**DISTRIBUTION LICENSE AGREEMENT**

**MOBILE AND TABLET**

**DIGITAL DISTRIBUTIONS**

This agreement is entered into as of DAYth of MONTH, 2022 (hereinafter referred to as “**Effective Date**”).

between

**Plug In Digital,** a French company incorporated under the law of France, registered in the Montpellier l trade register under the number 539019786 00018, having its registered office at 8B boulevard Berthelot 34000 Montpellier France, represented by FINANCIERE RANMA and its President Francis INGRAND,

hereinafter referred to as “**Distributor**"

and

**xxxxxxxxxxxxxx (our new Friend),** a Nationality company incorporated under the law of Country, registered in the City trade register under the number 0000000000000, having its registered office at Address including country, represented by its Function Title Name Surname, duly authorized for the purposes hereof,

hereinafter referred to as “**Licensor**”

Hereinafter referred to individually as the “Party” and collectively as the “**Parties**".

# RECITAL & OVERVIEW

Licensor is a developer and/or a publisher of Video Game(s) (as this term is defined in Appendix 1) and owns, or is duly authorized to grant a third party with, the necessary rights to market and distribute such Video Game(s).

Licensor is currently looking for a distributor and considers granting Distributor the exclusive right to distribute one or several of its Video Game(s) under the terms and conditions defined hereinafter.

Distributor has developed strong relationships with partners specialized in the field of Video Games’ digital. The Distributor’s partners network allows it to provide licensors with a solution to market and distribute video games across multiple digital and/or physical marketing channels on different platforms, devices or operating systems.

The Parties declare and acknowledge that the negotiations preceding the conclusion of this agreement were conducted in good faith and that they were provided, during the pre-contractual phase of the negotiations, with all necessary and useful information to enable them to enter into the agreement in full knowledge and to communicate to each other any information which might determine their consent and which they could legitimately ignore.

The Parties acknowledge that this agreement is an over-the-counter contract within the meaning of article 1110 of the Civil code. Consequently, article 1171 of the French Civil code which states that “In a contract of adhesion, any non-negotiable clause, determined in advance by one of the parties, which creates a significant imbalance between the rights and obligations of the parties to the contract shall be deemed unwritten” does not apply.

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# NOW, THEREFORE, PARTIES AGREE AS FOLLOWS:

# CONTRACTUAL DOCUMENTS

The supply and distribution of Video Game(s) are subject to the clauses in the enumerated documents below in order of priority (from higher-ranked document to lower-ranked document):

1. these terms and conditions (hereinafter the “**Terms and Conditions**”); and
2. the following exhibits:
   1. Appendix 1 - Definitions,
   2. Appendix 2 - License,
   3. Appendix 3 - Specifications and Requirements, and
   4. Appendix 4 (and following(s)) - Video Game(s) Schedule(s).

Together the Terms and Conditions and the appendixes constitute the “**Distribution Agreement**”.

In case of contradiction or discrepancy, between these documents, higher-ranked document shall prevail.

No standard terms and conditions of sale attached in any document sent or remitted by the Licensor to the Distributor shall apply to this Distribution Agreement. It is understood and agreed that this Distribution Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, supersedes all previous agreements and understandings between the Parties (whether written or oral) with respect thereto, and may not be modified except by an instrument in writing signed by the Parties.

# PURPOSE AND SCOPE

The purpose of the Distribution Agreement is to define the general terms and conditions applicable to the license and distribution of any Video Game mentioned under a Video Game(s) Schedule, compliant with Appendix 3 – Specifications and Requirements.

# COLLABORATION AND COMMUNICATION

## Collaboration.

The Parties hereby agree to always behave towards each other as loyal partners in good faith and to inform each other of any difficulties they may encounter in the context of the execution of the Distribution Agreement. The Licensor acknowledges and accepts that its active collaboration and communication of all the elements required by the Distributor are of a crucial importance for the performance of the Distribution Agreement. For that purpose, the Licensor shall communicate to the Distributor every and all information as required by the Distributor, including but not limited to the Video Game Key and/or the Build, specifications and any useful technical documents, in accordance with Appendix 3 – Specifications and Requirements herein. The Licensor acknowledges that it is solely responsible for the accuracy and completeness of the information transmitted to Distributor and agrees to respond to any of the Distributor’s requests within the timeframe indicated by the latter, and in any event within a maximum of eight (8) business days from the Distributor’s request date.

## Communication.

In case of any difficulty arising from execution of this contract and in particular, the testing of a Build as the case may be and/or distribution of the Video Game(s), each Party shall inform the other about such difficulty within a reasonable time and Parties shall discuss together the best solution to resolve any such difficulty.

# LICENSOR’S OBLIGATIONS

## Making the Video Game available.

At least thirty (30) days before the release date (actual or projected) of each Video Game through each Platform, Licensor undertakes to provide Distributor (or Partner(s) if priorly authorized by Distributor) withthe following, as the case may be:

* For Digital Distribution: the Build , which is subject to Distributor’s approval on behalf of its selected Partner(s), or the Video Game Key as the case may be, of each Video Game.

Through and until termination of each Video Game Schedule, Licensor shall grant the rights listed in Appendix 2 – License, to Distributor.

## Integration of an SDK to the Build.

## Licensor accepts and acknowledges that some Partners may require, for certain platforms, the integration of an SDK to the Build in order to distribute it on their sales area(s). If Partner’s platform(s) is/are referred to as Major Platform(s) in the applicable Video Game Schedule, Licensor expressly undertakes to integrate or to have integrated the SDK at its own expenses. This is an essential condition of executing the applicable Video Game Schedule. If the considered platform(s) is/are not referred to as Major Platform, Licensor will make all reasonable efforts to integrate or to have integrated the SDK at its own expenses.

