



Game Provision Agreement

This **GAME PROVISION AGREEMENT** (this “**Agreement**”) is effective as from 04.02.2022 (the “**Commencement Date**”) and is made between:

(1) **HGCU B.V.**, Company Registration Number 146613, having its registered address at Fransche Bloemweg 4, Curaçao and holder of the Curacao (sub) license 1668 JAZ (hereinafter “**Hacksaw**”); and

(2) **OnyxioN B.V.**, Company Registration Number 151296 a company incorporated under the laws of Curacao, having its registered office at Abraham Mendez Chumaceiro Boulevard 50, Willemstad PO BOX 4750, Curaçao and holder of gaming license of Curacao eGaming (license number 1668 JAZ) (hereinafter “**COMPANY**”).

Each of Hacksaw and COMPANY is hereinafter referred to individually as a “**Party**” and jointly as the “**Parties**”.

RECITALS

Whereas:

- a. Hacksaw is a Game developer;
- b. COMPANY is a provider of online gambling services to End Users; and
- c. COMPANY now wishes to obtain, and Hacksaw wishes to provide, COMPANY with access to the Games in terms of this Agreement.

NOW THEREFORE, the Parties hereby agree as follows:

1. DEFINITIONS

The capitalised words, terms and, or expressions used in this Agreement shall be ascribed the meaning assigned thereto in Appendix 1 of this Agreement unless the context clearly and unequivocally requires otherwise.

2. PROVISION OF THE GAMES

- 2.1. Limitedly for the duration of this Agreement and subject to its terms and conditions, Hacksaw hereby grants to the COMPANY a non-exclusive, non-transferable, and non-sublicensable license to use the Games solely for providing End Users with access to the Games.
- 2.2. Access to the Games shall be made available via the COMPANY’s Websites only. End User shall be able to access and play the Games by using their existing End User log-in and accounts on COMPANY’s Website.
- 2.3. Hacksaw will provide and set up the required API between COMPANY’s Website and Hacksaw’s systems no later than seven (7) days after the COMPANY’s acceptance of the Games’ integration in a staging environment.

2.4. The Games may be subject to specific Game T&Cs as communicated by Hacksaw to the COMPANY from time to time.

2.5. In the event of an End User Game win exceeding ten-thousand Euros (€10,000), or the equivalent amount in the bet placement currency on the date of End User bet placement, the COMPANY shall verify with Hacksaw whether the Game suffered from any error, bug or malfunction, or otherwise the Game (including its random number generator) did not perform in accordance with its specifications. Such verification shall be made by the COMPANY by sending an email to partners@hacksawgaming.com and verification shall be provided by Hacksaw by responding to such verification email request. Hacksaw shall bear no responsibility or liability of whatsoever description with respect to any Erroneous Winning unless such winning has been previously verified as correct from the perspective that the Game functioned correctly by Hacksaw on the COMPANY's request.

3. GAME INTEGRATION

Hacksaw shall provide the reasonably necessary services for the integration of the Games (as available from Hacksaw on the date of this Agreement) to the COMPANY's technology systems free of charge.

4. GAME ADDITION AND REMOVAL

4.1. Hacksaw shall have the right to add and, or remove Games in its absolute and sole discretion, without the need of any reason or cause, by giving one (1) week prior notice in writing to the COMPANY.

4.2. If a Game is malfunctioning or otherwise not performing in accordance with its specifications, Hacksaw shall have the right to immediately take down the availability of such Game until such malfunction or performance issue has been addressed by Hacksaw.

4.3. No deduction of the Fees or compensation of whatsoever description shall be due to the COMPANY if Hacksaw removes any Games.

4.4. When adding new or additional Games (or additional versions thereof), Hacksaw shall:

- a. Assist the COMPANY in implementing such Games as may be agreed by Hacksaw; and
- b. Notify the COMPANY in writing of:
 - i. The name and nature of the Games;
 - ii. The estimated time when the Games are planned to be launched;

- iii. Any amendments or other measures that the COMPANY may need to take in their technology systems if they wish to implement and provide the additional Games to End Users;
- iv. The Game T&Cs (where applicable); and
- v. Any additional set-up fee or other fee (including any third-party license fee) related to such additional or new Games, if any.

4.5. The COMPANY shall have no obligation to accept any new or additional Games offered thereto by Hacksaw.

4.6. Addition by COMPANY of any new or additional Games provided by Hacksaw on their Website shall imply automatic acceptance of such Games and consequently, the COMPANY hereby agrees that any Bets originating from such Games will be included in the calculation of the Fees.

5. PROHIBITED JURISDICTIONS

The COMPANY shall not use any of the Games to provide End User access in or directed to any Prohibited Jurisdiction.

6. DUE DILIGENCE

6.1. Hacksaw shall carry out appropriate due diligence exercises upon the COMPANY as may be deemed appropriate by Hacksaw in line with Hacksaw's policies on Anti Money Laundering.

6.2. This Agreement and subsequent provision of Game(s) shall not come into effect prior to the conclusion of such due diligence exercises and Hacksaw's approval to go live in writing. Should such exercises result in adverse findings concerning the COMPANY, Hacksaw shall reserve the right to unilaterally terminate this Agreement with immediate effect.

7. AVAILABILITY AND SERVICE LEVELS

7.1. Hacksaw shall use commercially reasonable efforts to ensure that the Games will, from the Go Live Date and thereafter for the duration of this Agreement, be available and operate materially in accordance with their specifications (as available from Hacksaw on request) in terms of the Service Level Agreement appended hereto as Appendix 4.

7.2. Any service level and Support Services to be provided by Hacksaw to the COMPANY under this Agreement shall be regulated by the Service Level Agreement appended hereto in Appendix 4.

