

FUNDAMENTALLY GAMES – HEADS OF TERMS

Date: _____

Developer	[COMPANY NAME] (Company No. [NUMBER]) of [COMPANY REGISTERED ADDRESS]
FG	FUNDAMENTALLY GAMES LTD (Company No. 11701663) of 3 rd Floor 86-90 Paul Street, London, United Kingdom, EC2A 4NE, UK
Product	The game entitled [NAME OF GAME] including all related add-ons, localised versions and additional content
Earliest Anticipated Product Launch Date	[DATE]
Services	<ol style="list-style-type: none"> 1. LiveOps 2. [Publishing] 3. [User Acquisition funding] 4. [User Acquisition management] <p><i>The services that we will provide – to be agreed between you and us which ones are required.</i></p>
Platforms (and Services per Platform)	<p>[TO BE AGREED]</p> <p><i>For example, we may provide LiveOps Services for more Platforms than those for which we provide other Services.</i></p>
Territories (inc. per Platform and Services)	<p>Global</p> <p><i>Note that we may look to work with specialist partners for a specific territory if it isn't within our area of expertise (for example, China).</i></p>
Term	<p>Initial term of 3 years from Launch.</p> <p>Auto-renews for successive terms of 3 years, unless either party cancels the renewal at the end of the initial or successive term by giving at least 90 days' prior written notice.</p>
Intended Timeline	<p>Based on a typical timeline for FG, once the Developer has a build that has incorporated all intended features for Launch, then the period until the Product's initial commercial launch (Launch) will likely be at least 6 months, which will include:</p> <ul style="list-style-type: none"> • FG internal review • Initial market testing (gameplay focused) • Beta testing (retention focused) • ROI testing (monetisation focused)

	<ul style="list-style-type: none"> • Developer implementing updates based on mutually agreed recommendation <p>Timescales vary per project and are subject to Developer and FG timings. Timelines for games signed prior to having a build ready for market testing will be longer. The intended timeline will be agreed upfront between FG and Developer, and reviewed and adjusted as necessary on an ongoing basis by both parties, to ensure the Product is ready for Launch.</p>
RIGHTS	
Intellectual property rights	<p>Developer retains all intellectual property rights in the Product, including any additional content, add-ons and localised versions.</p> <p>Developer grants FG an exclusive worldwide licence in those intellectual property rights and publishing and exploitation rights of the Product so that FG can deliver its commitments under the Long-Form Agreement.</p>
Sequels/prequels/spin-offs	<p>FG has a right of first look and negotiation to provide its services for any sequels, prequels or spin-off games that are based on the Product.</p> <p><i>We hope that the experience of working with us will have been positive and leads to a longer-term relationship. As such, we would like the first opportunity to discuss working with you on a sequel, prequel or spin-off game. But ultimately, it's up to you.</i></p>
Ports	<p>If FG has provided a particular Service for all Platforms, it is entitled (but not obliged) to provide that same Service for all ports of the Product, on the same terms as those that apply to the Product.</p> <p>If FG has provided a particular Service for one or more Platforms (but not all Platforms), FG has a right of first negotiation to provide that Service for any ports of the Product.</p> <p><i>For example, if the Platforms are 'mobile' and 'PC' and we provide LiveOps Services for both those Platforms but we provide Publishing Services for mobile only, we would have an automatic option to provide LiveOps Services for a console port and a right of first negotiation to provide Publishing Services a console port.</i></p>
FG's rights over Developer's other games.	None, unless those games are specifically part of these Heads of Terms and defined under the definition of Product above.
Non-compete	<p>None.</p> <p><i>You are free all times to develop and exploit your other games.</i></p>
Ancillary Rights	<p>Developer and FG will discuss in good faith any proposals for the exploitation of ancillary rights to the Product, including merchandising rights, film and television rights or any other derivative rights, products or productions (Ancillary Rights). Either party can make proposals to the other party at any time, and the other party shall not unreasonably withhold its approval to a proposal.</p> <p>Both parties will be entitled to recoup their direct costs (where mutually approved) from the first Ancillary Rights revenues. If FG is solely involved, then the Ancillary Rights revenue split (post-recoupment of costs) will be 50/50. If</p>

