

ILLUSTRATOR COMMISSIONER AGREEMENT

To: [name of Client], [a partnership, company registered in England and Wales with company number] whose registered office is at [address] ('Client')

I AM PLEASED TO ACCEPT YOUR COMMISSION FOR ARTWORK AS FOLLOWS:

Work (title and description of the service/project or clearly identify other written document or email describing the commissioned Work including file format, resolution, size and any other relevant technical specifications):

.....
Usage (describe use for which Work is supplied)

.....
Client Contact (name):

Tel.

Email:

.....
Client's Customer:

.....
Delivery Schedule (list here clear delivery dates of artwork relevant to the completion of the Work ("Deliverables"), e.g. story board; delivery of roughs, conceptual/character designs; final artwork for approval, etc.):

Stage 1 [Roughs]: due by:

Stage 2 [Amends]: due by:

Stage 3 [Final Artwork]: due by:

.....
Fee (exclusive of VAT): £

Expenses (if applicable): £

TERMS OF COPYRIGHT LICENCE TO BE GRANTED

| | | |
|--|-------------------|--|
| <input type="checkbox"/> Exclusive (for Purpose) <input type="checkbox"/> Non-exclusive (for Purpose) | Territory: | Term: (perpetual or number of years/months from Start Date) |
| Rights: (describe the use the Client can make of the commissioned Work, e.g. to use, store, reproduce, transmit, broadcast and distribute the Work) | | |
| <u>Additional promotional use:</u> <input type="checkbox"/> No <input type="checkbox"/> Yes, specify: | | |

Credits: A credit for non-editorial work is required if this box is checked (see Clause 25 overleaf)

Special Terms (if any):
.....
.....
.....

The Standard Terms and Conditions for this commission and for the later licensing of any rights are shown on the back of this page. Please review them together with the above and let me know immediately but not later than two days from receipt of the Illustrator Commissioner Agreement form if you have any objection or queries. Otherwise it will be understood that you have accepted them. It is not possible to vary the terms of this agreement after your acceptance without my written consent.

Signature of Illustrator:

Date:

("Start Date")

THIS COMMISSION IS SUBJECT TO ALL TERMS AND CONDITIONS ON THE REVERSE SIDE

TERMS & CONDITIONS

Ownership of Copyright/Copyright Licence

1. The copyright in the Work, including all preparatory designs for the Work which includes but is not limited to sketches, graphic works, project development and production drawings, models, characters, prototypes and other matters ("Artwork"), commissioned by the Client shall be retained by the Illustrator.
2. The Client is deemed to have accepted these terms and conditions if it does not object within one calendar week of receiving the Illustrator Commissioner Agreement form.
3. The Client or the Client's Customer (where the Client is acting as an intermediary) is granted a licence solely as specified and for the usages set out on the face of this Illustrator Commissioner Agreement form.
4. For the avoidance of doubt, the Illustrator shall have the right to use the Work and Artwork for the purpose of self-promotion, unless both parties agree otherwise in writing.
5. The licence hereby granted is conditional upon the Illustrator having received payment in full of all monies due.
6. The licence hereby granted is personal to the Client or the Client's Customer (where the Client is acting as an intermediary) and the rights may not be assigned or sub-licensed to any third parties without the Illustrator's prior written consent.
7. The Client accepts that the use of the Work and Artwork is restricted as specified in the Illustrator Commissioner Agreement form. Further use of the Work or Artwork is subject to an additional licence to be granted by the Illustrator. Both parties shall negotiate the terms of the additional licence in good faith.

Payment

9. Unless stated otherwise in this Agreement, the Fee is payable in Pound Sterling, inclusive of all of Illustrator's expenses and preparation time.
10. All fees due to the Illustrator shall be exclusive of any applicable Value Added Tax ("VAT") or like tax (which shall be additional).
11. If and to the extent that VAT is payable the Illustrator will render to the Client a VAT invoice.
12. The Client shall pay all invoices within 30 days of the date of the invoice. The Illustrator reserves the right to charge interest at the rate of 4% above the Bank of England base rate for the time being to accrue daily from the due date until payment is received.

Cancellation

13. If a commission is cancelled by the Client, the Client shall pay a cancellation fee as follows:
 - a. 25% of the agreed fee if the commission is cancelled before Stage 1;
 - b. 33% of the agreed fee if the commission is cancelled at Stage 2;
 - c. 100% of the agreed fee if the commission is cancelled at Stage 3;
- d. If the commission is cancelled at an intermediate stage, a fair and reasonable amount on account of the Fee due under this Agreement commensurate with the Schedule performed to date of such cancellation.
- e. In the event of cancellation, ownership of all rights granted under this Agreement shall revert to the Illustrator unless the Artwork is based on the Client's visual or otherwise agreed.