8. WARRANTIES

8.1. Each Party warrants to the other Party that:

- a. it is duly incorporated under its applicable laws;
- b. it is not in default under any contractual, legal, administrative or regulatory obligation under its applicable laws which materially and adversely affects or is likely to materially and adversely affect the ability to perform this Agreement;
- c. it shall execute in good faith all and any obligations incumbent thereon under this Agreement;
- d. it has authority to enter into this Agreement;
- e. once executed, this Agreement shall constitute valid, enforceable and binding obligations on the Parties hereto;
- f. it is not engaged and, so far as it reasonably aware, is not about to engage in any litigation or arbitration of any material importance to this Agreement and to the best of the knowledge, information and belief of that Party no such litigation or arbitration is pending or threatened against it; and
- g. the information supplied to the other Party is accurate, true or complete.

8.2. The COMPANY warrants that:

- a. it will use appropriate and industry standard software to block and restrict access to the Games to all End Users located in a Prohibited Jurisdiction;
- b. it will keep any of the gaming/gambling licenses/authorisations/permits it holds that are necessary for the performance of this Agreement in good standing; and
- c. it is and shall remain fully compliant with the legislation applicable thereto, including but not limited to gaming legislation, license conditions, regulatory and compliance requirements, responsible gaming requirements, anti-money laundering and funding of terrorism applicable legislation (including the carrying out of due diligence and know-your-client measures on its End Users, identity and verification checks, monitoring potential and actual fraudulent transactions and bonus abuse) and data protection legislation.

8.3. Hacksaw hereby warrants that it owns, or holds the right, to use and to license (or sub-license) the Games on the terms set out in this Agreement.

9. WARRANTY EXCLUSION

The Parties hereby agree that the Games, license and services provided by Hacksaw to the COMPANY under this Agreement shall be provided on an “as is” basis, without any warranty of any kind, whether implied, express or statutory, including but not limited to without any warranties of functionality, availability, completeness or accuracy, fitness for a particular purpose, merchantability or lack of viruses or errors.

10. LIABILITY

- 10.1. Hacksaw shall not be liable to the COMPANY for any indirect, incidental or consequential damages or liability of any kind, including but not limited to any special, exemplary or punitive damages, loss of profits, loss of goodwill, loss of time, business interruption, loss of data, even if advised of the possibility of such damages, and regardless of the form of action, whether in contract, tort, strict liability or otherwise, including, without limitation, such damages arising out of or relating to this Agreement, or the use of, access to, reliance on, functionality of, inability to use, or improper use of, the Games.
- 10.2. The COMPANY hereby agrees that it shall not hold Hacksaw liable for any loss, damage or liability of whatsoever description arising from:
- a. any Game malware, virus, bug, error or mistake, even if incapable of remedy;
 - b. any Game interruption or non-availability within the scope of the Service Level Agreement; and
 - c. any Force Majeure.
- 10.3. Where damages may be compensated, each Party's maximum liability to the other Party, whether in contract, tort, negligence or otherwise, for all damages, losses, claims and causes of action whatsoever arising out of or in connection with this Agreement, shall be limited to fifty percent (50%) of the Fees actually paid by the COMPANY to Hacksaw during the calendar year under which such liability arises, or in case the liability is related to several calendar years, to the calendar year to which such liability allegedly relates that has the highest amount of liability attribution. Each Party hereby releases the other Party from all liability, claims or demands in excess of this liability capping. This liability capping shall also apply to any liability arising under an indemnity. This liability capping shall however not apply to any liability arising from the COMPANY's obligation to pay the Fees.
- 10.4. Nothing in this Agreement shall exclude or limit a Party's liability for any wilful misconduct, gross negligence or bad faith.

11. INDEMNITY

- 11.1. Each Party ("**Indemnifying Party**") hereby agrees to fully indemnify and hold harmless the other Party ("**Indemnified Party**") and its employees, directors, contractors, consultants and associates for and against any and all claims, losses, liabilities, costs expenses or damages (including reasonable legal fees) incurred by reason of any claim, demand, lawsuit or action by a third party resulting from the Indemnifying Party's breach of this Agreement and, or breach of applicable laws and, or breach of third party rights.

- 11.2. The COMPANY hereby agrees to fully indemnify and hold harmless Hacksaw and its employees, directors, contractors, consultants and associates for and against any and all claims, losses, liabilities, costs expenses or damages (including reasonable legal fees) incurred by reason of any claim, demand, lawsuit or action by an End User and/or by a supervisory authority or institution.

12. PROCESSING OF PERSONAL DATA

The Parties hereby agree that the Processing of End User Personal Data under this Agreement shall be regulated by the Data Processing Agreement appended hereto in Appendix 3.

13. CHANGE OF CONTROL

Each Party shall notify the other Party in writing at least ten (10) Working Days before undertaking a Change of Control.

14. FEES

- 14.1. The COMPANY shall pay to Hacksaw the Fees in consideration of the Games, services and licenses provided under this Agreement.
- 14.2. The Fees shall be paid by the COMPANY without deduction or set off and free of any withholding or deduction in respect of any taxes or duties. If the COMPANY is required by law to withhold or deduct tax, the amount of each payment must be treated as increased to the extent necessary to ensure that, after any withholding or deduction, Hacksaw receives a net sum equal to the amount due thereto in terms of Appendix 2.
- 14.3. Hacksaw's administration system shall be used to determine Bets, Wins and the total cost related thereto.
- 14.4. Prior to the fifteenth (15th) day of each calendar month, Hacksaw shall provide the COMPANY with a statement showing all Fees due in respect of the preceding calendar month together with an invoice for the amount due and payable to Hacksaw. Such invoice shall be due and payable as of its date.
- 14.5. In case of late payment of the Fees by the COMPANY, late payment interest shall accrue at the rate of eight percent (8%) per annum, from the date when payment became due and until the date that full payment has been received by Hacksaw.
- 14.6. In addition to interest for late payment and to any other remedies available to Hacksaw, Hacksaw has the right to, in case of late payment and at Hacksaw's sole discretion by providing the COMPANY with at least twenty-four (24) hours' prior notice of its intention to do so, suspend the COMPANY's access to the Games until full

payment has been duly received by Hacksaw, upon which point full access to the Games shall be restored as soon as reasonably possible.