	Developer is solely involved, then the Ancillary Rights revenue split (post-recoupment of costs) will be 90/10 in favour of Developer.
COMMITMENTS AND APPROVALS	
<p>[User Acquisition (UA) funding & management / other marketing activity and spend]</p>	<p><i>[If FG is not providing UA funding - Developer acknowledges that UA funding is required for the Product and Developer will provide (or procure from a third party) UA funding for the testing and scaling of the Product. Developer acknowledges that without sufficient UA funding, the commercial viability of the Product will be compromised. FG will advise on the level of UA funding required for the Product.</i></p> <p><i>If FG is not providing UA management - Developer acknowledges that UA management is required for the Product and Developer will need to manage (or procure that a third party manages) the UA including the placement and optimisation of ads and in-game ads using data analysis.</i></p> <p><i>For clarity, User Acquisition (UA) refers to any paid activity intended to drive direct adoption, which will be delivered differently for PC/console compared to mobile.</i></p> <p><i>If FG is not providing Publishing - Developer acknowledges that marketing activity and spend may be required for the Product and, if so, Developer will fund and manage the marketing activity and spend.]</i></p>
<p>Key Approvals</p>	<p>The following elements will be mutually discussed and agreed between Developer and FG:</p> <ul style="list-style-type: none"> • Tone of voice and brand identity, including messaging and imagery styles. • KPIs for what success looks like – revised from time to time. • General principles of LiveOps activity. • Specific set of LiveOps activities – agreed quarterly. • Content and features to be released for the Product – agreed monthly or quarterly – provided that Developer will retain ultimate creative control. • Anticipated and planned UA funding budget, by [FG or Developer] (<i>depending on which party is funding UA</i>) – revised from time to time. • Anticipated and planned costs for creating bespoke marketing materials (e.g. trailers), and PR, by FG (if relevant). • Ads and in-game ad guidelines (if relevant). • Optional involvement from Developer in community and, if Developer opts in, associated coordination of work. • <i>[If FG is providing Publishing Services - then optional involvement from Developer in marketing activity, and if Developer opts in, associated coordination of work.]</i><i>[If FG is not providing Publishing Services - coordination of Developer marketing activity with FG activities.]</i> <p>Once any of the elements listed above has been mutually agreed, FG and/or Developer is entitled to undertake its activities relating to that element without further approval. If any proposed activity would conflict with the agreed element, the relevant party must obtain the prior approval of the other party to the proposed activity.</p> <p>Each party may provide feedback on ongoing activities undertaken by the other party at any time, should it wish to do so, including reasonable requests for changes to the activities going forward.</p>

	Both parties agree to take all proposals into consideration in good faith and not to unreasonably withhold or delay their approval. Both parties acknowledge that a that refusal to provide approval could impact upon the commercial success of the Product.
Key Developer Commitments	<ol style="list-style-type: none"> 1. Product development, DevOps, localisation and quality assurance (QA) 2. Delivery of content/features ongoing for the lifetime of the Product, to agreed schedules and specifications, fully QA tested 3. Server-side hosting and management of the game, either directly or through 3rd party providers 4. [Community management activity as agreed] <i>(if Developer has opted to contribute to community management activity)</i> 5. [Coordinate with FG on agreed marketing activity] OR [Coordinate with FG on delivery of marketing activity] <i>(depending which party is responsible for marketing)</i> 6. [Pre-launch, launch and post-launch UA funding – released in stages based on data, coordinate with FG] <i>(if FG is not UA funding)</i> 7. [Positioning of ads across relevant advertising and promotional platforms] <i>(if FG is not providing User Acquisition management)</i> 8. [In-game ad positioning and associated activities] <i>(if FG is not providing User Acquisition management)</i>
Key FG Commitments	<ol style="list-style-type: none"> 1. Delivery of LiveOps activities including events and promotions and release of content and features (provided by Developer) 2. Data and sentiment analysis, including against agreed KPIs 3. Make recommendations on content and features for the Product 4. Run UA testing program, to gather data from real users, and optimise the player experience and verify KPIs, prior to Launch 5. Community management [and coordinate with Developer community management activity] <i>(if Developer has opted to contribute to community management activity)</i> 6. [All marketing activity] OR [Coordinate with Developer on marketing activity] <i>(depending which party is responsible for marketing)</i> 7. [All Pre-launch, launch and post-launch UA funding, released in stages based on data] OR [Coordinate with Developer on its Pre-launch, launch and post-launch UA funding] <i>(depending which party is responsible for UA funding)</i> 8. [Positioning of ads across relevant advertising and promotional platforms] OR [Coordinate with Developer on its Ads positioning across

