

THARP & CLARK - TERMS & CONDITIONS OF BUSINESS

1. INTERPRETATION

1.1. In these Terms, the following terms shall have the following meanings:

"Agreement" means the Quote, these Terms and any Contract for Services.

"Client" means the person, firm, company or other entity who has instructed THARP & CLARK to carry out the Services (as defined below) as set out in this Agreement.

"Client Materials" means any goods, products and materials in whatever form (including all Intellectual Property Rights in the same) provided or made available by the Client to THARP & CLARK for use in connection with this Agreement, and including any master tapes, film negative prints, sound tapes, video tapes or visual images or sound held in any media.

"Confidential Information" means such information as THARP & CLARK may from time to time provide to the Client (in whatever form including orally, written, in electronic, tape, disk, physical or visual form) relating to this Agreement and the Works, and all know-how, trade secrets, tactical, scientific, statistical, financial, commercial or technical information of any kind disclosed by THARP & CLARK to the Client whether in existence prior to the parties entering into this Agreement or which subsequently comes into existence, including any copies, reproductions, duplicates or notes in any form whatsoever.

"Contract for Services" means any subsequent contract for the provision of Services entered into between THARP & CLARK and the Client pursuant to these Terms.

"Intellectual Property Rights" means copyright (including rights in computer software), database rights, design rights, moral rights, patents, trademarks, service marks, rights (registered or unregistered) in any designs, applications for any of the foregoing, trade or business names, and topography rights, know-how, secret formulae and processes, lists of suppliers and customers and other proprietary knowledge and information, internet domain names, rights protecting goodwill and reputation, and all intellectual property rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world and all rights under licences and consents in respect of any of the rights and forms of protection mentioned in this definition.

"THARP & CLARK" means the entity indicated on the Quote: 916 SAS d/b/a THARP & CLARK, with registered offices at 2 rue Léchappé, 78290 Croissy-sur-Seine, France.

"THARP & CLARK Intellectual Property" means all rights, including Intellectual Property Rights, in and to (i) THARP & CLARK's proprietary underlying mechanical or electronic devices, software (in source code and object code), libraries, engines, subroutines, data, files, development tools and utilities (in source code and object code form), processes, know how, research and development, technologies and generic or stock elements not provided by Client, including any underlying models and all Intellectual Property Rights in the foregoing, which were in existence prior to the parties entering into this Agreement or developed independently of this Agreement; (ii) any other

materials, in whatever form (including documents, information, data and software), which were in existence prior to the parties entering into this Agreement or developed independently of this Agreement; and (iii) any subsequent modification thereto or enhancement thereof.

"Quote" means a quote presented by THARP & CLARK in respect of Services to be provided to the Client.

"Services" means the services to be provided by THARP & CLARK for the Client pursuant to this Agreement, and includes the Works (as defined below) arising out of the Services.

"Terms" means these terms and conditions of business.

"Works" means the products and materials created, developed and produced by THARP & CLARK for the Client pursuant to this Agreement.

1.2. Headings used in these Terms are purely for ease of reference and do not form any part of or affect the interpretation of these Terms.

1.3. The words "include" and "including" shall not be construed restrictively.

1.4. Any reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

2. FORMATION OF CONTRACT

2.1. The Services will be carried out in accordance with these Terms, any Quote, and any subsequent Contract for Services to the exclusion of any other terms and conditions the Client seeks to impose whether orally or in writing, unless agreed otherwise in writing by the parties.

2.2. All representations, conditions or warranties, or other terms concerning the Services which might otherwise be implied or incorporated in this Agreement, whether by statute or otherwise are, to the maximum extent permitted by law, excluded from this Agreement or any variation thereof, unless expressly accepted by THARP & CLARK in writing.

2.3. No employee, consultant, freelancer or agent of THARP & CLARK has the power to vary these Terms orally or in writing, or to make any statement or representation about the Services offered, their fitness for any purpose or any other matter.

2.4. Upon requesting Services from THARP & CLARK, the Client shall be deemed to have accepted these Terms and these Terms shall become binding as between the Client and THARP & CLARK, notwithstanding the absence of any formal acknowledgement.

3. PRICES AND TERMS OF PAYMENT

3.1. THARP & CLARK will invoice the Client for the prices quoted in respect of Services to be provided at the times set out in the relevant Quote or Contract for Services. Unless otherwise mutually agreed in writing, THARP & CLARK's quoted prices are for services and materials requiring standard procedures based upon the use of THARP & CLARK facilities and personnel during normal working hours.