14.7. All payments under this Agreement shall be made in Euros (€) and shall be calculated using the exchange rate on the respective day when the End User Bet was placed with the Operator, using the respective exchange rate provided by the currency API fixer.io

14.8. For the avoidance of doubt, there shall be no negative carry over in respect of the Fees due to Hacksaw in particular month from a preceding month.

15. PERMITS AND COMPLIANCE

15.1. Hacksaw operates its services under the Curacao gaming (sub) license 1668 JAZ and such further similar licenses and approvals as Hacksaw may obtain from time to time. Hacksaw will maintain such licenses or equivalent successor licenses during the term of this Agreement provided always that the requirements (regardless if legislative, administrative, regulatory or in practice) to maintain the respective gaming license does not place a commercially unreasonable burden or cost on Hacksaw.

15.2. Hacksaw shall immediately notify the COMPANY if any of the aforementioned gaming licenses are revoked or surrendered for any reason and in such a case, the COMPANY shall be entitled to immediately terminate this Agreement on providing written notice to Hacksaw.

15.3. The COMPANY shall be fully and solely responsible for obtaining and maintaining any applicable license, permits, approvals or certifications required to provide the Games to End Users in any jurisdiction that the COMPANY intends to provide such services, as well as for the compliance with any and all applicable laws, regulations and gaming license conditions, as may be necessary for the COMPANY's provision of the Games to End Users.

15.4. Each Party shall be fully and solely responsible for compliance with all laws, regulations and gaming license conditions applicable to such Party, as may be necessary to fulfil its respective obligations hereunder.

15.5. Hacksaw shall not be required to obtain licenses or certifications additional to those set forth in clause 0 without separate written agreement including allocation of the associated cost. This notwithstanding, Hacksaw shall, upon prior agreement and at the COMPANY's cost and expense, provide reasonable assistance to the COMPANY to the extent that the COMPANY may require to maintain or obtain any applicable permit, approval or certification which the COMPANY may require to provide the Games to End Users.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1. Any and all Intellectual Property Rights in the Games or other materials or documentation licensed hereunder are and shall remain the exclusive property of Hacksaw or its licensors. No assignment or transfer of any such rights whatsoever shall occur or be deemed to occur as a consequence of this Agreement.
- 16.2. The COMPANY shall not decode, reverse engineer, disassemble, decompile, translate, convert, modify, adapt or copy the Game or create derivative works from the Games. The COMPANY shall not remove or modify any copyright, trademark or similar intellectual property notice from the Games.
- 16.3. The COMPANY shall promptly notify Hacksaw in writing if any claims are asserted against it by third parties due to an alleged infringement of third party Intellectual Property Rights in connection with the Games. In the event of any such claims, Hacksaw shall have the right to immediately take down the availability of any such Game to the COMPANY. The COMPANY shall not settle any such claims, shall allow Hacksaw to take over the litigation related to such claim (at Hacksaw's expense), and shall cooperate in good-faith with Hacksaw in relation to such claim.

17. TERM AND TERMINATION

- 17.1. This Agreement shall enter into force on the Commencement Date and shall thereafter remain in force for a period of twelve (12) months (the "**Initial Term**"). Thereafter, this Agreement shall remain in effect for an indefinite duration.
- 17.2. Each Party has the right to terminate this Agreement at any time, without reason or cause, by giving one (1) month's prior written notice to the other Party.
- 17.3. A Party shall have the right to immediately terminate this Agreement by written notice if:
- a. the other Party by any act or omission commits a material breach (or several breaches that jointly may be deemed material) of this Agreement, including without limitation the failure to duly pay any invoices, and such breach (or breaches), if capable of remedy, remains unremedied for fifteen (15) calendar days from the defaulting Party having received a notice requesting remedy;
 - b. the other Party becomes insolvent or starts negotiations about a composition with its creditors or a petition in bankruptcy is filed by or against it or it makes an assignment for the benefit of its creditors, enters into voluntary or involuntary liquidation, has a receiver appointed over all or parts of its assets or it becomes evident that the other Party is, or will be, unable to perform its obligations under this Agreement;
 - c. the other Party undertakes a Change of Control; or

- d. any applicable gaming licenses required by the other Party for the performance of this Agreement are revoked or surrendered.

17.4. Upon termination of this Agreement for whatever cause, the COMPANY shall:

- a. within no later than fourteen (14) days, pay to Hacksaw any outstanding Fees which are due as at the date of termination of this Agreement; and
- b. immediately return or destroy any materials and documentation in relation to the Games including any copies thereof provided to the COMPANY by Hacksaw under this Agreement (if any) and certify in writing that no copies thereof are retained. Notwithstanding the foregoing, the COMPANY may however retain a copy of any such data or materials to the extent that the COMPANY is required to retain such information pursuant to law or regulatory requirements. If such copy is retained, it may only be used as required to comply with such legal or regulatory requirements.

17.5. Upon termination of this Agreement for whatever cause, Hacksaw shall:

- a. immediately cease to provide access to the Games; and
- b. immediately cease to provide First Category Prize Fund Coverage if the COMPANY subscribed thereto;
- c. in accordance with the separate Data Processing Agreement which the Parties shall be entering into, return or destroy all End User Personal Data stored by Hacksaw to the COMPANY. Notwithstanding the foregoing Hacksaw may however retain a copy of the End User Personal Data and related information to the extent that Hacksaw is required to retain such information pursuant to law or regulatory requirements. If such copy is retained, it may only be used as required to comply with such legal or regulatory requirements.

17.6. Clauses 9, 10, 11, 18, and 29 of this Agreement survive and remain in full force and effect regardless of any termination of this Agreement.

18. FORCE MAJEURE

Neither Party hereto shall be deemed in default hereunder or liable for any loss or damage resulting from delays in performance or from failure to perform or comply with the terms of this Agreement due to any Force Majeure.

19. NO WAIVER

The failure of either Party hereto to insist upon the strict adherence to any term of this Agreement on any occasion shall not be considered as a waiver of any right hereunder nor shall it deprive that Party of the right to insist upon the strict adherence to that term or any other term of this Agreement at some other time.

