

PART B: ASSOCIATE AGREEMENT

1. DEFINITIONS:

Agreement	both Part A: Booking Confirmation and Part B: Associate Agreement.
Business Day	a day other than a Saturday, Sunday or public holiday.
Confidential Information	all confidential information (however recorded, preserved or disclosed) disclosed by Alchemist or the Client, including any information that: a) would be regarded as confidential by a reasonable business person relating to the business, affairs, customers, clients, suppliers, plans, intentions, designs, inventions, market opportunities operations, processes, product information, know-how, designs, trade secrets of Alchemist or the Client; b) is derived from or arises as a result of the Project; and c) is identified as being, or is marked as, confidential or proprietary.
Intellectual Property Rights	copyright and related rights, trade marks, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, and all other intellectual property rights, in each case whether registered or unregistered and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Alchemist	Alchemist Learning and Development Limited, incorporated and registered in Scotland with company number SC308699 whose registered office is at Ironwork Business Centre, Falkirk, FK2 7XE.
Materials	all products, scripts, content and any other materials that Alchemist provides to you.
Privacy Policy	Alchemist's privacy policy as updated from time to time and available for inspection at thisisalchemist.com .
Services	the services required from you as set out in the Booking Confirmation including, without limitation, all performances and literary, dramatic, artistic and musical material contributed by you.

1.1 Clause headings shall not affect the interpretation of this Agreement.

1.2 References to clauses are to the clauses of this Agreement.

1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

- 1.4 A reference to a statute or statutory provision (including all subordinate legislation) is a reference to it as amended, extended or re-enacted from time to time.
- 1.5 A reference to **writing** or **written** includes email but not fax.
- 1.6 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. **ENGAGEMENT**

- 2.1 In consideration of payment of the Fee to you as set out in clause 4 below, Alchemist hereby engages you and you agree to provide the Services to Clients on the terms and conditions set out in this Agreement.
- 2.2 This Agreement shall come in to force on the date that you accept the Booking Confirmation or 5 days after the date the Booking Confirmation is sent to you, whichever is the earlier.
- 2.3 Alchemist shall provide further details relating to the Project by email to the address as set out in the Booking Confirmation. Examples of such details include specific times, locations and dress code for the Project. All details relating to the Project provided by Alchemist form part of this Agreement.
- 2.4 Alchemist shall be exclusively entitled to the provision of the Services for the Duration, during which time Alchemist shall have the exclusive right to engage you (except as otherwise permitted under this Agreement).

3. **YOUR OBLIGATIONS**

- 3.1 You hereby agree that you will:
 - 3.1.1 provide the Services (the nature and content of which you acknowledge has been fully explained to you) in connection with the Project;
 - 3.1.2 perform the Services conscientiously and in a competent manner and to the full capacity of your skill and ability and comply with all Alchemist and Client instructions promptly;
 - 3.1.3 perform the Services in willing co-operation with such persons as Alchemist or the Client may require;
 - 3.1.4 comply with all laws, regulations and codes of practice applicable to the services at the time they are provided; and,
 - 3.1.5 ensure Alchemist has your up to date address, email address, telephone number at all times.
- 3.2 You agree that you will not enter into any commercial arrangement with the Client to take part in any activity which is similar in style, format or content to the Services for a period of 12 months following the end of the Project without Alchemist's prior written approval.

4. FEES AND EXPENSES

- 4.1 In return for your provision of the Services on the terms of this Agreement, Alchemist will pay you the:
 - 4.1.1 Fee, so long that it is invoiced to Alchemist on the terms of this clause 4; and
 - 4.1.2 Expenses for transportation, accommodation and subsistence reasonably incurred by you provided that Alchemist have first agreed such expenses in the Booking Confirmation and expenses comply with any guidelines, restrictions or limits as notified to you from time to time.
- 4.2 Subject to the terms of this clause 4, you should only provide one invoice per Client and per project per calendar month.
- 4.3 You must provide an invoice for the Fee and any Expenses to Alchemist within three days from the end of the delivery of the Services. If the delivery is more than one month, you must provide an invoice for each month to Alchemist within three days of the final day of each month during which the Services are provided.
- 4.4 The invoice must include all of the details as set out in the Project Information section of the Booking Form, in addition to your payment details, the total amount due (which should correspond with the Fee and any Expenses).
- 4.5 Alchemist will pay Fees and Expenses to the bank account details you provide to Alchemist. It is your responsibility to ensure that the bank account details Alchemist holds for you are up to date and correct.
- 4.6 Alchemist will pay invoices raised in accordance with this clause 4 within 60 days of the date of receipt of the invoice, except where Alchemist have not been paid by the Client, in which case Alchemist shall make all reasonable endeavours to pay invoices validly raised in accordance with this clause 4 once in receipts of funds from the Client.
- 4.7 If Alchemist do not receive an invoice from you that complies with this clause within two calendar months of the invoice falling due in accordance with clause 4.3 then Alchemist will not be liable to pay you some or all of the Fees or Expenses.
- 4.8 You hereby acknowledge and agree that the Fee represents full and final consideration for your Services.

