



TERMS AND CONDITIONS TO APPLY TO ALL PRODUCTION AGREEMENTS ENTERED INTO BY PROCREATION UK LIMITED

1. DEFINITIONS

1.1. The words below are agreed to mean as follows:

Change	shall mean any change requested to the Production, whether based on a change to the Production Treatment, the Production Schedule or the Production Period, and shall include any change to the Delivery Date.
Change Procedure	shall mean the procedure relating to Changes set out at clause 5 of this Agreement.
Client	shall mean the person (including a corporate body) to whom the quote, proposal, order or other document that these Terms are attached or enclosed with is addressed.
Client Materials	shall mean such materials as are provided to the Company by the Client, including any third party material which the Client requests that the Company incorporates into the Production.
Commencement Date	shall mean the commencement date set out in the Production Schedule.
Company	shall mean Procreation UK Limited, a company registered in the UK with number 04837576 of Templeton Studios, 114 High Street, Hampton Hill, Middlesex, TW12 1NT, United Kingdom or of such other address as the Company shall notify the Client from time to time.
Contract Price	shall mean the sum set out in the Proposal due to the Company for the Production.
Delivery Date	shall mean the delivery date stated in the Proposal.
Expenses	shall mean such costs relating to the Production as are incurred by the Company in accordance with clause 4 of this Agreement.
Prescribed Purposes	shall mean the purposes set out in the Proposal or if nothing is set out in the Proposal shall mean "as the Client sees fit"
Production	shall be the event, film, video, sound recording or other deliverable to be produced by the Company.
Production Period	shall commence on the Commencement Date and shall continue throughout and in accordance with the Proposal culminating in delivery of the production on the Delivery Date.
Production Schedule	shall mean the agreed dates, times and locations of making the Production as set out in the Proposal.
Production Treatment	shall mean the synopsis of the Production contained in the Proposal.
Proposal	Shall mean all documents setting out the agreement between the parties relating to the creation of the Production but shall not include any standard Terms and Conditions supplied by the Client, the operation of which is expressly excluded.



- 1.2. Where the context so admits or requires, words denoting the singular include the plural and vice versa;
- 1.3. Where the context so admits or requires, words denoting the masculine shall include the feminine and vice versa;
- 1.4. References to statutory provisions shall be construed as references to those provisions as replaced, amended or re-enacted from time to time (whether before or after the date of this agreement) and shall include any provisions of which they are re-enactments (whether with or without modification) and any subordinate legislation made under such provisions.
- 1.5. The clause headings in this Agreement are for information only and do not form part of this Agreement. The appendices form part of this Agreement and shall have the same full force and effect as is expressly set out in the body of this Agreement.



2. PRODUCTION

- 2.1. The Company shall, in consideration of the Contract Price, produce the Production in accordance with the Production Treatment and Production Schedule.

3. PAYMENT

- 3.1. The Client shall pay to the Company the Contract Price within 30 days of the Company sending the Client invoices in respect of the Contract Price as the Contract Price or part of the Contract Price becomes due.
- 3.2. The Company shall be entitled to invoice the Client in respect of the Contract Price in the following proportions at the following stages:
 - 3.2.1. 50% on the date of this Agreement, or on the Commencement Date, whichever is sooner;
 - 3.2.2. 50%, plus any Expenses incurred, within 14 days of the Delivery Date.
- 3.3. All invoices issued in accordance with this Agreement shall be paid within 30 days of their receipt by the Client.
- 3.4. The Company shall be entitled to charge interest on any overdue payment at the rate of 4% over National Westminster Bank's base rate prevailing at the time and shall be entitled to such reasonable costs as it incurs in the collection of such overdue payments.

4. EXPENSES

- 4.1. The Company shall be entitled to payment in respect of any expenditure it incurs in relation to the Production where such expenditure is related or ancillary to the Production ("Expenses").
- 4.2. Where any expenditure on a single item is more than £500, in order for that item to be deemed as Expenses for the purposes of this Agreement, the Company shall obtain the prior consent of the Client before incurring that expenditure.
- 4.3. Where the total amount of expenditure related or ancillary to the Production is more than £5000 in order for any expenditure related or ancillary to the Production in excess of the amount of £5000 to be deemed as Expenses for the purposes of this Agreement, the Company shall obtain the prior consent of the Client.
- 4.4. In order to be entitled to the payment of Expenses in accordance with clause 3.2.2, the Company shall retain all such receipts related to those expenses and shall, for a period of not less than 30 days following the Delivery Date, make such receipts available to the Client within 14 days of the Client's written request for those receipts.