20. ENTIRE AGREEMENT

This Agreement expressly replaces and supersedes any and all other agreements, oral or written, between the Parties hereto with respect to the subject matter hereof. The Appendices to this Agreement shall form an integral part of this Agreement. In the event of any conflict, the following order of precedence shall prevail:

- a. The body of this Agreement and its Appendix 1 and 2;
- b. The Service Level Agreement in Appendix 3; and
- c. The Data Processing Agreement in Appendix 4.

21. HEADINGS

Headings are used in this Agreement for convenience only and shall not affect any construction or interpretation of this Agreement.

22. NOTICES

Any notice or communication to be given under this Agreement shall be in writing and shall be deemed to have been duly given if sent via email, delivered by courier or sent by registered mail to the other Party at the respective address provided in this clause, or at any other address as may be specifically communicated for such purpose by a Party to the other Party from time to time. Any such notice or communication shall be deemed to have been received by the addressee seven (7) Working Days following dispatch if the notice or communication is sent by registered mail, or on the following Working Day after the day in which the notice or communication is delivered if sent by courier or via email.

In the case of Hacksaw, notice shall be sent to:

- Email: legal@hacksawgaming.com
- Address: Fransche Bloemweg 4, Curaçao and holder of the Curacao.

In the case of COMPANY, notice shall be sent to:

- Email: george@upgaming.com
- Address: Abraham Mendez Chumaceiro Boulevard 50, Willemstad PO BOX 4750, Curaçao

23. AMENDMENTS

No amendments, changes, revisions or discharges of this Agreement, in whole or in part, shall have any force or effect unless set forth in writing and signed by the Parties hereto.

24. SEVERABILITY

If any provision in whole or in part of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

25. ASSIGNMENT

Neither Party may wholly or partly assign this Agreement to third parties or sub-contract, pledge or otherwise encumber any of its rights and/or obligations under this Agreement. Either Party may assign this Agreement to any company within its group of fully owned companies if it provides prior written notice to the other Party.

26. CONFIDENTIALITY

26.1. Each Party hereby agrees not to disclose and, or make use of any Confidential Information disclosed by the other Party for any purpose, except as necessary to perform its rights and obligations under this Agreement. This shall not prevent any Party from disclosing Confidential Information, on a need to know basis, to its employees or advisors provided that such are bound by a written undertaking to keep such information as confidential.

26.2. Confidential Information shall not include any information which:

- a. is or becomes publicly known without a breach of this Agreement or applicable laws;
- b. is obtained by the receiving Party from a bona fide third party without a breach of such third party's obligations of confidentiality; or
- c. is required to be disclosed by the receiving Party under applicable laws.

27. PRESS RELEASES

27.1. Any press release or other public announcement related to this Agreement shall be previously agreed to in writing by the Parties hereto, except for any announcement which may be required pursuant to any regulatory authority or institution.

27.2. The Parties shall be allowed to issue press releases or similar public announcements, relating to the licensing of the Games by Hacksaw to the COMPANY.

28. GOVERNING LAW AND JURISDICTION

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed and construed in accordance with the Laws of Malta. The Parties hereby expressly submit to the exclusive jurisdiction of the Courts of Malta to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

29. DISPUTE RESOLUTION

Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be, in the first instance, discussed between each Party's respective board of directors or by authorised representatives of a Party as nominated by the board of directors of that Party. The Parties shall only be permitted to submit the dispute to the courts if such negotiations still fail to settle the dispute after a period of 30 Working Days from a Party invoking such negotiations by written notice, at which time either Party shall be free to make a claim in court.

IN WITNESS WHEREOF, this Agreement has been signed in two originals, of which the Parties have kept one (1) each.

Date: 2/4/2022

HGCU B.V.

Name:

DocuSigned by:

8780458C677848F...

Andy Senior

DocuSigned by:

3508179679034CB...

Christopher van Rosberg

Date: 04.02.2022

COMPANY

DocuSigned by:

B4B1B77FB2594C3...

Name: Onise Chimakhidze
managing director

APPENDIX 1: DEFINITIONS

The capitalised terms and, or expressions used in the Agreement shall be ascribed the meaning assigned hereunder unless the context clearly and unequivocally requires otherwise:

“API”	shall mean application program interface;
“Applicable Privacy Laws”	shall mean the General Data Protection Regulation (2016/679) (the “GDPR”) and any data protection or privacy laws applicable to each respective Party
“Back Office Systems”	shall mean software, monitoring systems, financial processing systems and any other software that assists the COMPANY in monitoring the activity of End Users for the purpose of customer service, management and reconciliation;
“Bets”	shall mean the total amount of the combined bets by End Users on the Games, as offered by Hacksaw, each relevant calendar month;
“Business Hours”	shall mean the hours from 09.00 – 17.00 Central European Time on Working Days;
“Change of Control”	shall mean the occurrence of any of the following events: (i) a change in the person holding fifty percent (50%) or more of the issued share capital carrying voting rights of that Party; or (ii) a change in the person holding the right to appoint fifty percent (50%) or more of the directors on the board of that Party; or (iii) a change in the person(s) who possesses, directly or indirectly, the power to direct or cause the direction of the board of directors of that Party (whether through the ownership of voting shares, by contract or otherwise);
“Confidential Information”	shall mean all information and know-how relating to a Party and, or its related entities, whether recorded in writing or otherwise, which is disclosed by a Party to the other Party in the course of the Agreement and which is marked as “confidential” or should, in context, be reasonably understood to be confidential. This shall include but shall not be limited to (i) the terms of any agreement between the Parties, (ii) technical information, processes, strategies, software, hardware and other IT products and databases, know-how, formulae, logic, compositions, technological data, discoveries, machines, inventions and similar information; (ii) business information (whether in use, planned, or under development), information relating to the affairs of a Party, trade secrets and similar

information (iii) information relating to a Party's employees or consultants (iv) financial information, future products, promotions and offerings, product pricing and similar information; and (v) documentation and confidential information relating to the Games; and (vi) marketing strategies, projects and proposals, research and development and any similar information;