5. TERMINATION, CANCELLATION AND SUSPENSION

- 5.1 Alchemist may terminate this Agreement on immediate written notice. On termination a percentage of the Fee will be payable to you dependant on the period of time between the date of notice of termination and the Delivery Date. These percentages and time periods are set out in the table below:

Period of notice before Delivery Date	% of Fee payable to you
0 to 6 days	100
7 to 13 days	50
14 days or more	0

For the avoidance of doubt, Expenses are not paid in any circumstance where Alchemist terminates the Agreement before or on the Delivery Date.

- 5.2 Alchemist may unilaterally vary clause 5.1 by including an alternative mechanism to clause 5.1 in the Booking Confirmation.
- 5.3 If you terminate this Agreement at any time, Alchemist shall not be liable to pay to you the Fee and Expenses or any costs you have incurred and you may be liable to pay an administrative charge. Such administrative charge may be set off by Alchemist against any monies owed by Alchemist to you.
- 5.4 Alchemist shall be entitled to terminate this Agreement (whether or not Alchemist has suspended the engagement for the same or another reason) by written notice with immediate effect for the following reasons:
 - 5.4.1 the Client cancels the Project;
 - 5.4.2 you fail, refuse or neglect to perform any of your obligations or are otherwise in breach of any material obligation undertaking or warranty contained in this Agreement;
 - 5.4.3 you are incapacitated from participating as required in the Project (for example by ill health, injury, or disability); or
 - 5.4.4 in the sole opinion of Alchemist, you prejudice the Project.
- 5.5 On any such termination:
 - 5.5.1 except as provided in this Agreement, neither party shall have any further obligation to the other under this Agreement following its termination;
 - 5.5.2 Alchemist shall not be liable to you for the Fee or Expenses;
 - 5.5.3 you may be liable to pay an administrative charge to Alchemist, which may be set off by Alchemist against any monies owed by Alchemist to you.
- 5.6 Upon providing written notice to you, Alchemist may immediately suspend your engagement under this Agreement if the Project is prevented, interrupted or delayed by any cause outside the control of Alchemist including, but not limited to, Client decision, fire, casualty, accident, social or civil unrest, riot or war, pandemic, epidemic, act of God, strike, lock out, labour conditions, judicial order or enactment.
- 5.7 Following suspension of the engagement Alchemist will provide an update to you on whether a revised Delivery Date has been set, and Alchemist shall have the right to unilaterally vary the Agreement to impose the revised Delivery Date in such circumstances. In the alternative, Alchemist may terminate the agreement and clause 5.1 shall apply.

6. **CONFIDENTIALITY**

- 6.1 For the term of this Agreement and for the period of two years after the expiry or termination of this Agreement you agree that you will;
 - 6.1.1 keep the Confidential Information secret and confidential;

- 6.1.2 not use or exploit the Confidential Information in any way except for the Project;
- 6.1.3 not directly or indirectly disclose or make available any Confidential Information in whole or in part to any person, except as expressly permitted by, and in accordance with this Agreement; and
- 6.1.4 not copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Project. Any such copies, reductions to writing and records shall be the property of Alchemist/the Client, as appropriate.

