



## **FIGHTING FUND AGREEMENT**

This agreement is made between:

- (1) The Association of Illustrators Limited ("AOI") of Somerset House Strand London WC2R 1LA  
and
- (2) [name of illustrator] ("Member") of [ address of illustrator]
- (3) [Service company of illustrator if applicable]

### **Consideration**

The Fighting Fund referred to below is only available to members who have paid their subscriptions for the year in which they request funding. Payment of the membership fee by the Member to AOI is the consideration for the parties entering into this agreement.

### **About the Fighting Fund -Preamble**

We are committed to supporting AOI members who want to enforce their rights when copyright or similar rights in their work are infringed. For this purpose we are making available to members funding in the form of a contribution to the court fee and hearing fee (if applicable) ("the AOI Contribution") payable in respect of a claim issued in your own name [or that of your service company CHECK] in the Small Claims track of the Intellectual Property Enterprise Court ("IPEC/SC"). We will only fund claims through the Fighting Fund, which we in our absolute discretion judge to have a reasonable prospect of success. Our decision on the merits of your claim is final and binding and cannot be challenged by you. The AOI Contribution is subject to the following terms and conditions as set out below:

#### **1. Assessment of eligibility**

- a. You must be a fully paid up member of AOI at the time you apply for an AOI Contribution.
- b. We will assess whether your claim has a reasonable prospect of success on the information you provide to us. Such information must be provided to us by completing the attached form.
- c. You warrant that the information you provide for the purpose of this assessment is true to the best of your knowledge and belief and that you have not omitted information that would have been material in making our assessment.

- d. If we decide that you are not eligible to receive the AOI Contribution this agreement will become void and of no effect
- e. We reserve the right to require you to repay the AOI Contribution in full and an administration fee of up to 50% of the AOI Contribution awarded to you if we later discover that you were in breach of the warranties given to us in paragraph 1(c).

**2. The AOI Contribution paid out of the Fighting Fund**

- a. We will contribute in our absolute discretion funding of up to 75% of the court fee and hearing fee (if applicable) relating to your claim. Fees are subject to change from time to time but AOI Contribution will remain the same as expressed in percentages in the table below:

Court fees for monetary claims:

<b>Claim amount</b>	<b>Paper form fee</b>	<b>Online claim fee</b>	<b>AOI Contribution</b>
Up to £300	£35	£25	75%
£300.01 to £500	£50	£35	75%
£500.01 to £1,000	£70	£60	75%
£1,000.01 to £1,500	£80	£70	75%
£1,500.01 to £3,000	£115	£105	75%
£3,000.01 to £5,000	£205	£185	50%
£5,000.01 to £10,000	£455	£410	50%

Court issue fee for non-monetary claim (where claim includes a claim for a final injunction):  
£528 – AOI Contribution: 50%

Hearing fees in the small claims track (if applicable):

<b>Claim amount</b>	<b>Hearing fee</b>	<b>AOI Contribution</b>
Up to £300	£25	75%
£300.01 to £500	£55	75%
£500.01 to £1,000	£80	75%
£1,000.01 to £1,500	£115	75%
£1,500.01 to £3,000	£170	50%
More than £3,000	£335	50%

### **3. Payment and Repayment of the AOI Contribution**

- a. Subject to our having agreed that you are eligible for the payment of an AOI Contribution the relevant percentage of the court fee or hearing fee (as set out above) will be paid by AOI to you on the following basis and at the following stages
  - i. Court fee paid on issuing the claim form: We will pay you this initial fee within 14 days of the court issuing the claim form and your presenting to us a copy of the claim form bearing the issue date and court stamp.
  - ii. Hearing fee (if applicable): We will pay the hearing fee within 14 days of your presenting to us a copy of the receipt issued by IPEC/SC confirming payment of the hearing fee.
  - iii. Additional issue fee: this is payable if IPEC/SC has assessed the value of damages to be higher than initially covered by the court fee submitted with the claim form. We will pay such additional court fee within 14 days of your presenting to us a copy of the receipt issued by IPEC/SC confirming payment of the additional issue fee.
- b. We only fund claims in IPEC/SC.

- c. If the court allocates the claim to multi track within IPEC or to another court for whatever reason, we will not be obliged to pay any additional fees incurred as a result of the transfer between tracks or courts.
- d. You agree to repay the AOI Contribution in full
  - i. if costs and compensation awarded to you by the court cover the AOI Contribution or are higher than the AOI Contribution; or
  - ii. the sum payable to you by the other party under a settlement agreement covers the AOI Contribution or is higher than the AOI Contribution; or
  - iii. you decide to withdraw your claim for any other reason than having entered into a settlement agreement with the other party.
- e. In case of 3(d)(iii) you agree to repay the AOI Contribution within 14 days of your withdrawal.
- f. In case of 3(d) (i) and (ii) you agree to repay the AOI Contribution within 14 days of your receiving payment from the other party in full under the settlement agreement or pursuant to a Court Order.

