

Factory Group: Terms and Conditions of Business

The following terms and conditions shall apply in relation to the supply of Services or Materials (or any other goods or services), by Factory Family Home Limited or by any company in the Factory Group (as defined below) and to all contracts for the same entered into after the Effective Date between any such company and the Customer. These terms and conditions are incorporated into all such contracts. These terms and conditions shall, subject to clause 8.5 below: supersede (but only so far as inconsistent with) any previous terms and conditions of any Factory Group company; override any alternatives stipulated or referred to by the Customer, or which are implied by trade, custom, practice or course of dealing; and, together with the Order, constitute the entire terms and conditions applicable to all or any agreements after the Effective Date between any Company and the Customer, superseding and extinguishing all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

The Customer's attention is particularly drawn to the provisions of **clause 10 (The Company's Liability)**.

1. Definitions

1.1 Unless inconsistent with the context, in these terms and conditions: -

'Company' means whichever company in the Factory Group has accepted the Order and in either case includes any divisions under which from time to time any of them carries on its business;

'Customer' means the person, firm or company using the Services of the Company pursuant to any Order;

'Customer's Property' means any tangible or intangible property of the Customer which exists prior to the Order or is provided during the Services Period including without limitation any recording or storage media of any kind such as DVD's, CD's, USB memory or hard drives, tapes, films or other materials or equipment or other property of any kind for or in connection with which or the contents of which any of the Services are required, and/or which are provided to the Company by or on behalf of the Customer;

'Effective Date' means 1 April 2018;

'Factory Group' means Factory Family Home Limited (company no. 08850417) and any company which is wholly or partly owned from time to time by Factory Family Home Limited or by any of its subsidiaries from time to time (other than any company whose primary business purpose is for investment) and includes at the Effective Date (subject to change without notice), Factory Studios Limited (company no. 03299825), Texture@factory Limited (company no. 08479420), Siren@factory Limited (company no. 07418354) and Honey@factory Limited (company no. 09385170);

'Materials' means all forms or media in which sounds, images and/or other data may be recorded or stored including without limitation DVD's, CD's, USB memory or hard drives, tapes, films, advertisements or other materials processed, produced or otherwise provided by or on behalf of the Company pursuant to the Services (and the ownership of any intellectual property rights which may be embodied in the Materials is as set out in, and subject to, clause 8 of these terms and conditions);

'Order' means the applicable order or brief accepted by the Company and under which the Company has agreed to provide Services to the Customer;

'Services' means any of the pre/post-production equipment, personnel, creative and production facilities or other services which the Company provides or is to provide to the Customer in accordance with these terms and conditions; and

'Services Period' means the period during which, under an Order, the Company has agreed to provide the applicable Services to the Customer.

2. Rates and Fees and Charges

2.1 The rates charged by the Company are those that are published from time to time in the Company's rate card, or as otherwise agreed in an Order. Publication by the Company of its rate card and the supply of any quotations or estimates to any person constitute an invitation to treat. The Customer's Order is an offer by the Customer to purchase Services in accordance with these terms and conditions and shall become binding only upon the Company's acceptance.

The rates quoted do not include Value Added Tax, or any cost of all media stock, courier and delivery charges, currency fluctuations, meals and long distance telecommunications expenses or any additional costs incurred by the Company pursuant to the applicable Order or as a result of:

- (i) any Customer's Property being in the opinion of the Company in any way defective or in an unsuitable format or of an unsuitable quality; or
- (ii) the information supplied by the Customer or any third party in connection with the Customer's requirements not providing a full and accurate indication of the work involved, or such requirements being altered or added to by the Customer subsequent to the date of the Order, and any such VAT or such further or additional costs or expenses shall be paid by the Customer.

2.2 The Company reserves the right to change the rates quoted in the rate card or otherwise at any time without prior notice.

3. Estimates

3.1 Whilst all the time and prices estimates given by Company are given in good faith and Company will endeavour to adhere to such estimates, time shall not be of the essence and is not guaranteed and Company will not be bound by such estimates. Without limiting the previous sentence, where estimates are not met due to the Customer's changes, failure to provide information or materials in a timely fashion or other circumstances outside Company's control, Company will not be liable for any failure to meet such estimates, and Company will not be responsible for any costs, charges or expenses incurred by the Customer as a result of such circumstances.