## Additional Deliverable.

## Licensor agrees and acknowledges that some of Additional Deliverables are mandatory and undertakes to provide them according to the milestone schedule set forth in the applicable Video Game Schedule. At least thirty (30) days before the release date (actual or projected) of each Video Game through each Platform, Licensor expressly undertakes to deliver the Additional Deliverables.

## Certification and approval.

## If the Video Game is intended for Digital Distribution through an online service (including cloud gaming service) a smartphone, or a tablet, the Build is submitted to Distributor’s approval on behalf of its Partner(s).

## Such Partner(s) will check that the Build and the Additional Deliverables are compliant with (i) Appendix 3 – Specifications and Requirements and (ii) editorial requirements, and (iii) free of any Anomaly.

## During this procedure the Licensor may have to correct detected Anomaly and/or without this list being limitative, make legal regulation, localization adjustments, translate the Build in certain languages, add if needed a splash screen or a logo, provide marketing assets or documents such as age rating certification. Licensor shall provide Distributor with any technical information, documentation and any assistance to Distributor, when required, related to (i) the Video Game as specified in Appendix 3 – Specifications and Requirements, and the (ii) update of the Video Game, including Updates Versions and DLC; free of charge and in a timely manner within a maximum of ten (10) business days from the date of the request.

## Upon completion of the approval process, Partner may approve such Build for commercialization through the selected Platform(s). Licensor agrees and acknowledges that any Partner remains free to reject a Video Game that would go against its editorial policy or/and a Video Game technically non-compliant with Partner’s requirements. Each Build of an Updated Version shall be submitted to the aforementioned approval process until becoming a Gold Master.

Parties recognize that Licensor’s obligation to deliver an acceptable Build and the Additional Deliverables, and if the platform is a Major Platform, to integrate or to make integrate the relevant SDK at its own expense, are essential conditions of the Distribution Agreement.

## Correction of Anomaly, Updated Versions, DLC.

After commercial release of a Video Game and during the corresponding Video Game Schedule’s term, Licensor still has the obligation to correct Anomaly in the Video Game whenever discovered in a mutually-agreed manner (which may be via an Updated Version) but no later than seven (7) days following notification by Distributor, and at its own expense. Licensor shall notify Distributor in a timely manner of the release of any Updated Version and/or DLC and shall provide Distributor with any of this, as well as any new documentation relating to the Video Game, at least thirty (30) days before its expected release date.

# TERM

## Term of the Distribution Agreement.

The Distribution Agreement shall be effective from the first Video Game Schedule’s effective date, through and until termination, for whatsoever reason, of the last Video Game Schedule to be entered between the Parties.

## Term of a Video Game Schedule.

### *Initial Term.*

Each Video Game Schedule shall be effective from its effective date through and until expiration of a three years term (hereinafter the “**Initial Term**”).

### *Renewal Term.*

Each Video Game Schedule will be automatically renewed for successive periods of one year (hereinafter the “**Renewal Term**”), except if a notice of termination has been given by one Party to the other through registered letter with acknowledgement of receipt three (3) months prior to the expiration date of the then-current Initial Term or Renewal Term. Except in the cases mentioned in article 5.2.3 hereinafter, neither Party can terminate a Video Game Schedule before the expiration of its term (Initial Term or Renewal Term).

### *Termination.*

Each Party may terminate any Video Game Schedule limited to the following material breaches, after thirty (30) days following a written notice sent through registered letter with acknowledgment of receipt, provided that the breach is not remedied during such notice period.

Licensor may terminate any Video Game Schedule upon notice following a breach of Distributor’s obligations under these Terms and Conditions and/or the relevant Video Game Schedule (provided that Distributor’s failure does not draw its cause in a Licensor’s breach or failure) which consist of: (i) default in payment of invoices which amount is not disputed; or (ii) willful non-compliance with the terms of the license granted on Video Game(s).

Distributor may terminate any Video Game Schedule for a material breach of Licensor’s obligations under these Terms and Conditions and/or the Video Game Schedule (provided that Licensor’s failure does not draw its cause in a Distributor’s material breach) which consist of: (i) non-compliance of the Build with specifications and descriptions provided by the Distributor; (ii) non-compliance with the deadlines for correction of Anomaly; (iii) non-compliance with warranties (including intellectual property rights warranties) set forth in the Terms and Conditions and in the applicable Video Game Schedule; or (iv) breach of exclusivity commitment if any.

In case of repeated breaches of the terms and conditions of the Distribution Agreement attributable to the Licensor, Distributor may be entitled to terminate the Distribution Agreement, thirty (30) days following a written notice sent through registered letter with acknowledgment of receipt.

## Consequences of the termination of the Distribution Agreement.

## Whatever the reasons for the termination of the Distribution Agreement, following provisions will survive the termination: articles 5.3, 13, 14, 17.

## Consequences of the termination of a Video Game Schedule.

## The expiration or termination of a Video Game Schedule, whatsoever its cause, will have no effect (i) on any other Video Game Schedule(s) which will survive the termination and will produce their effects through and until the expiration of their entire respective term; and (ii) on User Licenses previously granted on Video Game(s) which will continue to produce their effects. Upon any expiration or termination of a Video Game Schedule, the licenses and rights granted to Distributor hereunder shall immediately terminate and revert to Licensor, subject to Sell-Off Period. Any unpaid Royalty (as this term is defined below) due to Licensor with respect to revenue generated prior to or after the termination date will be paid to Licensor pursuant to the terms of these Terms and Conditions. The termination of a Video Game Schedule due to a material breach of the Licensor as detailed under article 5.2.3 will lead to restitution of the sums paid as Advances, and/or reimbursement of sums incurred by Distributor as Deductible Amounts set forth herein, and without prejudice to damages the Distributor would be entitled to claim.

## Digital Distribution Sell Off Period.

## Upon any expiration or termination of this Distribution Agreement or Video Game Schedule or Video Game’s license, Distributor shall have the right to continue the streaming of the Video Game(s) then being currently streamed to End Users through any Platform(s) by Partner(s) until termination of the End User’s offer (up to three (3) months). Upon termination of this period, all rights related to the Video Game granted to Distributor under the Distribution Agreement will expire.