3.2. THARP & CLARK shall be entitled to make an adjustment to

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any quoted prices in the event that additional costs are incurred, or likely to be incurred, by reason of:

3.2.1. the Client Materials (or any part thereof) being, in the reasonable opinion of THARP & CLARK, in any way defective, in an unsuitable format (or a different format to that which THARP & CLARK is expecting to receive the same) or of unsuitable quality for normal processing;

3.2.2. any information supplied by the Client or any third party in connection with this Agreement and the Services being inaccurate or incomplete, or failing to give THARP & CLARK a full and accurate indication of the work involved and/or time and resources required;

3.2.3. changes by the Client or any third party in its requirements for the Services or Works;

3.2.4. exceptional circumstances outside the control of THARP & CLARK, including currency fluctuations and changes in third party costs; or

3.2.5. failure to timely provide any final instructions or Client approvals Subject to clause 3.4 and unless otherwise agreed by THARP & CLARK in writing, all invoices rendered by THARP & CLARK are payable within 30 days of the date of invoice.

3.3. THARP & CLARK expressly reserves the right, at its sole option, to require payment by instalments during the performance of this Agreement and/or to require payment of all amounts due to THARP & CLARK in respect of Works to be provided prior to delivery of such Works.

3.5 THARP & CLARK retains title to all Works until all outstanding sums pursuant to clause 3 have been paid in full.

3.6. Payment of all amounts shall only be made in the currency in which they are invoiced and shall not be subject to any deductions or charges whatsoever.

3.7. In the event of default in payment by the Client under this Agreement, THARP & CLARK shall be entitled, without prejudice to any of its other rights or remedies, to suspend any further performance of the Services without notice and to charge (i) a recovery of sums penalty of a minimum of forty USD (\$40) and (ii) over the overdue sums an interest calculated at the rate applied by the European Central Bank to its most recent main refinancing plus ten (10) percentage points from the due date of payment to the actual date of payment. Client agrees to pay all reasonable costs and expenses (including attorneys' fees) incurred by THARP & CLARK, in connection with the collection of any monies owed by Client to THARP & CLARK.

3.8. All sums payable under this Agreement are exclusive of (a) any sales, use, customs, duties, exhibition and any other duty or taxes, imposed by any foreign, federal, state, provincial, municipal or other governmental authority in respect of any item of Work or the Services to be furnished by THARP & CLARK to Client, which shall (if and to the extent applicable) be payable by the Client at the rate and in the manner from time to time prescribed by law and (b) any freight and delivery charges and any other services that are not expressly included in the applicable Quote or Contract for Services.

3.9. The Client shall pay any withholding tax or other similar taxes

applicable for the Services or otherwise required by law to be deducted from any payment by the Client to THARP & CLARK pursuant to this Agreement.

3.10. Any Client requests for revisions, additions or deletions to the Services ordered by Client or changes in the schedule for the Services (collectively, "Modifications"), shall be negotiated in good faith by the parties, and performed in accordance with the terms of one or more mutually agreed additional or updated estimates, bids, work orders, purchase orders, overages, statements of work, Quotes or Contracts for Services, whether by email or in writing (collectively, "Change Order(s)"), each of which shall set forth the Modifications, the increase or decrease, if any, in the compensation to be paid to THARP & CLARK occasioned by such Modifications, any changes to the schedule to complete such Modifications and any other proposed changes or known impacts to any other terms, conditions or assumptions in this Agreement, as mutually agreed in writing by the Client and THARP & CLARK.

4. PERFORMANCE AND DELIVERY

4.1. Unless otherwise agreed in writing between the parties, all times specified in a Quote or Contract for Services for performance of the Services and delivery of the Works are given in good faith but are not guaranteed by THARP & CLARK.

4.2. Notwithstanding that THARP & CLARK and the Client may have agreed that time is of the essence in respect of specified Services or Works, the time for performance of the Services or delivery of the Works shall in every case be dependent upon prompt receipt of all necessary information, materials (including Client Materials), final instructions and/or approvals from the Client. The Client acknowledges and agrees that any changes to its requirements and/or the occurrence of any of the circumstances in clause 3.2 or this clause 4.2 may result in delay in performance or delivery, for which THARP & CLARK shall not be liable.

4.3. Where the Works are to be delivered electronically, the Client acknowledges and agrees that:

4.3.1. electronic delivery may involve reliance upon third party providers and data carriers, over which THARP & CLARK has no control.

