



LEGAL CHALLENGE VII

The case focuses on a dispute between a video game developer and a software tools company. The case deals with a contractual dispute, a question on the applicability of trade restrictions, and issues related to competition law.

Fungaming is the developer of *Biopunk Funk*, a game created on the *Clarity* engine. Fungaming entered into a licensing agreement with the engine's developer and owner, **Clarity Frames**, allowing the studio to use *Clarity*. Fungaming later granted sub-licenses to its subsidiary studios around the world. Fungaming plans to release *Biopunk Funk* with the help of a publisher and has already signed a marketing and distribution agreement with **Micrando**, a leading regional digital games platform.

In June 2023, following a direct armed conflict in Borderlands and a proxy war in Sorrowland, Obliland introduced economic sanctions and trade restrictions on the Russian Federation and the People's Republic of China. Soon after, Clarity Frames unilaterally changed the terms of the Clarity licensing agreement and informed Fungaming that the studio could no longer sub-license *Clarity* to any subsidiaries in territories subject to the new restrictions. With two of its core development studios located in Ufa and Hong Kong and given the impact on the profit and loss of *Biopunk Funk* due to the change in commercial terms, Fungaming refused the changes.

Clarity Frames sent Fungaming a notification of breach, threatening to terminate the license under the terms of the agreement.

Fungaming filed a lawsuit against Clarity Frames seeking a declaratory judgment, claiming that the unilateral change of terms is unlawful and anti-competitive.

CLAIMANT & RESPONDENT

Claimant: Fungaming is a video game development and publishing studio headquartered in Terryland.

Respondent: Clarity Frames is a publicly listed (WSE) global software tools company headquartered in Obliland.

TIMELINE

1. In 2011, Clarity Frames released the first iteration of their engine *Clarity*. The engine was marketed as a complete, user-friendly creative toolkit that provides game developers with a one-stop solution for creating a modern cross-platform game. *Clarity* shipped with a graphics, physics and sound engine, a renderer, a 3D modelling and animation system, a robust artificial intelligence library, and an asset creation toolkit.
2. As a newcomer to the market and facing tough competition from several entrenched global tools providers that have managed to completely dominate the games industry's tech space in the past 20 years (Youdobe® and 3D Tech Max Digital®), Clarity Frames initially offered access to their engine under rather competitive licensing terms described by industry experts as "gentle". To developers willing to create and publish their games on the Clarity engine, Clarity Frames provided full access to *Clarity* in exchange for 2.5% in royalties based on the monthly gross revenue generated by their game (without any deductions except for taxes), provided that the game's lifetime gross revenue exceeded \$2,500,000 (USD), and with the first \$ 2,500,000 in gross revenue being royalty exempt.
3. By 2015, *Clarity* established itself as one of the best game development suites and became the go-to video game engine for small and large developers (from the British Facekick to the Polish 12 Bit Studios). Over the next years, numerous *Clarity* licensees released their video games to great acclaim and praised the "...fantastic tools that allowed developers to express their creativity without limitation; players now know and expect that by using *Clarity*, games will be bug-free, graphically rich, and deeply immersive."
4. Having received numerous industry awards, and seeing the continued increase in its stock price, Clarity Frames kept innovating and expanding *Clarity's* capabilities with each new iteration, adding development support for additional platforms, upgrading multiple components, and keeping up with industry trends. In 2019, after becoming the biggest software development company in the video game industry, Clarity Frames headhunted and appointed Woland Rimsky as its new CEO, a video games industry legend (an executive with humble beginnings in the ice cream industry, who rose through the ranks to become the most sought-after expert known for teamwork and gentle, respectful language, as well as a passion for private jets).
5. In March 2020, in a press release issued to Pixel Perfect, one of the biggest video game and entertainment websites, Clarity Frames announced the release of the latest iteration of their video game engine, *Clarity 5.0* (**Exhibit 1**). The new

iteration of the engine offers additional features and new AI-assisted tools that seek to optimise development workflow and reduce production time.

6. Fungaming is a video game developer and publisher founded in Terryland in 2011. Fungaming released its first video game, *Surplus Nitro 64*, in February 2014. *Surplus Nitro* is a side-scrolling endless runner mobile game developed for Android and iOS. While relatively unnoticed at first, the game received a lot of publicity after Oynayan Tavuk, a famous Twitch streamer from Istanbul, live-streamed the game in late 2014. Following the stream, *Surplus Nitro 64* became an overnight success.
7. Fungaming's CEO, Margarita Petracca was a successful game developer who previously worked as the head of production at several studios and served as a board member of TGA, Terryland's games industry association. Margarita joined Fungaming in 2013 and significantly contributed to the development of *Surplus Nitro 64* and was instrumental in helping Fungaming expand.
8. In 2017, with multiple projects in development, two of Fungaming's subsidiaries, FG Sardinia and FG Ufa, opened their doors in Italy and Bashkotorstan, respectively. FG Sardinia is responsible for research and development, experimental video game mechanics and design, and FG Ufa is responsible for asset creation and 3D animation.
9. Margarita's passion has always been to develop an online role-playing video game set in a dystopian future. Having successfully pitched *Biopunk Funk* in 2019 to Fungaming's board, the studio green-lit the game's development under the title Project Funk. However, with no prior experience developing a PC video game, Fungaming searched for a cross-platform engine to accommodate its development needs.
10. In April 2020, Margarita attended the Game Developer's Forum in Limassol, Cyprus, where she met Woland Rimsky, the CEO of Clarity Frames. Woland introduced *Clarity 5.0* during the conference and showcased the engine's impressive capabilities. Having watched the presentation of the engine, Margarita asked Woland to expand a bit more on the capabilities of *Clarity 5.0* and whether it could support the development of an online RPG video game. Over cocktails at the Amathus Hotel, and later at a breakfast at Old Port's Jam café, Woland explained to Margarita that *Clarity 5.0* was the perfect fit for developing *Biopunk Funk*.
11. In May 2020, after consulting with Fungaming's development team, Margarita sent an email to Woland asking whether Fungaming would be able to grant access to *Clarity 5.0* to all of its subsidiaries for the development of *Biopunk Funk*, to which Woland replied positively and stated that Clarity Frames is committed

to supporting all the developers (**Exhibit 2**). In June 2020, Fungaming entered into a licensing agreement with Clarity Frames to develop *Biopunk Funk* using *Clarity 5.0* (**Exhibit 3**).