“Controller”, “Consent”, “Binding Corporate Rules”, “Personal Data”, “Personal Data Breach”, “Process”, “Processing”, “Processor”, “Recipient” and “Supervisory Authority”	shall have the meanings as set out in the GDPR;
“Data Subject”	shall mean an identified or identifiable individual being an End User of the COMPANY;
“Data Subject Request”	shall mean a request made by a Data Subject to exercise any rights of Data Subjects under the Applicable Privacy Law;
“Delete” or “Deletion”	shall mean definitive deletion, permanently removing all copies in Hacksaw's or Sub-Processors' (as applicable) systems, more precisely it means to remove or obliterate Personal Data such that it cannot be recovered or reconstructed;
“Downtime”	shall mean the total time (in minutes) when a Service is not functioning or operating correctly either partially or fully;
“EEA”	shall mean the European Economic Area;
“Emergency Maintenance”	shall mean any maintenance work other than Planned Maintenance that Hacksaw determines in its reasonable opinion is required urgently to sustain the continuation of the Services which will not exceed 4 hours in any single Period;
“Emergency Maintenance Time”	shall mean the total number of minutes elapsed in a Period where Hacksaw is carrying out Emergency Maintenance;
“End User”	shall mean any user of the COMPANY's online gaming and gambling services;

“End User Personal Data”	shall mean Personal Data relating to End Users;
“Erroneous Winning”	shall mean any Game win where all or part of the win results from any Game error, bug or malfunction, or otherwise from the Game not performing in accordance with its specifications;
“Fees”	shall mean the fees payable to Hacksaw by COMPANY as set out in Appendix 2, before any value added tax and any other applicable taxes generated by, or in relation to, the COMPANY’s provision of the Games to its End Users;
“Force Majeure”	shall mean any unforeseen or other circumstance outside of a Party’s reasonable control, which shall include but is not limited to acts of God, irresistible force, fortuitous events, riots, insurrections, war, cyberterrorism, cyberwarfare, accidents, fire, earthquakes, strikes and other labour difficulties, embargoes, theft, equipment breakdown, mechanical or system failures, downtime and pandemic disease;
“Games”	shall mean Hacksaw’s full portfolio of online games, as available from Hacksaw from time to time, excluding any Games which are subject to exclusivity agreements;
“Game T&Cs”	shall mean the game rules which may be applicable to a specific Game as communicated by Hacksaw to COMPANY;
“Gaming Regulatory Institution(s)”	shall mean any institution, authority and, or other public body which holds jurisdiction and, or competence over gambling, gaming and, or betting matters;
“GDPR”	shall mean EU General Data Protection Regulation 2016/679;
“GDPR Claim”	shall mean any claim for compensation (including legal or other associated fees) by a Party or a Data Subject pursuant to Article 82 of the GDPR;
“Go Live Date”	shall mean such date as the Parties may agree in writing;
“Intellectual Property Rights”	shall mean any and all intellectual property rights of whatsoever description, including without limitation copyright protected materials, source code, database rights, registered and unregistered trademarks, registered and unregistered design

rights, patents and patentable inventions, trade secrets, know how (regardless if patentable or not) and all other rights in any jurisdiction;

“International Recipient” shall mean any country, territory or company located outside the EEA;

“Monthly Royalty Fee”, “Gross Gaming Revenue” and “GGR” shall have the meanings attributed thereto in Appendix 2 of this Agreement;

“Notification” shall, for the purposes of the Service Level Agreement only, mean a telephone or email (as applicable) from the COMPANY to the Hacksaw regarding an issue with the Service availability, or lack of, with the Hacksaw’s Games or Platform;

“Period” shall mean three calendar months, irrespective of COMPANY using the Services on all the days during a calendar month

“Personal Data” shall be attributed the same meaning as attributed thereto under the General Data Protection Regulation (2016/679);

“Personnel” shall mean all employees, officers, staff, other workers, agents and consultants of a Party who are tasked with Processing End User Personal Data from time to time;

“Planned Maintenance” shall mean routine upgrades, repairs, maintenance, modifications and improvements to hardware or software in relation to the Services which will not exceed 4 hours in any single Period;

“Planned Maintenance Time” shall mean the total number of minutes elapsed in a Period where Hacksaw is carrying out Planned Maintenance;

“Platform” shall mean the Hacksaw’s gaming platform;

“Processing” shall be attributed the same meaning as attributed thereto under the General Data Protection Regulation (2016/679);

“Prohibited Jurisdictions” shall mean the USA, Cuba, Iran, Sudan, North Korea, China, Libya, Syria, Zimbabwe, United Kingdom, Malta and any jurisdiction prohibiting online gaming or any of the Games whether by law or regulation or legal proceedings (whether criminal, civil or administrative), and any jurisdictions listed as a blacklisted jurisdiction (or “call for action” or similar denomination having the same meaning) on the international

sanctions list by the Financial Action Task Force, the Financial Intelligence Analysis Unit and/or the Malta Financial Services Authority and shall include nationals of such countries. In addition, "Prohibited Jurisdictions" shall include any national or jurisdictions which Hacksaw may in its discretion designate as such to the COMPANY from time to time;

"Remote Assistance"	shall mean skype, messenger and any other remote access communication method;
"RNG"	shall mean random number generator;
"Service(s)"	shall mean the services rendered under the Agreement;
"Service Availability"	shall mean the percentage of time that the Services are available as set out in more detail in clause 5 of the Service Level Agreement;
"Service Credits"	shall mean the amount of compensation given to the COMPANY by Hacksaw as set out in more detail in clause 7 of this SLA;
"Sub-processor"	shall mean another Processor engaged by Hacksaw for carrying out Processing activities in relation to End User Personal Data, on behalf of Hacksaw and pursuant to the Game Provision Agreement;
"Support Services"	shall mean any support services to be given by Hacksaw to COMPANY as specified and further regulated under the Service Level Agreement ;
"Standard Contractual Clauses"	shall mean the standard contractual clause issued pursuant to the European Commission Decision 2010/87/EU as may be re-issued by the European Commission from time to time;
Technical and Organisational Security Measures	shall mean the particular security measures required of the Processor, intended to protect End User Personal Data under the Applicable Laws;
"Total Period"	shall mean the number of days in a Period x 24 (hours) x 60 (minutes);
"Website"	shall mean the COMPANY's websites, mobile site/s and/or apps, as used by COMPANY and as agreed between the Parties from time to time;
"Wins"	shall mean the total amount of combined wins by End Users on the Games, as offered by Hacksaw, each relevant calendar month; and

“Working Days”

shall mean any day which is not a Saturday, a Sunday or a bank or public holiday in Malta.

