



FLOATING ROCK

Terms and Conditions

GENERAL TERMS

These General Terms (**Terms**) are applicable to all Creators and Team Members applying for or involved in the Floating Rock Pitchfest.

1. PITCHFEST CONTACT

1.1 Floating Rock is the owner and organiser of the Floating Rock Pitchfest (**Pitchfest**) and can be contacted at pitchfest@floating-rock.com.

2. ELIGIBILITY

2.1 To be eligible to apply for the Pitchfest, the Creator and all Team Members must:

- (a) agree to comply with these Terms;
- (b) have the legal right to work in New Zealand; and
- (c) be at least 18 years old.

3. APPLICATION PROCESS

3.1 To apply for the Pitchfest, the Creator must complete and submit an Application on or prior to the Application Deadline.

3.2 Each Creator may only submit one Application for each Pitchfest, three of which will be held annually. Team Members of a Creator may not submit separate Applications or act as Team Members for more than one Creator submitting Applications for that Pitchfest.

4. REVIEW

4.1 Floating Rock will review each valid Application received during the Review Term. On or before the Review Date, Floating Rock will at its sole and absolute discretion decide whether to accept the Project specified in the Application for the Pitchfest Event and notify the Creator of:

- (a) its decision; and
- (b) if the Creator has been accepted for the Pitchfest Event, the details of that event and the criteria and format required for the Creator to pitch the Project at the Pitchfest Event,

to the email provided in the Contact Details.

4.2 Floating Rock is under no obligation to accept any Application and/or Project and may at any time choose to stop accepting Applications, suspend a Pitchfest, or decide not to conduct a Pitchfest or Pitchfest Event.

5. PITCHFEST EVENT

- 5.1 The Pitchfest Event will be held on the Pitchfest Event Date at the Pitchfest Event Location unless otherwise advised by Floating Rock.
- 5.2 During the Event Term, Floating Rock may further review Applications accepted for the Pitchfest Event and discuss the Applications with the Creators.
- 5.3 The Creator and any Team Members must attend the Pitchfest Event in person and must advise Floating Rock no less than 5 business days prior to the Pitchfest Event Date if they are unable to attend the Pitchfest Event in person. If the Creator or Team Members are unable to attend the Pitchfest Event in person Floating Rock may at its sole discretion:
- (a) permit the Creator or any Team Members to attend the Pitchfest Event remotely; or
 - (b) rescind the acceptance of the Application and Project and replace the Application and Project with a third party Application.
- 5.4 On the Pitchfest Event Date:
- (a) Creators and Team Members accepted for the Pitchfest Event must:
 - (i) attend the Pitchfest Event in accordance with clause 5.3; and
 - (ii) pitch the Project to Floating Rock and any third party panel members, industry experts and other invitees to the Pitchfest Event, who the Creator and Team Member acknowledge Floating Rock may consult with in deciding whether to accept the Project for Round 2.
 - (b) Floating Rock will:
 - (i) within 10 Business Days from the Pitchfest Event Date pay a lump sum of \$2,500 plus GST (if any) to the Creator's nominated bank account, conditional on the Creator and Team Member's performance of their obligations under clause 5.4(a); and
 - (ii) at its sole and absolute discretion, decide whether to accept the Project for Round 2 and notify the Creator and Team Members.

6. ROUND 2

- 6.1 If Floating Rock accepts the Project for Round 2, Floating Rock and the Creator will meet to discuss the entry of the parties into formal documentation including but not limited to a Shareholders' Agreement and Services Agreement. If Floating Rock and the Creator cannot reach an agreement within 10 Business Days, Floating Rock reserves the right to:
- (a) rescind acceptance of the Project; and

- (b) accept any other third party Project,
for Round 2.