4. Payment

4.1 Except where these terms and conditions provide otherwise, and subject to paragraph (4.3) below, payment of all fees and charges incurred shall be made to Company within 30 days of the date of invoice and Company reserves the right to charge interest at a rate 4% in excess of the base rate of the Bank of England or LIBOR (at Company's option) on late payment from the due date for payment until the actual date of payment.

4.2 All sums payable by the Customer shall be paid in full and in the currency in which they are invoiced without any deduction whatsoever, whether by way of set-off, counterclaim or otherwise and for the avoidance of doubt the Customer shall not be entitled to the benefit of any such deduction to which it might otherwise be entitled in law or in equity.

Company shall be entitled in the event of non-payment in whole or in part to enforce any judgment obtained in relation thereto without any stay of execution pending the determination of any claim by the Customer against Company.

4.3 Company reserves the right to require payment of all fees and charges, in full or in part, in advance of, or in installments during, the performance of the Services.

4.4 Any queries on invoices of the Company must be raised by the Customer within 7 days of the date of the invoice.

5. Cancellation

5.1 In its absolute discretion, Company may at any time permit cancellation by the Customer of an Order and reserves the right to cancel any Order in the event of any breach of these terms and conditions by the Customer.

5.2 In the event of any such cancellation being permitted or instigated by Company less than one full 24-hour working day before the start of the Services Period, the Order will be charged at the full rate under Company's rate card current at the date of cancellation or, if greater, at the agreed rate for the Order.

5.3 In the event of such cancellation being permitted or instigated by Company between five and one full 24-hour working days before the start of the Services Period, the order will be charged at 50% of the full rate under Company's rate card current at the date of cancellation.

5.4 In addition to the above mentioned cancellation charges, Company will be entitled to be reimbursed with any costs or expenses, which it may have incurred arising from the cancellation of the Order.

6. Liens and Delivery

6.1 Until payment in cash or cleared funds of all monies due from the Customer to Company pursuant to a particular Order: -

6.1.1 the physical and intangible property in all applicable Materials shall, notwithstanding delivery, remain vested in Company, and the Customer shall hold the same as a bailee of Company and (where applicable) shall store such Materials separately from its other goods and keep full records of any third parties to whom it sells or disposes of the same;

6.1.2 Company shall have a general lien over any Customer's Property and any applicable Materials (and any other property of the Customer in Company's possession) for such monies due; and

6.1.3 the grant of rights in the Company's applicable Materials to the Customer pursuant to clause (8) shall not take effect.

6.2 Furthermore, the grant of rights in the Company's applicable Materials to the Customer pursuant to clause (8) shall not take effect until Company has also received payment in cash or cleared funds of all monies due from the Customer to Company under any other Orders or business transaction.

6.3 The Customer hereby grants an irrevocable licence to Company so that it may enter upon any premises where any applicable property or Materials are stored or where they are reasonably thought to be stored, during normal business hours, and repossess the same.

6.4 If the Customer fails to make payment within 14 days of monies payable to the Company becoming overdue (pursuant to clause (4.1) above), Company at its discretion shall be entitled to exploit or dispose of any applicable property or Materials and apply any proceeds towards the monies due and any expenses in respect of such exploitation or disposal and shall, upon

accounting to the Customer for the balance (if any) remaining, be discharged from all liability in respect of any such property or Materials.

6.5 Company will endeavour to deliver any Materials as soon as practicable after receipt of all sums due to Company from the Customer but Company shall not be responsible for any loss suffered by the Customer due to delay in delivery unless such loss shall have been caused by the gross negligence of Company.

7. Insurance

7.1 Risk of damage to or loss of the Materials shall pass to the Customer at the time when the Materials leave the premises of Company save where the Customer has specified (and Company has specifically agreed in writing) to make delivery itself, or arrange for delivery through a third party, at a particular time and at a particular place, when the Materials are actually delivered to that place, or if the Customer fails to take delivery, when delivery is tendered.

7.2 The Customer acknowledges that it is not possible for Company to obtain insurance against any lost costs of production arising from loss or damage to any property or materials of the Customer.