APPENDIX 2: FEES

Monthly Royalty Fee:	Revenue share of the monthly GGR: 9%
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For Games (not being Premium Games), “**Gross Gaming Revenue**” shall mean: Bets – Wins

APPENDIX 3: DATA PROCESSING AGREEMENT

Pursuant to the terms of the Agreement, it is contemplated that the services provided by Hacksaw to COMPANY will involve that Hacksaw processes Personal Data on behalf of the COMPANY and to ensure compliance with Applicable Privacy Laws, the Parties are hereby agreeing that the Processing of Personal Data under the Agreement shall be carried out in accordance with this Data Processing Agreement (the “**DPA**”).

1. DEFINITIONS

The capitalised words, terms and, or expressions used in this DPA shall be ascribed the meaning assigned thereto in Appendix 1 of the Agreement, unless otherwise defined herein.

2. INTERPRETATION

In the event of any conflict or inconsistency between the provisions of this DPA and the Applicable Privacy Law, the provisions of the Applicable Privacy Law will prevail.

3. TERM

This DPA shall commence on the Commencement Date of the Agreement and shall terminate together with the Agreement, irrespective of the manner in which the Agreement is terminated.

4. PROCESSING PERSONAL DATA

- 4.1 This DPA applies to the Processing of End User Personal Data by Hacksaw pursuant to its Processor obligations arising under the Agreement.
- 4.2 The Parties agree that, for the purposes of this DPA and the Agreement, the COMPANY shall be the Controller and Hacksaw shall be the Processor. Details on the Processing of End User Personal Data to be performed by Hacksaw are contained in Schedule 1 to this DPA, as annexed hereto.

5. WARRANTIES

- 5.1 Each Party warrants, represents and undertakes that it will perform and comply with (and will procure that all Personnel will comply with) the obligations as set out in this DPA and with the Applicable Privacy Law in good faith.
- 5.2 COMPANY warrants that all instructions given by it to Hacksaw in respect of the Processing of End User Personal Data shall at all times be in accordance with the Applicable Privacy Law.
- 5.3 Hacksaw warrants that:
 - (a) it will not process End User Personal Data other than on the written instructions of the COMPANY unless it is required to do so under the Applicable Privacy Law or applicable laws and in such case Hacksaw shall inform the COMPANY, unless it is prohibited of doing so at law, of that requirement before Processing the Personal Data;

- (b) all Processing of End User Personal Data shall at all times be in accordance with the Applicable Privacy Law;
- (c) it shall only Process End User Personal Data as necessary pursuant to its obligations under this DPA and the Agreement;
- (d) it has sufficient expertise, reliability and resources to implement Technical and Organisational Security Measures that meet or exceed the requirements of the Applicable Privacy Law (as set out under Article 32 of the GDPR) and ensure the protection of the rights of Data Subjects;
- (e) it will ensure that the handling and Processing of End User Personal Data is performed by qualified, trained and experienced Personnel and that it shall be kept separate from Personal Data which does not belong to the COMPANY;
- (f) it shall take reasonable steps to ensure the reliability of any Personnel who may have access to Personal Data, ensuring that access is strictly limited to those Personnel who need to know and/or access the Personal Data and ensure that all such Personnel are subject to confidentiality undertakings or an appropriate statutory obligation of confidentiality; and
- (g) it shall take into account the applicable nature, scope, context and purpose of Processing as well as the associated risks to the rights and freedoms of natural persons when Processing End User Personal Data.

6 SUB-PROCESSING

- 6.1 Hacksaw shall not appoint any Sub-processor to Process End User Personal Data except with the prior written authorisation of the COMPANY.
- 6.2 The current Sub-processors appointed by Hacksaw are those set out in Schedule 2 to this DPA. Hacksaw shall give COMPANY prior written notice of any changes to appointed Sub-processors or an appointment of a new Sub-processor. Within thirty (30) days of receipt of such notice, the COMPANY shall notify Hacksaw in writing (for which email is sufficient) of any objections that it may have in relation to the appointment of such Sub-processor for the Processing of End User Personal Data.
- 6.3 With respect to each Sub-processor, Hacksaw shall:
 - (a) carry out adequate due diligence to ensure that the Sub-processor is capable of providing the level of protection required by GDPR and ensure that the Sub-processor implements appropriate technical and organisational measures to ensure that the processing meets the requirements of the GDPR;
 - (b) ensure that a written contract is entered into which includes terms which offer at least the same level of protection for End User Personal Data as those set out in this DPA and meet the requirements of Article 28 of the GDPR; and
 - (c) at COMPANY's request, Hacksaw will provide a copy or summary of the data processing terms it has entered into with the Sub-processor.
- 6.4 As between the Parties and in relation to End User Personal Data Processing, Hacksaw shall be liable for the acts and omissions of the Sub-processor to the same extent that the acts or omissions were committed by Hacksaw.

7 DATA SUBJECT RIGHTS

- 7.1 Taking into account the nature of the Processing, Hacksaw shall reasonably assist the COMPANY in meeting its obligations under the GDPR in relation to Data Subject's rights.
- 7.2 Hacksaw shall at COMPANY's request rectify, amend, delete or restrict processing of Personal Data.
- 7.3 Hacksaw shall promptly notify the COMPANY if Hacksaw or its Sub-processor receives a request from a Data Subject for access to End User Personal data and Hacksaw, unless it is under a legal obligation, shall not respond to any such request without the prior written consent of the COMPANY.