	<p>relevant advertising and promotional platforms] <i>(depending which party is responsible for UA management)</i></p> <p>9. [In-game ad positioning and associated activities] OR [Coordinate with Developer on its in-game ad positioning and associated activities] <i>(depending which party is responsible for UA management)</i></p>
FINANCIALS	
Gross Revenues	<p>Any revenues received by FG/Developer or an Affiliate (after deduction solely of any third-party Platform or distribution fees and any value added tax or other applicable taxes related to the Product) in respect of any exploitation of the Product on all Platforms in the Territories.</p> <p>If the Developer inadvertently receives any revenues it shall hold such revenues on trust for FG and pay the same directly to FG without deduction.</p>
FG's Recoupable Costs	<p>FG shall first recoup from Gross Revenues its recoupable costs which have been pre-agreed by all parties who receive a share of Net Revenues (such agreement not to be unreasonably withheld). The recoupable costs shall be the following:</p> <ol style="list-style-type: none"> 1. UA (testing and scaling) funding costs; and 2. Costs for creating bespoke marketing materials (e.g. trailers), and PR <i>(if relevant)</i> <p>None of FG's recoupable costs shall be internal costs except for the pre-agreed costs relating to creating certain marketing assets (images, videos, gifs) and PR <i>(if relevant)</i>.</p>
Net Revenues	The Gross Revenues less FG's Recoupable Costs
FG's share of Net Revenues	<p>FG's share of Net Revenues is as follows:</p> <ul style="list-style-type: none"> • For Liveops Services only: <ul style="list-style-type: none"> ○ 20% until Net Revenues are equal to US\$500,000; thereafter ○ 15% until Net Revenues are equal to US\$1,000,000; thereafter ○ 10% until Net Revenues are equal to US\$5,000,000; thereafter ○ 5% of Net Revenues • For Publishing, UA funding and UA management Services: <ul style="list-style-type: none"> ○ 15% of Net Revenues <p><i>Note: If you choose a different combination of Services, the % will be adjusted accordingly.</i></p> <p><i>For clarity, we would only be entitled to our Net Revenue share on revenues earned from Platforms for which we are providing the relevant Service. So, for example, if we provide Publishing, UA funding and UA management Services for</i></p>

