MILLA & PARTNER

General terms and conditions of order production / art buying/purchase

1. APPLICABILITY OF THE TERMS AND CONDITIONS

The following terms and conditions shall apply to our order in a supplementary manner. We do not accept general terms and conditions of business of the Contractor. Our terms and conditions shall also apply exclusively to additional and supplementary orders, as well as to future engagements of the Contractor for our part.

2. AMENDMENTS, ADDITIONS, PARTIAL INVALIDITY

Amendments and additions to the contract shall be recorded in writing or confirmed in writing by remote copy or email. Should any provision of the contract be invalid, the remainder of the contract shall remain effective.

3. PRICE

The agreed prices shall be fixed prices, inclusive of all ancillary services such as dispatch and packaging.

4. DELIVERY TIME

The Contractor must precisely comply with the agreed delivery time. Should it become apparent to the Contractor that it is not expected to comply with the agreed delivery time, it shall immediately notify us of such and provide information concerning the hindering circumstances. In case of exceeding the agreed delivery time, the Contractor shall provide us with compensation in respect of the losses caused by the delay. Furthermore, we shall be entitled to demand damages due to non-fulfilment or to rescind the contract, should the Contractor fail to provide performance despite a warning, the setting of deadline and a threat of rejections within a reasonable period of grace. The said claims shall not exist if the performance is not provided due to reasons for which the Contractor is not responsible.

Should the contract be a fixed transaction, we shall be entitled to immediately rescind the contract in case of exceeding of the agreed delivery time. Our right to demand performance, damages due to delay or damages due to non-fulfilment shall be reserved.

§ 376 of the German Commercial Code (HGB) shall apply to a fixed period commercial transaction.

5. WORK DOCUMENTS

All work documents shall be treated carefully; these may not be made accessible to unauthorised third parties; these may also not be used further or sampled without the agreement of the Agency and must be returned in proper condition following completion of the order.
Should the Contractor produce such documents, these shall become the property of the Agency following payment of the order and shall be handed over on request. This shall apply in particular to electronic data carriers (disks, tapes, video disks etc.), films, slides, picture and sound carriers, graphic materials and similar.

The Agency shall retain all rights in respect of the work documents and props. All work documents and materials (in particular paper) provided by the Agency shall be delivered under express reservation of ownership. The Contractor shall be obliged, on request, to hand over to the Agency without restriction or assign, any rights and claims against third parties to which it is entitled.

6. RIGHTS

At the time of coming into existence, the Contractor shall transfer to the Agency all rights of use in a manner which is unrestricted in terms of space, content and time, including the ownership of the original and the right of unrestricted amendment. Should the Contractor engage third parties, it hereby guarantees that the rights of such third parties will also be transferred to the same extent. The Contractor hereby provides an undertaking in respect of the originality of its work.

The Contractor shall not be entitled to use its work results under this order elsewhere. The incorporation into the sample map or similar of the Contractor shall only be permitted with the express agreement of the Agency.

The assignment of the above rights shall be fully and finally settled by means of payment of the agreed fee. The Contractor shall not be able to demand additional remuneration, without taking into account the scope of use of the work.

Manufacturer relationships (signum or naming) may only be entered into with the express agreement of the Agency.

Should it become apparent that third party property rights or copyright must be used in order to perform the order, or should such a risk exist, the Principal must be immediately informed.

7. CONFIDENTIALITY

The Contractor shall be obliged to treat all operational secrets and internal company correspondence concerning the Agency and its clients of which it becomes aware in connection with the order with the strictest secrecy. The Contractor shall be obliged to also impose the said confidentiality declaration on any third parties engaged by it.

All types of document which we provide to the Contractor, as well as all other information which we make available may not be made accessible to third parties, unless these are obviously intended for the public and unless this is necessary for fulfilment of the contract.

Results which are produced using the documents such as drawings, models and the like, using our confidential information or by using our work tools or installed work tools may not be used by suppliers themselves or offered or delivered to third parties. The above shall also apply to our printing orders correspondingly.