7.3 Accordingly, the Customer shall take out and maintain such insurance cover against all risks as is necessary or usual in connection with the Services (including pre/post production), including lost production costs caused or loss or damage to any property or materials of the Customer (and their content) whilst under the custody or control of Company.

8. Intellectual Property in Materials

8.1 Where, pursuant to an Order, the Company agrees to provide the use of any of the Company's equipment and/or technical, personnel, creative, advisory or any other services, but the Company does not specifically agree in writing to grant any rights to or interests in any Materials to the Customer (in accordance with clause (8.5) below), all copyright and other intellectual property in any audio and/or audio visual recording or film or any other Materials which are to be delivered by the Company pursuant to such Order will (as between the Customer and the Company) vest in, and be the exclusive property of, the Company.

8.2 Subject to Company having received payment in cash or cleared funds (in accordance with these terms and conditions) of all monies due from the Customer to Company pursuant to an Order, in cases to which clause 8.5 does not apply (i.e. where there is no specific written agreement as to rights or interests in the Materials being granted to the Customer) the Company grants the Customer a licence to publish and transmit the finished Materials as a whole in their final form as supplied by Company solely for the purpose originally specified in the Order (or, if no specific purpose is stated in the Order, for the purposes reasonably contemplated by the parties at the date of the Order). For the avoidance of doubt, in those circumstances the Customer shall have no rights whatsoever (and undertakes not) to use any Materials, or any intellectual property rights of any type whatsoever contained in them, separately from the finished product of the provision of the Services as a whole, or for any other purpose whatsoever.

8.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause (8.2) without the prior written agreement of the Company.

8.4 Notwithstanding anything to the contrary contained herein, Company shall retain ownership and possession of, and shall not be required to deliver to the Customer, any mechanical devices, processes, Company's know how, source or object code or application software, which are used as tools to create the Materials ("**Contractor Technology**"). As between the parties, Company

shall own the Contractor Technology, as well as all intellectual property rights related to the Contractor Technology, including but not limited to, any copyrights, trademarks, trade secrets or patents in connection therewith. Notwithstanding the foregoing, in cases to which clause 8.5 does not apply (i.e. where there is no specific written agreement as to rights or interests in the Materials being granted to the Customer) Company hereby grants to the Customer a non-exclusive licence in and to the Contractor Technology in perpetuity, to the extent only that the same is necessary for the exploitation of the Materials and all ancillary and allied rights therein and thereto by the Customer as envisaged by the parties hereunder.

8.5 If the Company puts forward to the Customer any other separate documentation in connection with the Services and/or the Materials in addition to these terms and conditions (including, by way of example only, any documentation dealing with ownership of the intellectual property rights in the Materials in a manner other than as specified at clauses (8.1) and (8.2) above), the Customer shall complete and deliver back to the Company such forms, and enter into such agreements, promptly upon receipt and will abide by the provisions thereof ('**Separate Documentation**'). Notwithstanding any other provisions of these terms and conditions, to the extent that there is any conflict between the Separate Documentation and these terms and conditions, the Separate Documentation shall prevail.

9. Confidential Information

9.1 The Customer shall take proper steps to keep confidential all confidential information relating to Company or its business or financial affairs or the services provided by it, including any computer programs, production techniques, Contractor Technology, databases and any original ideas and concepts, know-how, designs and processes incorporated in or inherent in the Materials, which information is disclosed to or obtained by the Customer pursuant to or as a result of the provision of the Services and/or the Materials (other than information in the public domain other than by reason of a breach by the Customer of this provision) ('**Confidential Information**').

9.2 The Customer will not use or divulge any Confidential Information to any person (other than its professional advisers) and upon the termination of the Services Period, the Customer will return to the Company any Confidential Information (without retaining copies thereof) and any equipment or other goods provided by the Company (other than, for the avoidance of doubt, the Materials).