4.4. THARP & CLARK shall not be responsible for and shall have no liability to the Client or any third party for:

4.4.1. any delay in delivery or any non-receipt of any Works delivered electronically;

4.4.2. any loss or damage (including loss of data) that results from any person gaining unauthorized access to any Works delivered electronically;

4.4.3. use or disclosure of any data obtained by any third party as a result of that third party gaining unauthorized access to any Works delivered electronically; and

4.4.4. any loss or damage resulting from any malfunction of or the introduction of any viruses, worms, logic bombs, time locks, time bombs, trojan horses and/or bugs to any equipment and/or software

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used to effect and/or receive any Works delivered electronically.

5. INTELLECTUAL PROPERTY

5.1. The Client acknowledges that THARP & CLARK (or its third-party licensors) owns, and shall retain ownership of, the THARP & CLARK Intellectual Property, and THARP & CLARK shall not at any time be required to deliver, license, or grant any rights to the Client any of the THARP & CLARK Intellectual Property whatsoever.

5.2. The Client acknowledges and agrees that if in the course of performing the Services (including any processing or production of materials on behalf of the Client) THARP & CLARK: (a) discovers or devises any techniques or know-how or (b) creates any mechanical or electronic devices, software (in source code and object code), libraries, engines, subroutines, data, files, development tools and utilities (in source code and object code form), or any underlying models, rigging, and animation data to provide the Services, all rights of every kind in and to the foregoing shall belong to and vest in THARP & CLARK and shall be deemed to be THARP & CLARK Intellectual Property for the purposes of this Agreement.

5.3. Subject to clauses 5.1 to 5.2. above and any other terms agreed pursuant to a Quote or Contract for Services, all title and Intellectual Property Rights in and to the Works (excluding THARP & CLARK Intellectual Property), shall pass to the Client only upon the Client paying to THARP & CLARK all sums due and payable under this Agreement. To the extent required, the parties may agree on terms for the licence of THARP & CLARK Intellectual Property (or any part of it) incorporated into the Works, to enable the Client to receive the benefit of the Works.

5.4. The Client hereby grants to THARP & CLARK a perpetual, non-exclusive, transferable, sub-licensable, royalty-free licence to use the Client Materials to the extent necessary for THARP & CLARK and/or its suppliers to provide the Services and the Works.

6. CONFIDENTIALITY

The parties hereto acknowledge that they may receive from the other Confidential Information, in the process of producing the Services. Confidential Information of Producer includes, but is not limited to, the terms of this Agreement, THARP & CLARK Intellectual Property as well as the structure, organization, documentation, design, algorithms, methods, templates, data models, data structure, flow charts, logic flow, and screen displays associated with such software, and THARP & CLARK's pricing, sales and training materials and procedures. The parties will use commercially reasonable efforts to keep confidential all of the other's Confidential Information that is clearly marked as "Confidential." Each party shall, at the other's reasonable written request, require independent contractors engaged by such party in connection with the production of the Services to sign appropriate agreements to keep confidential any Confidential Information; provided, however, that such party and its contractors and/or employees may disclose such Confidential Information as may be necessary for such party to perform its duties under this Agreement.

7. CANCELLATION AND VARIATION

7.1. Except where otherwise stated in a Quote or Contract for Services, this Agreement will expire on completion of the Services to be

provided pursuant to it.

7.2. This Agreement (and any Services to be provided under it) may only be cancelled with the written consent of THARP & CLARK and in accordance with these Terms. The giving of consent shall not in any way prejudice THARP & CLARK's right to recover from the Client full compensation for any loss or expense arising from such cancellation of this Agreement.

7.3. Any provisions of this Agreement which by their nature are intended to survive cancellation or expiration (including clause 6 (Confidentiality) and clause 8 (Liability and Indemnity)) shall remain in full force and effect notwithstanding any cancellation or expiration of this Agreement.

8. LIABILITY AND INDEMNITY

8.1. Nothing in this Agreement shall exclude or in any way limit either party's liability for fraud, or for death or personal injury caused by its negligence, or any other liability to the extent such liability cannot be excluded or limited as a matter of law.

8.2. Subject to clause 8.1 and without prejudice to any other provision of these Terms, the Client agrees that:

8.2.1. this Agreement states the full extent of THARP & CLARK's obligations and liabilities in respect of the Works and performance of the Services;

8.2.2. UNDER NO CIRCUMSTANCES SHALL THARP & CLARK BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE WHATSOEVER, INCLUDING BUT NOT LIMITED TO ANY LOSS OF REVENUE OR BUSINESS PROFITS, BUSINESS INTERRUPTION, DEPLETION OF GOODWILL, LOSS OF USE OR CORRUPTION OF DATA OR SOFTWARE, WHETHER ON A DIRECT OR INDIRECT BASIS;

8.2.3. THARP & CLARK's entire liability for any direct loss suffered by the Client under or in connection with this Agreement shall, subject to the limitations expressly set forth herein, not exceed the fees paid by the Client in accordance with this Agreement; and

8.2.4. this clause 8.2 is reasonable and necessary in the circumstances and, having regard to that fact, does not take effect harshly or unreasonably against the Client.