12. In September 2020, Fungaming announced that two new Fungaming studios opened their doors in Hong Kong and Buenos Aires. Fungaming gave both FG Hong Kong and FG Buenos Aires access to *Clarity 5.0* to support the development and marketing of *Biopunk Funk*. FG Hong Kong was made responsible for developing the backend code for *Biopunk Funk*, and FG Buenos Aires was made responsible for creating the marketing material related to the game.
13. Fungaming also greenlit the parallel development of *Funky Punky*, an isometric rhythm mobile video game with AR/VR functionality based on *Biopunk Funk*, and asked FG Hong Kong to help port *Surplus Nitro 64* (under the title *Surplus Nitro 64+*) to PC and console. Both projects are currently in development using *Clarity 5.0*.
14. In 2022, looking to hedge its release strategy, Fungaming entered into a publishing agreement with Micrando, a digital distribution platform based in St. Petersburg, Russian Federation, inked at the Brand Licensing Expo in London. Under the terms of the agreement, Micrando received the exclusive right to publish, distribute and market *Biopunk Funk*, *Funky Punky* and *Surplus Nitro 64+* in the Asia-Pacific region (“APAC”), Russia, Ukraine, and Belarus, in exchange for a cross collateral 66.6% revenue share from sales in these territories.
15. Micrando, having projected a combined 15-million-unit lifetime sales across the three titles, invested significant amounts in the promotion of these games. The company invested \$1,500,000 (USD) in *Biopunk Funk* merchandise (**Exhibit 4**), \$2,500,000 (USD) in the promotional campaign, and entered into an endorsement agreement with Oynayan Tavuk, paying the streamer a lump sum of \$300,000 (USD) to promote Fungaming’s games online (the costs of Oynayan’s trips to Shanghai and Irkutsk were to be paid on top of this budget, as well as the costs of private language tutoring in Mandarin and Russian).
16. In June 2023, as Fungaming was preparing to release a public beta for *Biopunk Funk*, Obliland announced the imposition of economic sanctions and trade restrictions on the Russian Federation and the People’s Republic of China (**Exhibit 5**). Clarity Frames published a statement announcing that it intends to observe the trade restrictions fully, and immediately halted all new sales and the provision of services and software in the affected regions.
17. Soon after, Clarity Frames sent a notification of amendment to Fungaming (**Exhibit 6**), informing them of amendments made to the license agreement to comply with the recently announced sanctions. As part of the amendment,

Fungaming was no longer permitted to sub-license *Clarity 5.0* to its studios in the affected regions, nor distribute *Biopunk Funk* in Russia and/or China. Clarity Frames also increased the royalty rate to 10% of the gross revenue and lowered the threshold for when royalties become payable to \$1,000,000 (USD) in lifetime sales for all licensees.

18. These changes surprised and upset Fungaming. Margarita reached out to Woland to explain how catastrophic the amendment would be for Fungaming, especially because Fungaming's subsidiary studios are its core developers supporting the development of *Biopunk Funk*, *Funky Punky* and *Surplus Nitro 64+*. For these reasons, she explained, Fungaming did not accept the amendment to the original agreement and informed Clarity Frames that they would continue providing access to *Clarity 5.0* to all their subsidiaries, as originally agreed between Margarita and Woland (Margarita made a separate note on Clarity Frame's imperialistic attitude towards the developers based in the Republic of Bashkortostan, who already led a challenging life. Fungaming also refused the "absurd" sudden increase in the royalty revenue % by 4 times.
19. Clarity Frames informed Fungaming that they were surprised to learn that Fungaming was providing access to entities other than the ones contained in the original license agreement. They were also surprised to learn that Fungaming is developing two additional projects using *Clarity*, as the license was exclusively granted for Project Funk. In a notification dated July 17, 2023 (**Exhibit 7**), Clarity Frames informed Fungaming that it was in a material breach of the license agreement and was given 30 calendar days to remedy the breach. Otherwise, Clarity Frames will exercise its right to terminate the license agreement.
20. On July 24, 2023, and facing increased pressure from Micrando to ensure delivery of all three games, Fungaming filed a lawsuit in Obliland against Clarity Frames, seeking a declaratory judgment that:
 - A) Clarity Frame's unilateral change of terms of the licensing agreement is unlawful and prevents, restricts and distorts competition;
 - B) Clarity Frame's conduct amounts to abuse of a dominant position in the games industry market, giving rise to unfair trading conditions;
 - C) The Notification of Amendment of the License Agreement is void and unenforceable, and Fungaming is not in breach of the Clarity License Agreement;

* Procedural issues are out of the scope, and the parties are expected to only dispute the merits of the case.

** Both parties may use precedents and legal principles from any jurisdiction to support, further and strengthen a position.



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EXHIBIT 1 TO THE CASE



UNLEASH YOUR INNER CREATIVITY AND GENERATE VAST, EXPANSIVE WORLDS WITH CLARITY 5.0

March 18, 2020

The next generation of Clarity demonstrates why it continues to be the industry standard for video game development.

March 18, 2020 – We are thrilled to announce that [Clarity 5.0](#) is now available to all video game developers, aspiring developers, hobbyists, or gamers excited to try the powerful new iteration of the most popular and widely used video game engine.

We are excited to help unleash a new wave of video game creativity.

Here at [Clarity Frames](#), our mission has been the same since the release of Clarity 1.0 in 2011: **revolutionise video game development, support developers, and never stop innovating.**

We are proud that for many years now, industry-leading studios have been using our engine to develop hugely successful titles, including *The Backroom Realms*, *Galaxy Force*, *Dreamscape Delirium* and *Cry of the Firstborn*, to name a few. In fact, data suggests that you may be at a disadvantage by using any engine other than Clarity.

Continuing the tradition of innovation, we have upgraded Clarity 5.0 with the latest technology in 3D animation, rendering, VR and AR Support, and innovative AI-driven tools that can save valuable development time. We also offer off-the-shelf code, allowing independent developers to compete in a saturated market.

We are also introducing several features that optimise development workflows and offer built-in multiplayer capabilities to help you launch your next title as quickly as possible.

Welcome to the next generation of video game development.

By choosing Clarity 5.0, you are joining a vast community of more than 200 game studios that have launched innovative and successful video games with the proven support of Clarity Frames.

Visit our [website](#) for more information and a detailed overview of all new features.

We, for one, cannot wait to see what you will create with **Clarity 5.0**.



LEGAL CHALLENGE VII

EXHIBIT 2 TO THE CASE

From: Margarita Petracca <margarita.petracca@fungaming.com>
Sent: Thursday, May 14, 2020 7:32 PM
To: Woland Rimsky <woland.rimsky@clarityframes.com>
Cc: claude.thiery@clarityframes.com
Subject: RE: Fungaming: Clarity 5.0 License Agreement

Dear Wol,

Amazing, many thanks for the confirmation!

