

# LARSON MARVINE

## GENERAL TERMS OF SERVICE 1/1/15

This General Terms of Service governs the relationship between Larson-Marvine, Inc. (“LM”) and the Client with respect to all estimates, proposals, works orders, and/or other services provided by LM to Client and is incorporated in to each Accepted Proposal (as defined below):

- SERVICES.** Client may, from time to time, request that LM provide marketing, advertising, video, interactive programming, web design, web hosting and/or other services on behalf of Client, by executing and delivering an estimate, proposal, work order or a similar request for services to LM (each a “Accepted Proposal”). LM’s performance of services pursuant to an Accepted Proposal shall be deemed services performed pursuant to and covered by this Agreement. Each Accepted Proposal must be signed by an authorized representative of LM and Client, shall be subject to and be deemed to incorporate all the terms and conditions of this Agreement, and shall be incorporated herein by reference. All services to be rendered by LM pursuant to any Accepted Proposal shall be performed in accordance with the applicable “Proposal Estimate” or “Estimate Overview” for each respective LM product or service, which shall be deemed incorporated into such Accepted Proposal. The creative concepts, artwork, themes and visual representations developed by LM in connection with a Accepted Proposal are the intellectual property of LM and may not be re-used by Client except as authorized by LM in writing. Subject to the foregoing, title to the final design work product (but not any underlying sketches, variations, software, or proprietary computer code) will transfer to Client upon final payment. LM reserves the right to showcase the final work product as a representative work for its prospective clients.
- ACCEPTED PROPOSAL.** Each Accepted Proposal must contain, at a minimum, the following information to the extent applicable: (a) description of work to be performed; (b) start date; (c) completion date(s); (d) fees; (e) quantity; (e) term, (f) Client Content to be delivered, and (g) total cost. Unless specified in writing to the contrary, each Accepted Proposal shall constitute a separate, distinct, and independent work assignment, and shall have no effect upon other Accepted Proposals. In the event that the provisions of any Accepted Proposal executed by the parties and the terms of this Agreement shall conflict, the provisions of this Agreement shall control. Subject to the preceding sentence, no conditions, printed or otherwise, appearing on any purchase orders or other documents submitted by Client to LM will be binding upon LM unless signed by an authorized representative of LM. In the event that the scope of work changes, LM will prepare a change order reflecting such modified scope of work and any changes in cost or delivery dates, which, when signed by both parties, to be a part of the applicable Accepted Proposal. All fees, charges and expenses set forth in a Accepted Proposal are estimated. Client acknowledges that actual printing costs may vary by 10% of the amount estimated in any Accepted Proposal. LM may use such internal and external labor resources as it, from time to time, deems necessary to fulfill its obligations under the applicable Accepted Proposal.
- TERM.** These General Terms of Service shall govern all services from time to time provided by LM to Client and shall be deemed incorporated into each of Client’s Accepted Proposals. Notwithstanding the foregoing, completion, expiration or termination of any Accepted Proposal shall not affect any other Accepted Proposal which had previously been received and accepted by LM, and each party shall continue to perform in accordance with the provisions of such Accepted Proposal and these General Terms of Service. In the event any Accepted Proposal provides for web hosting services, either party may terminate such Accepted Proposal, to the extent of such web hosting services by delivering at least 30 days advance written notice thereof to the other party. These General Terms of Service shall survive the expiration or termination of any Accepted Proposal.
- PAYMENT.** Upon execution of a Accepted Proposal, Client shall pay to LM an amount equal to one-third (33.33%) of the total estimated project budget. Unless otherwise expressly provided in an Accepted Proposal, all other monies owing by Client under any Accepted Proposal, are due within 30 days of the invoice date. Invoices may be prepared on a phased, quarterly, or monthly basis per the schedule reflected in the Accepted Proposal. Client hereby agrees to pay a finance charge equal to the lesser of 1.5% per calendar month (18% per annum) or the maximum amount permitted by law on all monies not paid when due. Client will be invoiced for printing costs upon Client’s approval of layout and copy, and is due upon receipt. LM reserves the right to suspend and/or terminate performance of its services for or on behalf of Client in the event of failure of Client to timely pay any amounts due pursuant to any Accepted Proposal or this Agreement.
- CLIENT CONTENT.** In order for LM to perform the services or create the products set forth on any applicable Accepted Proposal, Client shall promptly deliver to LM, but in any case not later than the date set forth on the applicable Accepted Proposal, the images, marketing materials, copy, and other relevant information necessary to perform the services contemplated by applicable Accepted Proposal (such images, documents and information being collectively referred to as the “Client Content”). In the event that Client fails to timely deliver to LM all Client Content as set forth in the applicable Accepted Proposal and LM does not terminate such Accepted Proposal, then (i) all completion dates set forth in the applicable Accepted Proposal shall be rateably extended, and (ii) in the event that Client is more than 90 days late in delivering all required Client Content, LM may increase the amount due by Client to LM under the applicable Accepted Proposal by 10% for each 90 days or portion thereof that the such Client Content is late in delivery. Client shall retain all right, title and interest in the Client Content, but LM shall not be obligated to return same. LM shall not be responsible for

errors or omissions contained in the Client Content. Client represents and warrants to LM that (a) it is authorized to make available to LM the Client Content; and (b) the Client Content does not and will not violate any law or regulation, or infringe upon any copyright, trademark or any other right of any party. Upon termination of this Agreement, LM shall destroy all Client content.