8.3. The Client shall indemnify and hold harmless THARP & CLARK and its parent companies, affiliates and subsidiaries and their respective officers, directors, employees and agents (collectively, "THARP & CLARK Indemnitees") from and against all claims, judgements or proceedings and all costs, liabilities, losses, expenses and damages of any kind (including reasonable legal and other professional fees and expenses) awarded against, or incurred or paid by, any of the THARP & CLARK Indemnitees as a result of or in connection with:

8.3.1. any defamatory, slanderous or libelous matter or invasion of privacy or any infringement or alleged infringement of a third party's Intellectual Property Rights or other rights arising out of the supply or use of the Client Materials in relation to the Works and/or in the course of carrying out the Services;

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8.3.2. any damage to property caused by THARP & CLARK in the course of carrying out the Services as a result of any act or omission of the Client (including its officers, employees, consultants, freelancers and agents);

8.3.3. the publication, processing, use, distribution and/or exhibition of the Client Materials;

8.3.4. THARP & CLARK carrying out any of Client's written instruction(s) or following the written instructions of Client (including, but not limited to, any claim that Client does not have full and lawful authority to place or authorize THARP & CLARK to execute an order with THARP & CLARK in respect of the Client Materials); and

8.3.5. any breach by the Client, including its officers, employees, consultants, freelancers and agents, of any of these Terms or the terms of any Contract for Services.

8.4. Clause 8.3 above shall apply whether the Client, or its officers, employees, consultants, freelancers or agents, have been negligent or otherwise.

8.5. Any recommendations or suggestions by THARP & CLARK relating to the use of the Works are given in good faith but it is for the Client to satisfy itself of the suitability of the Works for its own particular purpose. Accordingly, unless otherwise expressly agreed in writing, THARP & CLARK gives no warranty as to the fitness of the Works for any particular purpose, even though that purpose may be specified in the applicable Quote or Contract for Services, and any implied warranty or condition (statutory or otherwise) to that effect is excluded.

8.6. Each party will only look to the other party and not to any director, officer, employee, consultant, freelancer or agent of the other party for satisfaction of any claim, demand or cause of action for damages, injuries or losses incurred as a result of the other party's action or inaction

9. DATA PROTECTION

The provision of the Services by THARP & CLARK may require the latter to collect some of Client's employees' personal data (for administrative management of the Agreement). In this context, THARP & CLARK may use technical means in order to process this personal data and to ensure its security.

As a data controller, THARP & CLARK processes Client's personal data for the aforementioned purposes and in compliance with applicable laws. THARP & CLARK processes Client's personal data where necessary for the performance of the Agreement or to comply with legal obligations as a provider.

10. CREDITS/ PUBLICITY

THARP & CLARK may publicize, advertise and market the Works on its website(s), social media site(s), blog(s), in pitches to third parties, in connection with any appropriate industry awards, or in any other manner, as THARP & CLARK may in its sole discretion decide, without the prior written consent of the Client.

11. FORCE MAJEURE

In the event of the Services being prevented, delayed, or in any way interfered with by a force majeure event, THARP & CLARK may, at its option, suspend performance of or cancel this Agreement, without liability to the Client for any resulting damage or loss, such suspension or cancellation being without prejudice to THARP & CLARK' right to recover all sums owing to it in respect of Services and Works delivered and costs incurred up to the date of suspension or cancellation.

12. SUB-CONTRACTORS

THARP & CLARK shall be entitled to appoint one or more sub-contractors to carry out all or any of its obligations under this Agreement.

13. GENERAL

13.1. Variation: No variation of this Agreement (including any of the Services or Works to be provided hereunder) shall be valid unless it is in writing and signed by, or on behalf of, each of the parties.

13.2. Assignment: The Client may not assign this Agreement, by operation of law or otherwise, without the prior written consent of THARP & CLARK. This Agreement and any right or obligation under this Agreement can be assigned by THARP & CLARK to a third party without the prior written consent of the Client.

13.3. Entire Agreement: This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, whether written or oral, with respect to such subject matter.

14. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by the laws of France. The courts of Versailles, France, shall have exclusive jurisdiction.