) unless Art. 7 (3) otherwise provides.
3. The Contractor shall have an additional right to reimbursement of expenses and costs ("costs") subject to Art. 7 (2) only if the parties have expressly agreed this in writing. LB approved a cost estimate submitted by the Contractor before the costs were incurred and the Contractor provides verifiable proof of the costs incurred when invoicing its services.

### Art. 8 Payments and invoicing

Invoice amounts shall be paid at LB's option in each case within 14 days with a 3 % discount or net within 30 days unless otherwise agreed. These periods shall begin on the date LB receives the invoice but, in the case of the final payment for work, not before approval of the work. The day of approval shall not be counted when calculating the deadline.

In the case of commercials or television commercials, the Contractor shall invoice LB for the remuneration as provided in the contract and the Contractor's expenses (fee) as follows: one third after conclusion of the contract, one third when shooting begins, one third after delivery of the film and the courtesy copies to LB and approval of the film (final payment).

Contractor's invoices must consist of the following details:

Invoice address: Leo Burnett GmbH c/o Zentraler Rechnungseingang, Re:Sources Germany GmbH, Toulouse Allee 1, 40211 Düsseldorf;  
Delivery address: Leo Burnett GmbH, Ferdinand-Happ-Strasse 53, 60314 Frankfurt/Main;  
3.3 Purchase order number, job number, dates of delivery/services, invoice number, tax number, the Contractor's tax office, VAT (in case of taxability of Contractor).

LB reserves the right to withhold payment of such invoices which do not include the aforementioned details until a revised or corrected invoice will be issued.

4. If the Contractor is subject to limited taxation for its fee obtained from LB in Germany (see Section 1 (4) EStG [German Income Tax Act] in conjunction with Section 49 EStG) and LB has to deduct tax from the fee pursuant to Section 50 a EStG (see Section 50 a EStG), the Contractor shall be obliged to complete the application required for relief from (exemption from or refund of German withholding tax (see Section 50 d (2) EStG) and to deliver it signed together with the other documents required for the application to LB so that LB can forward the application immediately to the Federal Central Tax Office. Until the Federal Central Tax Office grants exemption from the obligation to withhold tax (issue of the notice of exemption), the Contractor shall be paid only the net amount of the agreed total fee after deduction of tax i.e. 73 % of the gross amount.

5. The Contractor may only offset against undisputed counterclaims or counterclaims recognised by declaratory judgment unless the Contractor offsets against a claim for damages, to which the Contractor is entitled.

### Art. 9 Social security insurance for artists

1. In order to enable LB to charge properly the contributions to be paid to the artists' social insurance and to forward them, if applicable, to third parties, the Contractor shall be obliged, as early as possible but at the latest when invoicing, to declare to LB in writing whether it belongs to the category of persons who are liable for compulsory insurance pursuant to the Künstlersozialversicherungsgesetz [German Artists' Social Insurance Law].
2. If the Contractor fails to fulfil these obligations or fulfils them belatedly, the Contractor shall be liable for damages resulting here from if the Contractor is responsible for them.