# EXCLUSIVITY AND NON-COMPETITION

## The rights granted on the Video Game(s) as set forth in Appendix 2 - License, are granted by the Licensor on an exclusive basis on the Platform(s) through the Territory and through and until termination of a Video Game Schedule. During this period, Licensor shall not distribute itself nor allow any partner to distribute the Video Game(s) through the Platform(s) within the Territory. Parties acknowledge that such exclusivity facilitates the distribution of the Video Game(s) through limitation of the number of interlocutors for each Platform(s) Reciprocally, given the nature of video game, Distributor could not obtain the Video Game from other(s) licensor(s).

# DETERMINATION OF THE USER PRICE AND PROMOTION

## User Price.

In application of the French regulation related to pricing practices, Licensor acknowledges that Video Game’s User Prices are determined by each Partner at its sole discretion. Distributor and Licensor may recommend suggested retail prices set forth in the applicable Video Game Schedule without these SRP being binding for the considered Partner. To that extent, Licensor grants full latitude to Distributor and its Partners to determine the most adapted local User Price that best serves its commercial interests in relevant countries. However, it is reminded that French law prohibits any distributor from reselling (the Video Game) at a price below the purchase price.

## Promotion.

Licensor is informed that Distributor may organize time limited promotional operation with up to thirty percent (30%) discount off User Price for the Video Game. Licensor is informed that such promotion will impact the Distributor Revenue. Licensor will be informed of any higher discount and/or any other promotional operation during the term of this Distribution Agreement. However, any discount on the regular User Price which may impact the Distributor Revenue shall be agreed in advance and in writing by the Licensor.

# DISTRIBUTOR’S OBLIGATION AND RELATIONSHIP WITH END USERS

**8.1.** Parties acknowledge that Distributor shall remain free to decide which Video Game(s) are made available to its Partners and on which Platform(s) and/or Channel(s), therefore, this Distribution Agreement shall not be interpreted as an obligation for the Distributor to distribute any of the Video Game(s) on all Platform(s. To that extent, the obligations of the Distributor are limited to those set forth in this Distribution Agreement if and where it makes available Video Game(s) to its Partner(s).

**8.2.** Partners are liable for operating End Users’ orders and will ensure that their End Users comply with the terms and conditions of this Distribution Agreement, where applicable. However, Partners are not obliged to deliver the Video Game when: (i) Partners consider the order placed by the End User is doubtful; (ii) the End User has placed two successive orders incorrectly; (iii) the previous orders of the End User resulted in payment problems; or (iv) Partners deem that the customer risk presented by the End User is too high.

**8.3.** Licensor acknowledges and agrees that Distributor and/or Partner(s) shall retain title to the databases and files relating to their respective customers and/or End Users and under no circumstances shall they be provided to Licensor. Licensor shall strictly refrain from doing anything that is for the purpose of or would amount to direct selling, poaching or identifying, for its own benefit or for the benefit of third parties, all or some of Distributor and/or Partners’ customers and/or End Users. In that respect, it shall refrain, in particular, from any direct or indirect contact with them, except with Distributors’ prior written consent, which it may grant or withhold in their sole discretion.

**8.4.** Licensor acknowledges the right of the Distributor and of its Partners to temporarily interrupt access to their Platform(s) to End Users when the interruption is by an updating or maintenance operation.

# FINANCIAL TERMS AND CONDITIONS

## Royalties.

## In compensation of the rights granted on the Video Game(s) as further detailed in the applicable Video Game Schedule, Licensor will receive a Royalty. Parties expressly agreed that no Royalties are due for the distribution of (i) Trial Versions or (ii) any version of the Video Game(s) distributed free of charge for reward, advertising or promotional purposes or within the scope of similar sale promotional measures in the limit of fifty (50) units, nor (iii) for units provided to media for marketing or promotional purposes, etc. or if Distributor did not receive financial compensation due to a technical failure, malicious intent or fraud during payment, or if Distributor has reimbursed the Video Game further to the enforcement of distance selling regulation.

## Deductible amount.

## Parties expressly agree that the Deductible Amount (if any) is fully recoupable on the Royalties due to Licensor. Any other actual costs and expenses incurred by the Distributor can be added to the Deductible Amount after execution of the Video Game Schedule if mutually approved by both Parties in writing (email acceptable).

## Payment terms and conditions.

## Any and all advance(s) and Deductible Amount shall be recoupable from any Royalties due to Licensor. Licensor expressly agrees and acknowledges that no payment will be made to it until any and all advance and Deductible Amount have been fully recouped and reimbursed to Distributor.

## Reporting.

For each calendar month, Distributor will provide a quarterly report to Licensor, which indicate Distributor Revenue, Royalties due to Licensor, advance(s) and Deductible Amount to be recouped or reimbursed on Royalties and the total amount due to Licensor for the applicable period, for each Video Game. The reports will be issued in Euros or USD; in case of sales made in other currency, Distributor will use the exchange rate applicable during the month of issuance to calculate amount due in Euros. Such exchange rates are those published by websites of reference such as Reuters or Oanda. Such quarterly reports will be provided within the next thirty (30) days following each calendar month.

## Invoicing.

Upon receipt of the aforementioned report and if the total amount due to Licensor reaches a minimum of one thousand (1,000) euros, Licensor shall issue an invoice within fifteen (15) days, in euros and compliant with French regulations. If the amount to be paid is under this minimum of one thousand (1,000) euros, the invoicing shall be postponed until it accrues to thousand (1,000) euros or until the end of each contractual year. If Distributor notices a mistake or a compliance default on an invoice it will inform the Licensor and the payment delay of the related invoice will be suspended until receipt of a rectified and/or compliance invoice. In the event of a discrepancy between Licensor’s invoice and a quarterly report, total amount set forth in the quarterly y report shall prevail, unless Licensor can prove the existence of a fraud or a mistake.