5. CHANGES IN THE PRODUCTION DURING DEVELOPMENT

- 5.1. In the event that the Client requires any Change, it shall give the Company written notice of that Change. In that written notice of Change, the Client shall confirm whether, during the operation of the Change Procedure, the Company shall continue to produce the Production in accordance with the Production Schedule or whether the Company shall cease to work on the Production. In the event that the Client does not indicate that the Company is to cease production, the Company shall continue to produce the Production in accordance with the existing Production Schedule.
- 5.2. The Company shall, within 14 days of receipt of the Client's written notice of the request for a Change, send the Client a document setting out any amendments to the Production Treatment,



Production Schedule, Production Period, Delivery Date and Contract Fees as it deems would be caused by such Change.

- 5.3. The Client shall, within 14 days of receipt of the Company's notice given in accordance with clause 5.2, decide whether to accept any such amendments to the Production Treatment, Production Schedule, Production Period, Delivery Date and Contract Fees and to continue on the basis of the Change, or whether to revert to the original Production Treatment, Production Schedule, Production Period, Delivery Date and Contract Fees to the extent that such reversion is possible.
- 5.4. In the event that the Client instructs the Company to cease to produce the Production in accordance with the Production Schedule, and subsequently instructs the Client not to carry out the change requested, the Client acknowledges that it will be liable for any additional costs occasioned by the cease in production, and further acknowledges that the Company shall be entitled to make any and all such amendments to the Production Treatment, Production Schedule, Delivery Date, Production Period and Contract Price as are necessary as a result of the instruction to cease production.
- 5.5. In the event that the Client does not respond within 14 days of receipt of the Company's notice given in accordance with clause 5.2 then the Company will be entitled to continue on the basis of the Change or to revert to the original Production Treatment, Production Schedule, Production Period, Delivery Date and Contract Fees to the extent that such reversion is possible at the sole election of the Company.
- 5.6. Nothing in the Change Procedure shall act to change or cancel the operation of these Terms and in particular no further terms and conditions introduced by the Client during the Change Procedure shall have effect.

6. COPYRIGHT AND OTHER RIGHTS

- 6.1. In consideration of the payment of the Contract Price, the Company hereby grants the Client a non-exclusive, royalty free perpetual license to use the Production for the Prescribed Purposes.
- 6.2. In the event that the Client requires use of the Production outside of the Prescribed Purposes, the Client shall make a request in respect of such use to the Company in writing. The Company shall be entitled to approve or decline any such request at its absolute discretion.
- 6.3. Without prejudice to any rights in the Client Materials, whether those rights are owned by the Client or a third party, the Client acknowledges that the Company retains all rights in the Production, including all present and future copyright in the Production and all other rights to copy, perform in public, offer to the public or otherwise deal in the Production whether in existence now or created in the future.
- 6.4. The Client hereby grants the Company a non-exclusive, royalty free, perpetual license to copy, perform, issue to the public and to otherwise use the Client Materials for any purposes relating to the Production, and hereby warrants that it is entitled to enter into this license and that, in entering into the license it is not infringing the copyright, rights in registered or unregistered trade marks, any registered or unregistered design right, any rights in patents, any rights in confidential information or any other rights of a like nature owned by any third party.
- 6.5. The Client acknowledges that the Company asserts its moral rights generally in respect of the Production under the Copyright Design and Patents Act 1998 and in particular to be credited as producer in relation to the Production.
- 6.6. The Client acknowledges that it shall not, by itself or with the assistance of any third party, be entitled to re-edit or otherwise amend the Production or any works made in preparation of the Production, including any rushes made in relation to the Production, without having first



acquired the written consent of the Company, the granting of which will be at the absolute discretion of the Company.