Delivery

14. The Illustrator shall use reasonable endeavours to deliver the relevant Artwork as digital files in accordance with the specifications to the Client by the agreed date and shall notify the Client of any anticipated delay in which case the Client may (unless the delay is the fault of the Client) ask the Illustrator to deliver the relevant Artwork as agreed in the Schedule or on a mutually agreed date – whatever is the later date. The Client may cancel the commission without payment in the event of the Illustrator failing to meet the thereby agreed date.
15. THE ILLUSTRATOR SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL LOSS OR DAMAGES ARISING FROM LATE DELIVERY OF THE DELIVERABLES.
16. The Client shall make an immediate objection upon delivery if the Artwork is not in accordance with the brief. If such objection is not received by the Illustrator within 21 days of delivery of Artwork it shall be conclusively presumed that the Artwork is acceptable.

Approval/Rejection

17. Should the Artwork fail to satisfy, the Client may reject the Artwork upon payment of a rejection fee as follows:
 - a. 25% of the agreed fee if the Artwork is rejected at stage 1.
 - b. 50% of the agreed fee if the Artwork is rejected at stage 2.
 - c. 60% of the agreed fee if the commission is rejected at stage 3.

In the event of rejection, all rights licensed or otherwise granted to the Client under this Agreement shall revert to the Illustrator except to the extent that the Artwork is based on the Client's visuals or as otherwise agreed.

Changes

18. If the Client changes the brief and requires subsequent changes, additions or variations, the Illustrator may require additional payment. The Illustrator may refuse to carry out changes, additions or variations which substantially change the nature of the commission.

Guarantees

19. Except where Artwork is based on reference material or visuals supplied by the Client or where otherwise agreed, the Illustrator guarantees that the Artwork is original and does not infringe any existing copyright.
20. The Client guarantees that any necessary permissions have been obtained for the use of reference material or visuals supplied by the Client or the Client's Customer and undertakes to keep the Illustrator fully and effectively indemnified against any and all claims and expenses including reasonable legal fees arising from the Illustrator's use of any materials provided by the Client or the Client's Customer.

Source files

21. Deliverables do not include original source files but only files in the format as specified in the Work definition. It shall be at the Illustrator's discretion to make original source files available to the Client on request for a mutually agreed fee. Usage of source files shall be governed by the same terms that govern usage of the Work by the Client under this agreement.

Original Artwork

22. The original Artwork shall not be intentionally destroyed, altered, retouched, modified or changed in any way whatsoever without the written consent of the illustrator.
23. Where hard copy original Artworks are supplied the Client shall return all Artwork to the illustrator not later than 3 months after delivery in undamaged, unaltered and unretouched condition. The Client may make and retain copies to enable it to exploit the rights granted with the Artwork.
24. If the Artwork is lost or damaged at any time whilst in the Client's custody the client shall pay compensation to the Illustrator for the loss/damage of the Artwork at a rate to be agreed in good faith between the parties.

Credits/Moral Rights

25. The Client shall ensure the Illustrator is credited in any editorial use of the Work. Credits for non-editorial use are not required unless so indicated on the front of the Illustrator Commissioner Agreement form.

Samples

26. Unless otherwise agreed, the Illustrator shall be entitled to receive not less than four printed copies of the Work if applicable.

Notices

27. All notices shall be sent to the Illustrator and to the Client either at the postal address or email address stated in this Agreement. Each party shall give written notification of any change of address or email address to the other party prior to the date of such change.

Dispute Resolution

28. In the event of any dispute between the parties, both parties will seek in good faith to resolve the dispute amicably by negotiation.
29. Either party may give the other a written notice that it wishes to refer a dispute to formal mediation ("Mediation Notice"). If within two weeks of service of a Mediation Notice the dispute has not been resolved, the parties shall then try to settle the dispute by mediation in accordance with the Model Mediation Procedure of the Centre for Effective Dispute Resolution. If that fails, or after either party has made all reasonable efforts to follow that procedure, either party may commence proceedings in a court of competent jurisdiction. Either party may at any time seek injunctive relief from a court of competent jurisdiction.

Governing Law

30. These terms and conditions are governed by the law of England and Wales and may not be varied except by agreement in writing. The parties hereto submit to the exclusive jurisdiction of the English Courts.