Looking forward to talking with Claude 😊

Have a lovely evening.

Best,

Margarita

From: Woland Rimsky <woland.rimsky@clarityframes.com>
Sent: Thursday, May 14, 2020 7:15 PM
To: Margarita Petracca <margarita.petracca@fungaming.com>
Cc: claude.thiery@clarityframes.com
Subject: RE: Fungaming: Clarity 5.0 License Agreement

Dear Margarita,

I am delighted to hear from you, and I hope that your journey back to Obliland was a breeze (the memory of that breakfast at Jam will stay with me forever!).

I am very happy to hear that Fungaming is interested in Clarity 5.0! Just like you did not regret the dinner with me, your company will not regret using our engine to develop Project Funk. Especially with an eye on your IPO (trust me, we are on WSE, and we know how this works).

At Clarity Frames, we remain committed to supporting all developers to reach their goals. You can be assured that when Fungaming enters into a license agreement with Clarity Frames, any of your subsidiaries will be allowed to use Clarity for developing Project Funk.

I am CCing Claude, our licensing specialist, so that he can follow up with you regarding the next steps (please mind that he is on holidays for the next 9 weeks; he will come back to you once he's back in the office). Of course, I also remain at your disposal.

Have a lovely evening.

(Jam! Oh, Jam!)

Clear wishes,

Wol

Woland Rimsky

CEO

Clarity Frames

woland.rimsky@clarityframes.com

+1 (123) 456-7890

www.clarityframes.com



From: Margarita Petracca <margarita.petracca@fungaming.com>
Sent: Thursday, May 14, 2020 6:50 PM
To: Woland Rimsky <woland.rimsky@clarityframes.com>
Subject: Fungaming: Clarity 5.0 License Agreement

Dear Woland,

I hope you are well.

This is Margarita from Fungaming.

It was wonderful to chat with you during the Limassol conference, and as promised, I would like to follow up on our discussion related to Clarity (some other things, too, but in separate communication).

Let me first say that Fungaming is very excited and keen to use Clarity 5.0 to develop Project Funk—this will add clarity to our plan for scaling up the studio! Fungaming’s development team told me that Clarity 5.0 is very promising and is pretty much the industry standard (what do I know?). The off-the-shelf code bundled with the engine will also immensely help our studio.

However, as I mentioned during our chat, this will be our first PC title, so we want to make sure that we make the right choice.

We are investing a lot in Project Funk (you’d better not ask me about all the effort it took to fund raise!), and all of our subsidiaries will support us during this production cycle. It will be a multi-national team effort.

As such, I would like to kindly ask, if we enter into a license agreement with Clarity Frames, will our subsidiaries be able to access and use Clarity?

Many thanks, and I am looking forward to your reply.

Fun wishes,

Margarita

Margarita Petracca

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PhD Skolkovo Innovation Center**

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LEGAL CHALLENGE VII

EXHIBIT 3 TO THE CASE



Clarity License Agreement

This License Agreement (the “**Agreement**”) is dated June 15, 2020 (the “**Effective Date**”).

PARTIES

- 1) Clarity Frames Ltd. incorporated and registered in Obliland with company number 66N666-666 and with registered office at 666 Jet Set Street, Dustvale 66666, Obliland (“**Licensor**”); and
- 2) Fungaming Ltd. Incorporated and registered in Terryland with company number 0101022 and with the registered office at 1 Nice Grove, Rispettoso della Lege 22888, Terryland (“**Licensee**”).

Licensor and Licensee are each individually referred to as the “Party” and jointly as the “Parties”.

BACKGROUND

- A. Licensor is the owner of the Licensed Technology (as defined below).
- B. The Licensee wishes to use the Licensed Technology to develop the Licensee Game (as defined below), and the Licensor is willing to grant the Licensee a license to use the Licensed Technology on the terms and subject to the conditions of this License Agreement.

1. INTERPRETATION

1.1 Definitions

“**Affiliate**” or “**Licensed Affiliate**” means an Affiliate of the Licensee directly involved in the design, development, publication, distribution, marketing, promotion, or advertising of the Licensee Game, designated by the Licensee as a Licensed Affiliate in a notice provided to Licensor in accordance with **Schedule 1** to this License Agreement. An entity designated as a Licensed Affiliate shall remain a Licensed Affiliate until the earlier of the date: (a) such entity is no longer an Affiliate of the Licensee; and (b) Licensee gives notice to Licensor that such entity is no longer designated as a Licensed Affiliate.

“**Business Day**” means a day other than a Saturday, Sunday or public holiday and on which banks are open for business in (i) Obliland (to define the term for rights, obligations or other activities to be executed or carried out by Licensor); or (ii) Terryland (to define the term for rights, obligations or other activities to be executed or carried out by Licensee).

“**Clarity Engine Tools**” means the editors and other tools included in the Engine Code and any other software that may be used to develop standalone products based on the Licensed Technology.

“Confidential Information” shall mean any information which relates to the disclosing Party that is disclosed or made available (directly or indirectly) by the disclosing Party to the receiving Party, whether in oral, visual or written form (including graphic material), whether before, on or after the Effective Date. Confidential Information includes but is not limited to: (a) to the extent applicable: proprietary information, technical data, know-how, formulae, engineering processes, strategies, photographs, technology, technical literature, research, product plans, products, services, equipment, customers, markets, source and/or object code, software, inventions, discoveries, ideas, processes, designs, drawings, specifications, product configuration information, pricing, marketing and finance documents, prototypes, samples, data sets, audio, audiovisual, graphics, text, manuals and other written materials, gameplay, mechanics, look and feel, user interface, logo, name, plot, setting and characters and equipment or other materials including information which is attributable to, or the existence of which is derived from, the Parties cooperation and/or this License Agreement; and (b) the existence and terms of this License Agreement; and (c) information otherwise reasonably expected to be treated in a confidential manner under the circumstances of disclosure under this License Agreement or by the nature of the information itself.

“Engine Code” means the Source Code (as defined in the License Agreement) and object code of Clarity Engine, including any future versions made available to the Licensee by the Licensor under this License Agreement and any object code compiled from that Source Code.

“Intellectual Property Rights” means any and all copyright, related (neighbouring) rights, performance rights, synchronisation rights, mechanical rights, rights to trademarks, service marks, get up, brand names, logos, business or domain names, trade dress, goodwill, design rights, database rights, patents, rights in inventions, know-how, trade secrets and confidential information, moral rights, publicity rights, publishing, rental, lending and transmission rights and other intellectual property rights, which may now or in the future subsist worldwide, in all cases whether or not registered or registrable including all granted applications and all rights to and created through applications for registration, division, continuation, reissuance, renewals, extensions, restorations and reversions regarding the same.

“Laws” mean all domestic or foreign federal, provincial, state, municipal or local laws, rules, regulations, statutes, by-laws, ordinances, policies, directives or orders of any federal, provincial, state, regional, municipal or local government or any subdivision thereof or any arbitrator, court, administrative or regulatory agency, commission, department, board or bureau or body or other government or authority or instrumentality or any entity or person exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

“Licensed Technology” means all Clarity Engine Code, Clarity Engine Tools and related content copied to a computer when the Clarity Engine is installed.

“Licensee Game” means the video game, currently known as Project Funk, or any other project related to it, to be made and/or developed by the Licensee by using and/or combining the Licensed Technology with any other software or content and as further defined in **Schedule 2** to this License Agreement.

“Licensee Marks” shall mean those names, brands, marks, trademarks, service marks, designs, graphic materials, logos, trade dresses, trade names, business

names, domain names, slogans, images or other indicia of the Licensee, and as represented in **Schedule 3** to this License Agreement.

“Licensor Marks” shall mean those names, brands, marks, trademarks, service marks, designs, graphic materials, logos, trade dresses, trade names, business names, domain names, slogans, images or other indicia of the Licensor, and as represented in **Schedule 3** to this License Agreement.

“Marks” shall mean those names, brands, marks, trademarks, service marks, designs, graphic materials, logos, trade dresses, trade names, business names, domain names, slogans, images or other indicia of the respective Party, including any name in English or any other languages, and any combination of the foregoing (each and all of the foregoing, whether registered, unregistered and/or pending registration, and whether subsisting at common law, in equity, under statute or otherwise) and all intangible rights, privileges and forms of protection of a nature or of similar effect to any of the above that may arise under the laws of any state, country or jurisdiction, and any and all applications for the foregoing.

“Royalty Revenue” means all Worldwide Gross Revenue attributable to the Licensee Game and includes gross revenue: (a) resulting from any and all sales of the Licensee Game to end users through any and all media, including but not limited to digital and retail; (b) resulting from any and all in-app purchases, downloadable content, microtransactions, subscriptions, sale, transfer, or exchange of user-generated content for use with the Licensee Game, or redemption of virtual currency which directly affects the operation of the Licensee Game, whether redeemed within the Licensee Game or externally; (c) from any advance payments for the Licensee Game (from a publisher, distributor or otherwise); and (d) received in any other form actually attributable to the Licensee Game.

“Source Code” means the human-readable form of a software program, including all modules it contains, plus any associated interface definition files, and scripts used to control compilation, and installation of an executable.

“Taxes” means sales, consumption and excise taxes of any kind applicable anywhere in the world, including, without limitation, value-added tax or equivalent tax in any other jurisdiction.

“Territory” means worldwide.

“Worldwide Gross Revenue” means all revenue directly generated by the Licensee Game, regardless of who receives the revenue and regardless of whether the Licensee distributes the Licensee Game to end users directly, self-publish, or work with a publisher or distributor.

- 1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 A reference to writing or written includes fax and/or emails.
- 1.4 Any words following the terms: including, include, in particular, for example, or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.5 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.

- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 This License Agreement shall be binding on, and enure to the benefit of, the Parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any Party shall include that Party's personal representatives, successors and permitted assigns.

2. LICENSE

- 2.1 The Licensor hereby grants to the Licensee, in accordance with the terms of this License Agreement, a non-exclusive, non-transferable license effective in the Territory, to use, reproduce, display, perform, and modify the Licensed Technology solely for the purpose of developing and distributing or otherwise making publicly available copies of the Licensee Game.
- 2.2 The Licensee may sublicense and transfer the rights granted under this License Agreement to a Licensed Affiliate:
 - a. solely for the design, development, publication, distribution, marketing, promotion, or advertising of the Licensee Game in accordance with **Schedule 1** to this License Agreement; and
 - b. pursuant to a written sublicensing agreement consistent with the License Agreement's terms and conditions.
- 2.3 Subject to the terms and conditions of this License Agreement, the Licensor hereby grants to the Licensee and the Licensee hereby grants to the Licensor a worldwide, non-exclusive, non-assignable, non-sublicensable, royalty-free, limited license to use and display the Licensor and Licensee Marks respectively solely as necessary to market and advertise the Licensee Game and the Licensed Technology respectively according to **Schedule 3**.
- 2.4 No rights or licenses are conferred on the Licensee pursuant to this License Agreement except those expressly set out in this License Agreement.

3. END USERS

- 3.1 The Licensee may permit end users to use, reproduce, display and publicly perform the Licensed Technology solely:
 - a. as incorporated in the Licensee Game in object code as an inseparable part of the Licensee Game;
 - b. to the extent necessary for end users to make permitted uses of the Licensee Game; and
 - c. pursuant to an end user license agreement that explicitly disclaims any representations, warranties, conditions, and liabilities related to the Licensed Technology.
- 3.2 The Licensee may not permit its end users to incorporate any Licensed Technology into their own products, services, or other projects.

4. PUBLISHERS AND DISTRIBUTORS

- 4.1 The Licensee may permit its publishers and distributors to market and distribute the Licensee Game on the Licensee's behalf, but only to the extent

that the Licensee is permitted to make such distribution under the terms of this License Agreement.

5. CONFIDENTIALITY

- 5.1 Each Party undertakes that it shall not at any time during this License Agreement, and for a period of five years after the expiry or termination of this License Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other Party or of any member of the group of companies to which the other Party belongs, nor any of the terms of this License Agreement, except as permitted by clause 5.2.
- 5.2 Each Party may disclose the other Part's Confidential Information:
- a. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with this License Agreement. Each Party shall procure that its employees, officers, representatives or advisers to whom it discloses the other Party's Confidential Information comply with the obligations set out in this clause 5 as if they were a Party to this License Agreement; and
 - b. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 5.3 No Party shall use any other Party's confidential information for any purpose other than to exercise its rights or perform its obligations under or in connection with this License Agreement.