- 6.7. The Client acknowledges that the Company is under no obligation to provide any preparatory works in relation to the Production, including any and all scripts, directions rushes, edits, graphics or any other works of a similar nature to the Client. In the event that the Client requires any such preparatory works, it shall make a written request to the Company which the Company may, at its absolute discretion, decide to fulfil or refuse.

7. PROMOTION OF THE COMPANY'S BUSINESS

- 7.1. The Client agrees that the Production will form part of the Company's archive of works and that the Company may use the Production for the purposes of promoting its own business, subject to the requirements of clause 13 of this Agreement.

8. WARRANTY

- 8.1. The Client hereby warrants to and undertakes with the Company that it has full title and authority to enter into this Agreement and is not bound by any previous Agreement which adversely affects this Agreement.
- 8.2. The Client warrants that it is entitled to provide the Client Material to the Company and that, in using the Client Material in the Production, the Company shall not:
- 8.2.1. infringe the copyright, performers rights, moral rights, any rights in registered or unregistered trade marks, any registered or unregistered design right, any rights in patents, any rights in confidential information or any other rights of a like nature without limitation;
 - 8.2.2. be liable in any action for defamation, slander, trade libel, malicious falsehood or any similar right of action;
 - 8.2.3. be liable in any action for obscenity, incitement to racial or religious hatred, be held in contempt of court, or be liable for any similar offences or in any action of a like nature.

9. INDEMNITY

- 9.1. The Client agrees to indemnify and hold harmless the Company against all civil damages, costs, judgements or any other penalties awarded against the Company in any legal proceedings arising from any alleged or actual breach of the warranty set out in clause 8 of this Agreement.



10. CANCELLATION

- 10.1. The Client may cancel this Agreement and the Production by giving the Company 30 day's written notice.
- 10.2. In the case of cancellation by the Client in accordance with clause 10.1 above or in the event of any other purported cancellation, the Client agrees to pay the Company a proportion of the agreed Contract Price for all work completed or commissioned at the date of cancellation, plus an additional cancellation charge ("the Cancellation Charge") covering loss of revenue as follows:
 - 10.2.1. 60 days or less before project Delivery Date - 100% of Contract Price;
 - 10.2.2. between 90 days and 61 days before project Delivery Date - 75% of Contract Price;
 - 10.2.3. 91 days or more before project Delivery Date - 50% of Contract Price.
- 10.3. In the event that the Client gives the Company notice of its intention to cancel, the Company shall, at any time following the receipt of such notice, be entitled to send the Client an invoice in respect of all elements of the Contract Price which remain outstanding, all Cancellation Fees and all Expenses. Such invoice shall be paid by the Client within 14 days of its receipt.
- 10.4. The provisions of clause 3.4 above shall apply to the payment of any amount in accordance with this clause 10.

11. TERMINATION

- 11.1. In addition to any other rights and remedies at law this Agreement may be terminated by giving written notice to the other party in the event that:
 - 11.1.1. the Client has failed to account or make payments as required under this Agreement whether demanded or not;
 - 11.1.2. the Client or the Company has committed a material breach of its obligations under this Agreement unless such party rectifies the position as far as reasonably possible within thirty days;
 - 11.1.3. either party goes into voluntary or involuntary liquidation (otherwise than for the purpose of a solvent reconstruction or amalgamation) or has a receiver or administrator or similar person appointed or is unable to pay its debts within the meaning of s268 Insolvency Act 1986 or ceases or threatens to cease to carry on business.
- 11.2. On termination of this Agreement the Client shall not have the right to take over and complete the Production or have its nominee complete the Production on its behalf without having first obtained the consent of the Company in accordance with clause 6.6 of this Agreement.

12. INSURANCE

- 12.1. The Client agrees that if it provides facilities or equipment for the purpose of making the Production these are provided entirely at the Client's risk. The Client is advised to maintain adequate employers' insurance and public liability and property damage insurance in respect of the same.
- 12.2. If it is specifically stated in the Proposal that the Company will be responsible for any insurance in relation to the making of the Production then the cost of the insurance will be deemed to be part of Expenses.