8 DELETION OR RETURN OF PERSONAL DATA

- 8.1 In the event, the Game Provision Agreement between Hacksaw and the COMPANY is terminated, Hacksaw shall, upon written request from COMPANY, Delete or return (as per COMPANY's written instructions), or instruct its Sub-processor to Delete or return, any End User Personal Data it holds or the Sub-processor holds pursuant to the Game Provision Agreement. Hacksaw (or its Sub-processor) may however retain any End User Personal Data to the extent it is required to retain such data pursuant to Applicable Laws or Applicable Privacy Law at all times ensuring that storage or any further Processing is in compliance with Applicable Laws or Applicable Privacy Law and such Processing shall be limited to the purpose necessary for compliance with such laws.

9 PERSONAL DATA BREACH

- 9.1 In the event Hacksaw or any of its Sub-processors becomes aware of a Personal Data Breach affecting End User Personal Data it shall:
 - (a) notify the COMPANY of the Personal Data Breach without undue delay;
 - (b) investigate the Personal Data Breach;
 - (c) provide COMPANY with information about the Personal Data Breach to allow the COMPANY to meet its obligations to report or inform Data Subjects of the Personal Data Breach; and
 - (d) take all reasonable steps to mitigate the effects and minimise the damage resulting from the Personal Data Breach.

10 DATA PROTECTION IMPACT ASSESSMENT AND PRIOR CONSULTATION

- 10.1 Hacksaw shall provide such information, co-operation and other assistance to the COMPANY as the COMPANY reasonably requires (taking into account the nature of processing and the information available to Hacksaw) to ensure compliance with the COMPANY's obligations under Applicable Privacy Law, including with respect to:
 - (a) security of processing;
 - (b) Data Protection Impact Assessment(s); and
 - (c) prior consultation with a Data Protection Supervisory Authority regarding high risk processing.

- 10.2 Hacksaw shall provide such reasonable assistance as the COMPANY may require in the preparation of any Data Protection Impact Assessment in relation to activities carried out under or in connection with any agreement between the Parties, or in connection with the Processing of Personal Data, where the COMPANY considers that:
- (a) a Data Protection Impact Assessment is necessary; or
 - (b) the risks identified by a previous Data Protection Impact Assessment carried out by COMPANY and notified to Hacksaw may have changed.
- 10.3 Hacksaw shall cooperate and provide reasonable assistance in relation to any Data Protection Impact Assessments or any prior consultations with Supervisory Authorities, which COMPANY reasonably considers necessary to meet its obligations under the Applicable Privacy Law.

11 RECORDS, INFORMATION AND AUDITS

- 11.1 Hacksaw shall maintain complete, accurate and up to date written records of all Personal Data Processing carried out on behalf of the COMPANY as required in terms of article 30 (2) of the GDPR.
- 11.2 Hacksaw shall make available to the COMPANY on request and in a timely manner:
- (a) copies of the records referred to in clause 11.1 of this DPA; and
 - (b) such other information as the COMPANY reasonably requires to demonstrate Hacksaw's and the COMPANY's compliance with their respective obligations under the Applicable Privacy Law.
- 11.3 Hacksaw shall allow for and contribute to audits, including inspections, conducted by the COMPANY or its mandated auditor for the purpose of demonstrating compliance by Hacksaw and the COMPANY with their respective obligations under Applicable Privacy Law. For such purpose, Hacksaw shall provide (and procure) reasonable access to the COMPANY as may be necessary (during normal business hours) to the information, documentation, facilities, equipment, premises and sites on which End User Personal Data and/or the records referred to in clause 11.1 are held, provided that, the COMPANY gives Hacksaw reasonable prior notice of such audit and/or inspection.
- 11.4 Hacksaw shall promptly resolve all issues discovered by the COMPANY and reported to Hacksaw that reveal a breach or potential breach by Hacksaw of its obligations under this DPA.
- 11.5 When conducting audits or inspections, the COMPANY shall bear any costs involved and shall comply with Hacksaw's directions in order to minimise disruption to Hacksaw's business and to safeguard the confidentiality of Hacksaw's confidential information.
- 11.6 Hacksaw may require the COMPANY's agents conducting any audit or inspection on the COMPANY's behalf to enter into direct confidentiality undertakings with Hacksaw.
- 11.7 The COMPANY shall be entitled to share any notification, details, records or information provided by or on behalf of Hacksaw under this DPA with its professional advisors and/or any Data Protection Supervisory Authority.

12 TRANSFERS OUTSIDE THE EEA

- 12.1 Hacksaw shall not transfer any Personal Data to any International Recipient without the COMPANY's prior written consent.
- 12.2 If consent is given by the COMPANY for a transfer of Personal Data to any International Recipient then Hacksaw shall ensure that any such transfer complies fully with the provisions of the GDPR which may include:
- (a) a transfer to a country or an international organisation where the Commission has decided that the country or the international organisation in question ensures an adequate level of protection;
 - (b) the use of Standard Contractual Clauses;
 - (c) the use of Binding Corporate Rules; or
 - (d) the utilisation of any other safeguards recommended by the Commission.

13 GDPR CLAIM

- 13.1 Subject to clause 10.3. of the Agreement, each Party agrees to indemnify and hold harmless the other Party, including its employees, directors and associates, for and against any and all claims, losses, liabilities, costs, expenses or damages (including reasonable attorney fees), incurred by reasons of any claim, demand, lawsuit or action by a third party in relation to a GDPR Claim resulting from that Party's breach of this DPA and/or the Agreement and/or breach of Applicable Privacy Law. For the purposes of this indemnity:
- (a) The Party that is seeking indemnification must without delay inform the Party against who it is seeking indemnification that a GDPR Claim has been made or that they are aware of a potential GDPR Claim;
 - (b) The Party that is seeking indemnification must without undue delay mitigate and minimise any potential damage under a GDPR Claim or do everything in its power to avoid a potential GDPR Claim;
 - (c) The Party that is seeking indemnification must not make any admission of liability, agreement or compromise in relation to the GDPR Claim without the prior written consent of the other Party; and
 - (d) The Party that is seeking indemnification must cooperate with and provide reasonable assistance to the other Party in connection with any defence, negotiation, litigation, settlement or any other response in relation to the GDPR Claim.

