

IUK Studios Terms and Conditions

Standard Terms & Conditions

IUK Studios Limited (iUK)

Terms of Engagement as of 2019-05-13

The following terms of engagement apply to all work carried out by IUK for you ("the Services") as set out in the attached Letter of Engagement unless agreed otherwise in writing by a Director in our company. In these terms, "we", "us" and "our" refers to IUK, and "you" and "your" refer to our client. The Letter of Engagement and these Terms of Engagement are together referred to as the "Contract" or the "Engagement".

1. Your Responsibilities

1.1 Any services provided by us may be based upon information provided by and on your behalf. You warrant, represent and undertake to us (except as otherwise specifically notified to us by you in writing) that such information is complete and accurate and is not misleading (either on its face or by inference or omission) and that there are no other material facts known to you that may be relevant to us in carrying out the Services and further that we may rely on such information. We assume no responsibility and make no representations with respect to the accuracy or completeness of any information provided by you and on your behalf.

1.2 You remain responsible for any commercial decision that you make, and in taking such decisions regard must be had to the restrictions on the scope of our work and to the large number of other factors, commercial and otherwise, of which you and your other advisers are, or should be, aware from sources other than our work.

1.3 If any circumstances arise to indicate to us that you are unable to fulfil your obligation to provide any relevant information within a reasonable time to us in order for us to fulfil our performance obligations under the Contract, we reserve the right to retain and/or suspend and/or not deliver our work product under the Contract and this will be deemed to be a breach of contract on your part not ours.

2. Limitation of Liability

2.1 Cap

Nothing in relation to this Engagement shall in any way limit or exclude our liability for death or personal injury, any other liability which cannot lawfully be excluded or limited or to liability arising as a result of fraud on our part. Subject to this proviso:-

(a) Our liability to you in respect of breach of contract or breach of statutory duty or negligence or otherwise whatsoever arising out of or in connection with this Engagement will be limited to the total amount of fees charged by us to you under this Engagement to cover claims of any sort whatsoever (including interest and costs) arising out of or in connection with this Engagement; and

(b) We shall not be liable to you for any loss (whether direct, indirect or consequential) of profits, anticipated profits, revenues, goodwill, loss of business or anticipated savings, management time or for any other special, indirect or consequential loss or damage arising out of or in connection with this Engagement even if we have been advised of the possibility of such loss or damage and whether arising from breach of contract, breach of statutory duty, negligence or otherwise.

Where we are jointly engaged by more than one party in relation to the same matter, the limit of liability will have to be allocated amongst you and these parties. It is agreed that, except where an allocation is expressly stated in this Contract, such allocation will be entirely a matter for you and you shall be under no obligation to inform us of the allocation. If (for whatever reason) no such allocation is agreed, you shall not dispute the validity, enforceability or operation of the limit of liability on the ground that no such allocation was agreed.

2.2 Proportionality

Our liability to you in respect of breach of contract or breach of statutory duty or negligence or otherwise whatsoever arising out of or in connection with this Engagement shall be limited to that proportion of the loss or damage (including interest and costs) suffered by you, which is ascribed to us by a Court of competent jurisdiction allocating proportionate responsibility to us having regard to the contribution to the loss and damage in question of any other person responsible and/or liable to you for such loss and damage (loss and damage having the same meaning as in the Civil Liability (Contribution) Act 1978). This provision shall have no application to any liability for death or personal injury, any other liability which cannot lawfully be excluded or limited or to liability arising as a result of fraud on our part.

For the purpose of assessing the contribution to the loss and damage in question of any other person pursuant to the preceding paragraph, it is agreed that no account should be taken of any limit imposed on the amount of liability of such person by any agreement made before the loss and damage in question occurred.

3. Fee estimates and quotations

Our fees will be charged on the basis set out in the Letter of Engagement or as otherwise notified to you.

If we provide a costs estimate or quotation for a piece of work its effect is as follows: -

3.1 An estimate is our indication, made in good faith, of likely costs for carrying out the work concerned, based on information and assumptions (if any) made by us in the Letter of Engagement at the time the estimate is given. An estimate is subject to revision and does not amount to a contractual commitment on our part to carry out the work within that estimate. We will tell you promptly if it becomes apparent that our fees are likely to exceed an estimate that we have given.

