

## **PublishingPlus Agreement**

**Effective May 11, 2015**

This PublishingPlus Agreement (“**Agreement**”) is a legally binding agreement between Funplus Interactive and its Affiliates (“**Funplus**” or “**us**”) and you. Affiliates shall mean subsidiaries, parent companies, joint ventures and other corporate entities under common ownership with Funplus. By using or participating in PublishingPlus (“**PublishingPlus**”) you agree to be bound by this Agreement. You further agree that you have read, understand, and accept this Agreement by your use and continued use of the PublishingPlus. Funplus and you are each a “**Party**,” and collectively, the “**Parties**.” The Parties hereby agree as follows:

1. *Application Process.* You can submit ideas for your game (“**Game**”) as early as paper documents or as far along as geo-beta. If accepted, Funplus will provide the necessary assistance to reach the next tier based on our five (5) tier structure. At every tier, there is an additional approval review by Funplus to determine if your Game will proceed to the next tier of development.

2. *Approval Tiers and Financial Support.*

Tier 1: Game Design Document (“**GDD**”) – You must submit a GDD with sections covering the mechanic, tech, design, art direction, core loop, meta-game, monetization, scalability and other elements that effectively portray the scope and “feel” of the Game. The more materials provided to Funplus the better chances of approval for your Game.

Tier 2: Technical Demo – In addition to the GDD, you will provide a playable demo that will accurately “prove” the main mechanics of the Game and showcase the “fun” factor, as well as an ability of your team to deliver the Game.

Tier 3: Vertical Slice – You will provide a highly polished, playable, relatively stable “vertical slice” of the Game, which should fully portray the look, feel and play of the final Game in a small, controlled demo.

Tier 4: Soft Launch - The Game is fully playable, near complete in all areas and ready for a publicly accessible beta in a limited geography. Once released, Funplus will monitor metrics such as retention, conversion, ARPDAU, and other values that portray engagement and monetization. Applicants in this stage will have a limited time (ninety (90) days) to bring pre-determined metrics up to a specific level or will not proceed to the final launch tier.

Tier 5: Worldwide Launch and Live Operations - The Game passed all previous stages and meets Funplus’ standards for quality, innovation and performance. Funplus will launch, market and operate the title globally on the Platforms. You will need to continue to provide post-launch content support, technical support and logistics for at least 180 days.

Financial Support: Funplus will provide financial support for your Game as follows:

Tier 1-> Tier 2: One (1) month of your costs for the Game as pre-approved by Funplus plus twenty (20) percent.

Tier 2->Tier 3: Up to two (2) months of your costs for the Game as pre-approved by Funplus plus twenty (20) percent.

Tier 3->Tier 4: Up to six (6) months of your costs for the Game as pre-approved by Funplus plus twenty (20) percent.

Tier 4->Tier 5: Up to six (6) months of your costs for the Game as pre-approved by Funplus plus twenty (20) percent.

You must submit a spreadsheet that accurately shows your monthly costs for the Game and Funplus shall have the right to audit these costs to insure that the costs you list are accurate.

3. *Rejection.* If Funplus rejects a tier milestone submission and is unwilling to proceed with additional support, you will have two (2) options to reclaim your Game and code for future use. If during the PublishingPlus process, you have opted to use any Funplus proprietary code, you will need to remove that code before either option becomes available to you.

Option 1: You or another third party can repay the total amount paid to you by Funplus within six (6) months from the rejection date and regain full rights to your game and code.

Option 2: If you are unable to repay the total amount to Funplus within the six (6) month rejection period, Funplus will be subject to a full repayment PLUS a royalty of ten (10) percent of Net Revenue if the Game is ever released publicly by you or another third party.

4. *Funplus Obligations.* Funplus shall provide all live operations, hosting and localization services for the Game on all existing and future mobile platforms (iOS, Android, etc.) (the “**Platforms**”). Funplus will provide end user support for End Users of the Game. An “**End User**” is an individual who has registered to play the Game or downloaded the Game onto a mobile device.

5. *Sequels and Derivatives.* During the Term, and subject to the terms of this Agreement, Funplus will have the exclusive right and option to publish Sequels and Derivatives to the Game on the same terms as this Agreement. “**Sequel**” means a game for the Platforms (i) based on the Game or the course of the story or the characters included in the Game, or (ii) otherwise based on the name, title, trademark or trade name of the Game; provided that such new game is distinguishable from, and different to, such Game with respect to gameplay. “**Derivative**” means any new game using the game engine of an existing Game, any game that is in the same genre as an existing Game or any new game that uses the same mechanic as an existing Game.

