



TERMS AND CONDITIONS

Version dated 1st August 2020

The following Terms and Conditions set out the conditions under which the Client can access the services available on www.seriousfactory.com and on any related subdomains, and define the terms of the licence related to the Virtual Training Software Suite, including the VTS Editor Software.

www.seriousfactory.com (the "Website"), the Virtual Training Software Suite ("VTS"), including, without limitation, the VTS Editor Software ("VTS Editor"), the player of the contents generated through the VTS Editor ("VTS Player"), the content review software ("VTS Reviewer"), and the e-business website ("VTS Store"), are published by SERIOUS FACTORY, a French limited company "par actions simplifiée" with a share capital of € 41,555.90 registered at the Nanterre RCS under n° 500 592 183, whose head office is located at 4 rue Gustave Flourens 92150 SURESNES (France) ("Serious Factory").

No derogatory, special or specific conditions can prevail over these Terms and Conditions, unless they have been expressly agreed by Serious Factory.

WHEREAS

VTS is a software suite allowing its users to create and develop serious games, simulators, and other digital and interactive contents for training and marketing programs. In order to enhance VTS features, Serious Factory also offers additional items and advanced features online.

The use of the services provided by Serious Factory on the Website involves the acceptance of these Terms and Conditions including the Licence terms (the "T&Cs").

These T&Cs are only binding for Customers subscribing to a Licence for professional reasons. A Customer who wants to subscribe to a Licence for their personal and non-professional use must contact Serious Factory directly.

Section 1: Definitions

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

Administrator: means the individual responsible, on behalf of the Customer, for allocating the Credits, Items and Advanced Features to the Writers.

Customer: means the company or the individual who has subscribed to a Licence with Serious Factory.

Account: the private area of the Website where the Administrator or a Writer can log in, in order to access the information related to their Licence, Credits, Items and Advanced Features.

Customer Content: means all the contents integrated by a Customer in the Digital Project, which have not been downloaded from the Primary Library or VTS Store.

Credits: means the units that can be purchased on the VTS Store for buying Items, Advanced Features or specific services.

Third Party Publisher: means, when applicable, the publisher of software or of a functionality integrated in the Software Suite, in application of a licence agreed upon between such a publisher and Serious Factory.

Back Office: means the private area of the Website on which the Administrator, acting on behalf of a Customer, can log in to pay for the Licences and define the Accounts granted to the Writers.

Advanced Feature: means a functionality, such as vocalisation, record or review that can be downloaded from the Library or VTS Store and activated on VTS Editor.

Item: means a virtual item, such as an avatar, a voice file or a design, that can be downloaded from the Library or VTS Store.

Library or Primary Library: means the online library that can be accessed by the Administrator and the Writers on the date of subscription to the Licence, without being requested to purchase any additional Credit.

Licence: means the licence related to the Software Suite granted by Serious Factory to a Customer, under the conditions set out in these T&Cs.

Trial Licence: means the licence granted to a customer, exclusively for testing the Software Suite.

VTS Editor Software: means the proprietary software developed by Serious Factory for creating Digital Projects.

Writer: means a Customer's employee, for whom a Licence has been purchased.

Digital Project: means the serious game, the simulator, the digital interactive content or, any executable created and developed by a Customer through VTS Editor.

Major Release: means any modification of the Software Suite structure that results in a change of technology, or requires reinstalling and migrating the Digital Product already developed by a Customer.

Website: means www.seriousfactory.com and any website related to VTS Editor Software.

Software Suite: means the version of the proprietary software developed by Serious Factory, including VTS Editor Software, for which a Licence has been granted to a Customer.

User: means a user of the Digital Project.

VTS Player: means software enabling the reading of the Digital Projects created with VTS Editor.

VTS Store: means the area of the Website on which a Customer can purchase a Licence or buy Credits.

Section 2: Required Information

Any subscription to a Licence, including to a Trial licence, and the purchase of Credits, require that a Customer has first completed all the information listed in the subscription file available in the Back office.

The Customer undertakes to provide true, relevant, accurate and complete information when completing the subscription file available in the Back Office.

The Licence referred to herein is only for customers using the Software Suite for professional reasons.

If the Customer subscribes to the Licence for nonprofessional use, they must first contact Serious Factory directly.

When the Administrator provides the requires information in the Back Office, they must indicate the names and references of each Writer.

The logins and passwords related to the Customer Accounts can be used exclusively by the Administrator and the authorised Writers.

The Customer, including the Administrator and any Writer, undertakes to keep their password strictly confidential.

