

## VTS PERFORM TERMS AND CONDITIONS

Version dated March 1<sup>st</sup>, 2025.

The following agreement set forth the conditions under which the Client is granted a user license giving him access to the services available on the VTS Perform Platform.

VTS Perform is published by SERIOUS FACTORY, a French limited company “par actions simplifiée” with a share capital of € 79,196.90 registered at the Nanterre RCS under n° 500 592 183, whose head office is located at 2, rue des Bourets 92150 Suresnes (France) (hereafter « SERIOUS FACTORY »).

No derogatory, special or specific conditions can prevail on this License, except if they have been expressly agreed by SERIOUS FACTORY.

### Whereas

VTS Perform is an online Platform which provides a turn-key solution for the display of digital contents, such as training modules.

Access to the services available on VTS Perform is granted subject to the prior acceptance by Customer of this License.

Customers who have already entered into a license agreement with SERIOUS FACTORY for use of another online application, such as VTS Player, can be authorized under certain conditions to access to VTS Perform.

### Section 1: Definitions

Each term defined hereinafter beginning with a capital letter, whether used in the singular or in the plural form, shall have the meaning set forth below:

**Customer:** means the company or the individual who has subscribed to a License with SERIOUS FACTORY for accessing to VTS Perform.

**Account or VTS Identity or VTS ID:** means the account where the Customer can login in order to access to the User Data or to the services offered by the VTS Suite.

**Content:** means the content created by Customer to be used for the Training.

**User Data:** means the data related to the Users who have subscribed to the Training, such as the number of Users, their names or their scores.

**Third Party Publisher:** means, when applicable, the publisher of a software or of a functionality integrated in VTS Perform, in application of a license agreed upon between such publisher and SERIOUS FACTORY.

**Training:** means the digital training delivered by Customer through VTS Perform.

**Users Forum:** means the forum accessible to Users connected to the same Session.

**License:** means the license related to VTS Perform and granted by SERIOUS FACTORY to Customer.

**Trial License:** means the license granted to a customer, exclusively for testing VTS Perform.

**Session:** means a session of training that can be attended by several Users logged in simultaneously to that session.

**Sub-License:** means the sub-license granted by Customer to a sub-licensee, under the conditions set forth in section 3.1. herein.

**Sub-licensee:** means a person who has been granted a sub-license by a Customer of SERIOUS FACTORY.

**User:** means a person who accesses to a Session through the VTS Perform User interface or through VTS Player.

**VTS Editor Software:** means the proprietary software developed by SERIOUS FACTORY, for creating Contents.

**VTS Player:** means the player allowing to read the Contents created with VTS Editor and the Trainings delivered with VTS Editor.

**VTS Store:** means the area of the platform on which Customer can purchase contents and additional features compliant with VTS.

### Section 2: Requested Information

Any subscription of a License, including of a Trial License, requests that Customer has first completed all the information listed in the subscription file.

Customer undertakes to provide true, relevant, accurate and complete information when completing the subscription file available

Any use of an Account is deemed to have been done by the Customer or under its control, unless the Customer demonstrates that its Account has been hacked into.

Account shall not be sold or transferred to any third party, without SERIOUS FACTORY's express agreement.

### Section 3: License Grant

#### 3.1. Scope of Granted Rights

Subject to the provisions of this License, and under the conditions set forth under section 8 herein, SERIOUS FACTORY grants to Customer a non-exclusive and non-transferrable License, only for the use and purpose referred to in the paragraph here under, on the intellectual property rights related to VTS Perform, including rights of use and reproduction, as described here after.

The License referred to under this section 3 is granted to Customer only for the creation, display and conduct of Trainings to Users. It does not allow Customer to modify or market VTS Perform or any of its features.

The granted License includes:

The right to connect to VTS Perform, open an Account and access to VTS Perform functionalities;

The right to use VTS Perform, for creating, conducting and selling Trainings;

The right to charge fees to the Users or to Sub-Licensees, in consideration of the delivery and conduct of the Trainings;

The right to grant a sub-license to one or several sub-licensees, in order to sell, deliver and conduct a Training.