6. ROYALTY AND TAXES

- 6.1 The Licensee agrees to pay the Licensor a royalty equal to 2.5% of all Royalty Revenue, regardless of whether that revenue is generated and received by the Licensee or any other person or entity.
- 6.2 Royalty payments are calculated by multiplying the royalty rate of 2.5% by the Royalty Revenue.
- 6.3 The Licensee will not owe the Licensor any royalty payments until the Licensee Game reaches the first \$2,500,000 in Worldwide Gross Revenue.
- 6.4 Within 30 (thirty) days after the end of each calendar quarter in which the Licensee earns Royalty Revenue, the Licensee must report the Royalty Revenue to the Licensor and pay the Licensor 2.5% of the Royalty Revenue, where applicable, and in accordance with Clause 6.3 and Clause 6.5.
- 6.5 The Parties agree that the first \$2,500,000 in Worldwide Gross Revenue generated by the Licensee Game will be excluded from the calculation of Royalty Revenue.
- 6.6 The Licensee is responsible for all taxes on all payments required to be made by the Licensee under this License Agreement.
- 6.7 Any amount that the Licensee is required by law to withhold from the Licensor's royalty payments (such as any amount of withholding tax or other

deductions) shall be borne by the Licensor and shall be deducted from the royalty payments.

7. RESTRICTIONS

- 7.1 The Licensee must ensure that its activities with the Licensed Technology do not violate any applicable law or regulation; result in the Licensed Technology being rented or leased; and/or misappropriate any of Licensor's other products or services.

8. OWNERSHIP

- 8.1 The Licensee shall own all rights, other than rights in the Licensed Technology, in the Licensee Game under this License Agreement.
- 8.2 Licensor owns all title, ownership rights, and intellectual property rights in the Licensed Technology.
- 8.3 All rights granted to the Licensee under this License Agreement are granted by the license only and not by sale, and all of those rights are limited by and subject to the terms of this License Agreement.
- 8.4 No license or other right in any Clarity Frames technology or intellectual property rights other than the Licensed Technology is granted under this License Agreement, and no license or other rights will be created under this License Agreement by implication, estoppel, or otherwise.
- 8.5 Any attempted sublicense that is not consistent with the terms of this License Agreement will be null and void.

9. NOTICES

- 9.1 Licensee agrees to retain the copyright, trademark, and other proprietary notices and disclaimers of Licensor as they appear in the Licensed Technology.
- 9.2 Licensee agrees to place the following notices in the Licensee Game's credits (replacing xxxx with the current year):
- a. "[Licensee Game name] uses Clarity® Engine. Clarity® is a trademark or registered trademark of Clarity Frames Ltd. in Obliland and elsewhere.
 - b. "Clarity® Engine, Copyright 2011 – xxxx, Clarity Frames Ltd. All rights reserved."

10. GOVERNING LAW AND JURISDICTION

- 10.1 This License Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with its subject matter or formation shall be governed by and construed in accordance with the law of Obliland.
- 10.2 Each Party irrevocably agrees that the courts of Obliland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this License Agreement or its subject matter or formation.

11. REPRESENTATIONS AND WARRANTIES

- 11.1 Each Party represents and warrants on an ongoing basis, that (a) it is duly organised, validly existing and in good standing under the laws of its jurisdiction and has the power and authority to enter into this License Agreement and to fully perform its obligations hereunder. This License Agreement has been duly executed by the Party's authorised representative and constitutes its valid, binding obligation; (b) nothing contained in this License Agreement or in the performance of this License Agreement will place the Party in breach of any other contract or obligation with any third party or agency; (c) it complies and shall comply at all times with any applicable laws, rules and regulations, including those related to use and processing of data (including personal data), governing anti-bribery and corruption.
- 11.2 THE LICENSED TECHNOLOGY, INCLUDING ALL INFORMATION, CONTENT, MATERIALS, CODE, AND SOFTWARE, ARE PROVIDED BY LICENSOR ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE LICENSED TECHNOLOGY. LICENSEE'S USE OF THE LICENSED TECHNOLOGY IS AT LICENSEE'S SOLE RISK. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, THE LICENSOR DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT. THE LICENSOR DOES NOT WARRANT THAT THE LICENSED TECHNOLOGY IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FOREGOING WARRANTY DISCLAIMERS WERE AN ESSENTIAL ELEMENT IN SETTING CONSIDERATION UNDER THIS LICENSE AGREEMENT.

12. INDEMNITIES

- 12.1 The Licensor agrees to indemnify and hold harmless the Licensee from and against all liabilities, damages, judgments, awards, losses, costs, expenses, and fees (including reasonable attorney and expert witness fees) arising out of or in connection with the Licensor's breach of any of Licensor's obligations, representations, warranties under this License Agreement.
- 12.2 The Licensee agrees to indemnify and hold harmless the Licensor from and against all liabilities, damages, judgments, awards, losses, costs, expenses, and fees (including reasonable attorney and expert witness fees) arising out of or in connection with any third-party claims, demands, or actions (i) that, if true, would involve a breach by the Licensee of this License Agreement (including, without limitation, any distribution or sublicensing of the Licensed Technology in violation of this License Agreement or applicable laws), or (ii) related to the Licensee Game or Licensee's exercise of its rights under this License Agreement (except to the extent the third party is alleging your authorised use of unmodified Licensed Technology originally provided to you by the Licensor under this License Agreement infringes any patent, trademark, or copyright).

13. REMEDIES

- 13.1 If there is a breach of this License Agreement by either party, monetary damages may not be adequate to remedy the harm suffered and therefore either party may seek equitable relief (including injunctive relief and/or specific performance) in addition to any other remedy to which it may be entitled to under this License Agreement or in law.

14. FORCE MAJEURE

- 14.1 Neither party shall be in breach of this License Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this License Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control.

15. AMENDMENTS

- 15.1 If the Licensor amends the Clarity® Engine User License Agreement, any such amendment will not affect the use of the License Technology by the Licensee, and this License Agreement will continue to govern the Licensee's use of any Licensed Technology the Licensee already has access to.
- 15.2 The Licensor reserves the right and is allowed to amend this License Agreement without the prior approval of the Licensee, solely for the purpose of complying with any applicable laws, rules and regulations.
- 15.3 If the Licensor amends this License Agreement pursuant to clause 15.2, the Licensor shall provide the Licensee with a notification of amendment, informing the Licensee of any and all amendments made to the License Agreement by the Licensor.
- 15.4 The Licensee, having received a notification of amendment by the Licensor, shall not be allowed to make use of the Licensed Technology unless the Licensee complies with any and all amendments made by the Licensor.

16. SEVERANCE

- 16.1 If any provision or part-provision of this License Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this License Agreement.
- 16.2 If any provision or part-provision of this License Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

17. ENTIRE AGREEMENT AND RELATIONSHIP

- 17.1 This License Agreement, together with any documents referred to in it, including Schedule 1, Schedule 2, and Schedule 3, constitutes the entire agreement between the Parties and supersedes and extinguishes all previous oral agreements, promises, assurances, warranties,

representations and understandings between them relating to its subject matter.