### Art. 10 Transfer of rights of use and delivery of work results

1. By delivering a copyright protected work, the Contractor grants LB or the client, if LB is acting as the client's representative, the exclusive right, unlimited in terms of place and content, to use the work created by the Contractor for the duration of the legal copyright. In particular the following rights to use the work or sections thereof are transferred:
  - a) the right to reproduce and disseminate in printed form, on video and sound recording media and on machine-readable data carriers, in particular on diskette and CD-ROM;
  - b) the right to communicate to the public, including the right of presentation, the right to communicate on video and sound recording media, the broadcasting right and the right to make the work available to the public in online databases including streaming or other current and future playback options, the right of interactive use and the right to communicate on platforms such as YouTube, Vimeo or Facebook but without being restricted to such platforms.
  - c) the right to adapt, alter and otherwise modify the work, to combine the work with other work and the right to use the modified work according to paragraph a) above; and b),
  - d) LB shall have the right to use the work for any purpose, in particular for any promotional activities of a specific client, for promotional activities of other clients, for LB's own marketing purposes, for documentation, participation in competitions, award presentations, at POS, at trade fairs and for training. Promotional activities comprise inter alia the production of publicity spots for films/cinema, television, radio and for use on the internet and in mobile applications of technical means of communication (e.g. apps) etc., advertising in print media, in advertisements and supplements in newspapers and magazines, on posters, for any products of the client and third parties.
2. The Contractor is aware that LB shall as agency transfer resp. licence the rights to the work to its clients and must allow the client to have the work at its disposal at the client's discretion for the purposes of the client's business. LB shall, therefore, be entitled to transfer resp. licence the rights arising from Art. 10 (1) to its clients in whole or in part and to authorise its clients to transfer and sub-licence the rights for their part.
3. The Contractor shall waive the affixing of copyright notices to the work. LB and the client shall, however, have the right to name the Contractor as author.
4. The obligation to transfer rights of use according to Art. 10 shall also apply if the Contractor engages a sub-Contractor to perform. The Contractor shall ensure vis-à-vis all persons involved in the production of the work that it can transfer the rights of use according to Art. 10 (1) to (3) to LB or the client. This applies in particular to all the Contractor's permanent and freelance staff, to actors, cameramen, animators, directors, set designers, composers, musicians and to other persons working on the production. The Contractor warrants that it has the right to grant LB the rights of use according to Art. 10 (1) to (3) and that there are no third-party claims for further remuneration. The Contractor shall indemnify LB from third-party claims due to the infringement of its copyrights or other industrial property rights as well of third-party rights for further remuneration.
5. The Contractor shall transfer to LB resp. the client, when delivering its work results, ownership of these results and all preliminary and interim products. They must be handed over to LB upon delivery.
6. The Contractor shall hold in safe custody reproductions created by electronic image processing at its own expense correctly and expertly and insured for LB against all customary risks at replacement value and shall hand them over either temporarily or permanently to LB or another third party to be specified by LB at any time upon LB's request.
7. The Contractor shall support LB to the best of its ability in the assertion or defence of the acquired rights in and out of court, shall in particular provide information and provide necessary documents and shall take all further steps required to ensure that LB retains resp. obtains the above-mentioned rights.
8. Independently of a potential transfer of user rights to a client, LB will have the right to use all results/works from the Contractor unrestricted, unlimited and free of charge for self-promotion purposes (especially for but not limited to agency's website, web presence), for competitions and for other PR-activities.

### Art. 11 LB's rights in the event of defects, limitation of claims based on defects

1. The quality of the work results and the Contractor's liability (guarantee) shall be as agreed between the parties in each case. The Contractor shall produce the work to be created accordingly free of defects in quality and title.
2. Defects in film or musical work shall exist in particular if the artistic or technical design is inadequate or the advertising is prejudicial or offends the standards of good taste, the technical communication is inadequate, there are deviations from the briefing or other instructions of LB, the film work was not produced pursuant to Art. 15 resp. the musical work was not produced pursuant to Art. 21 or if film work deviates from the screenplay, manuscript or storyboard.
3. If the Contractor violates its obligations under Art. 11 (1) (in particular to produce a work free of material defects and defects of title), LB's rights (especially to supplementary performance, rescission, reduction, damages and reimbursement of expenses) and the applicable period of limitation for the claims based on defects shall be determined by statutory provisions.
4. The period of limitation for claims based on defects shall not run during the period of the remedy of defects.
5. In addition to statutory provisions (see Art. 11 (3)), LB shall have the right at the Contractor's expense to rectify the defect(s) itself if there is a special need for urgency (e.g. imminent danger) or supplementary performance has failed or this cannot otherwise be expected of LB, or the Contractor itself fails to comply with LB's request for supplementary performance within a reasonable period. If these defects are so extensive in the case of defects within the meaning of Art. 11 (2) that remedy would be possible only with an exceptional expenditure of time or would not otherwise result in a satisfactory solution, LB can request that the film or musical work be newly produced / composed in full at the Contractor's expense. This shall not affect the other rights of LB.

### Art. 12 Confidentiality of LB's documents, industrial property rights

1. LB reserves the right to all rights of ownership and copyrights to illustrations, drawings, plans, calculations, materials, models, drafts, samples, tools, devices and other aids, objects or documents (hereinafter referred to as "objects") which the Contractor has received from LB. The objects may not be made accessible to third parties without LB's express written consent, not reproduced or used for purposes other than those determined by LB. They are to be used exclusively for the execution of LB's orders; after processing of the order, they must be returned to LB immediately at LB's request. The Contractor shall handle the objects with care and keep them separately.
2. The parties undertake to treat all commercial and technical know-how and information not in the public domain, which become known to them through the business relationship ("information"), as business secrets and not to make them accessible to third parties.
3. The obligation under Art. 12 (1) and (2) shall not apply if and in so far as the Contractor passes on the information exclusively to those of its employees who have to be aware of the information to execute the order ("authorised person"). This exception from the obligation under Art. 12 (1) and (2) shall only apply, however, if such employees are obliged to meet the confidentiality obligations to the same extent as the Contractor, and namely within the scope of legal options also after the legal relationship ends, on the basis of which the employee is bound to the Contractor.
4. The obligation under Art. 12 (1) and (2) shall not apply to such information that
  - a) enters or has entered the public domain without the Contractor or an authorised person violating any obligation;
  - b) the Contractor lawfully receives or has received from a third party if the third party or the party, from whom the third party has received the information, is not bound to confidentiality vis-à-vis LB;
  - c) is known to the Contractor independently of LB and without use of the information already at the time this contract is concluded. This exception to the confidentiality obligation shall only apply if the Contractor contradicts its confidentiality obligation immediately after the information is disclosed by LB.
5. The Contractor undertakes in respect of the confidentiality of information to exercise at least the same degree of care it applies to its own affairs but in any case at least due diligence.
6. The Contractor shall at LB's request insure at the Contractor's expense all the objects stated in Art. 12 (1) against fire and theft as long as they are in the Contractor's possession.

7. The Contractor undertakes to oblige the sub-Contractors it uses to comply with the regulations in Art. 12 (1) to (6). If LB is obliged within the scope of the contractual relationship with its client to obtain written declarations relating to the confidentiality of specific information ("non-disclosure agreement") from sub-Contractors to be used by LB, the Contractor undertakes for its part to bind the sub-Contractors it uses in the same way as in the non-disclosure agreement prescribed by the client.

8. The Contractor undertakes to oblige that none of the work results or services as provided to LB will be object to his registration of any kind of intellectual property rights such as property rights on brands/brandings, patents, design, model or utility patents, as arising from Design Acts or other special legislation, etc.

#### **Art. 13 Other confidentiality obligations of the Contractor, press releases, sample rolls**

1. The Contractor may not without LB's express authorisation issue either press publications, press releases or press photos or other information or arrange or conduct interviews with representatives of the press if they relate to work created by the Contractor, services provided by the Contractor or the Contractor's business relationship with LB.

2. The Contractor may not without LB's written consent - and neither as video or sound - produce, disseminate, present or surrender to third parties copies, parts or extracts from the work created by the Contractor (in the case of films: also the material shot for the films, in the final version but not cut in) for its own or third-party purposes. After the first public national broadcast resp. presentation of the film the Contractor shall have the right to present a film as part of a sample roll, if not agreed otherwise. Excluded are all productions for LB's clients' of tobacco industry.

3. Exceptions to the Contractor's confidentiality obligation in Art. 13 (4) shall apply accordingly.

4. The Contractor undertakes to oblige sub-Contractors it uses to comply with the regulations of Art. 14 (1) to (3).

5. In the event of negligent violation of its confidentiality obligation, the Contractor must pay LB damages.

#### **Art. 14 Miscellaneous**

1. Claims by the Contractor against LB may not be assigned to any Third Party.

2. Amendments to and modifications of the contract and/or these Contract Terms and Conditions as well as collateral agreements shall only be valid when given in writing. This shall also apply to amendment of this written form requirement.