14 NOTICES

- 14.1 Any notice given by a Party under or in connection with this DPA shall be in writing (for which email is sufficient) and shall be sent to:

For Hacksaw:

legal@hacksawgaming.com

For COMPANY:

legal@upgaming.com
george@upgaming.com

SCHEDULE 1 TO THE DATA PROCESSING AGREEMENT: DETAILS OF PROCESSING OF PERSONAL DATA

This Schedule includes certain details of the Processing of End Personal Data as required by Article 28(3) GDPR.

Subject matter of the Processing

The subject matter of the Processing of the Personal Data is set out in the Agreement and this DPA.

Duration of the Processing

The duration of the Processing of the Personal Data is until the Agreement remains active, with the exception of any Personal Data that must be Processed by Hacksaw for compliance with a legal obligation, in which case, the duration and purpose of the Processing shall be limited to that strictly required for compliance with such legal obligation.

The nature and purpose of the Processing

The provision of the services under the Agreement.

The type of Personal Data to be Processed

End User Personal Data consisting in End User:
Customer ID and transaction ID; Balance; Bet amount / wins / losses; Currency; IP address.

The categories of Data Subject

End Users.

SCHEDULE 2 TO THE DATA PROCESSING AGREEMENT: SUB-PROCESSORS

Name	Location of Processing	Description of the Processing
Hacksaw Operations Ltd	Netherlands	Holder of data centre processing agreement with Leaseweb Netherlands BV
Leaseweb Netherlands BV (Sub-Processor through Hacksaw Operations Ltd)	Netherlands	Data centre processing

APPENDIX 4: SERVICE LEVEL AGREEMENT

The purpose of this Service Level Agreement (“SLA”) is to ensure that the services and Support Services supplied by Hacksaw pursuant to the Agreement meet an agreed level as set out in this SLA.

1. Definitions

The capitalised words, terms and, or expressions used in this SLA shall be ascribed the meaning assigned thereto in Appendix 1 of the Agreement, unless otherwise defined herein.

2. Term

2.1. This SLA shall commence as from the Commencement Date and will continue until the Agreement has expired or been terminated.

3. Technical Support

- 3.1. Hacksaw will provide Remote Assistance and Support Services to the COMPANY during Business Hours on Business Days.
- 3.2. Hacksaw will provide technical support personnel to answer any questions in relation to the correct utilisation and setup of the Platform and Games during Business Hours on Business Days either by telephone or email.

4. Service Availability

4.1. Hacksaw will use commercially reasonable endeavours to ensure that the Services meet the target as set out below excluding when the Services are unavailable due to Planned Maintenance and Emergency Maintenance. The Service Availability will be not less than 99.5% in any Period.

5. Service Availability Calculation

5.1. Service availability shall be calculated as follows:

Total Period – (Downtime – (Planned Maintenance Time
+ Emergency Maintenance Time)

Total Period

x100 = Service Unavailability

5.2. COMPANY will be entitled to Service Credits if Hacksaw fails to meet the 99.5% Service Availability in any Period, calculated as a percentage per Period as set out below:

$$100\% - \text{Service Unavailability} = \text{Service Availability}$$

6. Remedies

- 6.1. COMPANY will be entitled to Service Credits if Hacksaw fails to meet the Service Availability as set out below:

Target Service Availability	Service Credits
99.5% to 100%	No penalty
99.49% to 98.50%	1% of the Monthly Royalty Fee in the preceding month
97.49% to 96.50%	2% of the Monthly Royalty Fee in the preceding month
96.49% to 95.50%	3% of the Monthly Royalty Fee in the preceding month
< 95.49%	4% of the Monthly Royalty Fee in the preceding month

- 6.2. The Parties agree that the Service Credits shall never exceed the monthly licence fee due to Hacksaw by the COMPANY in any Period.
- 6.3. The COMPANY hereby agrees that the Service Credits shall constitute the sole and only remedy to the COMPANY for Hacksaw's failure to meet the Service Availability.

7. Incident Management

- 7.2. Hacksaw will respond to and resolve incidents relating to the Services based on the priority levels and response times as set out in the table below.

Critical	
Description	A technical issue or incident that causes the API, RNG, Platform or Games to be inoperable, unusable or unavailable to End Users which results in Hacksaw Games and/or Platform becoming unusable or inaccessible to End Users to place bets.
Response Time	2 hours from Notification

Response Period	24 hours a day, 7 days a week.
Resolution Timeline	within 2 hours from Notification
Notification Method	Email: partners@hacksawgaming.com Emergency support number. +356 27781400
Escalation to	Head of Tech Department
Example	- Services are not available - All Games are unavailable to End Users on the Platform - All Games and/or the Platform are so slow that it severely affects the ability of End Users ability to wager
Major	
Description	A technical issue or incident that causes the API, RNG, Platform or Games to operate at a greatly reduced speed to a large number of End Users which results in Games and/or the Platform becoming unusable or inaccessible to a large number of End Users to place bets.
Response Time	3 hours from Notification
Response Period	24 hours a day, 7 days a week.
Resolution Timeline	within 4 hours from Notification
Notification Method	Email: partners@hacksawgaming.com Emergency support number. +356 27781400
Escalation to	Head of Tech Department
Example	- Access to the Games or Platform is slow - Games or Platform is unavailable to a large number of End Users - Unacceptably slow response times - Session time-outs - No-critical applications not functioning correctly
Minor	
Description	A technical issue or incident that causes the API, RNG, Platform or Games to operate slower than usual to a small number of End Users.
Response Time	2 Business Days from Notification
Response Period	Business Hours.
Resolution Timeline	5 Business Days from Notification

Notification Method	Email: partners@hacksawgaming.com Emergency support number: +356 27781400
Escalation to	Head of Tech Department
Example	▪ Supported browsers not working correctly ▪ Some parts of the Games or Platform are not functioning correctly