	<i>mobile platforms only, we would only be entitled to 15% of Net Revenues earned from mobile platforms (and not from PC or console platforms).</i>
Calculation of Net Revenues / reserve	<p>In order to calculate the Net Revenue shares due each month to Developer and FG, the parties will take into account the Net Revenues received over the past 12 months or, if fewer than 12 months have elapsed since the date of Launch, the number of months that has elapsed since the date of Launch.</p> <p><i>For example, if FG is providing Liveops, Publishing, UA Funding and UA management Services, and the Net Revenues for the past 12 months are US\$10,000,000, FG will be entitled to US\$2,325,000 for that period broken down as follows:</i></p> <ul style="list-style-type: none"> • For Liveops Services: <ul style="list-style-type: none"> ○ <i>US\$100,000 – being 20% until Net Revenues are equal to US\$500,000; thereafter</i> ○ <i>US\$75,000 - being 15% until Net Revenues are equal to US\$1,000,000; thereafter</i> ○ <i>US\$400,000 – being 10% until Net Revenues are equal to US\$5,000,000; thereafter</i> ○ <i>US\$250,000 – being 5% until Net Revenues are equal to US\$10,000,000</i> • For Publishing, UA funding and UA management Services: <ul style="list-style-type: none"> ○ <i>US\$1,500,000 - being 15% of Net Revenues</i> <p>[FG/Developer] is entitled to create a reserve for refunds/returns, which cannot be more than 10% of Net Revenues owed to [Developer/FG].</p>
Payments / reports / audit right	<p>If FG is providing Publishing services, then it shall receive revenues from the exploitation of the Product and pay Developer amounts due to it. If FG is not providing Publishing services, then Developer shall receive revenues from the exploitation of the Product and pay FG amounts due to it.</p> <p>Whichever party receives revenues shall use reasonable endeavours to pay the other party its share of Net Revenues within 15 days (and subject to a maximum of 30 days) of receiving any Net Revenues in its bank account.</p> <p>Whichever party receives revenues shall also provide the other party with monthly Net Revenue reports and the other party shall have a right of audit.</p>
Video Game Tax Relief (VGTR)	FG has no rights over the VGTR for the Product. Developer is entitled to retain the full benefit of the VGTR.
MISCELLANEOUS	
Credits / press releases	FG and Developer shall be credited or listed with equal prominence in all places (including in-game and in marketing materials). For these purposes, each party

	<p>will provide brand guidelines to the other party, which may be updated from time to time.</p> <p>FG and Developer shall jointly pre-agree any press releases relating to the Product.</p>
Long-Form Agreement	As soon as possible after the date of these Heads of Terms, the parties intend to enter into due diligence phase, subject to which they will enter into a binding long-form agreement incorporating the terms set out herein together with other mutually agreed terms.
Termination	<p>Either Developer or FG may terminate the Long-Form Agreement:</p> <ul style="list-style-type: none"> • for material breach or insolvency of the other party • at the end of the initial 3-year term or any subsequent 3-year renewal • if for any 3 successive quarters, mutually agreed Net Revenue targets are not met <p>FG may also terminate the Long-Form Agreement at will prior to Launch.</p>
Consequences of termination	<p>For material breach or insolvency:</p> <ul style="list-style-type: none"> • if Developer terminates, FG loses its right to recoup its Recoupable Costs (except for UA (testing and scaling) funding costs) and to be paid any revenues from the Product • if FG terminates, FG is entitled to recoup its Recoupable Costs and to receive a 5% net revenue share in perpetuity <p>For end of term or failure to meet agreed Net Revenue targets for 3 successive quarters:</p> <ul style="list-style-type: none"> • if Developer terminates, FG is entitled to recoup its Recoupable Costs and to receive a 5% net revenue share in perpetuity • if FG terminates, FG is entitled to recoup its Recoupable Costs but is not entitled to any revenue share <p>If FG terminates at will prior to Launch, it is entitled to recoup its Recoupable Costs from the Net Revenues (if any) received up to the date of termination (but is not entitled to any revenues received after the date of termination).</p> <p>Developer is entirely free to use and/or exploit the Product as it wishes post-termination.</p>
Other terms	<i>[Any additional points here]</i>

This document is a Heads of Terms which sets out the intent of the parties and is not formal or binding on either party unless and until the Long-Form Agreement has been entered into and signed by both parties.

Signed by **[NAME OF DIRECTOR]**
for and on behalf of **[NAME OF DEVELOPER]**

.....
Director

Signed by **[NAME OF DIRECTOR]**
for and on behalf of **FUNDAMENTALLY GAMES LTD**

.....
Director