6. **CLIENT APPROVAL.** The Client will designate a project supervisor ("Project Supervisor") who is authorized to approve all LM deliverables and make all decisions related to work performed by LM for Client. Client may substitute a new Project Supervisor by delivering written notice to LM. All changes, decisions and approvals made by the Project Supervisor shall be binding on Client. Any changes requested by Client after approval of all or portion of LM's work shall be at an additional charge and shall be documented by a change order.

7. **INDEMNIFICATION.** Client does hereby indemnify and hold harmless LM against all liabilities, claims, actions, suits, proceedings, fines, damages, costs, losses and expenses, including reasonable attorneys' fees and costs (collectively "Damages"), which LM may suffer as a result (i) any breach by Client of this Agreement or any Accepted Proposal; (ii) any infringement or violation of third party's copyright, trademark, trade secret or other proprietary right by or in connection with any Client Content; and (iii) any claims of violation of statute, regulation, or common law, contractual, privacy or publicity rights or similar claims arising out of or in connection with the Client Content.

8. **DISCLAIMER AND LIMITATION OF LIABILITY.** LM shall not be liable for (i) any loss or damage whatsoever suffered by Client as a result of, or arising from, the failure of any deliverable product or Client's website or pages or information ("Client Site"), at any time, to appear on, be delivered by, or be accessible from the host server; or (ii) the unauthorized use of the host server by third parties (including, without limitation, unauthorized reproduction and/or tampering by "hackers"). Neither party shall be liable for any delay or failure in performance of any part of this Agreement, by reason of acts of God, fire, strikes, shortages of labor or materials, present or future governmental laws, or for any other reason beyond the party's reasonable control. The due dates under an Accepted Proposal shall be extended for a period equal to the period of the delay or failure in performance. Such extension shall be the exclusive remedy in such event. Notwithstanding anything to the contrary contained herein, LM's liability for any and all damages suffered by Client shall in no event exceed the amount paid by Client to LM for the specific time period in which the problem may have occurred.

9. **ACKNOWLEDGEMENT OF NO WARRANTY.** LM DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY REGARDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) NOT SPECIFIED HEREIN RESPECTING THIS AGREEMENT OR THE SERVICES TO BE PROVIDED HEREUNDER. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT (OR ANY OTHER AGREEMENT BETWEEN THE PARTIES), IN NO EVENT SHALL LM BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, OR FOR ANY LOST PROFITS OR REVENUES, HARM TO BUSINESS, LOST DATA OR LOST SAVINGS OF ANY KIND OR NATURE WHATSOEVER, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY, OR TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OF ANY KIND, WHETHER ACTIVE OR PASSIVE) EVEN IF SUCH PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH LOSS.

10. **GOVERNING LAW.** This Agreement shall be governed and construed in accordance with the laws of the State of Illinois, without reference to the principles of conflicts of laws thereof. The parties hereto irrevocably agree to the exclusive jurisdiction of the federal and state courts located in the State of Illinois, Cook County.

11. **SEVERABILITY.** If any section, provision, term or clause shall be found to be unenforceable or invalid, such provision may be modified or severed from this Agreement to the extent necessary to make such provision enforceable consistent with the remainder of this Agreement. No such unenforceability or invalidity shall effect the enforceability or validity of any other provision of this Agreement.

12. **AMENDMENT.** These General Terms of Service may be amended by LM at any time by delivering a copy of such amended General Terms of Service to Client or by posting updates to [www.larson-marvine.com](http://www.larson-marvine.com). All estimates, proposals and work orders thereafter executed or authorized by Client shall be governed by such amended General Terms of Service.

13. **GENERAL.** Each Accepted Proposal, this Agreement and any documents incorporated herein by reference constitute the entire agreement between the parties hereto and contains all of the agreements between said parties with respect to the subject matter hereof. This Agreement supersedes any and all prior agreements, either oral or in writing, between the parties with respect to the subject matter hereof. LM shall be entitled to all its costs and expenses incurred in enforcing this Agreement, including, without limitation, its reasonable attorney's fees. This Agreement may only be modified, waived or amended in a writing signed by both parties. All notices shall be sent to the addresses appearing on the Accepted Proposal.