6. *Revenue Terms.* Funplus agrees to pay you royalties equal to a percentage of Net Revenue (“**Royalties**”) on a fifty (50)/fifty (50) basis with Funplus receiving fifty (50) percent of Net Revenue and you receiving fifty (50) percent of Net Revenue. “**Net Revenue**” shall mean Gross Revenue less only the applicable Permitted Deductions. “**Gross Revenue**” means the amounts paid by End Users in connection with access to or use of Game, or any features therein, including, but not limited to any premium features or virtual goods. “**Permitted Deductions**” means: (i) provider and/or platform (e.g., social network, mobile device) charges associated with the hosting, publishing and distribution of a Game as determined solely by the Platform owners from time to time, (ii) credits, reversals, refunds, returns, chargebacks for returned or canceled goods or services, amounts attributable to any fraudulent or invalid actions or bad debt, (iii) merchant of record and/or payment processor fees invoiced to Funplus, actual fees for providing a Game charged by distribution networks or payment providers or processors (such as, without limitation, credit card or similar charges or fees) which are actually deducted by such distribution networks or payment providers prior to sending payment to Funplus, (iv) Funplus’s out of pocket actual and verifiable marketing and user acquisition costs paid to third parties in connection with marketing the Game including direct marketing costs for any such game; and (v) any taxes imposed on Gross Revenue prior to payment by any applicable provider or platform to Funplus. All of Funplus’s investment in the Game in the form of money paid to you by Funplus for the development of the Game, if any, will be recouped prior to any percentage of Net Revenue being paid to you.

7. *Payments.* Funplus shall pay you your share of Net Revenue on a monthly basis with the first payment within thirty (30) days of the first month in which Funplus receives payment from the Platforms. Included in any payment from Funplus to you shall be its share of any payments received by Funplus from the Platforms up to the period ending fifteen (15) days prior to payment being made by Funplus to you.

8. *Cross-Promotion.* Funplus will have the exclusive right to cross-promote the Game in and to Funplus’s user base for Funplus’s existing and future games for the Term.

9. *License.* You retain ownership of your game and all IP rights in your game. You grant Funplus an exclusive license for the Term of this Agreement to use, publish, operate, reproduce, market, promote, and exploit the Game on the Platforms in the Territory to End Users. In particular, but without limitation, these licenses includes the right to store, digitally or otherwise on any medium, the Game in the original form, to reproduce, exhibit, publish, disseminate in tangible or intangible form.

10. *Sublicense Rights.* Funplus will have the right to sublicense rights received from you hereunder to a third party developer or distributor (“**Subcontractor**”) provided that each Subcontractor will be subject to the terms and conditions of this Agreement as they relate to Funplus and Funplus remains liable for any Subcontractors’s actions and compliance with this Agreement.

11. *Trademarks and IP.* You hereby grant Funplus the nonexclusive, limited right to use, any advertising or brand graphic, trade name, trademark, service mark, or symbol provided to Funplus by you (“**Marks**”) in connection with the Game, solely for the purpose of marketing and distributing the Game as set forth herein. No prior approval will be required from you for the use

of your Marks as long as no changes are made from the original. Upon termination of this Agreement, Funplus agrees to cease and desist from the use of any of your Marks.

12. *Confidentiality and Proprietary Information.* Each Party agrees (both during and following the termination of this Agreement) and will hold in confidence all Proprietary Information (defined below) of the other Party furnished by a Party, or reproduced or developed by a Party based on the other Party's Proprietary Information. Each Party agrees that, except with the disclosing Party's prior written permission or in furtherance of such Party's performance of the services, the receiving Party will not, directly or indirectly, use, disclose, reproduce, distribute, reverse engineer, or otherwise misappropriate any Proprietary Information of the other Party, in whole or in part, and will take no action that may cause, or fail to take any action necessary to prevent causing, any Proprietary Information of the other Party to lose its character as Proprietary Information. The receiving Party's protective measures will include the highest degree of care that it utilizes to protect its own trade secrets and confidential information of a similar nature, which will be no less than reasonable care. "**Proprietary Information**" means any trade secrets and confidential information of a Party, including all technical and non-technical information that relates to the business of you or Funplus that (a) is marked or identified at the time of disclosure as confidential or proprietary, or (b) which would under the circumstances appear to a reasonable person to be confidential or proprietary. Proprietary Information does not include information that: (i) was generally known to the relevant public at the time of disclosure, or became generally known after disclosure without breach of this Agreement; (ii) was lawfully received by the receiving Party from a third Party who was not under such restrictions; (iii) was known to the receiving Party without such restrictions prior to its receipt from the disclosing Party; or (iv) was independently developed by the receiving Party or independent third parties without breach of this Agreement. Notwithstanding the foregoing obligations, the receiving Party may disclose Proprietary Information (a) only as is necessary pursuant to a court order, subpoena or other legal process, provided that prior to any such disclosure, the receiving Party will use best efforts to provide the disclosing Party with a true and complete copy of such court order, subpoena or other legal process, within two (2) business days following receipt thereof by the receiving Party and in the event the receiving Party is unable to provide prior notice, the receiving Party will provide notice to the disclosing Party as soon as possible after such disclosure; or (b) to employees or agents under the control of the receiving Party who have a need to access such information in connection with performing the services and who have, as a condition of employment with the receiving Party signed a non-disclosure agreement or with whom the receiving Party, by operation of law, has a relationship requiring non-disclosure (e.g., legal or financial advisors).