## Payment terms.

Subject to article 9, any Licensor’s invoice will be paid within forty-five (45) days from date of reception. The agreed method of payment is wire transfer; priority being given to “shared” (SHA) option. No payment will be made if the above mandatory documents are not provided in timely manner.

## Mandatory Documents.

Upon first remittance advice, Licensor shall provide a copy of notice of VAT number (if applicable); and IBAN and bank details in original. Upon execution of this Distribution Agreement and then, once a year, Licensor shall provide updated extract of trade register.

# AUDIT RIGHT

Subject to Distributor’s prior notification in writing through registered letter with acknowledgement of receipt at least thirty (30) days beforehand, Licensor can proceed or appoint third party auditors (except Distributor’s competitors) so as to proceed to an audit of Distributor’s records under the following conditions: the audit shall (i) occur maximum once a year through and until termination of a three (3) months period after the last sell-off period (ii) be limited to monthly reports related to Licensor issued during the three (3) years period preceding the audit; to that extent Parties agree that an audited period could not be audited again (iii) take place during Distributor’s normal business hours only, and (iv) not unreasonably interfere with Distributor’s operations. The audit results shall be communicated in a contradictory manner to the Distributor for any comments and adjustments it may deem necessary. In case of contradiction, Parties shall meet together and have reasonable discussions so as to resolve such contradiction and agree on a final audit report version. Any audit that results in the establishment of an undisputed amount due to Licensor shall oblige Distributor to make any additional payments that are necessary within a period of thirty (30) days starting from the date on which this amount is invoiced to it. If the amount due to Licensor shows a discrepancy exceeding more than three thousand (3,000) euros between the figures provided by Distributor and the amount established during the audit, Distributor will also reimburse the audit costs incurred by the Licensor, subject to the latter being duly justified. Any audit that results in the establishment of an amount due by Licensor shall oblige Distributor to retain this amount on the next payment due to Licensor. If no payment is due within the next two (2) months, Licensor undertakes to reimburse Distributor within a period of thirty (30) days starting from the date on which this amount is invoiced to it.

# PERSONAL DATA

## Information about Personal Data processing.

Licensor expressly acknowledges that Distributor has no access to any End User’s Personal Data. If Distributor collects Personal Data, it will ensure compliance with all its incumbent obligations under the law of 6 January 1978 known as "Informatique & Libertés" and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and the free flow of such data. Distributor may collect Personal Data through its interactions with Licensor based on this Distribution Agreement for its execution and customer relationship management purposes. Distributor processes any Personal Data in a confidential manner and with the greatest care. Distributor may share Licensor’s Personal Data with service providers engaged to process data on behalf of Distributor, public bodies or authorities requesting it to comply with a legal obligation or to protect rights; possibly future buyers of Distributor in the event of a sale of business or assets. The Personal Data’s storage period is limited to the purpose for which the Personal Data have been collected.

## Data subject’s rights.

Distributor may request communication, rectification, completion, update, or deletion, as the case may be, of its Personal Data. Licensor acknowledges that he has the right to the portability of its Personal Data and can request the limitation of its Personal Data processing. Each of the aforementioned rights can be exercised in writing at the following address: contact@plugindigital.com XXX@plugindigital.comor 15 rue des Constellations 34070 Montpellier France. A reply shall be sent within the month following receipt of the request. If necessary, this period may be extended by an additional two-month period, taking into account the complexity and number of requests, in which case Licensor will be informed. Licensor is informed that it may file a complaint if he considers that the protection of his Personal Data has not been ensured as part of the processing carried out by Distributor.

# PUBLICITY

Licensor expressly authorizes Distributor to refer to this Distribution Agreement (but not its content) and to mention Licensor and/or the Video Game(s) as references, through its Partner’s network.

Such right includes the non-exclusive right to reproduce Licensor’s and/or Video Games’ trademark and/or logo and/or pack shot and/or screen shots on all of Distributor’s official and/or promotional material, specifically advertising brochures, website(s), social medias as further detailed in Appendix 2 - License. Prior to its publication or online disclosure, Distributor shall provide Licensor with a copy of any material on which Licensor’s or Video Games’ trademark, logo, pack shot, screen shots have been reproduced.

# REPRESENTATION AND WARRANTIES

## Mutual representation and warranties.

Each Party represents and warrants that (i) it has the right to enter into and fully perform this Distribution Agreement and to grant the rights granted or agreed to be granted hereunder; (ii) it has acquired all rights necessary for the performance of this Distribution Agreement, and that no performance shall defame any person or entity, or violate any copyright, right of privacy or publicity, or any other rights of any person or entity and is not subject to litigation; (iii) there is no outstanding contract, commitment or agreement to which a Party is a party or legal impediment of any kind known to a Party, which conflicts with this Distribution Agreement or might limit, restrict or impair the rights granted to the other Party hereunder; (iv) it shall comply at all times throughout the term of this Distribution Agreement and throughout the term of all its Video Game Schedule(s) with all state and local statutes, laws, rules, regulations and ordinances with respect to the Video Game(s) and their distribution; and (v) it has contracted a professional insurance policy covering the activities mentioned in the Distribution Agreement.

## Licensor’s specific representation and warranties.

In particular, and without limitation, Licensor warrants and represents that (i) it has obtained all necessary rights, releases, clearances and licenses, including without limitation all required licenses from the authors or any right holders, including owners of third parties technologies used if any, including any rights regarding music that is part of the Video Game(s) if any, with respect to the rights granted in Appendix 2 - License; (ii) each Video Game(s) (a) comply with current legislation, (b) do not harm the reputation of third parties, and do not constitute an incitement to racial hatred or fail to meet the measures that apply in terms of protecting youth, in particular, Licensor guarantees that the Video Game/s are provided, where applicable, along with any required mentions relating to violent or pornographic content; (c) is free from Anomalies, hidden defects or bugs and comply with the editorial and technical specifications mentioned in their documentation.