- 17.2 The relationship between Licensee and Licensor will be that of independent signatories, and nothing in this License Agreement will be construed to constitute either party an agent of the other party. Without limiting the foregoing, neither party will have authority to act for or to bind the other party in any way, including to make representations or warranties or to execute agreements on behalf of the other party.
- 17.3 This License Agreement will not be construed to create an association, joint venture, or partnership between the parties or to impose any partnership obligation or liability upon any party.

18. TERMINATION

- 18.1 The Licensor shall be entitled to terminate this License Agreement with immediate effect if the Licensee is in breach of any material obligation, warranty or representation contained in this License Agreement and (where such breach is capable of remedy) has failed to remedy that breach within 30 (thirty) calendar days of being notified of it.
- 18.2 The Licensee shall be entitled to terminate this License Agreement on 30 (thirty) calendar days' written notice sent at Licensee's absolute discretion.
- 18.3 On termination of this License Agreement:
- a. neither Party shall have any further obligation to the other under this License Agreement except as provided in this License Agreement;
 - b. the Licensee shall cease use of the Licensed Technology; and
 - c. the Licensee shall pay to the Licensor any royalty payments due pursuant to Clause 6.

19. NOTICES

- 19.1 Notices under this License Agreement shall not be valid unless in writing and sent to a party:
- a. at its address set out at the head of this License Agreement; or
 - b. by email to the email addresses set out below and in each case, marked for the attention of the relevant person set out below with:

Party	Email	Attention
Clarity Frames	woland.rimsky@clarityframes.com	Woland Rimsky
Fungaming	margarita.petracca@fungaming.com	Margarita Petracca

- 19.2 A party may change its notice details by serving notice on the other parties of the change in accordance with this clause.

20. COUNTERPARTS

- 20.1 This License Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute a duplicate

original, but all the counterparts shall together constitute the one agreement. Where and to the extent permitted under the constitution of each Party and applicable law, execution of this License Agreement may be by electronic signature, which the Parties agree shall stand as conclusive evidence of the Party executing in such manner's intention to be bound by the terms of this License Agreement as if signed by manuscript signature.

- 20.2 Transmission of an executed counterpart of this License Agreement (but for the avoidance of doubt not just a signature page) by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this License Agreement. If either method of delivery is adopted, without prejudice to the validity of the License Agreement thus made, each Party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- 20.3 No counterpart shall be effective until each Party has executed and delivered at least one counterpart.
- 20.4 Each Party represents, warrants and undertakes to the other Party that it has the full right, power and authority to execute, deliver and perform this License Agreement.

Thus the Parties have executed this License Agreement as of the Effective Date.

CLARITY FRAMES LIMITED

Name: Woland Rimsky
Title: CEO

FUNGAMING LIMITED

Name: Margarita Petracca
Title: CEO

Schedule 1 – Licensed Affiliates

The Licensee hereby notifies the Licensor that the following companies shall be considered Licensed Affiliates for the purposes of the License Agreement:

Name	Affiliation	Location
FG Sardinia	Wholly-owned Fungaming Subsidiary	Sardinia, Italy
FG Ufa	Wholly-owned Fungaming Subsidiary	Ufa, Bashkortostan

The Licensed Affiliates are directly involved in the design, development, publication, distribution, marketing, promotion, or advertising of the Licensee Game.

CLARITY FRAMES LIMITED



Name: Woland Rimsky
Title: CEO

FUNGAMING LIMITED



Name: Margarita Petracca
Title: CEO

Schedule 2 – Licensee Game

Title	Project Funk (subject to change)
Description	An online role-playing video game to be developed by the Licensee, along with any updates, upgrades, patches, improvements and future expansions.
Genre	Online RPG
Platform	Microsoft Windows operating system, including Windows 8, Windows 10, Windows 11 and any future version of Microsoft Windows, Linux, MacOS X, Android, and iOS
Projected Release	Q4 2023/Q1 2024 (Projected)
Region	Worldwide

CLARITY FRAMES LIMITED



Name: Woland Rimsky
Title: CEO

FUNGAMING LIMITED



Name: Margarita Petracca
Title: CEO

Schedule 3 – Licensor and Licensee Marks

Licensor Marks

Mark	Classes	Registration No	Date
Clarity Engine	9, 28, 35, 38, 41, 42	19890000453	01/01/2011
Clarity Frames	9, 42	19890000467	01/01/2011
	9, 42	19890000460	01/01/2011
	9, 28, 35, 38, 41, 42	21981394567	23/11/2019

Licensee Marks

Mark	Classes	Registration No	Date
Fungaming	9, 42	19760000237	13/12/2010
FG Sardinia	9, 42	20120000788	15/03/2017
FG Ufa	9, 42	20570000614	10/05/2017
	9, 42	19760000243	13/12/2010

	<p>9,42</p>	<p>20120000790</p>	<p>15/03/2017</p>
 <p>FUNGAMING Уйын эшлэлү студияһы</p>	<p>9,42</p>	<p>20570000624</p>	<p>10/05/2017</p>

CLARITY FRAMES LIMITED



Name: Woland Rimsky
Title: CEO

FUNGAMING LIMITED



Name: Margarita Petracca
Title: CEO



LEGAL CHALLENGE VII

EXHIBIT 4 TO THE CASE



MICRANDO
GAMES

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OUR GAME COLLECTION



BIOPUNK FUNK


Funk yourself in the upcoming and highly anticipated exclusive, Biopunk Funk!

PRE-ORDER 

Annex 1 to the Publishing and Distribution Agreement

Product	Territory	Volume (pcs)	Estimated Retail Price	Wholesale Price	Launch Date (projected)
Tote Bags	APAC and Russia	10,000	\$5.00	\$1.00	Q4 2023
Mugs		10,000	\$14.99	\$7.00	
Hoodies		1000	\$99.99	\$40.00	
Posters		2000	\$24.99	\$10.00	
Calendar		3000	\$12.99	\$7.00	
Limited Edition Physical Disc		3000	\$59.99	\$30.00	

Merchandise Approved by Partner

Limited Edition Physical Disc	
Calendar	
Hoodies	

<p>Mugs</p>	
<p>Tote Bags</p>	
<p>Poster A</p>	
<p>Poster B</p>	
<p>Poster C</p>	



LEGAL CHALLENGE VII

EXHIBIT 5 TO THE CASE

Obliland Imposes Sanctions, Export Controls on Russia and China in Coordination with International Partners

PRESS STATEMENT

Avery P. Collins, Minister of Foreign Affairs

June 21, 2023



In coordination with the European Union and the United States of America, Obliland is imposing economic sanctions on the Russian Federation and the People's Republic of China.

These sanctions target the financial, trade, energy, transport, technology, and defence sectors.

Obliland is issuing a determination prohibiting the exportation, re-exportation, sale, or supply, directly or indirectly, from Obliland, or by an Obliland person, wherever located, of:

- crypto asset wallet, account, or custody services
- architectural and engineering services
- IT consultancy services and legal advisory services
- advertising, market research and public opinion polling services
- technical assistance, brokering services or financing or financial assistance
- intellectual property rights or trade secrets
- pet-training services

to any person located in the Russian Federation and/or the People's Republic of China in alignment with International Partners.

The list of sanctioned products includes, among others:

- cutting-edge technology (e.g. quantum computers and advanced semiconductors, electronic components and software)
- wood hangers
- energy industry equipment, technology and services
- dog and bird clicker devices
- aviation and space industry goods and technology
- luxury goods (e.g. luxury cars, watches, jewellery)
- civilian firearms, their parts and other army materials
- periodicals dealing with modelling, miniature painting and numismatics

For more information on today's sanctions, please see Obliland's Ministry of Foreign Affairs [press release](#).



LEGAL CHALLENGE VII

EXHIBIT 6 TO THE CASE



Notification of Amendment of the License Agreement

July 17, 2023

Fungaming Ltd.
1 Nice Grove, Rispettoso della Lege 22888, Terryland
Attention: Margarita Petracca

Clarity Frames Ltd. ("**Licensor**") entered into a License Agreement dated June 15, 2020 (the "**Original Agreement**"), with Fungaming Ltd. ("**Licensee**").

Under the terms of the Original Agreement, the Licensor granted to the Licensee a non-exclusive, non-transferable license effective in the Territory, to use, reproduce, display, perform, and modify the Licensed Technology solely for the purpose of developing and distributing or otherwise making publicly available copies of the Licensee Game.

In June 2023, the United States of America, the European Union and Obliland announced the imposition of sanctions and export controls on Russia and China. Clarity Frames is complying with the abovementioned sanctions.

Effective immediately, Clarity Frames will halt all new sales, licenses and the provision of services in Russia and China and will ensure that the Clarity Engine, associated technologies or any other Clarity Frames products and/or services will not be used by prohibited entities.

To compensate for the financial impact directly related to the sanctions and export controls imposed on Russia and China, Clarity Frames Ltd. is adjusting its terms related to royalty payments due under the Clarity® Engine User License Agreement.

Considering the above, Clarity Frames Ltd. hereby informs Fungaming Ltd. of Amendment No.1 to the License Agreement.

Amendment No.1 to the License Agreement

Pursuant to Clause 15.2 and Clause 15.3 of the Original Agreement, the Original Agreement shall be amended with effect on and from July 3, 2023 (the "**Effective Date**"), as follows by Amendment No.1 to the License Agreement (the "**Amendment**"):

1. Definitions and Interpretation

Terms defined in the Original Agreement shall, unless otherwise defined in this Amendment Agreement, have the same meaning as in the Original Agreement.

2. Amendments to the Agreement

2.1 Clause 1.1 of the Original Agreement shall be amended by replacing the definition of the following terms:

- a. **"Affiliate"** or **"Licensed Affiliate"** means an Affiliate of the Licensee that is not registered, located and does not operate in the territories of Russia and/or China, and is directly involved in the design, development, publication, distribution, marketing, promotion, or advertising of the Licensee Game, designated by the Licensee as a Licensed Affiliate in a notice provided to Licensor in accordance with Schedule 1 to this License Agreement. An entity designated as a Licensed Affiliate shall remain a Licensed Affiliate until the earlier of the date: (a) such entity is no longer an Affiliate of the Licensee; and (b) Licensee gives notice to Licensor that such entity is no longer designated as a Licensed Affiliate.
 - b. **"Territory"** means worldwide and excluding the territories of Russia and/or China.
- 2.2 Clause 2.2 of the Original Agreement shall be amended and replaced by the following:
 - a. The Licensee may sublicense and transfer the rights granted under this License Agreement to a Licensed Affiliate located in the Territory:
- 2.3 Clause 2.2(a) and Clause 2.2(b) of the Original Agreement shall remain unaffected.
- 2.4 Clause 3.1 of the Original Agreement shall be amended and replaced by the following:
 - a. The Licensee may permit end users to use, reproduce, display and publicly perform the Licensed Technology solely in the Territory and:
- 2.5 Clause 3.1(a), Clause 3.1(b), Clause 3.1(c) and Clause 3.2 of the Original Agreement shall remain unaffected.
- 2.6 Clause 4.1 of the Original Agreement shall be amended and replaced by the following:
 - a. The Licensee may permit its publishers and distributors to market and distribute the Licensee Game on the Licensee's behalf, but only to the extent that the Licensee is permitted to make such distribution under the terms of this License Agreement and only in the Territory.
- 2.7 In Clause 7 of the Original Agreement, the words **"RESTRICTIONS"** shall be deleted and replaced with the words **"RESTRICTIONS AND EXPORT CONTROL"**.
- 2.8 A new Clause 7.2 shall be added to the Original Agreement after Clause 7.1 as follows:
 - a. The Licensee understand and agrees that the Licensed Technology may not be used, accessed, downloaded, or otherwise exported, reexported, sublicensed or transferred in violation of applicable export control, economic sanctions, and import laws and regulations, such as U.S. Export Administration Regulations, EU Export Control Regulations, and Obliland Export Controls.

- 2.9 Schedule 1 to the Original Agreement shall be amended as follows:
- a. FG Ufa shall be deleted and removed and cease to be a Licensed Affiliate.
- 2.10 Schedule 2 to the Original Agreement shall be amended as follows:

Region	Worldwide, <u>excluding the territories of Russia and China.</u>
---------------	--

- 2.11 Clause 11.1 of the Original Agreement shall be amended and replaced by the following:
- a. Each Party represents and warrants on an ongoing basis, that (a) it is duly organised, validly existing and in good standing under the laws of its jurisdiction and has the power and authority to enter into this License Agreement and to fully perform its obligations hereunder. This License Agreement has been duly executed by the Party's authorised representative and constitutes its valid, binding obligation; (b) nothing contained in this License Agreement or in the performance of this License Agreement will place the Party in breach of any other contract or obligation with any third party or agency; (c) it complies and shall comply at all times with any applicable laws, rules and regulations, including those related to use and processing of data (including personal data), governing anti-bribery and corruption, and applicable export control, economic sanctions, and import laws and regulations.
- 2.12 Clause 6.1 of the Original Agreement shall be amended and replaced by the following:
- a. The Licensee agrees to pay the Licensor a royalty equal to 10% of all Royalty Revenue, regardless of whether that revenue is generated and received by the Licensee or any other person or entity.
- 2.13 Clause 6.2 of the Original Agreement shall be amended and replaced by the following:
- a. Royalty payments are calculated by multiplying the royalty rate of 10% by the Royalty Revenue.
- 2.14 Clause 6.3 of the Original Agreement shall be amended and replaced by the following:
- a. The Licensee will not owe the Licensor any royalty payments until the Licensee Game reaches the first \$1,000,000 in Worldwide Gross Revenue.
- 2.15 Clause 6.4 of the Original Agreement shall be amended and replaced by the following:
- a. Within 30 (thirty) days after the end of each calendar quarter in which the Licensee earns Royalty Revenue, the Licensee must report the Royalty Revenue to the Licensor and pay the Licensor 5% of the Royalty Revenue, where applicable, and in accordance with Clause 6.3 and Clause 6.5.