7. RELATIONSHIP OF PARTIES

- 7.1 These Terms do not constitute, and nothing contained in these Terms will be deemed or construed to constitute, any Party (except as specifically contemplated by these Terms) as a partner, agent or representative of any other Party. These Terms do not give and are not to be construed as giving to any Party any of the liabilities arising from a partnership, agency or representative relationship.
- 7.2 The Parties agree that the Partnership Act 1908 and the Partnership Law Act 2019 do not apply to these Terms.
- 7.3 The Parties acknowledge that their rights and obligations under these Terms are contractual in nature and that no Party has any fiduciary responsibility or duty to any other Party in respect of that other Party's rights or obligations under these Terms.
- 7.4 To the maximum extent permitted by law, no Party owes any other Party any duty or obligation except as expressly provided in these Terms.

8. PUBLICITY

- 8.1 The Creator and all Team Members agree that if they are selected for the Pitchfest Event Floating Rock may use the Creator's name and the names of all Team Members for its publicity purposes.

9. PURPOSE

- 9.1 During the Review Term, the Purpose is solely to enable Floating Rock to review the Project and Existing Materials and determine whether to accept the Project for the Pitchfest Event (**Review Purpose**).
- 9.2 During the Event Term, the Purpose is to enable Floating Rock, including its employees and with input from industry experts and other invitees to the Pitchfest Event, to determine whether to accept the Project for Round 2 (**Event Purpose**).

10. INTELLECTUAL PROPERTY

- 10.1 The Creator and each Team Member agree and acknowledge that:
 - (a) the Creator owns or otherwise has rights to use the Existing Materials and the Intellectual Property rights in and to the Existing Materials and the Project;
 - (b) Floating Rock owns or otherwise has rights to use the Floating Rock IP and the Intellectual Property rights in and to the Floating Rock IP; and
 - (c) except as expressly set out in these Terms, it shall have no right or claim whatsoever to the Floating Rock IP and neither these Terms nor any use of the Floating Rock IP

transfers any title or ownership in any of the same to the Creator or any Team Members.

- 10.2 All intellectual property rights and interests in any modification, improvement or other alteration to any Intellectual Property (**Developments**) in the Existing Materials or Floating Rock IP, will immediately vest in (for the Existing Materials) the Creator or (for the Floating Rock IP) Floating Rock (or each party's third party licensor as applicable). Each party agrees to complete any assignment required by law to affect the ownership of any Developments as set out in this clause 10.2.
- 10.3 Any Developments to the Existing Materials and any new materials relating to the Project created during the Term will be deemed to be included in the Existing Materials.
- 10.4 The Creator grants to Floating Rock a non-exclusive, sub-licensable, royalty-free, non-transferable licence for the Review Term to use the Existing Materials for the Review Purpose in the Territory.
- 10.5 If the Project is selected for the Pitchfest Event and subject at all times to Floating Rock's compliance with these Terms, the Creator grants to Floating Rock a non-exclusive, sub-licensable, royalty-free licence for the Event Term to use the Existing Materials for the Event Purpose in the Territory.

11. **TERM**

- 11.1 These Terms take effect from the Application Date and will continue until:
- (a) if the Project is not selected for the Pitchfest Event, the Review Date (**Review Term**);
or
 - (b) if the Project is selected for the Pitchfest Event, the Pitchfest Event Date (**Event Term**),

unless it is extended by written agreement between the parties or terminated early in accordance with clause 13 or otherwise at law.

12. **CONFIDENTIALITY**

- 12.1 All the Intellectual Property and other information belonging to a party which by its designation or by its nature is intended to be treated as confidential will be confidential for the purposes of these Terms. A party shall not use or disclose Confidential Information of another party except to fulfil its obligations under these Terms (except with the other party's prior written consent or as otherwise required by law). In instances of any actual or threatened breach of disclosure or use in breach of these Terms a party may seek, amongst other remedies, urgent injunctive relief from the Court. The obligations of confidentiality under this clause shall survive termination of these Terms until such time as the parties agree in writing that such obligations cease.