In the event that Licensor does not fulfill its obligations with regard to tax (especially VAT) and social and/or fiscal administrations or authorities and, as a consequence of these failures, Distributor is obliged to pay any amount to the said administrations/authorities, Distributor may make any compensation with all amounts due or that will be due to Licensor.

Licensor guarantees Distributor against any claim or proceedings filed against it or against any Partner, by any third party, due to an infringement of the third-party intellectual rights pertaining to a whole or part of any licensed Video Game, Additional Deliverable(s) and/or related to an unfair competition issue. To this end, Licensor shall indemnify Distributor, upon first demand, of any condemnation, transactional indemnity and expenses, as soon as the proceedings have resulted in an enforceable sentence (whether or not final) of Distributor or of one of its Partner, or the concluding of a transactional agreement, or the need to pay fees of any type whatsoever.

## Collective rights management companies.

Licensor warrants and represents that ach Video Game(s) is not, or do not contain, a work or creation belonging to catalogs, repertoires of, or being managed by, an association of authors, or a collective rights management association or company such as SACEM, PRS, BMI, ASCAP, without this list being limitative. It is agreed and understood that if sums or rights where claimed to the Distributor and/or Partner(s), by an association of authors or a collective rights management association or company in respect of the distribution of such Video Game(s), Distributor will be able, at its own choice, to : (i) compensate the amounts claimed with any sums owed to Licensor; (ii) ask for the reimbursement of the sums paid to Licensor; (iii) obtain repayment of the sums of money, interest, costs and accessories under the following delegation of claim: Licensor, as delegate, delegates, transfers and assigns to Distributor any and all sums that could be paid to it by its debtors, including any association of authors or a collective rights management association or company. This delegation of claim is granted under the conditions provided for by articles 1338 et seq. of the Civil Code. It does not carry with it a novation to the rights and obligations resulting from Licensor's obligation to reimburse Distributor.

# LIABILITY

Distributor’s liability may be engaged in the event of proven breach of its obligations towards the Distribution Agreement and only for predictable and direct damages that are exclusively attributable to it, excluding indirect or consequential damages, financial losses or operating losses suffered by the Licensor. Distributor shall not liable for any action between the Client and a third party to this Contract, subject to mandatory legal provisions of the Applicable Law. If Distributor’s liability was confirmed in court, for all damages and for the term of the Distribution Agreement, it shall be limited to the amount paid to the Licensor during the six (6) months preceding the incident that caused the damage; and unless otherwise stipulated herein, the Licensor may not make a claim against Distributor after a period of two (2) months following the discovery of the event (or events) that caused possible liability. The Licensor acknowledges that liability would not be retained in case of (including but not limited to): (i) any cause external to Distributor’s actions; and/or (ii) any Licensor’s breach of its obligation(s) through the Distribution Agreement.

# CONFIDENTIALITY

The Parties undertake to treat as confidential information collected during the performance of the Distribution Agreement and which must be considered confidential either (i) because it is expressly designated as confidential by the Party from which it is collected; or (ii) because it is of confidential nature, for example, when it concerns undisclosed personal, commercial, industrial, technical or strategic data. Confidential information does not include information that is or has become available to the general public without restriction and through no breach of any obligation by a Party or (a) is received without restriction from a third party lawfully in possession of such information and lawfully empowered to disclose such information without a confidentiality obligation; (b) was rightfully in the possession of a Party without restriction prior to its disclosure by the other Party ; (c) or was independently developed by a Party without access to any Confidential Information. Each Party shall treat such confidential information with the same degree of caution and protection as it must ensure to its own confidential information of equal importance. It shall keep such confidential information for the entire term of the Distribution Agreement, and thereafter for a period of two (2) years from its expiry, and shall refrain from disclosing it except to employees or responsible agents who, bound by professional secrecy, will need it for the performance of their duties under the Distribution Agreement and this, within the limits of the requirements of the said contract.

# INEXECUTION

By way of derogation from article 1222 of the Civil Code, in the event of a breach by one of the Parties of its contractual obligations for any reason whatsoever (including force majeure), the other Party shall refrain from having said obligations performed by a third party without the prior and express consent of the defaulting Party. No reimbursement of expenses or advances may be requested from the defaulting Party in this respect without its prior and express agreement.

# MISCELLANEOUS

## Assignment.

Distributor may assign this Distribution Agreement in its entirety (obligation and interests) to any entity it controls, is controlled by or is under common control with, or as part of the sale of that part of its business which affects the Video Game(s), or pursuant to any merger, consolidation or other reorganization, without Licensor’s consent, but upon written notice to Licensor. Licensor may assign this Distribution Agreement in its entirety (obligation and interests) to any third party upon prior Distributor’s written consent, provided that Licensor shall remain primarily bind to Distributor for the performance or any breach of this Distribution Agreement. Subject to the foregoing, this Distribution Agreement shall be binding upon and inure to the benefit of the Parties, and their respective heirs, successors, and permitted assigns.

## Unforeseen event.

The Parties declare that, considering the negotiations preceding the conclusion of this Agreement, they were able to enter into the Agreement in full knowledge of the facts and thus expressly waive the provisions of Article 1195 of the French Civil Code and the revision regime for unforeseen circumstances provided for therein. They thus undertake to fulfil their obligations, even if the contractual balance is upset by unforeseeable circumstances at the time the Agreement is concluded and if their performance proves excessively onerous.

## Notice.

Except when otherwise agreed, any notice to be given under this Distribution Agreement shall be in writing to the address set forth on the first page of this Distribution Agreement. It shall be by facsimile or by certified mail, receipt requested and shall be deemed effective upon actual receipt.