8. DATA PROTECTION

The Contractor is hereby in agreement that in accordance with this order, the Agency will save data concerning the person of the

Contractor for the purpose of automatic processing (invoicing). The Agency may desist from specific notification in accordance with § 33 (1) of the German Federal Data Protection Act (Bundesdatenschutzgesetz).

9. INSURANCE

The Contractor shall be obliged to insure work documents provided by the Agency, including electronic data carriers, films, slides, pictures and sound carriers, graphical materials and props against loss and all types of damage to the replacement value.

10. RETENTION OBLIGATION

The Contractor shall be obliged to retain the work documents, duplicates, negatives and similar for a period of three years.

11. DISPATCH

The dispatch shall take place at the cost and expense of the Contractor, whereby the Contractor shall follow the instructions of the Agency. Should the delivery be made directly to a client or a third party, proof of delivery shall be sent to the Agency, without the need for a request to be issued.

Should delivery "ex factory" be agreed, the Supplier shall make the goods available in good time, taking into account the usual time for loading and dispatch.

12. INVOICING AND PAYMENT

The Agency hereby requests invoices as two copies, stating the order number, customer number and the date of delivery and invoicing. Value added tax must be stated separately in the invoice. Any artist social security contributions must also be stated separately.

Unless a separate agreement is concluded, the invoice shall either be settled within 14 days with a discount deduction of 3% or within 60 days without discount. The deadline shall run from the time when both the invoice and goods have been received by us and/or the services have been provided. Payment shall be made in reservation of checking of the invoice.

Should more favourable payment conditions be stated in the invoice of the Contractor, these shall be binding.

13. PRODUCTS OF ORIGIN

The Contractor hereby declares that the objects manufactured by it within the framework of this order are being produced within the EC. On request of the Agency, the Contractor shall be obliged to provide tax relevant products of origin or to state the country of origin on its delivery note.

14. ORDERS IN THE AREA OF ART

a) Should the work not correspond to the agreed content in accordance with the "briefing" or the agreed or generally recognised quality requirements, the Agency shall not be obliged to perform acceptance. In such a case, the Contractor shall not be entitled to a fee.

b) Should products (in particular photo recordings) be hindered due to circumstances forwhich the Agency is not responsible (for example bad weather), the Agency shall not be obliged to pay a cancellation fee. As a rule, the Contractor shall be obliged to also sufficiently insure itself against such risks.

c) The Contractor shall bear the risk of loss, damage and misshape until the time of actual handover.

d) Unless otherwise agreed, models and props shall be ordered by the Contractor in its own name and on its own account and charged according to receipts.

15. ORDERS IN THE AREAS OF PRODUCTION AND PURCHASING

a) The entire delivery must correspond in qualitative terms to the concluded agreements in respect of reproduction and performance. The contractor shall incur liability for deviations, regardless of whether these were caused by the Contractor itself or its subcontractors.

b) In case of defective delivery (purchase), the Agency shall be entitled, according to its choice, to demand replacement delivery, improvement, replacement or reduction, and, should the legal requirements be present, damages. In case of defective work, the rights of the Agency shall be in accordance with the regulations of §§ 633 ff of the German Civil Code (BGB). Printing mistakes shall represent a defect.

c) Outturn samples shall be sent directly to the Agency at the latest on the day of the first delivery.

d) In case that a claim is brought against us by a client or other third party due to product liability, the Supplier shall be obliged to release us from such claims, if and to the extent that the loss was caused by a defect to the product delivered by the Supplier. In cases of fault based liability, this shall only apply if culpability is present on the part of the Supplier. Should the cause of the loss be connected to the area of responsibility of the Supplier, it shall bear the burden of proof to this extent.

16. PLACE OF JURISDICTION AND PLACE OF PERFORMANCE

Should the Contractor be a businessman, Stuttgart shall be the place of jurisdiction for all disputes under the contractual relationship.

The place of performance shall be Stuttgart.

17. GERMAN LAW SHALL APPLY