#### **4. Your Obligations**

- a. You warrant that all information you provide and statements you make in connection with your dispute and claim will be true to the best of your knowledge and belief and that you have not omitted to provide AOI with any information, facts or documents that may be relevant to your dispute or claim.
- b. You undertake
  - i. to comply with court procedure rules and orders made by the court including but not limited to providing information, statements and documents in a timely manner to the court by the date and time required.
  - ii. to seek to settle the dispute out of court if reasonably possible.
- c. You understand and accept that our payment of the AOI contribution does not in any way include the provision of advice or guidance in connection with your claim and we shall not be liable to you in any way whatsoever in relation to the handling and/or outcome of your claim. We recommend that before starting your claim you read the IPEC Small Claims Guide [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/679030/ipec-sct-published-guide-february-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679030/ipec-sct-published-guide-february-2018.pdf) ("the Guide") and if required approach the organisations mentioned in Paragraph 6 of the Guide for legal advice.

- d. You understand and accept that you will be liable for payment of any costs incurred by you that are not covered by the AOI Contribution including but not limited to professional legal fees, or an award of costs or compensation made against you in respect of your claim or any counterclaim against you and payable by you to the other party as a result of your losing the claim or failing to defend a counterclaim.
- e. You agree to provide us with and grant us permission to publish a suitable portrait photograph or illustration and short profile of yourself if requested to report on your receiving the AOI Contribution in order for us to promote the Fighting Fund and further our overall objectives in setting up the Fighting Fund. You allow us to edit your photograph and profile as necessary.
- f. You agree to be interviewed by us or interested third parties to report on your receiving the AOI Contribution in order for us to promote the Fighting Fund and to further our overall objectives subject to our giving you reasonable notice.

## **5. Our Obligations and Services**

Our obligations and services to you are limited to:

- a. timely payment of the AOI Contribution to you;
- b. discussing with you any aspect of the dispute and your claim provided that we shall not at any stage give you any legal advice about your claim;
- c. providing such information that you may request relating to our knowledge of industry practices and standards as and when relevant to the dispute in a timely manner (industry in this context means illustration and related sectors such as graphic art and animation); and
- d. keeping information of a confidential nature that you share with us confidential. This does not apply to information disclosed to us from another source or that is in the public domain or where we are required to provide such information under a Court order.

## **6. Disclaimer**

- a. We will not be liable to you for breach of contract, breach of statutory duty, negligence or otherwise for any loss or damage (whether direct, indirect or consequential) arising out of this agreement other than in respect of payment to you of the AOI Contribution.
- b. In the event that a Court decides notwithstanding this disclaimer that we do have a liability towards you you agree that our total aggregate liability to you whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the provision by us of our services under this agreement shall be limited to the value of

the AOI Contribution we have agreed to pay you.

- c. Nothing in this paragraph shall be deemed to exclude our liability for fraud or fraudulent misrepresentation or for any death or personal injury caused by negligence.

**7. What happens after your dispute has been resolved**

- a. Your dispute has been resolved either when you have agreed an out of court settlement with the other party or you have withdrawn your claim or the court has delivered its judgment on your claim.
- b. Following resolution you agree to repayment of the AOI Contribution in accordance with Paragraph 3 d. to f. above.
- c. We reserve the right to write up a summary of your dispute and to publish this summary on our website and in other media, print or online, subject to your prior written approval (not to be unreasonably withheld). We will not include any reference in such summary to any confidential material referred to in Court nor to any commercially sensitive information which you wish to be omitted.

**8. Other terms**

- a. This agreement constitutes the entire agreement between us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter.
- b. No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- c. This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
- d. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the AOI and the Member or his or her service company, constitute the the Member or his or her service company the agent of the AOI or vice versa, or authorise the Member or his or her service company to make or enter into any commitments for or on behalf of the AOI and vice versa.

- e. This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
  
- f. We both agree irrevocably that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

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Helen Renwick for and on behalf  
of the Association of Illustrators Limited

I have read, understood and agree to the terms and conditions above:

Signature:

Name (please print): \_\_\_\_\_ Date: \_\_\_\_\_

Signature:

Name (please print): \_\_\_\_\_ Date: \_\_\_\_\_

For and on behalf of  
[insert service company name if applicable]