3. The invalidity of individual regulations of the contract and/or these Contract Terms and Conditions shall not affect the validity of the other terms and conditions. The parties undertake in such case to replace an invalid provision by a valid provision which most closely corresponds to the economic intent of the invalid provision.

4. The contract is governed by the law of the Federal Republic of Germany.

5. If the Contractor is a merchant, a legal entity under public law or a special fund under public law or its domicile is outside Germany, any disputes in connection with this contract shall be settled exclusively before a competent Frankfurt-on-Main court of law. LB shall in such case, however, have the right to institute proceedings against the Contractor at any other legal place of jurisdiction.

#### **Special regulations for the production of commercials and television spots**

#### **Art. 15 Production of the film**

1. The Contractor shall produce ("production") commercials which shall be shown on television, in movie theaters or on other media (e.g. on the internet) (collectively referred to as "film") for LB, according to LB's instructions and specifications (e.g. storyboard, script) and the outcome of the pre-production meetings (collectively referred to as "specifications").

2. The Contractor alone is responsible for implementing the film specifications from a technical and artist point of view unless the regulations of Art. 15 (4) to (8) provide otherwise.

3. The Contractor is obliged to advise LB in good time of any potential complaints, which become evident to the Contractor, in relation to the film by state or private regulatory bodies (e.g. by the Freiwillige Selbstkontrolle der Filmwirtschaft – FSK [voluntary self-regulatory body of the German film industry]), television corporations or other third parties.

4. In the course of production, the Contractor must follow any modification instructions ("instructions").

5. The Contractor may only deviate from specifications or instructions with LB's prior consent.

6. The Contractor must eliminate any doubts as to the content of LB's specifications and/or instructions by obtaining clear instructions.

7. The Contractor aligns together with LB a detailed agenda concerning production phases or stages of a film; furthermore, Contractor will report regularly on the current status of film production so that LB might may participate and/or influence or control the film production.

8. Films produced for movie theaters or other media or related programmes/applications must conform to the technical requirements for normal and wide-screen films. Films produced for television must comply with the currently applicable technical specifications of the German television companies.

9. The Contractor must comply precisely with the agreed film length. Specifications published by the FSK on its website ([www.fsk.de](http://www.fsk.de)), inter alia film length, shall be decisive for subsequent determination of the film length in the case of films produced for movie theaters. The running time of the film in seconds shall be decisive for films produced for television.

10. In alignment with the Contractor, LB reserves the right to have a photographer or camera operator take pictures, produce a documentary or making-of, or any other recordings, if this is agreed upfront, e.g. in a pre-production meeting and if use of rights is sorted out.

#### **Art. 16 Other obligations of the Contractor**

1. The Contractor shall submit films produced for movie theaters to the FSK for examination and registration at its own expense. Evidence of release of the film on the FSK website ([www.fsk.de](http://www.fsk.de)) shall be deemed the release card.

2. LB has the films produced for its clients. The client's representatives have the right, therefore, at any time to be present during production (e.g. for preliminary discussions and shooting). No other third parties are permitted to be present during production.

3. LB may monitor production at any time. LB shall be represented here by the FFF (film, radio, television) department's director or a producer to be designated by him/her.

4. The Contractor must hand over the original recordings (data carriers) of the video castings to LB.

5. The Contractor must document discussions with LB in writing and send copies of minutes of discussions immediately after the discussion ends to LB at the Contractor's expense.

6. The Contractor shall provide LB with two copies of the film ready for broadcasting. The technical standards to be complied with follow from the regulations of the individual contract, the briefing and/or pre-production meeting. The technical requirements specified according to Art. 15 (8) must be complied with in each case.

7. LB and/or its client shall have the right to have scene stills taken by a photographer of its choice during shooting unless this unreasonably delays the production.

8. The Contractor shall produce additional copies (in addition to the courtesy copies) at LB's request and send them to LB.