13. CONFIDENTIALITY

- 13.1. Each party hereto shall not except as authorised or required by its duties hereunder use, divulge or communicate to any person, persons or company any of the trade secrets, secret or confidential information, confidentiality operations, processes, or dealings, concerning the organisation, business, finances, transactions or affairs of the other party or its customers or clients (hereinafter called "Confidential Information") which may come to its knowledge during the development of the Production and shall keep with complete secrecy all Confidential Information entrusted to that party and shall not use or attempt to use any such information in any manner which may cause loss to the other.
- 13.2. Each party shall use its best endeavours to procure that any Confidential Information is only disclosed to such of its employees and sub-contractors (if any) as may be necessary for the proper performance of its duties hereunder and that such employees or sub-contractors (if any) shall comply with the terms of this Clause.
- 13.3. The restriction in Clause 13 shall continue to apply after termination of this Agreement or delivery without limit in point of time but shall cease to apply to information or knowledge which may come into public domain other than by authorised disclosure of either party.

14. NO PARTNERSHIP OR EMPLOYMENT

- 14.1. The parties agree that nothing in this Agreement is intended to create any partnership or employment relationship between the parties.

15. DATA PROTECTION ACT

- 15.1. Both parties undertake that they will comply in all respects with its obligations under the Data Protection Act 1998 or equivalent legislation.

16. RESTRICTIONS

- 16.1. During the course of this Agreement and for a period of 6 months afterwards, neither party shall be permitted to solicit the staff and personnel of the other party.
- 16.2. If the restriction at clause 16.1 is held to be invalid or unenforceable by a court of competent jurisdiction, it is intended and understood by each of us that such invalidity or unenforceability will not affect the remaining restrictions.
- 16.3. The parties agree and acknowledge that the restrictions set out in this clause 16 are reasonable and necessary for each party to protect its goodwill, client connections and legitimate business interests and the restrictions are no greater than is necessary to afford the parties with that protection.

17. THIRD PARTY TRANSFERS

- 17.1. Subject to any third party involvement in the Production as set out in the Production Schedule, neither party shall assign, transfer, charge or make over this agreement or any of its rights or obligations without the written consent of the other.

18. FORCE MAJEURE

- 18.1. In the event that this Agreement cannot be performed or its obligations fulfilled for any reason beyond the reasonable control of either party including war, industrial action, floods, Acts of God, then such non-performance or failure to fulfil its obligations shall be deemed not to be a



breach of this Agreement. In the event that this Agreement cannot be performed or its obligations fulfilled for any reason beyond either party's control for a continuous period of [three months], then either party may at its discretion terminate this Agreement by notice in writing at the end of that period. In the event that obligations may be fulfilled after a delay of less than three months, the Company shall amend the Production Schedule, Delivery Date, Production Period and Contract Price as is required to reflect that delay and the provisions of this Agreement shall continue to take effect.

19. SEVERANCE

- 19.1. If any provision of this Agreement shall be prohibited by, or adjudged by a court to be unlawful, void or unenforceable such provision shall to the extent required be severed from this Agreement and rendered ineffective as far as possible, without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement.

20. NOTICES

- 20.1. Unless otherwise specified in this Agreement any notice, consent, authorisation, communication or approval required to be given under this Agreement shall be effected by e-mail and first class post, addressed to the party to be notified, or personally delivered in writing to the party to be notified at, in each case the address set out above or at such other latest address as may in the future be notified in writing by the party to be notified to the other.
- 20.2. Unless otherwise specified in this Agreement, the date of giving or serving of such notice, consent, authorisation, communication or approval shall be the date of such personal delivery or 5 working days following the date of such posting.

21. REPRESENTATIONS

- 21.1. Neither party is authorised to, or shall undertake to bind the other party in any way by any warranty, agreement, contract, representation or order, written or oral, or by an instrument or action of any kind, whether in the name of the Company or the Client or otherwise.

22. VARIATIONS

- 22.1. This Agreement may not be varied or modified except in writing and signed by both parties.

23. COMPLETE UNDERSTANDING

- 23.1. This Agreement constitutes the entire Agreement between the parties in relation to the subject matter hereof and supersedes all earlier Agreements however made. For the avoidance of doubt, in entering this agreement neither party has relied on any representation made by the other.

24. GOVERNING LAW

- 24.1. This Agreement, and any dispute arising out of or in connection with it, shall be subject to the laws of England and the parties submit to the exclusive jurisdiction of the English Courts in relation to any such dispute.