

Mr. Wayne Asava,

Director,

ProDG Studios LTD,

128 City Road, EC1V 2NX, London, UK.

Dear Sir,

**LETTER OF ENGAGEMENT FOR THE DESIGN, DEVELOPMENT & DEPLOYMENT OF  
BAOBAB OS**

We are pleased to inform you that ProDG Studios (“the Company”) has agreed to engage Mugambi Rintaugu at (“the Contractor”) to develop and deploy Baobab OS (“Project”) and provide support services (“the Services”) on the following terms and conditions:

**1. Scope of Contract**

The Contractor shall perform the Services in relation to the Project on a task-by-task basis, as directed by the Company. The specific scope of work shall be determined and assigned by the Company during the course of the Project and shall be deemed part of this Engagement Letter.

**2. Terms of Payment**

- 2.1. The Parties acknowledge and agree that the Company shall pay the Contractor Development Fees of Kenya Shillings One Hundred and Five Thousand, Two Hundred and Twenty Eight ONLY (KES 105,228) per month (“Monthly Fees”) for the duration of this Agreement.
- 2.2. Payments shall be made on or before the last working day of each month, subject to the Contractor’s delivery of services in accordance with the Project Plan and satisfactory performance of assigned tasks as reasonably determined by the Company.
- 2.3. For avoidance of doubt, each monthly payment is not contingent on final project completion but on the Contractor’s continued performance and provision of services during the relevant month.
- 2.4. The Consultant shall be responsible for all other taxes, levies and social security contributions arising in Kenya or elsewhere in connection with the Services.

**3. Term / Time for Completion**

- 3.1. This Engagement Letter shall commence on the date of acceptance by the Contractor (“Effective Date”) and shall continue until the Project is fully developed, deployed to the Production Environment, and the Company has received all source codes and documentation, unless terminated earlier in accordance with paragraph 7 of this Engagement Letter (“Term”).
- 3.2. The timelines for completion of specific Services shall be communicated by the Company from time to time in connection with each task or deliverable under the Project. Where the Contractor is unable to complete the Services within the agreed timeline, the Company may, at its discretion, grant an extension of time or cancel the

relevant task or this Engagement Letter if the situation cannot be remedied within the revised timeline. In the event of cancellation or termination, the Company shall remain liable to pay for all work duly completed by the Contractor up to the effective date of cancellation or termination.

- 3.3. Further to clause 3.2 above, in the event that the Company has made part payment to the Contractor in respect of the Service, and the Engagement Letter is cancelled, the Contractor shall refund any unutilized sums provided by the Company for the Service as may be determined by the Company.

#### **4. Contractor's Obligations**

The Contractor agrees to undertake the following obligations under this Engagement Letter:

- 4.1. to provide the Service as set out in the Project Plan and in accordance with the Engagement Letter.
- 4.2. collaborate with the Company to facilitate timely execution of the Service.
- 4.3. to carry out the Service with the highest professional standard obtainable in the industry.
- 4.4. at no cost to the Company, transfer all source codes relating to Project (in a manner prescribed by the Company) to the Company, immediately upon completion of the Service.
- 4.5. to do all such things that are necessary and incidental to its obligations as set out under this Engagement Letter.

#### **5. Company's obligations**

The Company agrees to undertake the following obligation under this Engagement Letter:

- 5.1. to pay the Contractor the Contract Sum set out in Paragraph 3 of this Engagement Letter.
- 5.2. provide detailed requirement and specification for the Project
- 5.3. to collaborate with the Contractor to facilitate the timely execution of the Service.