13. *End User Data.* Funplus will have the right to use any data collected from End Users of the Game including, but not limited to, user e-mail addresses (collectively, "**End User Data.**") Funplus represents and warrants the collection and use of any End User Data will comply with all applicable laws and Funplus's privacy policy.

14. *Term.* The "**Term**" of this Agreement is unlimited.

15. *Termination.* Funplus may terminate this Agreement immediately upon the occurrence of any of the following events: (1) a material breach by you of this Agreement which breach remains uncured after thirty (30) days following receipt of written notice thereof; or (2) you

become insolvent or seek protection under any bankruptcy, receivership, trust deed, creditor's arrangement or comparable proceeding, or if any such proceeding is instituted against you and is not dismissed within ninety (90) days. The Parties' rights and obligations under Sections 12, 13, 15, 16, 17, 18, 19, 20, 21 and 22 will survive termination or expiration. Upon termination or expiration of this Agreement for any reason, Funplus's rights set forth in Section 9 will immediately terminate, Funplus will immediately remove the Game from the Platforms, and Funplus will return to you any documents or materials of any nature in Funplus's possession, custody or control (regardless of the medium) related to the Game. Funplus shall provide transition assistance that may be reasonably requested by you in order to transition the performance of Funplus's duties hereunder to you and minimize the disruption to the End User's experience with the Game. Funplus may also at its sole discretion decide not to proceed to the next tier with you.

16. *Representations and Warranties.* You represent and warrant to Funplus that: (a) the Game has been originally developed by you and/or you have full right and authority to grant the licenses granted in this Agreement; (b) the Game will in all material respects comply with the requirements of Funplus; (c) the Game (including any code contained therein) does not infringe upon any third party's intellectual property rights and you have not been notified of nor do you currently anticipate the possibility of such infringement; (d) you will ensure the Game is free from any viruses or technical errors, which may cause damage to Funplus, customers, or any other parties; (e) the Game will not violate the current laws of United States of America and/or any other country for which a localized version was created by or for you and does not include illegal matter; and, if applicable; and (f) you are an entity validly existing and in good standing under the laws of the jurisdiction where you are incorporated.

17. *Disclaimer of Warranty.* You agree that your use of the PublishingPlus shall be at your sole risk, and that Funplus provides the PublishingPlus on an "as is" basis. To the fullest extent permitted by law, Funplus, its Affiliates, officers, directors, employees, and agents disclaim all warranties, express or implies, in connection with PublishingPlus and your use thereof including implied warranties of title, merchantability, fitness for a particular purpose or non-infringement, accuracy, authority, completeness, usefulness, and timeliness. FUNPLUS HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED.

18. *Limitation of Liability.* TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU ACKNOWLEDGE AND AGREE THAT YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH FUNPLUS IS TO STOP USING PUBLISHINGPLUS. THE DISCLAIMERS OF LIABILITY CONTAINED HEREIN APPLY TO ANY AND ALL DAMAGES OR INJURY WHATSOEVER CAUSED BY OR RELATED TO USE OF, OR INABILITY TO USE, THE PUBLISHINGPLUS UNDER ANY CAUSE OR ACTION WHATSOEVER OF ANY JURISDICTION.

IN NO EVENT WILL FUNPLUS BE LIABLE TO YOU OR ANYONE ELSE FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, REVENUE, PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE), HOWEVER IT ARISES, WHETHER FOR BREACH OF CONTRACT OR IN TORT, EVEN IF THEY HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE.



YOU FURTHER AGREE THAT FUNPLUS IS NOT LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD FUNPLUS LIABLE, FOR THE CONDUCT OF THIRD PARTIES.

19. *Exclusion.* Some jurisdictions do not allow the exclusion of certain warranties or the exclusion or limitation of liability for consequential or incidental damages, so the limitations above may not apply to you.

20. *Indemnification by You.* You agree to defend, indemnify and hold Funplus harmless from and against any claim, liability, loss, injury, damage, cost, or expense, including attorneys' fees and costs, incurred by Funplus, arising out of or resulting from your access or use of the PublishingPlus including, but not limited to, your breach or alleged breach of any term, condition, obligation, representation or warranty contained in this Agreement.

21. *Limitations Period for Claims.* Notwithstanding any law to the contrary, you agree that you will not initiate any legal action against Funplus arising out of or related in any way to your use of the PublishingPlus, this Agreement and/or any related matter, more than one (1) year after such cause of action accrues that is the basis of your legal action.

22. *General.* If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by you except with Funplus's prior written consent. Both Parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed on behalf of both Parties by their duly authorized representatives, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither Party has any authority of any kind to bind or attempt to bind the other Party in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing Party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement will be governed by the laws of the State of California without regard to its conflict of laws provisions. Any dispute, controversy, or claim arising out of or in relation to or in connection with this Agreement or for the breach thereof will be settled by binding arbitration in the State of California and County of San Francisco. This Agreement may be executed in counter-parts and by facsimile or electronic signatures. You may not modify these Terms except in writing hand signed by both you and Funplus. For purposes of the Terms, "writing" does not mean an e-mail nor an electronic and/or facsimile signature.