**Software License and Services Agreement**

**No. GX/LC-SL- \_\_\_\_\_\_**

Made on [•] 2023, by and between:

**…**, a company incorporated under the laws of …. under the registration number …, with its legal address at … (hereinafter “the Licensor”), and

[•], a company incorporated under the laws of [•] under the registration number [•], with its principal office at [•] (hereinafter “the Licensee”),

Each individually also referred to as a “Party” and collectively as the “Parties”.

**Whereas**

* the Licensor is a company involved in the design and development of Software, including skill-based games and fast games (hereinafter “the Games”), and offers a wide range of Games in the internet gaming industry;
* the Licensor licenses its Games to its partners which are integrated and delivered with a management platform that allows the partners to manage, configure and monitor their businesses;
* the Licensor possesses the right to grant licenses for the exploitation and use of the Games, developed by the Licensor and/or owned by the Licensor;
* the Licensee is a licensed operator in the gaming industry and wishes to acquire a non-exclusive license to exploit the Licensor’s Software in the operation of its gaming business, as well as grant sub-licenses to its Clients;

**Now Therefore:**

the Parties have entered into this Software License and Services Agreement (hereinafter “the Agreement”) on the following:

1. **Definitions and interpretation**
   1. In this Agreement and the Preamble, the following words and expressions shall, unless the context required otherwise, have the following meaning.

“**Affiliate**” shall mean a third-party entity that controls a Party, is under the control of a Party or is under common control with a Party, while control implies direct or indirect ownership of over 50 percent of the shares of the entity;

“**Agreement**” shall mean this Software License and Services Agreement including any supplementary agreements and/or any other appendices, annexes, schedules or amendment as are adopted or may later be adopted by the Parties in accordance with the terms hereof;

“**API**” shall mean application programming interface of which, *inter alia*, a set of documented access and integration methods and routines via which the Licensed Software is created or via which the Licensed Software interacts with an external system. Such access and integration methods and routines may include, without limitation, authentication data, financial data, events, and network communications, programming languages and function calls and library routines, provided as part of the Software.

“**Applicable Laws**” means all laws and regulations of any jurisdiction in the Territory that are applicable to business operations of the Parties governed by this Agreement, to any of the Parties or to any activity of any of the Parties hereto.

**“Business Day(s)”** shall mean any day from 10am to 19pm GMT+4 other than weekends and public holidays.

**“Client/s”** shall mean third party operators contracted with the Licensee and granted sub-license to use and exploit the Licensed Software in the operation of their gaming business, in accordance with Section 2 of this Agreement

“**Competent Authority**” shall mean any governmental, judicial, regulatory, tax, and/or gambling authority (including any court) in any jurisdiction applicable to this Agreement and the Parties’ activities hereunder of which includes but is not limited to the Malta Gaming Authority, the United Kingdom Gambling Authority, and the Danish Gambling Authority;

**“Confidential Information”** means confidential and/or proprietary information of the other Party or its Affiliate, whether communicated orally or in writing, including, without limitation, information of the other Party concerning inventions, trade secrets, know-how, methods, processes, techniques, code, technologies, existing and potential customer and clients lists, financial information, strategic business plans, other technical, business, and operational information and the terms and conditions of this Agreement;

**“Effective Date”** means the date on which this Agreement has been signed by the Parties. If the Agreement has been signed at two different dates, the latter shall be considered to be the Effective Date.

**“End Users”** shall mean any person, which registers with and fully accepts the terms of the Licensee’s Website(s) and may access and/or use the Licensed Software and/or Services via the Licensee’s Website(s). For removal of doubt it is hereby agreed and declared by Licensee that it shall take all commercially reasonable efforts to ban and geo-block any and all End Users attempting to access the Licensed Software or Services from an IP address of one of the Excluded Territories.