10. The Company's Liability: The Customer's attention is particularly drawn to this clause.

10.1 Save as otherwise expressly provided in these terms and conditions and to the fullest extent permitted by law:

10.1.1 the supply to any Customer of Materials and Services (and any other goods and services) is entirely at the Customer's risk and Company shall be under no liability to the Customer or any other person for any direct, indirect or consequential loss or damage arising from any defect in the Services or in the Materials (or in any other goods or services supplied by the Company) or in any equipment or recording or storage media used in relation to the Order;

10.1.2 if the Services are delayed, postponed, curtailed or cancelled for any reason, then unless such delay, postponement, curtailment or cancellation shall have been caused by the gross negligence of the Company, the Company shall not be liable for any loss or damage suffered by the Customer by reason thereof;

10.1.3 the Company shall not in any event be liable for economic loss (including loss of profit or goodwill) or any indirect or consequential loss or damage;

10.1.4 the Company will not be responsible for any damage to or loss of any Customer's Property held by the Company nor any loss (consequential or otherwise) arising in respect thereof, unless caused by the Company's negligence in which case paragraph (10.3) shall apply; and

10.1.5 all warranties, conditions, terms and representations relating to goods or services supplied by the Company (whether expressly or implied by statute, common law, use or otherwise) are hereby excluded.

10.2 Nothing herein shall be construed as excluding or limiting (or seeking to do so) any liability on the part of Company by reason of death or bodily injury caused by Company's negligence, or for fraud or fraudulent misrepresentation.

10.3 Subject to clause 10.2, the Company's total liability to the Customer shall not exceed the cost expended by the Customer in fees and charges, and actually received by the Company, in respect of the Order to which the relevant liability relates, and shall not in any event exceed £10,000 in respect of any one Order subject to paragraph (10.4). The Supplier's total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with these terms and conditions.

10.4 If the Customer shall notify the Company during the Services Period that the Customer values its applicable Customer's Property at a sum which exceeds the figure stated in paragraph (10.3) and shall agree to reimburse Company with the cost of effecting special insurance cover for such property during the Services Period in the sum stated by the Customer then, from the date on which such insurance is actually effected by Company, the limitation of liability shall be the sum actually insured and the figure in paragraph (10.3) shall not apply.

10.5 Subject to the above provisions of this paragraph (10), all of the Customer's Property and its other property, and all Materials held by Company will be held by Company entirely at the risk of the Customer, irrespective of the cause of any loss or damage, and the Customer should insure the Customer's Property to its full value against all risks and take and retain copies or full details of all Customer's Property before providing them to Company.

10.6 The Company shall as agreed in the Order make available to the Customer any relevant facilities or equipment (and the personnel of the Company which it deems necessary to operate such equipment) but the Customer shall satisfy itself that any facilities or equipment provided by the Company are suitable for its purpose and, while Company will use its reasonable endeavours to ensure that all equipment and facilities perform in accordance with the specification for such equipment and facilities unless expressly agreed in writing at the time of the acceptance of the Order, Company shall not be responsible for ensuring that its equipment and the facilities provided by it are suitable for the Customer's purpose.

10.7 The Company shall not be liable for any reduction in the quality of its services that may be caused by the quality of the Customer's Property or its other materials, or by the Company's adherence to the Customer's instructions.

10.8 (a) The Customer shall indemnify, and save harmless upon written request by the Company, the Company and its directors, employees, servants, sub-contractors and agents from and against all liabilities, actions and losses, claim, proceedings, judgment, damages, obligations, costs and expenses of any nature whatsoever (including, but not limited to, legal fees, costs and expenses) arising directly or indirectly out of Company's provision of Services and/or Materials (and any other goods or services) hereunder or in connection with the Customer's Property or the acts or omissions of the Customer, its servants, agents or representatives, or any breach by

the Customer of any of its representations, warranties other obligations in these terms and conditions (including, but not limited to, claims by any third party for breach of copyright or defamation relating to any materials provided by or on behalf of the Customer or embodied otherwise in any of the Customer's Property or any failure by the Customer to observe the provisions and requirements of any applicable agreements).

(b) Each of the parties acknowledge and agree that copyright in underlying materials processed by Company in the performance of its services and / or embodied in the Materials may be owned by third parties and that (except as the Company otherwise agrees in any agreement completed and made effective between the parties as described in clause 8.5 above) the use by the Customer of the Materials shall always be subject to the Customer obtaining all and any necessary consents and licences from those third party owners.