## Non-solicitation.

Throughout the term of this Distribution Agreement and for a one year period following the termination of the last to expire Video Game Schedule, neither Licensor shall offer, or seek Clause to offer, employment to personnel of Distributor – or having ceased working with the latter within the preceding year – either directly or indirectly without prior written consent from Distributor.

## Invalid clause.

If any provision of this Distribution Agreement shall be held invalid or unenforceable by any court of competent authority, this Distribution Agreement shall continue to be valid as to the other provisions thereof and the remainder of the affected provision.

## Titles.

The Parties hereby acknowledge that all article headings in these Terms and conditions shall be regarded as mere indications of the intention of the Parties, and shall not consequently affect the interpretation and meaning of the terms under said articles.

## Waiver.

Failure by either Party of insist upon the strict performance of any of the terms and conditions of this Distribution Agreement shall not be construed as a waiver of such and shall in no way affect the Party’s right to enforce such provision.

## No partnership.

Nothing in the Distribution Agreement shall create, or be deemed to create, a partnership or a company between the Parties.

## Governing law and jurisdiction.

This Distribution Agreement shall be construed and enforced in accordance with the laws of France. In case of any dispute, controversy or claim arising out of or in relation to this Distribution Agreement and of the documents constituting an integral part thereof, or the validity, construction or performance of this Distribution Agreement and of the documents constituting an integral part thereof, or the breach thereof, or any disputes in connection with any non-contractual obligations, the two Parties agree to seek in all cases to reach an agreed settlement of the conflict between them.

IN THE ABSENCE OF AN AGREED SETTLEMENT WITHIN ONE (1) MONTH FOLLOWING THE BEGINNING OF THE CONFLICT AS RECORDED IN A LETTER WITH ACKNOWLEDGEMENT OF RECEIPT, BOTH PARTIES AGREES TO APPOINT A MEDIATOR BY MUTUAL AGREEMENT. IN THE ABSENCE OF AN AGREED SETTLEMENT FOR APPOINTING SUCH MEDIATOR WITHIN A SECOND MONTH FOLLOWING THE BEGINNING OF THE CONFLICT, OR IF MEDIATION PROCEDURE DO NOT SUCCEED WITHIN THREE (3) MONTHS OF ITS BEGINNING, THE RELEVANT JURISDICTION OF ANY REGISTERED OFFICE OF DISTRIBUTOR, AT ITS SOLE DISCRETION, SHALL HAVE JURISDICTION, EVEN IN CASE OF THIRD PARTY NOTICE OR OF THE EXISTENCE OF SEVERAL DEFENDANTS. THIS COMPETENCE ALSO APPLIES TO SUMMARY PROCEDURE.

The one (1) month period or the three (3) month period abovementioned is not applicable to emergency procedure.

\* \* \*

IN WITNESS WHEREOF the Parties hereto have caused this Distribution Agreement to be executed on Effective Date.

In two (2) copies, of which one is given to each Party.

|  |  |
| --- | --- |
| **For LICENSOR** | **For DISTRIBUTOR** |
| Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Name: Francis Ingrand |
| Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title: President |
| Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Place:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Place:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

# Appendix 1 – DEFINITIONS

For purposes of this Distribution Agreement, capitalised terms shall have the following meanings:

**Additional Deliverable:** meansall mandatory deliverables including but not limited to all needed marketing assets listed in Appendix 3 – Specifications and Requirements, as well as the documentation in Acrobat format (pdf) related to each Video Game.

**Anomaly:** means any repetitive defects, material bugs or errors of a Video Game prohibiting partially or totally its normal use. For the purposes hereof, this definition also includes translation errors and missing or incorrect legal or regulatory notices.

**Build**: means the final DRM free version of a Video Game, in a format that allows it to be reproduced and distributed through a Platform, ready to be submitted to a Partner for its approval as per article 4 of the Terms and Conditions, in order to become a Gold Master.

**Deductible Amount**: means deductible amounts that apply to the Video Game and which consists of actual costs and expenses agreed by both Parties that are paid, advanced or incurred by Distributor in connection with advertising and exploitation of the Video Game, including but not limited to the following expenses related to translation for localization purposes; age rating certification; compatibility testing or quality insurance; and approval fee; which are set forth in the relevant Video Game Schedule.

**Digital Distribution:** means distribution of a Video Game through a digital mode – alone or through a bundle offer (including bundle with other media like online press) – through the Internet or any other public or private telecommunications network existing or future, such as mobile network (GSM, WAP, UMTS, etc.), TV network, Internet provider’s network and any network of digital transmission channel existing or future, including any existing or future mode of commercialization: download, streaming, renting, lending, cloud gaming, games on demand, etc.

**Distributor Revenue**: the revenue net of taxes collected by Distributor from Partners (or directly from End Users as the case may be) in respect of the distribution of each Video Game.

**DLC (Downloadable Content):** means content (e.g. unlocked item like a new hat or new map or the next episode) intended to be integrated into an existing video game in order to improve gaming experience or make it complete. For the purposes hereof, this definition includes: (i) any and all additional content, downloadable or not; and (ii) any and all add-on, downloadable or not, i.e. an video game (or a project of) whose essential features constitute in an addition or an “expansion pack” to a pre-existing video game in any language, in any form, with the same themes, situations, characters, dialogues, etc., the Parties referring to the meaning usually and currently attributed to the word "add-on" according to the uses.

**End User**: means any individual who access and/or purchase a Video Game, whether against payment or free of charge.

**Freemium Version:** Video Games provided free of charge but subject to payment for advanced features.

**Gold Master:** means the approved Build, making it ready to be reproduced and distributed for commercialization in the considered Platform as further detailed in the Terms and Conditions.

**Languages:** means, for a Video Game, all existing languages set forth in the applicable Video Game Schedule. By extension, this definition also includes any other language in which Parties will agree in writing (by postal mail or email) to translate and localize the Video Game.

**Localized Version:** means any translated version of a Video Game in any language different from the original language.