3.2 A quotation is a proposal by us to carry out specified work for a stated fee. If you accept that proposal, it then becomes a contractual commitment. If we carry out work in excess of that specified, our fees for that additional work will be charged at our then applicable standard hourly rates. We also reserve the right to charge additional fees on the same basis for material additional work arising from circumstances known to you when you accepted our quotation, but which you did not disclose to us.

4. Disbursements and expenses

Unless you notify us in writing to the contrary, we will assume that we have authority to incur the usual disbursements and expenses encountered in the course of work we do for you. We shall in any event seek your express agreement before incurring on your behalf sums which are substantial in the context of the work in question and our knowledge of your circumstances. Disbursements and expenses are charged to you in addition to our fees.

5. Payment terms

5.1 We are committed to providing a timely service and in turn we request you to pay interim and final invoices within 28 days of the invoice date. Any discount granted by us in the Letter of Engagement will only be applicable if full and final settlement of our fees is achieved within 28 days of the invoice date. If you wish to dispute any invoice you should speak to the person responsible for the relevant work within 21 days of the invoice date, so that any necessary action can be taken before the end of the credit period. We reserve the right to charge interest, from the end of our credit period, at the rate prescribed by the Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002 on any unpaid invoice.

5.2 For so long as any invoice remains outstanding, we reserve the right to: (a) suspend our work; (b) suspend your right to use our software products; and (c) deactivate the use by you of our software products such as to make them inoperable.

6. Payment on account of fees

We may ask you, either at the outset of our work or as it progresses, to pay to us a deposit on account of our fees and disbursements.

7. Interim Invoices

We may invoice you at periodic intervals either at the end of each month or the end of each quarter as we consider appropriate. An interim invoice represents our final charge for our work up to the date stated in the invoice unless we tell you otherwise at the time.

8. Intellectual property

All intellectual property rights including copyright, database rights, design rights (whether registered or unregistered), trademarks rights or patent rights in any materials created or produced by us in relation to the Services (including any reports, forecasts, drawings, spreadsheets, plans or other material) shall remain the property of IUK absolutely unless otherwise expressly stated in the Letter of Engagement provided always that subject to payment of our fees and disbursements in full we hereby grant to you a revocable licence to use and copy such materials for your own use.

9. Termination of our Engagement

We expect to continue to provide our services to you until we finish the work concerned. Either you or we may bring our services to an end at any time by telling the other. We will not do this without good reason. Examples include your failure to give us adequate instructions and delay in providing us with relevant information requested in order to comply with our performance obligations under the Contract and your failure to pay any amount due to us or provide monies on account of costs. If either of us terminates the provision of the services, you must pay all fees and disbursements incurred before termination, plus any further fees and disbursements for work necessary to transfer our files

10. Post-Termination

Upon termination of the Contract:

10.1 each party shall upon written request from the other return to the other all property and documentation of the other that is in its possession or control except that we shall be entitled to retain a reasonable number of copies of such documents that we require to maintain a record of our involvement in the Engagement;

10.2 we shall be entitled to retain all fees and disbursements previously paid by you to us and you shall pay forthwith all fees and disbursements due in respect of the Services provided up to the date of termination together with our reasonable costs and expenses incurred in connection with the termination of the Contract;

10.3 the terms of the Contract which expressly or by implication are intended to survive its termination or expiry will survive and continue to bind all parties.

11. Documents held by IUK

When we complete the work concerned we shall, if requested, return to you all documents and other material loaned by you to use for the purpose of that work. Our working materials, all correspondence between you and us and other material generated by us in that work will remain our property. Unless agreed otherwise, we will retain these materials, normally for a minimum of six years, when we may destroy them without further reference to you. We may exercise a lien over (that is, retain) any of your property and money we hold for as long as fees and disbursements are outstanding.

12. Indemnity

Except to the extent caused by any fraud or dishonesty by us, you agree to indemnify us to the fullest extent permitted by law against all liabilities, losses, claims, demands and reasonable expenses, including, but not limited to legal fees and expenses and internal time costs, brought against us by any party or person, other than you in connection with or arising out of the Engagement.

13. Personnel

No party shall solicit the services of any employee, agent, sub-contractor, or representative of the other who is involved in the Engagement without the prior written consent of the relevant party during the term of the Contract or for the period of 12 months after the termination of the Contract. If during the term of the Contract or for the period of 12 months after the termination of the Contract any employee of any party accepts an offer of employment made by another party as a result of an introduction in the course of the Engagement, the party shall pay to the other the higher of (i) a sum equivalent to 12 months gross salary of the employee concerned including any monetary bonuses payable to that employee during the term of the Contract and (ii) the aggregate amount of fees payable to IUK under the Contract.

14. The time for bringing any claims

Any claim for breach of contract, breach of statutory duty or negligence or otherwise whatsoever arising out of or in connection with the

Engagement shall be brought against us within six years of the act or omission alleged to have caused the loss in question.

15. Confidentiality

Neither of us will disclose to any third party without the prior written consent of the other party any confidential information which is received for the purposes of providing or receiving Services including the contents of or information relating to any reports, forecasts, drawings, spreadsheets, plans or other material prepared by us for you which if disclosed in tangible form is marked confidential or if disclosed otherwise is confirmed in writing as being confidential or, if disclosed in tangible form or otherwise, is manifestly confidential. Each of us agrees that any confidential information received from the other party shall only be used for the purposes of providing or receiving Services under this or any other contract between us. These restrictions will not apply to any information which:-

15.1 is or becomes generally available to the public other than as a result of a breach of an obligation under this paragraph;

15.2 is acquired from a third party who owes no obligation of confidence in respect of the information; or

15.3 is or has been independently developed by the recipient or was known to it or prior to receipt.

15.4 Notwithstanding the paragraph above each party will be entitled to disclose confidential information of the other:

(a) to their respective insurers or legal or financial advisers,

(b) to their respective employees, officers or agents; and

(c) to a third party to the extent that this is required by any court of competent jurisdiction or by a governmental or regulatory authority or where there is a legal right, duty or requirement to disclose.

16. Publicity

Unless otherwise set out in the Letter of Engagement, we shall be entitled to disclose, advertise and publicise our Engagement although we shall use our reasonable endeavours to inform you of any publicity or advertisement in advance of its release.

17. Force Majeure

Subject to the section headed "Your Responsibilities" above, neither we nor you shall be liable in any way for failure to perform, or delay in performing, our respective obligations under this Engagement (except for failure to pay any invoice) if the failure or delay is due to causes outside the reasonable control of the party who has failed to perform.

18. Invalidity of Terms

If any of our terms of the Engagement are held to be invalid, the remainder of the terms will continue in full force and effect.

19. Electronic Communications

During the period of the Engagement we may wish to communicate electronically with each other. However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. We each agree to use commercially reasonable procedures to check for the then most commonly known viruses before sending information electronically, but we recognise that such procedures cannot be a guarantee that transmissions will be virus free. Accordingly, we shall each be responsible for protecting our own interests in relation to electronic communications and for ensuring that an electronic communication is not misaddressed.

20. Conflict

In the event of any conflict between these terms and conditions and the Letter of Engagement or any other document which forms part of the Contract, these terms and conditions shall prevail except where amended by specific reference to the relevant paragraph of these terms and conditions. In the event and only to the extent

of any conflict between the Letter of Engagement and any referenced or attached document other than these terms and conditions the Letter of Engagement will take precedence.

21. Entire Agreement

This Contract represents the entire understanding and constitutes the entire agreement between the parties in relation to its subject matter and supersedes any previous agreement between the parties as to such subject matter. Each of the parties acknowledges and agrees that in entering into the Contract it has not relied on any representation or warranty or undertaking other than those expressly set out in the Contract and, except in relation to any liability for fraudulent misrepresentation, neither party shall be under any liability or shall have any remedy in respect of misrepresentation or untrue statement unless and to the extent that a claim lies under the Contract.

22. Third Parties

For the purpose of the Contracts (Rights of Third Parties) Act 1999, and notwithstanding any other provision of the Contract, the Contract is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

23. Law and Jurisdiction

23.1 The Contract is governed by and construed in accordance with English law. You and we hereby irrevocably submit to the non-exclusive jurisdiction of the English courts in respect of any claim, dispute or difference of whatever nature concerning our appointment and arising from it.

23.2 We will attempt to resolve any dispute that may arise under or in connection with this contract by negotiation. If after a reasonable time any dispute has not been resolved by negotiation, then subject to both parties' consent in writing, the parties may refer the dispute to arbitration or mediation.