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

Accounts shall not be sold or transferred to any third party, without Serious Factory's express agreement.

Section 3: Granting of Licences

3.1. Scope of Rights Granted

Subject to the provisions of these T&Cs, and under the conditions set out under section 8 herein, Serious Factory grants to a Customer a non-exclusive and non-transferrable Licence, only for the use and purpose referred to in the paragraph below on the intellectual property rights related to the Software Suite, including rights of use and reproduction, as described below.

The Licence referred to under this section 3 is granted to a Customer only for the creation of a Digital Project destined to

Users. In no case is the Customer entitled to modify, distribute, sell or market the Software Suite.

The Licence granted includes:

- The right to upload, download, display and execute the Software Suite, on the number of computers and devices referred to in the Licences purchased;
- The right to use the Software Licence under the conditions set out in the Licence, for developing, selling and marketing one or several Digital Projects;
- The right to download the Advanced Features and Items from the Primary Library and VTS Store, for their reproduction and use in the Digital Project;
- The right to charge fees or royalties to Users further to the commercialisation of the Digital Product.

No other right than those expressly stated in this Section 3.1 is granted to the Customer under the Licence.

The Licence is granted for worldwide use and for the duration mentioned under Section 7 herein.

The Licence is granted for all the software and elements included in the Software Suite, and for any update implemented by Serious Factory during the period of validity of the Licence. For the avoidance of doubt, it is specified that the updates do not include any Major Releases.

3.2. Process of Subscription to a Licence

A Customer can subscribe to the number of Licences they want by downloading them from the VTS Store.

A Licence must be subscribed to for each computer or device used by the Administrators and Writers.

Licences are personal and one Licence cannot be used by several persons. A Customer is entitled to uninstall VTS Editor from the work station of a Writer and to name a new Writer in lieu and place of the former one. A Customer can also uninstall VTS Editor from the work station of a Writer and reinstall it on the new computer used by this Writer (migration from work station to work station).

The Licence cannot enter into force if these T&Cs have not been expressly agreed by Customer.

3.3. No Right of Withdrawal

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

In any case, further to the provisions set out in article L221-28,13° of the French Consumer Code, no withdrawal right can be provided to a Customer, including to any consumer, as soon as the VTS Editor Software has been activated.

Section 4: Technical Requirements

VTS Editor Software requires the following minimum configuration:

- Operating System: Windows (7, 8, 10), Mac OS (10.8 to 10.12)
- Graphic Card (GPU):
 - DX9 (Shader model 3.0) or DX11 (with feature level 9.3),
 - 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 Editor Software (for the Licence activation and the use of the services (such as synthetic voices, purchase of Items and Advanced Features). An activation of the Licence can be made without any connection to the web but will not allow the generation of synthetic voices.

The Digital Projects developed with the Software Suite can be used on the following media:

- Internet navigators on PC and Mac (with the same minimal configuration as the configuration required for VTS Editor) and accepting WebGL:
 - Mozilla Firefox version 42 or more,
 - Microsoft Edge version 13 or more,
 - Apple Safari Mac OS 10.8 and beyond,
 - Google Chrome version 46 or more.
- Via the VTS Player:
 - PC/Mac (with the same minimal configuration as the configuration required for VTS Editor)
 - iPad (iPad 2 minimum, iPad 4 or more recent are recommended, under iOS 8.1 minimum)
 - Some Android tablets (OS version 2.3.1 or more, ARMv7 (Cortex) CPU with NEON or Atom CPU; OpenGL ES 2.0 or more recent).

The Digital Project export on the medium selected is made solely under the Customer's liability.

Items and Advanced Features purchased from the Library or VTS Store are not meant to be used without VTS Editor and are not deemed to comply with any other software suite.

A Customer can use the Customer Content purchased on another library or e-store, operated by third party publishers.

Serious Factory does not in any case guarantee that those elements can be used together with VTS Editor Software.

Section 5: Use of the Library and VTS Store

The rights of access of a Writer to the Advanced Features and Items available in the Primary Library and VTS Store are defined by the Administrator and depend on the number of Credits purchased.

A Customer can purchase new Credits at any time in the VTS Store.

Credits are charged according to the prices in force on the date of purchase and mentioned on the Website.

In some cases, Items and Advanced Features can be paid for in Euros or Credits.

Section 6: Training

Customers can subscribe to training sessions in the use of the VTS Editor Software presented by Serious Factory. Serious Factory has no obligation to provide Customers with training when a Customer has not subscribed to a training programme.

Section 7: Term

7.1. Term of the Licence

Any new Licence is granted for a twelve-month period, starting from the date of subscription. The Term will automatically renew for successive similar additional periods, unless terminated in writing by either Party by providing written notice to the other Party at least three months before the end of the current period.

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 the VTS Editor user rules that the other Party fails to correct within thirty (30) days following written notice specifying such a breach, without prejudice to any claim for damages.

Except in case of early termination for breach, termination of a Licence does not automatically result in the closure of the Customer's Accounts. In case of early Termination for breach, the Customer automatically loses their right to use their Credits and has no right to reimbursement.

7.2. Effect of Termination

A Customer has no right to access the Software Suite, Advanced Features and Items after termination of the Licence for any reason whatsoever.

As a consequence, a Customer cannot modify, adapt, export or put their Digital Project online through VTS Editor after the date of termination of the Licence.

Termination of the Licence has no consequence on the export or uploading of the Digital Project if such a process has been completed before the date of termination.

After the Licence termination, a Customer cannot buy new Advanced Features or new Items.

For the avoidance of doubt, it is specified that the Licence termination has no consequence on the developments of the Digital Project that have been implemented before the date of termination.

As a consequence, a Customer is free to use the version of the Digital Project that has been developed before the date of termination, on any agreed platforms and media, subject to those platforms and media still complying with the version of the VTS Player used by the Users.

Credits that are still on the Customer Account on the date of termination can no longer be used and give no right to reimbursement. However, and except in case of early termination for breach, a Customer can ask to benefit from the Credits previously purchased and not used on their former Account, if they subscribe to a new Licence within two (2) months after the date of termination of the former Licence.

A Customer cannot ask for any compensation of any kind if any Credits purchased are still registered on their Account on the date of termination of the Licence.

After termination of a Licence for any reason whatsoever, Sections 9 to 12 and 14 to 16 shall remain applicable.

7.3. Closure of Accounts

A Customer may close their Accounts at any time.

They cannot ask for the reimbursement of the Licence or of any non-used Credits, if at the date of closure of the Accounts, a Licence is still in force or some Credits have not been used.

Section 8: Financial Obligations

8.1. Fees

The Licence fees and prices of the training sessions and Credits are shown in Euros in the VTS Store. The fees and prices charged by Serious Factory are those in force on the date of the purchase. Fees and prices can be modified at any time by Serious Factory. Serious Factory shall not however increase its prices more than the average price increase of the serious and casual games publishing software market.

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

The prices for Advanced Features and Items are shown both in Credits and Euros in the VTS Store.

8.2. Methods of Payment

Payment of the Licence shall occur on the date of subscription. Payment of Credits shall occur on the date of their purchase.

No Licence can enter into force if it has not been paid for in full.

The one year Licence shall be paid for in full on its date of subscription. When the Licence is renewed after the twelve-month initial period, payment of the renewed Licence shall occur on its date of renewal.

The totality of the Licence fees must be paid as soon as a new 12-month period has started.

Payments must be made exclusively with the payment means available on the Website 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.

Serious Factory is entitled to interrupt the Customer's right of access to their Accounts for any delay of payment of more than eight (8) days and until complete payment by the Customer of any payment due.

Section 9: Guarantees

The Customer guarantees and represents that they are the legal owner of all the intellectual property and rights of any kind related to the Digital Project, to the Customer Content, and to any element whatsoever embedded in the Digital Project.

The Customer also guarantees that no element of the Digital Project, including dialogues, scenario, game play and game design, infringes any third party right or is likely to harm the rules of morality. The Customer undertakes in their name and on behalf of the Administrator and the Writers, not to broadcast, through the Digital Project, any element that could be deemed to be racist, libellous, denigrating, injurious or contrary to standards of good behaviour.

Further to the guarantee set out in the above paragraph, the Customer shall indemnify and keep Serious Factory fully indemnified, from and against any and all actions, claims,

proceedings, damages, liabilities, awards, costs (including, without limitation, the legal costs) and any 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 Digital Project published by Customer, following an enforceable court decision (definitive or not) or transaction.

Section 10: Liability

In no event shall Serious Factory's liability to the Customer exceed the Fees charged for the Licences and Credits that have been purchased during the year the damage, for which Serious Factory is held liable, has occurred.

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 hardware or software belonging to or used by the Customer;
- A service provided by a third party or by the Customer themselves.

Serious Factory shall not be held liable further to wrong or inappropriate use of the Advanced Features and Items available in the Primary Library or in the VTS Store.

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

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

In no event shall Serious Factory be liable for indirect damages sustained by a Customer, such as financial loss or loss of business, customers or savings, a disruption to business, any increase in costs and overhead expenses, or damage to their brand image that may arise as a result of the non-performance by Serious Factory of its obligations. It shall be regarded as indirect damage that consequently does not give rise to a right to compensation, any claim filed by a third party against the Customer.

The Customer acknowledges Serious Factory's right to temporarily interrupt access to the Website, when one of its computer servers is updated or in case of any maintenance operation. Serious Factory endeavours to limit the inconvenience for the Customer by making its best effort to limit the interruption to the minimum term required for implementing the planned operation.

In no event shall the Parties 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, government intervention, bad weather conditions, water damage, and total or partial breakdown in the electricity or telecommunications networks.

Section 11: Intellectual Property Rights related to the Software Suite

All the Intellectual Property Rights related to the Software Suite and to the software and any other elements embedded in the Software Suite, including - but not limited to - copyrights, trademarks, patents, designs and patent designs, know-how and rights of data bases, 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 a Customer under these T&Cs shall remain the exclusive property of Serious Factory or Third Party Publishers.

The Customer expressly agrees not to infringe or jeopardise, 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 measures required for their protection.

To this end, the Customer is strictly forbidden to cause or permit the reverse engineering, translation, disassembly, or discovery of the source codes or any part of the source codes and file codes of the VTS Editor Software, and of other current and future software embedded in the Software Suite, except in cases expressly authorised by the current regulations.

"VTS Editor" is a French Trademark registered at INPI under n°4245658, and is the exclusive property of Serious Factory.

Customer Content integrated into the Digital Project is and remains the exclusive property of the Customer.

Section 12: Privacy

Serious Factory's obligations under these T&Cs can require the collection of personal data in order to operate the Administrators' and Writers' Accounts. This data is collected, saved and stored according to the 1978 French Privacy Act and any relevant provisions of European Regulations.

The right to access, modify, rectify or delete personal data, under the conditions set out in the French Privacy Act may be implemented by contacting the following address: administration@seriousfactory.com.

Personal Data collected by Serious Factory is exclusively requested for the implementation of the services referred to in these T&Cs. It is stored as long as the Customer has an Account and for 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 prescribed period.

The Customer expressly undertakes to comply with the regulations related to personal data, when collecting Users' personal data.

In the event that the Customer should need to transfer Users' personal data to Serious Factory further to the use of the Digital Project, they undertake to request the Users' prior authorisation before implementing any data transfer.

Cookies can be automatically stored on the Administrators' or Writers' internet browser during access to the Website. Cookies cannot allow identification of a person but are small files applied to the internet browser to track movements within websites. Cookies can be disabled by configuring the browser according to the procedure described in the browser's "Internet options".

Section 13: Commercial References

Serious Factory undertakes to request Customer's authorisation to use their name as a commercial reference on its Website or on any commercial material. To this end, Serious Factory will send the Customer a copy of the commercial reference publication planned. The Customer undertakes to allow Serious Factory to use their name as a commercial reference except when the publication planned is likely to harm its brand image.

Section 14: 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, is to be considered confidential information: any information and data that is technical or non-technical, but of a sensitive nature, such as ideas, concepts, 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:

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

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

Section 15: Non-Canvassing

During the term of the Licence and for a two-year period following its termination, neither Party shall offer, or seek to offer, employment to any officer, director, or employee of the other Party – or to any person having ceased working with the latter within the preceding two years – either directly or indirectly without prior written consent from the other Party.

Section 16: Miscellaneous

16.1. Should one section herewith be null and void, it shall not affect the validity of the other sections. 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 these Terms and Conditions so as to affect the original intent of the Parties as closely as possible in an acceptable manner for both Parties.

16.2. All derogatory or complementary provisions to these Terms and Conditions should be agreed by the Parties in writing.

16.3. The titles of the articles herewith 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 out in these Terms and Conditions, even repeatedly, cannot constitute a waiver from said Party to any of the articles herewith.

16.5. These T&Cs can be modified at any time by Serious Factory. The new T&Cs will be sent to the Customer thirty days before entering into force. If the Customer should not agree to these new T&Cs, within this thirty day period, the Licence will be subject to the T&Cs in force on the date of subscription. In any case, in case of renewal, the renewed Licence will be subject to the T&Cs in force on the date of renewal.

16.6. These T&Cs 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 these T&Cs shall be subject to the exclusive jurisdiction of the relevant Court of the Paris Court of Appeal (France).