For the sake of clarity, it is reminded that a Sub-License does not entitle to create Contents, but only to display them to Users during a Session, and to conduct that Session.

In any case,

A clear reference to SERIOUS FACTORY's exclusive intellectual property rights on VTS Perform must be made in the Sub-License;

Only rights related to the display and conduct of the Training can be granted to Sub-Licensees;

The Sub-License must expressly mention that termination of the License between Customer and SERIOUS FACTORY, for whatever reason, automatically terminates the Sub-Licensee between Customer and its Sub-licensee;

No provision of the Sub-License must be likely to limit or contradict SERIOUS FACTORY's rights as expressed in this License. Where applicable, such provision will be considered void and will not be used against SERIOUS FACTORY.

No other rights than those expressly mentioned under this section 3.1 are granted to Customer under this License.

License is granted worldwide and for the duration defined under section 7 herein.

### 3.2. Process of Subscription to a License

The License enters into force on the date of acceptance by Customer and of payment of the price due in compensation for the setting referred to under section 8 herein when applicable.

No license can enter into force as long as the payment referred to under section 8 has not been paid.

### 3.3. No Right of Withdrawal

For the avoidance of doubt, it is recalled that Customer, acting as a professional, is not entitled to any right of withdrawal.

## Section 4: Technical Requirements

VTS Editor Software required the minimal following configuration:

- Operating System: Windows (7, 8, 10), macOS (10.8 à 10.12)
- Graphic Card (GPU):
  - A dedicated graphic card is recommended
  - ATI Sapphire Radeon 5450 or GTX 220 Nvidia (minimum)
  - 512 Go of VRAM (minimum)
- Processor (CPU):
  - With a dedicated GPU: Intel Core i3 or AMD Phenom X3 8650
  - With an integrated GPU: Intel Core i5-2300 2.8Ghz / AMD Phenom II X4 945 3.0 Ghz or equivalent
- Memory: 2Go de RAM (minimum)
- Disk Space: 5Go (minimum).
- A connection to the web is required for using VTS Perform (for the License activation and the use of the services).

The Sessions developed with VTS Editor can be used on the following supports:

- Internet navigators on PC and Mac (with the same minimal configuration that the configuration required for VTS Editor) and accepting WebGL:
  - Mozilla Firefox version 42 or more,
  - Microsoft Edge version 13 or more,
  - Apple Safari macOS 10.8 and beyond,
  - Google Chrome version 46 or more.
- Via the VTS Player:
  - PC/Mac (with the same minimal configuration that the configuration required for VTS Perform)
  - iPhones (6S minimum) & iPad (iPad 3 minimum, iPad 4 or more recent are recommended, under iOS 8.0 minimum)
  - Some Android tablets (OS version 4.4 or more, ARMv7 (Cortex) CPU with NEON or Atom CPU; OpenGL ES 2.0 or more recent, and 2Gb of RAM minimum).

The display of the Training on the selected support is made under the sole Customer's liability.

The Trainings are not intended to be used outside VTS Perform or VTS Player and are not deemed to comply with other software suits.

## Section 5: Creation of the Training

The Customer develops the Training with the Contents that have been created with the VTS Editor Software.

The access and use of the VTS Editor require the subscription of a VTS Editor license with SERIOUS FACTORY at the following address:

<https://seriousfactory.com/en/prices/>

## **Section 6: Display and Conduct of the Training**

The display and conduct of the Training are made with the tools available on VTS Perform.

The display and conduct can be made directly by the Customer or its Sub-Licensee. Where applicable, the Customer provides to its Sub-Licensee the logins which allow it to connect to the tools available on VTS Perform for the display and conduct of the Training Session.

The Users who want to access to the Training can login with their Account on VTS Perform or through VTS Player.

By connecting to VTS Perform, the User can indicate that he/she has joined a Session and allows him/her to download the Training directly on his/her computer or on any other electronic compatible device.

## **Section 7: Term**

### **7.1. Term of the License**

Any new License is granted without limitation of time. It can be terminated at any time with a three-month prior notice to be notified directly via VTS Perform, or by email, or by registered letter with acknowledgment of receipt.

Each Party may terminate this Agreement upon written notice for any material breach of this Agreement, such as infringement of intellectual property rights, payment incident or infringement of VTS Perform rules of use, that the other Party fails to cure within thirty (30) days following written notice sent by registered letters with acknowledgment of receipt or with any means that can be evidenced, specifying such breach, without prejudice to any claim for damages. Except in case of early termination for breach, termination of a License does not automatically results in the closure of the Customer's Accounts.

### **7.2. Effect of Termination**

Upon termination of the License, for whatever reason, Customer is no longer authorized to access to the VTS Perform functionalities.

As a consequence, Customer cannot modify, adapt, export or put on line a new Training.

Except when the conduct of the Training requires a connection on an active Session, termination of the License does not limit the rights of Users to access to the Training, when such Training has been downloaded on their personal devices before the date of termination of the License.

The options that require a connection to VTS Perform are not available after the date of termination of the License.

The termination of the License between SERIOUS FACTORY and Customer automatically results in the termination of the Sub-Licenses that can have been granted by Customer.

After termination of a License for any reason whatsoever, Sections 9 to 12, 15 and 16 shall remain applicable.

## **Section 8: Financial Obligations**

### **8.1. Fees**

The License is granted in consideration of a fee based on the number of Users registered to each Session displayed by the Customer or its Sub-Licensees, knowing that an End User is considered to be liable for the Fee, as soon as he has launched at least one Session in the past month, to access the information derived from it. Excluding fixed costs, the monthly cost being variable by definition, the current price list may be requested by the Customer to SERIOUS FACTORY upon simple request by email or by postal mail.

The details of the Fees and prices are available on the VTS Store, and can be modified at any time by SERIOUS FACTORY. SERIOUS FACTORY shall not however increase its prices more than the average price increase on the software market and to inform the Customer thereof no later than 2 months prior to the implementation of the new price table.

Payments shall include V.A.T. when required.

The conditions of payment and the price charged by the Customer to its Users or by the Customer to its Sub-Licensees are exclusively set up by the Customer, subject those conditions do not infringe SERIOUS FACTORY's rights.

### **8.2. Means of Payment**

The Fees shall be paid on a monthly basis, based on the prices in force during the past month.

Any partial month shall be counted as a full month.

Payment shall be made within thirty days after the date of issuance of the invoice by SERIOUS FACTORY. The invoice is issued at the beginning of the month for the previous month.

In case of discrepancy between the number of Users and logins calculated by SERIOUS FACTORY and the number mentioned by the Customer, SERIOUS FACTORY's calculation shall prevail unless Customer is able to evidence a manifest error by SERIOUS FACTORY.

Payments must be made exclusively with the payment means available on VTS Perform on the date of purchase. Subject to the previous and express consent of SERIOUS FACTORY, Parties can however agree to another means of payment.

### **8.3. Late Payment**

Any late payment will lead to the application of a penalty equal to three times the legal interest rate, from the due date until payment.

A collection fee of € 40 is automatically due in case of late payment.

In addition, in the event of late payment not settled within 8 days, following formal notice to the Customer which has remained unsuccessful, SERIOUS FACTORY reserves the right to suspend the Customer's access to his account and the functionalities available from VTS Perform.

## **Section 9: Warrantees**

Customer warrantees and represents in its name – and when applicable in its Sub-Licensees' name – that it is the legal owner of all the intellectual property and rights of any kind related to the Contents, the Training and to any element whatsoever embedded into the Training.

Customer also warrantees in its name – and when applicable in its Sub-Licensees' name – that no element of the Training, including dialogs, scenario, game play and game design, infringes any third party right or is likely to harm the morality rules. Customer undertakes in its name – and when applicable in its Sub-Licensees' name –, not to broadcast, through the Training, any element that could be deemed to be racist, libellous, denigrating, injurious or contrary to standards of good behaviour.

Further to the warranty set forth in the above paragraph, Customer shall indemnify and keep fully indemnified SERIOUS FACTORY, from and against any and all actions, claims, proceedings, damages, liabilities, awards, costs (including, without limitation, the legal costs) and losses whatsoever which SERIOUS FACTORY may suffer or be required to pay directly or indirectly as a result of any infringement of third party rights by the Contents or the Training displayed by Customer or its Sub-Licensees, following an enforceable court decision (definitive or not) or transaction.

## **Section 10: Liability**

In no event shall SERIOUS FACTORY's liability to Customer exceed the amount of the VTS Perform Royalty for the month in which said liability is incurred.

In no event shall SERIOUS FACTORY be liable for any dysfunction resulting from,

- The use of hardware or software published by a third party, including a hardware or software belonging or used by Customer;
- A service provided by a third party or by the Customer himself.

SERIOUS FACTORY shall not be held liable further to a bad or inappropriate use of the functionalities available on VTS Perform.

Customer expressly acknowledges that SERIOUS FACTORY shall have no responsibility in case of infringement by Customer of its contractual and legal obligations, including in case of breach by Customer of the data privacy rules when collecting the Users' data.

Customer acknowledges that it is its liability to take all the necessary means to protect its interests against any risk, including risk of data loss. To this end, Customer shall make backups or copies of all its data, documents, files and supports.

In no event shall SERIOUS FACTORY be liable for indirect damages sustained by Customer, such as financial loss or loss of business, customers or savings, a disruption to its business, any increase in its costs and overhead expenses, or damage to its brand image that may arise as a result of the nonperformance by SERIOUS FACTORY of its obligations. Shall be regarded as an indirect damage that consequently does not raise a right to indemnity, any claim filed by a third party against Customer.

Customer acknowledges SERIOUS FACTORY's right to temporary interrupt the access to VTS Perform, provided that the Client has been notified at least 48 hours in advance, when one of its computer servers is updated or in case of maintenance operation. SERIOUS FACTORY endeavours to limit the inconveniences for the Customer by doing its best efforts for limiting the interruption to the minimum term required for implementing the contemplated operation.

In no event the Parties shall be liable if the performance of their obligations is suspended or prevented by any case of force majeure, acts of God or any external cause such as: natural disaster, war, earthquake, fire, explosion, riot, governmental intervention, bad weather conditions, water damage, and total or partial breakdown in electric network or telecommunications.

## **Section 11: Intellectual Property Rights related to VTS Perform**

All the Intellectual Property Rights related to VTS Perform and to the software and any other elements embedded into VTS Perform, including – but not limited to - copyrights, trademarks, patents, designs and patent designs, know-how and rights of data base, are exclusively owned by SERIOUS FACTORY or Third Party Publishers, in application of the relevant provisions of the Intellectual Property Code.

Any right whatsoever that has not been expressly granted to Customer under this License shall stay the exclusive property of SERIOUS FACTORY or Third Party Publishers.

Customer expressly acknowledges not to harm or jeopardize, directly or indirectly, including through any third party, individual or company, the intellectual property rights referred to in this section, and undertakes to take any relevant measure required for their protection.

To this end, Customer is strictly forbidden to cause or permit the reverse engineering, decompilation, translation, disassembly, or discovery of the source codes or any part of the source codes and file codes of VTS Perform, except in cases expressly authorized by the in force regulation.

Customer guarantees the respect by its Sub-Licensees of SERIOUS FACTORY Intellectual Property Rights.

« VTS Perform » is a French Trademark registered at INPI under n°4404115, and is the exclusive property of SERIOUS FACTORY.

Customer Content integrated into the Training is and stays the exclusive property of Customer.

## **Section 12: Privacy**

SERIOUS FACTORY's obligations can request the collect of personal data in order to operate the Customer and Users' Accounts, and for delivering the Training. These data are collected, registered and stored according to the 1978 French Privacy Act and to the General Data Protection Regulation.

Personal Data collected by SERIOUS FACTORY are exclusively requested for the implementation of the services referred to in this License or for delivering the Trainings. They also allow SERIOUS FACTORY to better know the needs of its Customers and Users and to offer them, subject to their agreement, new services related to the VTS software.

Each data subject, representative or employee of the Customer or of a User, has a right of access, modification, rectification, erasure or portability of his/her personal data, under the conditions set forth in the French Privacy Act and GDPR.

The rights of access, modification, rectification, erasure or portability referred to in the above paragraph may be implemented by contacting the following address: [administratioATseriousfactory.com](mailto:administratioATseriousfactory.com).

In case of difficulty regarding the processing of his/her data, the data subject can file a claim before the CNIL or any other Data Authority.

Data collected by SERIOUS FACTORY are stored as long as Customer or User has an Account and during three months following the date of termination of the Account. After termination of the Account, the Personal data may be stored on a separate server/space with restrained access and used exclusively further to a complaint by or against the Customer, until the end of the prescription period.

For the sake of clarity it is reminded that Customer is the data controller as defined under Article 4 of the GDPR regarding the Users' data that have been collected.

Hence, Customer undertakes to collect the Users' data in compliance with GDPR obligations, and to update its privacy policy in order to allow the data subjects to exercise their rights.

In case Customer needs to transfer the Users' personal data to SERIOUS FACTORY further to delivery of the Training, it undertakes to request the Users' prior authorization before implementing any data transfer.

Customer acknowledges in its name, and on behalf of its employees, representatives and Users, that as soon as it has shared a data with a social network, an App or a website, SERIOUS FACTORY cannot be held responsible for the implementation of the erasure right on these websites. The data subject will have to contact directly the publisher of the social network for exercising his/her right or erasure.

Cookies can be automatically stored on the Customer internet browser during access to VTS Perform. Cookies cannot allow to identify a person but are small files applied to the Internet browser to track movements within websites. Cookies can be disable by configuring the browser according to the procedure described in the "Internet option" of the browser.

It is recalled that the processing of personal data implemented within the framework of this contract requires compliance with the general data protection regulation 2016/679 of 27 April 2016 (RGPD).

In this respect, SERIOUS FACTORY assimilated to the Customer's subcontractor who is the controller for the performance of the services covered by the contract, and SERIOUS FACTORY undertakes to:

- Process the Data only for the sole purpose(s) that is/are being subcontracted;
- Inform the Client in advance in the event of data processing outside French territory and undertakes to request the prior written authorization of the data controller in the event of data processing outside the territory of the European Union;
- Process the Data in accordance with the Client's documented instructions and in a form that allows the proper performance of the contract.

If SERIOUS FACTORY considers that an instruction constitutes a violation of the European Data Protection Regulation or any other provision of Union law or the law of the Member States relating to data protection, it shall immediately inform the Client. In addition, if SERIOUS FACTORY is required to transfer the Data to a third country or international organization, under the law of the Union or the law of the Member State to which it is subject, it must inform the Client of this legal obligation before processing, unless the law concerned prohibits such information for important reasons of public interest;

- Guarantee the confidentiality of the Data processed;
- Ensure that the persons authorized to process the Data:
  - Are committed to respecting confidentiality or are subject to an appropriate legal obligation of confidentiality;
  - Receive the necessary training or are sufficiently informed about the protection of personal data.



- Take into account, with regard to its tools, products, applications or services, the principles of data protection from the design stage and data protection by default.

As far as possible, SERIOUS FACTORY must help the Client to fulfil its obligation to comply with requests to exercise the rights of the persons concerned: right of access, rectification, deletion and opposition, right to limit processing, right to data portability, right not to be the subject of an automated individual decision.

SERIOUS FACTORY assists the Client in carrying out impact analyses relating to Data protection, as soon as it takes charge of processing operations that the controller considers to justify this approach.

SERIOUS FACTORY undertakes to implement appropriate organizational and technical measures within its application scope (i.e. excluding hosting) to guarantee a level of security adapted to the risk, including, inter alia, according to needs:

- Pseudonymization and encryption of the Data;
- Means to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- The means of restoring the availability of and access to the Data within appropriate time limits in the event of a physical or technical incident;
- A procedure to regularly test, analyze and evaluate the effectiveness of technical and organizational measures to ensure the security of the processing.

At the end of the provision of services relating to the processing of the Data and at the express request of the Client, SERIOUS FACTORY undertakes to destroy all the Data or to transmit them to the Client.

The Customer has the right to access, rectify, delete and object to, the right to limit processing, the right to data portability, the right not to be the subject of an automated individual decision, in accordance with the legislation applicable in France. To this end, the Customer may modify his personal data in the Solution or by writing to SERIOUS FACTORY, 24, quai Gallieni, 92150 SURESNES.

### **Section 13: Users Forum**

SERIOUS FACTORY is considering allowing Users who are connected to a same Session to discuss through a forum available on VTS Perform.

The Customer expressly undertakes not to broadcast, through the forum, any element that could be deemed to be racist, libellous, denigrating, injurious or contrary to standards of good behavior.

SERIOUS FACTORY shall immediately and without notice interrupt the access to the forum in case of infringement of the prohibitions set up in the above paragraph.

Customer acknowledges that the forum must be moderate under its sole liability by deleting any comment or content that is likely to harm third party rights or reputation.

However, if after having been notified by a third party, SERIOUS FACTORY finds that the Customer does not comply with its obligation to moderate the forum, SERIOUS FACTORY will be entitled to delete the controversial comment. SERIOUS FACTORY cannot however be held liable if it did not delete a comment that has been notified to it by a third party. Notwithstanding SERIOUS FACTORY's right of deletion, Customer acknowledges that SERIOUS FACTORY cannot be regarded as the forum publisher.

### **Section 14: Commercial References**

SERIOUS FACTORY undertakes to request Customer's authorization for using its name as a commercial reference on its website or on any commercial material. To this end, SERIOUS FACTORY will send to Customer a copy of the contemplated commercial reference publication. Customer undertakes to allow SERIOUS FACTORY to use its name as a commercial reference except when the contemplated publication is likely to harm its brand image.

### **Section 15: Confidentiality**

The Parties undertake, on their behalf, on behalf of their employees and workers and on behalf of any person having access to their premises, to keep the information defined below confidential (the "Confidential Information").

The following, in particular but not exhaustively, are to be considered confidential information: any information and data that are technical or not technical, but of a sensitive nature, such as ideas, concept, know-how, graphic designs, patterns, tables, marketing, financial or commercial information transmitted by one Party to the other pursuant to performance of these T&Cs.

However, the following Information will not be considered confidential:

- Information in the public domain on the date on which it was transmitted by one Party to the other;
- Information that became well-known or known to the general public, without infringement of any obligation in this document;
- Information disclosed by a third party legally holding it and having the right to disclose it.

The termination of the License for any reason whatsoever does not terminate the obligation of confidentiality stipulated in this section.

### **Section 16: Miscellaneous**

16.1. Should one section hereunder be null and void, it shall not affect the validity of the other sections hereunder. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this License so as to effect

the original intent of the Parties as closely as possible in an acceptable manner for both Parties.

16.2. All derogatory or complementary provision to this License should be agreed by the Parties in writing.

16.3. The titles of the sections hereunder have been selected as mere indicators and shall not affect in any way the interpretation of the provision they are referring to.

16.4. Failure of a Party to invoke the benefit of a provision set forth in this License, even repeatedly, could not constitute a waiver from said Party to any of the sections hereunder.

16.5. This License can be modified at any time by SERIOUS FACTORY. The new license provisions will be sent to Customer

thirty days before entering into force. If Customer did not agree to these new provisions, within this thirty-day period, the License will be submitted to the provisions in force on the date of subscription. In any case, in case of renewal the renewed License will be submitted to the provisions in force on the date of renewal.

16.6. This License shall be governed and construed under French Law.

16.7. If a dispute cannot be settled amicably within eight (8) days from the date on which either Party has served a written notice on the other Party, any question pertaining to the validity, interpretation or performance of this License shall be of the exclusive jurisdiction of the relevant Court of the Paris Court of Appeal (France).