11. Non-Collection

11.1 Company shall be entitled to destroy, erase or otherwise dispose of as it thinks fit any Materials or Customer's Property in its possession and uncollected by the Customer after the expiration of three months from the end of the Services Period, and while uncollected by the Customer, such materials or Customer's Property shall be held by Company at the Customer's risk as stated above.

12. Transfer of Obligations

12.1 Company reserves the right to assign or sub-contract all or any part of its obligations to the Customer.

12.2 Any contract which is made between Company and the Customer is personal to the Customer, who shall not assign or charge the benefit thereof without the express prior written consent of Company.

13. Credits

13.1 The Customer shall ensure that Company is given screen credits in respect of the Services supplied by Company in a form approved in advance by Company. The Customer hereby grants to Company a perpetual and royalty-free licence to refer to the Customer and, to the extent that the Company is not the owner of the intellectual property embodied in the Materials, to use all or any part of the Materials processed or produced by Company on the Customer's behalf (which may include the Customer's Property) in order to promote or advertise Company's business, and otherwise for the purposes of providing the Services and/or Materials to the Customer.

14. Representations and Warranties

The Customer represents and warrants to Company that: -

14.1 Before the commencement of the Services Period it will obtain all consents licences and clearances required from the performers, copyright owners and any other person having any right or interest in connection with any of the Customer's Property; and

14.2 Nothing contained in the Customer's Property will be defamatory, offensive, obscene or otherwise unlawful or in breach of any intellectual property or any other right of any third party.

15. Force Majeure

15.1 Company shall not be under any liability to the Customer as a result of Company being unable to perform any of its obligations or comply with any of the Customer's instructions due to circumstances beyond its reasonable control including, but not limited to, industrial action taken by any person or persons, and if Company is so unable, it shall at its option exercisable by notice at any time to the Customer either be entitled to perform such obligations or to comply with such instructions as and when it is reasonably able to do so or to treat itself as wholly or partly

released from all such obligations, instructions or liability.

16. Termination by Company

Without prejudice to any other right or remedy which it may have, the Company is entitled to terminate all of its obligations to the Customer upon the happening of any of the following events: -

16.1 if the Customer is at any time in breach of any obligation or representation or warranty to Company, or any sum owing to Company by the Customer is overdue by more than 14 days; or

16.2 if the Customer takes any step or action in connection with its entering any composition or arrangement with its creditors, or enters into a voluntary arrangement, or if a bankruptcy petition is served on the Customer or (if the Customer is a limited company) any resolution or petition to wind up the Customer's business is presented, or if a receiver or administrative receiver is appointed to deal with any part of the Customer's assets.

Upon any such termination, the Customer will pay to Company on demand all sums owing in respect of Services already performed by Company, or Materials already created by the Company, together with all sums relating to instructions given by the Customer before termination, so as to fully indemnify Company in respect of all liabilities incurred in consequence of compliance with the Customer's instructions.

17. General

17.1 All notices given in accordance with these terms and conditions shall be in writing and may be delivered personally or sent by pre-paid first class post to the usual or last known address of Company or the Customer. A notice shall be deemed to have been properly served if personally delivered, at the time of delivery, and if posted, forty-eight hours after posting. In providing service it shall be sufficient to show that the notice was delivered to the correct address or that the envelope containing the notice was properly addressed, pre-paid and posted.

17.2 No variation of these terms and conditions shall be effective unless made in writing and signed by a duly authorised Director of Company and the Customer.

17.3 If any provision of the terms shall be adjudged by a Court to be void or unenforceable, the same shall in no way affect any other provision of this contract or the validity or enforceability of the contract generally.

17.4 Any failure or delay by Company in exercising or enforcing any rights conferred by these terms and conditions shall not be deemed to be a waiver thereof or operate so as to bar the exercise or enforcement of such rights at any time.

17.5 Nothing in these terms and conditions is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

17.6 Unless expressly stated otherwise, these terms and conditions do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

17.7 The contract between Company and the Customer (including but not limited to the Order and these terms and conditions) shall be governed by and construed in accordance with English law and Company and the Customer agree for the exclusive benefit of the Company that the English Courts shall have jurisdiction to settle any dispute relating thereto.