**Partner:** means a company – Platform owners, designees, licensees, sub-licensees, distributors, resellers, integrators, console manufacturers, etc. – who entered into an agreement with Distributor regarding Digital Distribution of Video Games.

**Personal Data:** means any information relating to a person who is identified or who can be identified, either directly or indirectly, in reference to an identification number or to several elements that are proper to the individual, such as an email address, name or telephone number.

**Platforms:** means, for Digital Distribution, all platforms (including cloud gaming platforms) of a Video Game. If the exploitation of the Video Game on a particular platform is an essential condition of executing the Video Game Schedule, such platform will be qualified as “Major Platform”.

**Port (to):** means to adapt, mainly from a technical point of view, an existing video game (or the project to do it) on a platform (device that can play, run or display a video game) other than the existing platform for which it has been designed. For example, to port a PC game (videogame originally designed for personal computers) on smartphones. The resulting new version of the game designed for smartphones is a port of the PC game.

**Royalty**: percentage of the Distributor’s Revenue as set forth in the applicable Video Game Schedule.

**SRP**: means suggested retail price.

**SDK** (Software Development Kit)**:** means set of programming support tools to be implemented in a Video Game, or used in order to produce a Build designed for certain platforms and / or operating systems.

**Territory:** means the entire world unless otherwise specified in a Video Game Schedule.

**Trial Version:** means a version of a Video Game limited in time or in terms of features, accessible free of charge but that shall be unlocked only after payment by End Users.

**Updated Version:** means an updated version of a Video Game including changes and/or improvements (e.g. in order to correct an Anomaly, comply with any law or regulation in the Territory, etc.) and which can be obtained free of charge by an End User who has already acquired an initial version of such Video Game on a Sales Area.

**User License:** designates the End User License Agreement (EULA) to be entered into between Licensor and an End User for the use of a Video Game.

**User Price:** means the actual selling price paid by the End User as compensation for the purchase of a Video Game.

**Video Game:** means an interactive multimedia program made of a homogeneous set of data of different natures (text, sounds, still and animated images) and a navigation structure that allows access to the various data during the consultation on a device, fitted or not with an operating system, which is listed in a Video Game Schedule attached hereto. This definition includes for each licensed Video Game any Localized Version, or/and Updated Version, and/or Trial or Free Version, and/or paying item(s), or/and DLC (including any next episode if the licensed Video Game is an episodic video game) if any.

**Video Game Key:** means a unique combination of numbers and or letters that allows an End User to obtain legally one copy of a Video Game from a sale area. Video Game Keys are generally issued by the owner or operator of a sale area, e.g. by Sony for the Play Station Network or Valve for Steam portal.

**Video Game Schedule:** document that specifies the Video Game/s to be distributed under standard term and conditions set forth in the Terms and Conditions, and specific provisions set forth in the Video Game Schedule that apply to the Video Game.

# APPENDIX 2 – LICENSE ON VIDEO GAMES

Parties expressly agree that any and all intellectual property rights pertaining to Video Game(s) shall remain the Licensor’s property (or its rights holder’s property as the case may be) at all time and that the rights granted to Distributor and its Partner(s) are limited to the rights set forth in this Appendix.

For purpose of clarity, it is reminded that specific provisions related to exclusivity are set forth in the Terms and Conditions.

1. **Grant of rights on the Build(s).** Licensor grants Distributor the right to provide its Partners with Build(s) for testing purpose as per the terms and conditions set forth under article4.
2. **Grant of rights on the Gold Master(s).** Licensor grants Distributor the right to provide its Partners with Gold Master(s) or, as the case may be, the Video Game Key or serial number for reproduction on its servers so as to distribute and commercialize the Video Game through the Platform(s).
3. **Grant of rights on the Video Game(s).** The following distribution license is a standard license applicable to any Video Game for commercial and promotional purposes. Any derogation to the terms of this license shall be agreed in writing in the applicable Video Game Schedule. For the term, authorized Territory, and mode(s) of distribution set forth in the applicable Video Game Schedule, Licensor hereby expressly grants to Distributor the following exclusive rights on each Video Game, sub-licensable to the Partners in the same respects:
   1. the right to represent or have represented it alone or through a bundle and more specifically: (a) the right to represent the Video Game(s) for any exploitation covered by the Distribution Agreement; (b) the right to communicate/have communicated, present/have presented, represent/have represented, transmit/have transmitted, teletransmit/have teletransmitted the Video Game, any duplicate or copy, any secondary and derived exploitation, permanently or temporarily, in whole or in part, whether or not in return for payment, for any format, form and definition, in any language, or multilingual, by any process or on any support, even if not foreseeable or not provided for in this Distribution Agreement and/or applicable Video Game Schedule, in any private and/or publicly accessible place where it can be communicated directly and indirectly to the public; (c) the right to broadcast or have broadcasted – including for advertising or promotional purposes –the Video Game in any format and form, particularly by radio, radio broadcast, radio-electric, television – including Web TV, TV-pads, interactive TV, smart TV, connected TV television, etc.–, cable-broadcasting through the Internet or any other public or private telecommunications network existing or future, such as mobile network (GSM, WAP, UMTS, etc.), TV network, Internet provider’s network and any network of digital transmission channel existing or future, cinematographic, photographic, digital and/or opto-digital broadcasting, video, cable, satellite, any network including Internet, intranet, extranet, telematics, any other audio-visual, telephony or telecommunication process and other support not foreseeable or not foreseen at the date of execution of the Distribution Agreement and/or applicable Video Game Schedule whatsoever its form or nature; (d) the right to exhibit or have exhibited the Video Game in any format and form including at exhibitions, fairs, trade fairs, markets, festivals, cultural events, promotional or advertising events.
4. **Grant of adaptation rights.** For the purpose of Distribution Agreement herein, adaptation rights means, for all supports and forms of exploitation provided for in the applicable Video Game Schedule: (a) the adaptation rights for any exploitation of Video Game(s) (and/or Gold Master) covered by this Distribution Agreement; (b) the right to affix, incorporate, engrave, or carve trademarks, logos, names, distinctive signs of Distributor or of any relevant third party such as Partner to the Video Game; (c) the right to Port any Build; (d) the right to add/have added or withdraw/have withdrawn any mentions for purposes of compliance with any rules, regulations or law applicable in the Territory, to/from the Video Game; (e) the right to translate/have translated and localize/have localized the Video Game in any language necessary for its exploitation according to provisions set forth herein and in the applicable Video Game Schedule; and (f) the right to encrypt/have encrypted the Video Game i.e. to embody the Video Game, in whole or part of it, on a disk or other medium, or in a file format now known or later devised, by using encryption software so that the encrypted Video Game is not accessible to End Users unless access is authorized by Distributor, Partners or its designees.

## Grant of exploitation rights. The granted licence herein covers, in particular for each of the aforementioned granted rights (articles A, B, C and D), the rights of distribution, manufacturing, reproduction, representation and adaptation allowed for each of these reproductions, representations, adaptations of the Video Game, in whole or part, whether or not linked to any other software, video game or hardware, by any process and in any network including schools and libraries, or distribution network not foreseeable or not foreseen at the date of execution of the applicable Video Game Schedule, whatsoever its form or nature, including: Rent it/ make it rented, lend it/make it lent; sell it or have it sold directly or indirectly to any public; distribute it or have it distributed; publish it or have it published, disseminate it or have it disseminated; licensed it or have it licensed; sub-licensed it or have it sub-licensed; and promote it/have it promoted and market it/have it marketed; distribute User Licenses via Sales Areas

## Grant of rights on Additional Deliverables. Licensor hereby grants to Distributor a non-transferable, non-exclusive worldwide right and license to use Additional Deliverables and Video Game’s marketing assets provided to Distributor solely for the marketing, promoting, distributing and selling of the Video Game(s) as per the terms of the Distribution Agreement, and the right to authorize Partners in the same respects. In addition, Licensor grants Distributor, its Partners and any relevant third parties, the non-exclusive right to reproduce and represent brands, trademarks, labels and logos of the Licensor and of the Video Game for the sole purpose for any exploitation of Video Games covered by this Distribution Agreement and/or the applicable Video Game Schedule.

# APPENDIX 3 - SPECIFICATIONS AND REQUIREMENTS

# GENERAL – All Platforms and all mode of distribution (digital distribution and physical distribution)

1. Mandatory

* Builds or Gold Masters with no external links (even to Twitter or Facebook account) whatsoever the Build file format: PKG, APK, EXE, etc.;
* Localization kit in any available languages and Video Game wordcounts;
* EULA with terms and conditions;
* Specific mandatory mentions, for example product to be released on the following trademark/s label/s and/or name/s; developer, executive producer, co-producer, publisher…

1. Strongly recommended

* For Freemium, a Premium specific version would help;
* If web based version of the Video Game, or a Free or Trial version is available please provide us, it will help you to get more sales with better conversion;
* Documentation in Acrobat format (pdf) relating to each Video Game when such documentation is available;
* Any keywords relating to a LP, would be very helpful to improve its visibility;
* Tips or cheat codes will reduce evaluation or testing time.

# SPECIFIC REQUIREMENTS AND SPECIFICATIONS FOR DIGITAL DISTRIBUTION THROUGH Smartphones and Tablets





# APPENDIX 4 - VIDEO GAME SCHEDULE TEMPLATE

## VIDEO GAME SCHEDULE #A

## 1. Term

This Video Game Schedule shall be effective fromDAYth of MONTH, 2022, through and until three (3) years, notwithstanding the applicable sell-off period.

## 2. License

Licensor expressly undertakes and agrees that standard distribution license, set forth in Appendix 2 – License, shall apply to the Video Game(s) listed herein.

## 3. SDK, authorized languages and Territory

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Video Game titles** | **SDK to be used or integrated** | **Game engine, DLL, SDK or any third-party technology already used or integrated** | **Available languages** | **Territory** |
| **For Digital Distribution** | |
|  |  |  |  | Entire world, except: list the countries excluded from the distribution area | |
|  |  |  |  |  | |
|  |  |  |  |  | |
|  |  |  |  |  | |
|  |  |  |  |  | |
|  |  |  |  |  | |

For the avoidance of doubt, Licensor expressly acknowledges that any new Product developed from the Effective Date and not included in the list of Products above will be available for distribution upon release date.

Additional info or obligation: xxxxxxxxxxxxxxxx

## 4. Terms of distribution

**Authorized distribution modes:** Digital Distribution

**4.1. Digital Distribution**

Distributor is entitled to distribute Video Games through all existing Platform(s), except:

Parties expressly agree that the following platforms are excluded from Distributor’s scope of distribution:

|  |  |
| --- | --- |
| Country (ies) | Excluded platform(s) |
| Worldwide | Google play |
| Worldwide | Apple store itunes |
|  |  |

## 5. Royalties

A) Royalties due to the Licensor

Mutually agreed recoupable Royalties (article 9 of the Terms and Conditions):

Fifty (50%) percent of Distributor’s Revenue.

This Video Game Schedule # A can be only modified by an amendment fully executed by both Parties.

IN WITNESS WHEREOF, the Parties hereto, each acting under due and proper authority, and intending to be legally bound, have executed this Video Game Schedule as an attachment to the Appendix 4 to that certain Distribution Agreement dated xxxxxxxxxxxxxxxxxxxxxxxx by and between the Parties set forth below, as of the Video Game Schedule Effective Date.

In two (2) copies, of which one is given to each Party.

|  |  |
| --- | --- |
| **For LICENSOR** | **For DISTRIBUTOR** |
| Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Name: Francis Ingrand |
| Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title: President |
| Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Place:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Place:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |