

## Developer Contract Brass Monkey

### I. Parties

This Agreement is entered into by and between Brass Monkey, Inc., a Delaware corporation with an address at 2 Harris Ave. Jamaica Plain, MA 02130 (“Brass Monkey”) and the individual or entity that will be adapting games for the Brass Monkey platform (“Developer”).

Use of the platform by Developer and provision of the platform by Brass Monkey constitute assent to be bound by these terms.

### II. Background and Purpose

Brass Monkey provides a platform for playing games using mobile devices and an internet connection. Developer will use this platform to enable players to play Developer’s games using personal electronic devices as controllers.

### III. Brass Coins

Brass Coins are a virtual currency that players use to play games on the Brass Monkey platform. Developers and Players may only purchase Brass Coins from Brass Monkey. Developers may purchase Brass Coins to distribute in-game to Players as rewards.

### IV. Compensation

Developers (but never Players) may redeem Brass Coins for cash (in U.S. Dollars) according to an exchange rate that Brass Monkey will establish. Developers must earmark Brass Coins for exchange. Brass Monkey will exchange earmarked Brass Coins for cash monthly. Brass Monkey will only process currency exchanges in excess of \$100 U.S. Dollars. Brass Monkey will attempt to pay Developer in a timely manner, but can only guarantee payments with 90 days.

### V. Licensing

Agreement to these terms grants Developer a nonexclusive, nontransferable, royalty-free license to use Brass Monkey’s SDK solely to modify games for playing on the Brass Monkey platform. This license terminates upon termination of this agreement.

Developer agrees not to attempt to reverse-engineer Brass Monkey’s software, methods or protocols. Developer also agrees not to copy or redistribute Brass Monkey’s software in whole or in part.

### VI. Non-Disclosure

1. Disclosures. To further the business relationship between Brass Monkey and Developer, it may be necessary that Brass Monkey disclose to Developer some of its Confidential Information. For purposes of this Agreement, “Confidential Information” means any information of Brass Monkey whether currently existing or otherwise developed or acquired by Brass Monkey during the term of this Agreement, which is competitively sensitive and not generally known to the public. Confidential Information includes, but is not limited to, Brass Monkey’s code, methods, Developer and player information, and internal documents.

2. Confidential Information. During the period of Brass Monkey and Developer's business relationship with each other and for two years after termination of the relationship, Developer will not, directly or indirectly, use or disclose Confidential Information to others except in the course of performing under its business relationship with Brass Monkey and with the prior written consent of Brass Monkey. For purposes of this section, "business relationship" means the execution of an agreement between Brass Monkey and Developer for Developer to make games available for players on Brass Monkey's platform.
3. Termination of Obligations. The obligations of paragraph 2 will terminate with respect to any particular portion of the Confidential Information when Developer can document that:
  - a. It was rightfully received by Developer from a third party without a similar restriction and without breach of this Agreement or any other Agreement with Brass Monkey; or
  - b. It was in Developer's possession at the time of disclosure by Brass Monkey and was not acquired directly or indirectly from Brass Monkey, and Developer bears the burden of providing competent proof of such possession; or
  - c. Brass Monkey consented in writing to its release.
4. Return of Materials. All materials, including, without limitation, internal documents, computer programs, data, and contacts furnished to Developer by Brass Monkey remain the property of Brass Monkey and must be returned to Brass Monkey promptly at its request together with all duplicates. In the event that the Parties terminate this Agreement, Developer also agrees to destroy and/or delete all physical or computer records containing Confidential Information.
5. Survival of Termination. This paragraph will survive the termination of this Agreement.

**VII. Waivers and Disclaimer of Warranties**

1. Warranties. Brass Monkey specifically disclaims all warranties including, without limitation, all warranties of merchantability or fitness for a particular purpose, and any other warranty, whether expressed or implied.
2. As Is. Brass Monkey does not warrant that the platform will meet Developer's requirements or that operation will be uninterrupted or error free. The platform is accepted "as is." Support, if any, is available at the sole discretion of Brass Monkey. Brass Monkey makes no representation that it will continue development on the platform or that the platform will be made commercially available at any point in time.
3. Waivers. Developer agrees that Brass Monkey shall not be liable for any damages, including, but not limited to, direct, indirect, incidental, special, cover, reliance, or consequential damages arising from use of the platform or related materials.

**VIII. Miscellaneous**

1. Entire Agreement. This Agreement contains the entire agreement between the Parties and replaces all prior oral and written agreements except for the Brass Monkey, Inc. Evaluation License Agreement, which is unaffected. No oral modifications, express or implied, may change the terms of this Agreement.
2. Amendment. The Parties may only amend this Agreement by mutual written consent.
3. Termination. Either Party may terminate this Agreement upon written notice for any reason or no reason at all.
4. Means of Notice. Generally, written notices and other communications described herein

may be made electronically and are effective upon receipt. Other forms of notice may be required in certain circumstances if provided for above.

5. No Assignment or Delegation. Developer may not assign or delegate any right or duty under this Agreement without written consent from Brass Monkey.
6. Governing Law. The formation, construction, and performance of this Agreement must be construed in accordance with the laws of Massachusetts.
7. Jurisdiction Selection. In the event of a dispute arising out of this Agreement, the Parties agree to personal jurisdiction and venue in the state courts of Massachusetts.
8. Costs and Attorneys' Fees. At the conclusion of any litigation or alternative dispute resolution process, the losing Party will reimburse the prevailing Party for its costs and reasonable attorneys' fees.
9. Enforceability and Severability. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it will nevertheless remain in full force and effect in all other circumstances.
10. Waivers. Waivers are only effective when in writing. If a Party waives enforcement of a breach of any term of this Agreement, later breaches of the same or other terms are not waived.
11. Headings. All headings used in this Agreement are for convenience only, and are not to be taken into account when interpreting the meaning of any term of this Agreement.