13. **TERMINATION**

- 13.1 Either party may terminate these Terms, without cause, by providing 1 months' prior written notice to the other party.
- 13.2 Floating Rock may terminate these Terms immediately by notice in writing in the event of:
- (a) a breach of one or more of the warranties set out in 15;
 - (b) any action by the Creator resulting in, or likely to result in, damage to Floating Rock's business or reputation, as determined by Floating Rock at its sole discretion;
 - (c) any other material breach of these Terms.
- 13.3 On the termination or expiry of these Terms each party shall immediately cease to use the Intellectual Property and Confidential Information of the other party and shall on request return any property owned by the other party without delay. Termination will be without prejudice to any claim by either party against the other party arising out of any breach or non-performance by that party of any obligations assumed by or imposed on that party under these Terms at any time prior to termination.

14. **PRIVACY**

- 14.1 The Creator and each Team Member authorises Floating Rock and Floating Rock's agents to collect, use, disclose and store personal information about them for the following purposes:
- (a) assessing the Creator and any Team Member's suitability for working with Floating Rock, including disclosing to and/or receiving information from background checking services;
 - (b) reviewing the Existing Materials and Project;
 - (c) marketing; and
 - (d) any other purpose set out in Floating Rock's [Privacy Policy](#).
- 14.2 The Creator and each Team Member acknowledge that Floating Rock may refuse to consider the Creator's Application and/or Project if they do not authorise Floating Rock to obtain all information reasonably required to assess the Creator and each Team Member's background from any relevant reporter or third party and authorise those reporters or third parties to disclose that information to Floating Rock.
- 14.3 Floating Rock may also be required by law to disclose any information provided in the Application and will only make such a disclosure if it believes in good faith that it is required to do so by law.

15. WARRANTIES

15.1 The Creator warrants that:

- (a) it has been authorised to provide the personal information of and to consent to background checks on behalf of all Team Members;
- (b) the Creator (if an individual) and all Team Members:
 - (i) have the legal right to work in New Zealand; and
 - (ii) are over 18 years old;
- (c) it owns or is legally entitled to use all Intellectual Property used in, or in connection with, the Project and Existing Materials;
- (d) the Project and Existing Materials do not infringe any Intellectual Property rights of any other person and no claims relating to Intellectual Property used by the Creator are pending or threatened by any third party;
- (e) it has not granted and will not grant during the Term any licences or other contingent or non-contingent right, title, or interest in the Existing Material and is not or will not be under any obligation, that does or will conflict with these Terms.

15.2 Where the Application was filed by a Team Member, that Team Member warrants that they hold the necessary authority from the Creator (and to the extent required, the other Team Members) to file the Application and agree to these Terms on behalf of the Creator and all Team Members.

16. GENERAL

16.1 **Decision-making:** Floating Rock's decision in relation to any aspect of the Pitchfest is final and binding on all Creators and Team Members. Floating Rock reserves the right to verify the validity of any Applications and to disqualify any Applications or refuse to consider an Application or Project for any reason.

16.2 **No Liability:** To the maximum extent permitted by law, Floating Rock is not liable to the Creator, Team Members or any third party, whether in contract, tort (including negligence) or otherwise for any direct, indirect or consequential loss, loss of profits, business, revenue, goodwill or anticipated savings arising out of or in connection with the Pitchfest or these Terms, including but not limited to arising out of any suspension or cancellation of a Pitchfest Event, or decision to refuse any application. The Creator and its Team Members agree and acknowledge that all expenses, costs, taxes and other charges arising in relation to these Terms, the Pitchfest Event or any payments made by Floating Rock to it under these Terms are the responsibility of the Creator and Team Members and Floating Rock shall have no liability in respect of such.

16.3 **Lost Applications:** Floating Rock is not responsible for any late, lost or misdirected Applications, including but not limited to Applications not received due to technical problems.

- 16.4 **Severability:** In the event of the invalidity or illegality of any part or provision of these Terms, such part or provision shall be severed from these Terms to the extent possible and such invalidity or illegality does not affect the enforceability of any other part of these Terms.
- 16.5 **Survivorship:** Termination of these Terms will not affect the rights and obligations of the parties that are intended to survive the termination or expiry of these Terms. Any other clause that may be required in order to give effect to those clauses surviving termination will also survive termination.
- 16.6 **Force Majeure:** Neither party shall be liable for any delay or failure to perform its obligations under these Terms as a result of any circumstance beyond the reasonable control of a party. If either party is unable to perform its duties or obligations under these Terms due to force majeure, such party shall give written notice to the other stating the nature and expected duration of force majeure and the obligations affected by such.
- 16.7 **Waiver:** Any delay, failure or forbearance by a party to exercise (in whole or in part) any right, power or remedy under, or in connection with, these Terms shall not operate as a waiver of such right, power or remedy. A waiver of any breach of any provision of these Terms shall not be effective unless that waiver is in writing and is signed by the party against whom that waiver is claimed. A waiver of any breach shall not be, or be deemed to be, a waiver of any other or subsequent breach.
- 16.8 **Governing law:** These Terms is governed by and construed in accordance with the laws of New Zealand. The parties submit to the non-exclusive jurisdiction of the New Zealand courts.

17. DEFINITIONS

- 17.1 In these Terms unless the context requires otherwise:

Application means the online form for entry to the Floating Rock Pitchfest completed and submitted by the Creator and or a Team Member and all details contained in that form. You can apply [here](#).

Application Date means the date specified in the Application.

Application Deadline has the meaning given in the Application.

Business Day means any day of the week other than Saturday, Sunday or a public holiday in Wellington, New Zealand (including any Monday on which any of those public holidays are recognised), which is deemed to commence at 8.30am and end at 5.00pm.

Confidential Information means any information, verbal or written, personal or otherwise including documents, plans, sketches, drawings, software, marketing strategies, market research data, the Intellectual Property, any literature related to the Creator's business, trade secrets, processes, technical information, know-how and intellectual property of a party and any copies thereof but will not include public information (provided such information did not become public as a result of an unauthorised disclosure by the other party), information independently developed or acquired or information authorised in writing by or on behalf of the party entitled to that information for disclosure.

Contact Details has the meaning given in the Application.

Creator means the entity, person or persons identified as such in the Application.

Developments has the meaning given in clause 10.2.

Event Purpose has the meaning given in clause 9.2

Event Term has the meaning given in clause 11.1(b).

Existing Materials means all existing creative works, materials and Intellectual Property in and relating to the Project, including any materials specified as such in the Application.

Floating Rock means Floating Rock Studio Limited (NZCN 7924456), its employees, agents, contractors, any third party to which it contracts or assigns any rights or obligations under these Terms.

Floating Rock IP means Intellectual Property owned or licensed by Floating Rock prior to the Application Deadline.

Intellectual Property means all intellectual property rights and interests in and to (including common law rights and interests) and the goodwill in the same held or otherwise licensed to the Creator including but not limited to its trade names, trade marks, symbols or logos, patents, patent applications and applications to register trade marks, services marks and designs, know how (being technical and other information, specifications, methods, plans, data, drawings, characteristics, inventions, improvements, experience or trade secrets), copyright, designs (whether or not registered or protected by copyright), domain names, which are devised, developed or acquired by or on behalf of the Creator and any other property of a similar kind howsoever recorded or stored (if at all).

Pitchfest means the Floating Rock Pitchfest held three times annually.

Pitchfest Event Date has the meaning given in the Application.

Project means the story and all related works identified as the Project in the Application.

Review Purpose has the meaning given in clause 9.1.

Review Term has the meaning given in clause 11.1(a).

Review Date has the meaning given in the Application.

Team Member means each individual listed as such in the Application.

Term has the meaning given in clause 11.

Terms means these General Terms.

Territory means worldwide.