7. DATA PROTECTION

- 7.1 Alchemist shall abide by their Privacy Policy in the processing and handling of your personal data.
- 7.2 Alchemist may provide your personal data to the Client who is separate data controller of your personal data. If you have a concern with how your personal data is being processed by a Client please contact them directly.
- 7.3 Alchemist have no liability to you for the Client's handling or treatment of your personal data.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 Alchemist own all Intellectual Property Rights in all Materials and any other rights relating to the Project.
- 8.2 You hereby irrevocably grant to Alchemist your consent to make the fullest use of the Services (and any extracts from the Services) in any and all media worldwide, both as part of the Project and in other content owned, controlled or represented by Alchemist.
- 8.3 You hereby irrevocably grant to Alchemist your consent worldwide to use, and to authorise others to use, your name, voice, biography and likeness and recordings you commissioned by Alchemist in connection with the exploitation, advertising and promotion of the Project and products relating to the Project.
- 8.4 You recognise that Alchemist have the unlimited right to edit, copy, alter, add to, take from, adapt, translate and dub in to one or more foreign languages (with voices other than your own) the Project and you hereby irrevocably and unconditionally waive the benefit of your moral rights and any performer's rights arising under the Copyright Design and Patents Act 1988.

9. WARRANTIES

- 9.1 You hereby warrant, represent and undertake to Alchemist that:
 - 9.1.1 you have the legal capacity and are free contractually to enter into and to perform this Agreement and have not entered and will not enter into any professional, legal or other commitment which would or might conflict with or prevent you doing so;
 - 9.1.2 no element of the Services as provided by you infringe the Intellectual Property Rights of a third party;

- 9.1.3 the rights granted by you to Alchemist are vested in you absolutely and you have not previously assigned, licensed or in any way encumbered the same and you hereby agree not to do so in the future.

10. INDEMNITY AND LIABILITY

- 10.1 You shall indemnify Alchemist against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Alchemist arising out of or in connection with:

10.1.1 any breach of the warranties contained in this Agreement; or

10.1.2 the enforcement of this Agreement.

- 10.2 At the request of Alchemist and at your own expense, you shall provide all reasonable assistance to enable Alchemist to resist any claim, action or proceedings brought against Alchemist as a consequence of that breach.

- 10.3 This indemnity shall apply whether or not Alchemist has been negligent or at fault.

- 10.4 Alchemist has no liability to you except where such liability cannot be legally limited, in which case Alchemists full liability shall the sum paid to you under this Agreement as at the date of your claim

- 10.5 Nothing in this clause shall restrict or limit the general obligation at law for a party to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim.

11. ENTIRE AGREEMENT AND VARIATION

- 11.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter.

- 11.2 Each party agrees that it shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that its only liability in respect of those representations and warranties that are set out in this Agreement (whether made innocently or negligently) shall be for breach of contract.

- 11.3 No variation of this Agreement shall be effective unless it is in writing and signed by each of the parties (or their authorised representatives).

12. NO WAIVER AND INADEQUACY OF DAMAGES

- 12.1 Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.

- 12.2 No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of that or any other right or remedy.

12.3 Without prejudice to any other rights or remedies that Alchemist may have, you acknowledge and agree that damages alone would not be an adequate remedy for any breach of the terms of this Agreement. Accordingly, Alchemist shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this agreement.

13. **ASSIGNMENT**

13.1 You shall not, without the prior written consent of Alchemist, assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of your rights and obligations under this Agreement.

13.2 Alchemist shall be entitled to transact with any third party to assign, transfer, subcontract, delegate or deal in any other manner with any of its rights and obligations under this Agreement and you shall, at Alchemist's request, provide your Services to any third party as directed by Alchemist.

14. **NOTICES**

14.1 A notice given to a party under or in connection with this Agreement shall be in writing and sent to the party at the address given in this Agreement or as otherwise notified in writing to the other party.

14.2 The following table sets out methods by which a notice may be sent and its corresponding deemed delivery date and time:

Delivery method	Deemed delivery date and time
Email to an address provided on the Booking Confirmation.	At the time of transmission if on a Business Day, otherwise at 10:00 on the next Business Day after transmission.

14.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15. **NO PARTNERSHIP OR THIRD PARTY RIGHTS**

15.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent, employee, worker or partner of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

15.2 A person who is not a party to this Agreement shall not have any rights under or in connection with it.

16. **GOVERNING LAW AND JURISDICTION**

The validity, construction and performance of the Agreement shall be governed by Scottish law and shall be subject to the exclusive jurisdiction of the Scottish courts to which the Parties submit.