**“Excluded Territories”** shall mean the following jurisdictions: Afghanistan, Antigua & Barbuda, Australia, Bahamas, Bahrain, Barbados, Botswana, Cambodia, China, Cuba, Cyprus, Egypt, France and its territories, Ghana, Guatemala, Haiti, Iran, Iraq, North Korea, Philippines, Singapore, Taiwan, US, Canada, Georgia, Bahamas, Denmark, Gibraltar, UK, Italy, Lithuania, Mongolia, Pakistan, Qatar, South Africa, Spain, Sudan, Sweden, UAE, Uganda, Yemen, Zimbabwe, as well as any other jurisdiction where the operation of on-line gaming business is strictly prohibited or Games and/or Licensor, Licensee or Clients do not have the relevant Gaming Approvals required by the Gaming Regulatory Authorities.

**“Games”** shall mean the skill games and fast games, developed and/or owned by the Licensor and or its Affiliates, as well as their respective updates, whose list may be updated from time to time, depending on the operations of the Licensor.

**“GGR”** means the total of all End Users’ bets received by the Clients and or Licensee, less the total winnings paid to End Users without any deductions.

**“License Fees”** shall mean as stipulated in Annex B.

**“License Rights”** shall mean as stipulated in Section 2 of this Agreement.

**“Material Breach”** shall mean any single or multiple breaches by a Party of its obligations hereunder, which the Party fails to cure within 30 (thirty) calendar days from the date of receiving a notice from the non-breaching Party or which breach – at the non-breaching Party’s reasonable assessment – is incapable of being cured, as well as any other breach of this Agreement that is explicitly mentioned as a Material Breach hereunder.

“**Revenue**” shall mean as defined in Annex B.

“**Services**” shall mean the services that the Licensor undertakes to provide under this Agreement, as specified under Annex C to the Agreement.

“**Licensed** **Software**” shall mean the Games, as well as any other products developed and/or owned by the Licensor or its Affiliates as further specified in Annex A to this Agreement.

“**Term**” shall have the meaning, defined under clause 11 of this Agreement.

**“Territory”** means the entire world excluding the Excluded Territories.

**“Website(s)”** shall mean websites operated and/or serviced by Licensee or any of Licensee’s Clients.

* 1. Unless the context requires otherwise, words denoting the singular shall include the plural and vice versa, references to one gender shall refer to either gender and references to any person shall include corporate bodies (wherever incorporated), unincorporated associations, partnerships and statutory bodies, as well as any legal or natural person.
  2. Clause, paragraph or section headings are inserted for ease of reference only and shall not affect construction.
  3. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of this Agreement.

1. **LICENSE**
   1. During the Term and subject to payment by the Licensee of the License Fees, the Licensor hereby grants to the Licensee the non-exclusive, non-transferable, non-assignable license and right to use and exploit the Licensed Software. The Licensed Software shall be integrated into the Licensee’s platform for use by the Licensee. Licensee shall have the right to grant sub-licenses to its Clients who will exploit the Licensed Software on their Websites for the purpose of:
2. enabling its Clients and/or End Users who are present on the Territory or are nationals of the jurisdictions within the Territory to use the Licensed Software in the Territory, and
3. advertising, marketing and promoting the Licensed Software in the Territory.
   1. The Licensee is entitled to sublicense the licensed rights to its Clients, subject each time to a prior written approval by the Licensor (which can be given by email and shall not be unreasonably withheld). Prior to granting any sublicense approval, the Licensor shall have the right to request the agreement between the Licensee and the Client, as well as any due diligence documents regarding the Client. For the avoidance of doubt, absence of necessary certificates and licenses for a given jurisdiction where the Client operates is considered as a reasonable ground for withholding the approval. Any sub-license rights granted by the Licensee shall further be subject to the following cumulative conditions:
4. The Licensee is and will always be fully responsible (and fully accountable toward Licensor), and shall hold the Licensor harmless, for any act or omission by a Client that if committed by Licensee would have been a breach hereunder,
5. Any sub-license to a Client shall be pursuant to a written and fully executable agreement between the Licensee and the Client through which the Client undertakes, as applicable:
   1. the Client will comply with all applicable requirements imposed on Licensee as set out herein, *mutatis mutandis*; and
   2. that the Client shall not have any right to further sub-license the Licensed Rights.
   3. Nothing in this Agreement shall prohibit the Licensor from granting licenses with respect to the Licensed Software to any other third parties and/or operate the Licensed Software at its discretion. The Licensee shall not nor shall it permit others to use, copy, modify, decode, revers engineer, disassemble, create derivative works from or alter the Licensed Software or any part thereof, in any way unless expressly determined otherwise under this Agreement or upon the Licensor’s prior written consent.
   4. The Licensed Software shall be blocked and not be used, marketed, promoted or target citizens at the Excluded Territories.
   5. The Licensor reserves the right to block additional jurisdictions after giving the Licensee an advance notice of twenty (20) working days. The Licensee agrees and warrants that it and his Clients will not allow End Users located in any of such newly Excluded Territories from being able to access the Licensed Software. In the event of failing to do so, the Licensor is entitled to block access to the Licensed Software for the persons located in and citizens of Excluded Territories.
   6. The Licensee will not be provided with the source code of the Licensed Software. The Licensee cannot perform reverse engineering, decompile, translate, restore or otherwise analyse the Licensed Software source code and cannot otherwise use the code to create derived work unless enabled to do so by a legal regulation or unless the Licensee is granted a prior consent in writing by the Licensor.
6. **THE SOFTWARE**

The Software is provided “as is”, and the Licensor shall not be liable to the Licensee or its End Users for any error or malfunction of the system, except for fails/errors/failures prescribed in Annex C hereto. Licensor does not warrant that the Software will meet any special requirements of condition, quality, performance, Licensee ability or fitness for any purpose of Licensee, or that the Software will generate particular revenues or profits for the Licensee.

1. **LICENSOR WARRANTIES AND OBLIGATIONS**
   1. The Licensor represents that it has all the necessary experience and expertise to provide the Licensed Software to the Licensee as set forth in this Agreement.
   2. The Licensor warrants that it possesses the necessary Intellectual Property Rights to grant Licensee a license to use and exploit the Licensed Software and to grant sub-licenses to the Clients for the use and exploitation of the Licensed Software. The Parties shall use best endeavours to integrate the Licensed Software into the Licensee’s platform and carry out the implementation as efficiently as possible.
   3. The Licensor undertakes to provide to the Licensee adequate online technical integration support including guidance during set-up and help in testing activities.
   4. Subject to the provisions of Annex C to this Agreement, the Licensor undertakes to render support necessary for the operation of the Licensed Software as intended by the Parties, including such support, as:
      1. development of an interface enabling transfer of the necessary data to the Licensee and functioning of the Licensed Software;
      2. installation of upgrades and updates to the Licensed Software;
      3. installation and/or integration of new Games, if applicable;
      4. fixing of system bugs, errors or incompatibilities and installation of releases of fixes for system bugs, errors or incompatibilities.
   5. The Licensor makes no warranties with respect to any harm that may be caused by the transmission of a computer virus, worm, time bomb or other such computer program or harmful data. In particular, the Licensor shall not be liable for any event defect or bur or failure of the Licensed Software to the extent that it results from:
      1. use of the Licensed Software other than in accordance with this Agreement;
      2. failure to operate the Licensed Software on an appropriate hardware or other equipment;
      3. any modification of the Licensed Software not carried out or authorized in advance by the Licensor;
      4. failure of hardware, software, telecommunications, other products or services not supplied by the Licensor; or
      5. any other matter beyond the reasonable control of the Licensor.
2. **LICENSEE RIGHTS AND OBLIGATIONS**
   1. The Licensee or Sub-licensees (as applicable) are solely responsible for the day-to-day operational activities of the Websites, including game marketing, customer support and care, and payment management.
   2. The Licensee represents warrants and undertakes that:
      1. it has full right, power, legal capacity and authority to perform its obligations under this Agreement, subject to regulatory approvals;
      2. the entering by it into this Agreement and the performance thereof, will not conflict with, or breach the terms, conditions or provisions of, or default under any other agreement to which it is a party; and
      3. there is no ongoing or pending action, suit or proceeding at law or in equity now pending or, to its knowledge, threatened by or against or affecting it which would substantially impair its right to carry on its business as contemplated herein or to enter into or perform its obligations under this Agreement, or which adversely affect its financial conditions or operations; and
      4. both it and its associates are not involved in the financing of terrorism and the money laundering activities
   3. the Licensee or its Clients have the right to display on their Websites RNG certificates held by the Licensor.
   4. The Licensee agrees to use reasonable endeavours to market the Licensed Games to both new and existing customers.
   5. The Licensee is prohibited from:
      1. asserting or implying that title or ownership rights in the Licensed Games belong to it;
      2. removing any Licensor copyright or trademark notice;
      3. associating the Licensed Software with any type of malware (such as viruses, worms, spyware, Trojan horses, time bombs, logic bombs or other such computer program or harmful data) or other codes that might be deemed malicious;
      4. using or allowing the use of the Licensed Software in connection with any content that involves offensive or discriminatory materials, depiction of violence, or any content that might be deemed illegal, immoral or discredit, in any manner, the Licensor’s trademark and/or other distinctive marks.
3. **GENERAL WARRANTIES**
   1. The Parties represent and warrant that they possess the right and authority to enter into this Agreement and to perform all of its obligations hereunder.
   2. Each of the Parties represents and warrants that it is duly incorporated and validly existing under the laws of the jurisdiction in which it is incorporated (or, if different, has its principle place of business) and is fully qualified and empowered to own its assets and carry out its business.
4. **LICENSE FEES**
   1. In consideration of providing the Licensed Software and the services hereunder, and performing all its other obligations under this Agreement, the Licensor shall be entitled to receive all the fees and payments in accordance with the terms of this Agreement, including Annex B to this Agreement.
   2. All fees in the Agreement shall exclude any taxes, duties, fees, excises or tariffs imposed on any of Licensee’s activities in connection with the Agreement. Such charges, taxes, duties, fees, excises or tariffs, if any, shall be borne by Licensee.
   3. After the end of each calendar month, Licensor shall issue to Licensee an invoice setting out the License Fees and such invoice shall be paid by Licensee to Licensor within seven (7) days from the date of receipt of the invoice by Licensee by a bank transfer to a bank account appointed by Licensor. If a payment is not made on a timely manner by Licensee, Licensor shall send Licensee a written notice specifying Licensee’s failure to pay the fee when due. In the event that the fee shall not be paid within seven (7) days as of the receipt of the said notice, Licensor shall have the right, at its sole discretion, to immediately suspend and/or block any use of the Licensed Software and/or any license granted, until full payment of any outstanding amount(s) is made by Licensee to Licensor. **For each delayed day Licensee should pay a penalty of 0,25% of outstanding amount per day.**
   4. The Licensor may raise the fees by giving thirty (30) days’ prior written notice, if any third-party content provider increases license fee for any product sublicensed to Licensee.
   5. All payments payable to the Licensor under this Agreement will be paid in EUR. Any sums received by Licensee as revenues in currencies other than EUR shall be converted by Licensee to EUR at the monthly average exchange rates published on the website www.xe.com as soon as practically possible.
   6. For the avoidance of doubt, the Parties explicitly acknowledge and confirm, that the Licensor, in its back office, does not have access to any data of End Users that falls under the category of personal data as defined by the General Data Protection Regulation (GDPR).
   7. For the sake of clarity, the ultimate and binding source of calculations for the Parties is the Licensor’s back office data, in case if Parties fail to reach agreement on the latter.