#### **6. Termination**

- 6.1. The Company may terminate this Engagement Letter by giving the Contractor a fifteen (15) days prior notice in writing of its intention to do so, at any time before the expiration of the Term.
- 6.2. The Contractor may terminate this Engagement Letter, upon a prior notice in writing to the Company stating its intention do so, where the Company fails to fulfil its obligation to pay for the services rendered by the Contractor in accordance with Paragraph 3 of this Engagement Letter, within thirty (30) days of receiving the notice.
- 6.3. The Company may terminate this Engagement Letter, upon a prior notice in writing to the Contractor stating its intention to do so, where the Contractor breaches any term or condition of this Agreement and fails to cure the breach to the satisfaction of the Company within fifteen (15) days of receiving notice.
- 6.4. This Engagement Letter shall terminate immediately with no liability on either party upon the happening of the following events:
  - 6.4.1. where a party is adjudicated as bankrupt, becomes insolvent, suffers permanent or temporary court-appointed receivership of substantially all its

properties, makes a general assignment for the benefit of creditors, or suffers the filing of a voluntary or involuntary bankruptcy petition that is not dismissed within a reasonable time after this Agreement is executed by the parties.

- 6.4.2. where the parties agree to determine the Engagement Letter via a mutual agreement in writing, signed by authorized representatives of the parties.

#### 6.5. Effect of Termination

Upon the date of termination of this Engagement Letter for whatever reason;

- 6.5.1. all rights and authorizations granted by the Company under this Engagement Letter to the Contractor shall rescind immediately.
- 6.5.2. any unutilized Contract Sum paid under Paragraph 3, shall be due and payable by the Contractor to the Company immediately.
- 6.5.3. the Contractor shall comply with clause 5.4 with immediate effect.
- 6.5.4. Survival - Upon termination of this Engagement Letter, the clauses on Representations & Warranties, Indemnity, Confidentiality and Non-compete undertaking, Intellectual Property, Governing Law and Dispute Resolution shall survive the termination of this Agreement.

### 7. **Representations and Warranties**

The Contractor represents and warrants that:

- 7.1. the Services shall be executed by competent and experienced personnel with the appropriate experience in providing such services.
- 7.2. it has all the requisite skills and expertise required to implement the Services.
- 7.3. it has and will continue to comply with all applicable laws as may be required for the provision of the Services.

### 8. **Indemnity**

The Contractor undertakes generally to indemnify defend and hold harmless the Company and release it from and against all claims made against or losses or damages suffered by the Company in relation to:

- 8.1. the performance of the Service, including its obligations under this Engagement Letter; and;
- 8.2. any violation of any applicable law by the Contractor in connection with the provision of the Services.
- 8.3. the use of the Project by the Company's clients.
- 8.4. Any claim by a third party alleging that the Contractor has violated its Intellectual Property Rights or Confidential Information in providing any part of the Service.

### 9. **Confidentiality & Non-compete Undertaking**

- 9.1. Confidential Information shall include all confidential, proprietary or sensitive information of the Company and or any information relating to the Service, whether tangible or intangible, oral or written, including any information which may have been disclosed by the Company to the Contractor prior to and after the execution of

this Engagement Letter. It shall also include without limitation to information relating to and or including released or unreleased software or hardware products, the marketing or promotion of products, business plans, practices or policies, trade secrets, source code, object code, patents, inventions, firmware, designs, formulas, specifications, financial information and projections, numbers, lists of suppliers and potential suppliers, lists of customers and potential customers, equipment lists, employee lists, names and telephone numbers of investors, borrowers, lenders, agents, brokers, banks, lending corporations, individuals and/or trusts, or buyers and sellers or any commercial, financial, technical, operational or other information which concerns the business and affairs of the Company, management methods, know-how, working methods, processes, procedures, manufacturing techniques, operating techniques, and all manuals, documents, reports, spread sheets, files, market information, capital structures, customer agreements, projections, computer disks and tapes (whether machine or user readable) and other written or electronic information pertaining thereto disclosed to the Contractor.

- 9.2. During the Term of this Engagement Letter and twelve (12) months after the expiration or termination of the Engagement Letter, the Contractor agrees not to disclose the confidential information to any third party except with the prior written consent of the Company or as pre-agreed by the parties.
- 9.3. The confidential obligations in this Engagement Letter shall not apply to any information which:
  - 9.3.1. is lawfully in the possession of the Contractor prior to disclosure by the Company; or
  - 9.3.2. was lawfully obtained by the Contractor from a third party or third parties who is/are not in breach of any non-disclosure obligation to the Company; or
  - 9.3.3. was in the public domain prior to the Effective Date hereof or after the said Effective Date, becomes generally available as information in the public domain through no fault of the Contractor; or
  - 9.3.4. is disclosed by the Contractor to satisfy the order of a court of competent jurisdiction or to comply with the provisions of any law or regulation in force from time to time; provided that in these circumstances the Contractor shall, where legally permissible, advise the Company in writing prior to such disclosure to enable the Company take whatever steps it deems necessary to protect its interests in this regard; provided further that the Contractor will disclose only that portion of the information which it is legally required to disclose and the Contractor will use its reasonable endeavours to protect the confidentiality of such information to the most reasonable extent possible in the circumstances.
- 9.4. The Contractor undertakes that during the Term of this Engagement Letter, and a period of twelve (12) months after the expiration or termination of this Engagement Letter, it shall not unless with the prior written consent of Company, act as follows:
  - 9.4.1. Use the confidential information to enter or engage in competition with the Company.
  - 9.4.2. Employ or seek to employ any person who was in the employment of the Company during the Term of this Engagement Letter, or otherwise directly or indirectly induce such person to leave his or her employment or compromise

their commitment to the Company, save in the ordinary course of the Contractor's business.

- 9.4.3. Call on, solicit or take away any of the Company's existing customers who are disclosed as part of the Confidential Information or cause such customers to discontinue, decrease, or restrict their business with the Company

## **10. Intellectual Property**

- 10.1. All Intellectual Property Rights existing or belonging to either party prior to this Engagement Letter and intended to be used for the provision of the Service shall remain the sole property of that party and the parties agree not to question nor dispute the ownership of such rights at any time.
- 10.2. The Contractor agrees that all rights, titles and interests in and to the Work Product developed by it in connection with the Service shall be owned by the Company exclusively.

For the avoidance of doubt, Work Product means all reports, documents, inventions, projects and work products made, conceived, generated or developed by the Contractor for the purpose of the Service; including but not limited to any and all information, notes, material, drawings, records, diagrams, formulae, processes, technology, firmware, software, know-how, designs, ideas, discoveries, inventions, improvements, source codes, copyrights, trademarks and trade secrets.

- 10.3. The parties agree that the Company shall own all Intellectual Property Rights in the Project and the Work Product, and the Contractor shall not question nor dispute the ownership of such rights.

“Intellectual Property” means all present and future worldwide patents, trademarks, service marks, trade names, good will, registered designs, design rights, database rights, copyrights, inventions, rights in computer software and other forms of intellectual or industrial property and all registrations, applications, renewals, extensions, combinations, divisions, or reissues of the foregoing

## **11. Assignment**

The Contractor shall not without the prior written consent of the Company assign this Engagement Letter or any part thereof to a third party.

## **12. Governing Law**

This Letter of Engagement shall be construed and interpreted in accordance with the Laws of England and Wales.

## **13. Dispute Resolution**

- 13.1. Any dispute or difference arising between the parties in connection with this Engagement Letter shall be settled amicably by mediation by their legal representatives.
- 13.2. Any dispute arising in connection with this Engagement Letter shall first be referred to mediation between the Parties' legal representatives. If not resolved within thirty (30) days, the dispute shall be referred to arbitration under the Arbitration Act 1996

of England and Wales by a sole arbitrator appointed by mutual agreement of the Parties, or, failing agreement within ten (10) days, by the President of the Chartered Institute of Arbitrators (UK). The language of arbitration shall be English, and the seat shall be London, England. The arbitrator's decision shall be final and binding and may include an award of costs.

- 13.3. The decision of the Arbitrator shall be binding on the parties and shall include an order as to the costs of such arbitration and which party shall pay such costs.

Yours faithfully,

For ProDG Studios LTD,

Mr. Wayne Asava

Director

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#### Memorandum of Acceptance

I, \_\_\_\_\_, hereby accept the above terms and conditions and undertake to execute the Services diligently and in accordance with the terms stated in this Letter of Engagement.

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Name: Mugambi Rintaugu

Date: