



TERMS AND CONDITIONS

Version dated 1st August 2020

This Agreement set forth the conditions under which the School can access the services available on www.seriousfactory.com and on any related subdomains, and define the terms of the license 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 software of review content (« 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) (hereafter « Serious Factory »).

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

WHEREAS

Virtual Training Suite (“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 online additional items and advanced functionalities.

The use of the services provided by Serious Factory on the Website involves the acceptance of these Terms and Conditions including the License terms (hereafter, the « T&Cs »).

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:

Professor: means the individual in charge of the Students supervision when Students want to use Software Suite for their studies.

School: means the school or university who has subscribed to a License with Serious Factory.

Account: the private area of the Website where the Professor or a Student can login in order to access to the information related to his or her License, Credits, Items and Advanced Functionalities.

Customer Content: means all the contents integrated by School 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 Functionalities or specific services.

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

Back Office: means the private area of the Website on which the Professor, acting on behalf of School, can login in order to pay the Licenses and define the Accounts granted to the Students.

Advanced Functionality: means functionality, such as vocalization, record or review that can be downloaded on 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 on the Library or VTS Store.

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

License: means the license related to the Software Suite granted by Serious Factory to School, under the conditions set forth in these T&Cs.

Trial License: means the license 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.

Student: means an individual registered as a School's student, for whom a License has been subscribed.

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

Major Release: means any modification of the Software Suite structure that results in a change of technology or in a massive modification of the user interface.

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 License has been granted to School.

VTS Player: means the player allowing to read the Digital Projects created with VTS Editor.

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

Section 2: Requested information

Any subscription of a License, including of a Trial license, and the purchase of Credits, request that School has first completed all the information listed in the subscription file available on the Back office or mentioned in the attached order.

School undertakes to provide true, relevant, accurate and complete information when completing the subscription file.

The License referred to herein is only for Schools using the Software Suite for training reasons.

The logins and passwords related the School Accounts can be exclusively used by the Professor and the authorized Students.

The School, including the Professors and any Student, undertake to keep strictly confidential the passwords.

Any use of an Account is deemed to have been done by the School itself or under its control, unless the School 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 these T&Cs, and under the conditions set forth under section 8 herein, Serious Factory grants to School 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 the Software Suite, including rights of use and reproduction, as described here after.

The License referred to under this section 3 is granted to School only for allowing its Students and Professors to create a Digital Project.

The granted License includes :

- The right to upload, download, display and execute the Software Suite, on the number of computers and devices referred to in the purchased Licenses;
- The right to use the Software License, under the conditions set forth in the License, for developing one or several Digital Projects;
- The right to download the Advanced Functionalities and Items on the Primary Library and VTS Store, for reproducing and using them in the Students' Digital Projects;

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

The School acknowledges that the License is granted only for non-commercial use.

The VTS Software Suite and the Digital Projects created with the VTS Software Suite can only be used for training purposes. The School is not entitled to modify, distribute or market the VTS Software Suite and has no right to commercialize the Digital Projects.

The School undertakes in its name, and in the name of its Students and Professors, to abide by the provisions referred to herein.

SERIOUS FACTORY is entitled to terminate the granted License in case of infringement of these provisions.

The License is granted only for being used in the School's premises and for the duration mentioned under Section 7 herein.

The License 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 License. For the avoidance of doubt, it is specified that the updates do not include any Major Releases.

3.2. Process of Subscription to a License

Subscription to a License entitles the School to download an authorized number of Software Suites for Professors and Students, to be used only on their work stations and electronic devices.

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

3.3. No Right of Withdrawal

For the avoidance of doubt, it is recalled that School, 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 School, as soon as the VTS Editor Software has been activated.

Section 4: Technical Requirements

VTS Editor Software requires the minimal following configuration:

- Operating System: Windows (7, SP1+, 8, 10), macOS (10.8 à 10.12)
- Graphic Card (GPU):
 - A dedicated graphic card is recommended
 - With DX9 (shader model 3.0) or DX11 with the level of functionality 9.3
 - 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
 - Accepts SSE2 instruction sets
- Memory: 2Go de RAM (minimum)

- Disk Space: 5Go (minimum).
- A connection to the web is required for using VTS Editor Software (for the License activation and the use of the services (such as synthetic voices, purchase of Items and Advanced Functionalities). An activation of the License can be made without any connection to the web but, as an example, will not allow to generate synthetic voices.

The Digital Projects developed with the Software Suite can be used by Students 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 Editor)
 - iPad (iPad 2 minimum, iPad 4 or more recent are recommended, under iOS 7.0 minimum)
 - Some Android tablets (OS version 4.1 or more, ARMv7 (Cortex) CPU with NEON or Atom CPU; OpenGL ES 2.0 or more recent).

Items and Advanced Functionalities purchased on 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.

School can use the School Content purchased on another library or e-store, operated by third party publishers. Serious Factory does not warrant in any case that those elements can be used together with VTS Editor Software.

Section 5: Use of the Library and VTS Store

School can purchase new Credits at any time on 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 Functionalities can be paid in Euros or Credits.

Section 6: Training

School can subscribe to training sessions for using the VTS Editor Software displayed by Serious Factory. Serious Factory has no obligation to provide School with a training when School has not subscribed to a training program.

Section 7: Term

7.1. Term of the License

Any new License is granted for a twelve months' period, starting from its 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's rules that the other Party fails to cure within thirty (30) days following written notice 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 result in the closure of the School's Accounts. In case of early Termination for breach, School loses automatically its right to use its Credits and has no right to reimbursement.

School acknowledges to have been informed that Serious Factory is entitled to make remote controls on a regularly basis in order to assess the number of Software Suites that have been downloaded under the License.

Should Serious Factory determine that the number of downloaded Software Suites is higher than the authorized number, Serious Factory will be entitled to charge a penalty amounting to twice the current License price for each illegal downloading.

School acknowledges that the number of downloaded Software Suites, calculated by Serious Factory through its remote-control process, shall prevail against any other computation whatsoever, except when School is able to prove that Serious Factory's calculation is clearly incorrect.

In case of unauthorized downloading, Serious Factory should be entitled to terminate the License subject to a thirty days' notice, and charge the School with an updated License based on the actual number of downloaded Software Suites.

7.2. Effect of Termination

School has no right to access to the Software Suite, Advanced Functionalities and Items, after termination of the License for any reason whatsoever.

As a consequence, the Students cannot modify or adapt their Digital Project through VTS Editor after the date of termination of the License.

After the License termination, School cannot buy new Advanced Functionalities or new Items.

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

Credits that are still on the School Account on the date of termination, cannot be used anymore and give no right to

reimbursement. However, and except in case of early termination for breach, School can ask to benefit of the Credits previously purchased and not used on its former Account, if it subscribes to a new License within two (2) months after the date of termination of the former License.

School cannot ask for any indemnity of any kind if some purchased Credits are still registered on its Account on the date of termination of the License.

After termination of a License for any reason whatsoever, Sections 9 to 12 and 14 to 15 shall remain applicable.

7.3. Closure of the Accounts

School may close its Accounts at any time.

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

Serious Factory has the right to terminate an Account on which no purchase has occurred for more than twelve consecutive months.

Section 8: Financial Obligations

8.1. Fees

The License fees and prices of the training sessions and Credits 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 Functionalities and Items are mentioned both in Credits and Euros on the VTS Store.

8.2. Methods of Payment

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

No License can enter into force if it has not been integrally paid.

The one year License shall be integrally paid on its date of subscription. When the License is renewed after the twelve months' initial period, payment of the renewed License shall occur on its date of renewal.

The totality of the License fees must be paid as soon as a new 12 months' 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 School's right of access to his/her Accounts for any delay of payment of more than eight (8) days and until complete payment by School of any due payment.

Section 9: Warrantees

School warrantees and represents that it is the legal owner of all the intellectual property and rights of any kind related to the Digital Project, to the School Content, and to any element whatsoever embedded into the Digital Project.

School also warrantees that no element of the Digital Project, including dialogs, scenario, game play and game design, infringes any third party right or is likely to harm the morality rules. School undertakes in its name and on behalf of the Professor and the Students, 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 warranty set forth in the above paragraph, School 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 Digital Project published by School, following an enforceable court decision (definitive or not) or transaction.

Section 10: Liability

In no event shall Serious Factory's liability to School exceed the Fees charged for the Licenses 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 a hardware or software belonging or used by School;
- A service provided by a third party or by the School himself.



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

School expressly acknowledges that Serious Factory shall have no responsibility in case of infringement by School of its contractual and legal obligations, including in case of breach by School of the data privacy rules.

School 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, School 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 School, such as financial loss or loss of business, Schools 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 School.

School acknowledges Serious Factory's right to temporary interrupt the access to the Website, when one of its computer servers is updated or in case of maintenance operation. Serious Factory endeavours to limit the inconveniences for the School 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 the Software Suite

All the Intellectual Property Rights related to the Software Suite and to the software and any other elements embedded into the Software Suite, 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 School under these T&Cs shall stay the exclusive property of Serious Factory or Third Party Publishers.

School 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, School 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 the VTS Editor Software, and of the other current and future software embedded into the Software Source, except in cases expressly authorized by the in-force regulation.

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

School Content integrated by Students in their Digital Projects is and stays the exclusive property of the School and Students.

Section 12: Privacy

Serious Factory's obligations under these T&Cs can request the collect of personal data in order to operate the Professors' and Students' Accounts. These data are collected, registered and stored according to the 1978 French Privacy Act and any relevant provisions of the European Regulation.

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

Personal Data collected by Serious Factory are exclusively requested for the implementation of the services referred to in these T&Cs. They are stored as long as School 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 School, until the end of the prescription period.

School expressly undertakes to comply with the regulation related to personal data, when collecting its Sudents and Professors' personal data.

Cookies can be automatically stored on the Professors' or Students' internet browser during access to the Website. Cookies cannot allow identifying 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.

Section 13: Commercial References

Serious Factory undertakes to request School'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 School a copy of the contemplated commercial reference publication. School 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 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, 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:

- 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 License for any reason whatsoever does not terminate the obligation of confidentiality stipulated in this article.

Section 15: Miscellaneous

15.1. 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 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.

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

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

15.4. Failure of a Party to invoke the benefit of a provision set forth in these Terms and Conditions, even repeatedly, could not constitute a waiver from said Party to any of the articles hereunder.

15.5. These T&Cs can be modified at any time by Serious Factory. The new T&Cs will be sent to School thirty days before entering into force. If School did not agree to these new T&Cs, within this thirty days' period, the License will be submitted to the T&Cs in force on the date of subscription. In any case, in case of renewal the renewed License will be submitted to the T&Cs in force on the date of renewal.

15.6. This T&Cs shall be governed and construed under French Law.

15.7. 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 of the exclusive jurisdiction of the relevant Court of the Paris Court of Appeal (France).

The School	Serious Factory
Contact Name Name of the School Representative Phone: Email: Address: Company or society registration number, (if any)	Contact Name Name Phone: Email:
Invoice Reference Name Phone: Email: Order Reference:	
Number of authorized downloading:	

Date and Signature :