#### **Art. 17 Props**

1. The products of LB's client to be shown in the film ("products") shall be provided to the Contractor in sufficient numbers for the production for the duration of the production. After approval of the film, the Contractor must return them to LB or the recipient specified by LB.

2. If the products are not suitable for the production, the Contractor shall prepare them at its expense for filming. The Contractor is prohibited from misleading the public with respect to the properties of the products.

3. The Contractor must at LB's request return and transfer ownership of all props, costumes and furnishings ("props"), acquired by the Contractor for the production at LB's expense, to LB after approval of the film. If the Contractor has acquired the props at its expense, the Contractor shall be obliged to return and transfer ownership of the props at LB's request only if the costs incurred are refunded.

#### **Art. 18 Approval of the film**

1. After completion of the film, the Contractor must present the film itself or through a representative (e.g. the director) to LB for approval at LB's option at LB's registered office, at the Contractor's or client's registered office ("approval screening").

2. The Contractor shall draw up a written record of the approval screening which shall be signed by the Contractor and LB.

3. The approval or acceptance of the rough cut version (offline or online) will comprise of the artistic, technical design/creation and compliance/conformity with binding specifications as given by LB. The acceptance of the final master comprises of visual design/creation, other optical works as well as sound and image quality (especially colour schemes). Acceptance for rough cuts or masters will apply upon on submission of written confirmation. Change requests have to be confirmed in form of an update briefing and in writing.

4. If LB refuses acceptance because of defects in the film, the approval screening shall be repeated after remedy of the defects.

#### **Art. 19 Remuneration, reimbursement of expenses**

1. Any changes to the film required after its completion due to decisions by FSK or the commercial television companies shall be made at the Contractor's expense unless the complaints relate to sections of the film which were included in the film at LB's express instruction and the Contractor has indicated its concerns to LB according to Art. 15 (3).

2. LB shall pay the Contractor the remuneration specified in the production order or, if such remuneration was not determined, the customary remuneration for producing and sending extra copies of the film in addition to the courtesy copies (see Art. 7 (2)).

3. LB and/or the client is/are entitled to use all film recordings, in original version or edited, as moving image or fixed image. Usage will be settled through buy-outs.

4. For usage as stated in Art. 19.3. the Contractor will not be eligible for further buy-out fees beyond the originally agreed compensation, especially not for usage of fixed images of parts or contents of film recordings.

5. The Contractor is obliged to point out to LB if there is the need to buy-out further rights of use, which might be not covered by the agreed compensation, of any display or image of film contents, parts or objects, etc.

6. Change requests of LB which might lead to reduced production costs, will be to the benefit of LB unless the Contractor proves that actual expenses, e.g. for any other unclaimed additional expenses or costs, have not changed with respect to the calculated expenses.

#### **Special regulations for the production of musical work**

#### **Art. 20 Production of the musical work**

1. Musical work is intended to be music which LB shall describe in detail to the Contractor in terms of orientation, style of music, complexity, length/duration and all other significant parameters (briefing).

2. The decision as to whether the works provided by the Contractor correspond to the briefing and whether and to what extent they are included in the planned advertising material shall be solely the responsibility of LB and its client.

#### **Art. 21 Other obligations of the Contractor**

1. The musical work shall be supplied at least in audio CD standard as .wav file with 44.1kHz and 16bit or in conformity with current technical standards. It shall be supplied as stereo mix unless otherwise agreed. Technical standards in addition to this shall be specified in the regulations of the individual contract and the briefing.

2. If the Contractor is member of a collecting society (GEMA), he is obliged to register the music(al) work after acceptance by LB. Immediately, the Contractor has to inform LB on successful registration at such a collecting society; all application or registration forms will be provided to LB as scan.

#### **Art. 22 Approval of the musical work**

After completion of the musical work, the Contractor must send the musical work for approval to the registered office of LB, of the client or of a third party at LB's option either as audio CD by post or as .wav file by email. If LB refuses approval because of defects or other circumstances, for which the Contractor is responsible, the Contractor shall remedy the complaint immediately and offer LB an audio CD or .wav file without defects and complaints.