2.16 Clause 6.5 of the Original Agreement shall be amended and replaced by the following:

- a. The Parties agree that the first \$1,000,000 in Worldwide Gross Revenue generated by the Licensee Game will be excluded from the calculation of Royalty Revenue.

3. Representations and Warranties

The Licensee makes the representations and warranties set out in Clause 11.1 of the Original Agreement to the Licensor on the Effective Date, in each case by reference to the facts and circumstances then existing, and as if each reference in those representations and warranties to this Amendment.

4. Continuity

The provisions of the Original Agreement shall, save as amended in this Amendment, continue in full force and effect, and shall be read and construed as one document with this Amendment.

5. Further Assurance

The Licensee shall, at the request of the Licensor and at its own expense, do all such acts and things necessary or desirable to give effect to the amendments made or to be made pursuant to this Amendment.

6. Third Party Rights

Except as expressly provided elsewhere in this Amendment, a person who is not a party to the Original Agreement or to this Amendment shall not have any right to enforce or enjoy the benefit of any term of this Amendment.

7. Governing Law and Jurisdiction

- 7.1 This License Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with its subject matter or formation shall be governed by and construed in accordance with the law of Obliland.
- 7.2 Each Party irrevocably agrees that the courts of Obliland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this License Agreement or its subject matter or formation.

This Amendment takes effect on the Effective Date.

CLARITY FRAMES LIMITED



Name: Woland Rimsky
Title: CEO



LEGAL CHALLENGE VII

EXHIBIT 7 TO THE CASE



Notification of Breach of License Agreement

July 17, 2023

To: Fungaming Ltd.
Address: Nice Grove 1, Rispettoso della Lege 22888, Terryland
Attention: Margarita Petracca

Dear Margarita,

As required by Clause 18.1 of the License Agreement, dated June 15, 2020 between Clarity Frames Ltd. and Fungaming Ltd., and as amended by Amendment No.1 to the License Agreement, dated July 3, 2023 (the “**Agreement**”), Fungaming Ltd. is in a material breach of the following Sections of the Agreement:

1. Section 2.1
2. Section 2.2
3. Section 4.1
4. Section 7.2
5. Section 11.1

Under Section 18.1 of the Agreement, Fungaming Ltd. has 30 (thirty) days from the date of receipt of this Letter to cure the above breach.

Please let me know as soon as possible the steps Fungaming Ltd. will take to address this situation.

Failure to remedy the breach by August 16, 2023 COB, will result in Clarity Frames Ltd exercising its right to terminate the License Agreement pursuant to Section 18.

I look forward to hearing from you.

Yours sincerely,

Woland Rimsky
CEO
Clarity Frames Ltd.



LEGAL CHALLENGE VII

EXHIBIT 8 TO THE CASE

Obliland
Competition Act 2001, as Amended

CHAPTER I

Prohibition

1. **Agreements Preventing, Restricting or Distorting Competition**
 - (1) Agreements between undertakings, decisions by associations of undertakings or concerted practices which—
 - a. may affect trade within Obliland, and
 - b. have as their object or effect the prevention, restriction or distortion of competition within Obliland,are prohibited unless they are exempt in accordance with the provisions of this Part.
 - (2) Subsection (1) applies, in particular, to agreements, decisions or practices which—
 - a. directly or indirectly fix purchase or selling prices or any other trading conditions;
 - b. limit or control production, markets, technical development or investment;
 - c. share markets or sources of supply;
 - d. apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
 - e. make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
 - (3) Subsection (1) applies only if the agreement, decision or practice is, or is intended to be, implemented in Obliland.
 - (4) Any agreement or decision which is prohibited by subsection (1) is void.
 - (5) A provision of this Part which is expressed to apply to, or in relation to, an agreement is to be read as applying equally to, or in relation to, a decision by an association of undertakings or a concerted practice (but with any necessary modifications).
 - (6) Subsection (5) does not apply where the context otherwise requires.
- [...]

CHAPTER II

Abuse of Dominant Position

24. Abuse of Dominant Position

- (1) Any conduct on the part of one or more undertakings which amounts to the abuse of a dominant position in a market is prohibited if it may affect trade within Obliland.
- (2) Conduct may, in particular, constitute such an abuse if it consists in—
 - a. directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
 - b. limiting production, markets or technical development to the prejudice of consumers;
 - c. applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
 - d. making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of the contracts.
- (3) In this section—

“dominant position” means a dominant position within Obliland; and

“Obliland” means Obliland or any part of it.

[...]

CHAPTER III

Investigation and Enforcement

31. Directions in Relation to Agreements

- (1) If the Investigating Authority has made a decision that an agreement infringes the Chapter I prohibition, it may give to such person or persons as it considers appropriate such directions as it considers appropriate to bring the infringement to an end.
- (2) A direction under this section may, in particular, include provision—
 - a. requiring the parties to the agreement to modify the agreement;
or
 - b. requiring them to terminate the agreement.
- (3) A decision under this section must be given in writing.

32. Directions in Relation to Conduct

- (1) If the Investigating Authority has made a decision that conduct infringes the Chapter II prohibition, it may give to such person or persons as it considers appropriate such directions as it considers appropriate to bring the infringement to an end.
- (2) A direction under this section may, in particular, include provision—
 - a. requiring the person concerned to modify the conduct in question; or
 - b. requiring them to cease that conduct.
- (3) A decision under this section must be given in writing.

33. Enforcement of Directions

- (1) If a person fails, without reasonable excuse, to comply with a direction under section 31 or 32, the Investigating Authority may apply to the court for an order—
 - a. requiring the defaulter to make good his default within a time specified in the order; or
 - b. if the direction related to anything to be done in the management or administration of an undertaking, requiring the undertaking or any of its officers to do it.
- (2) An order of the court under subsection (1) may provide for all of the costs of, or incidental to, the application for the order to be borne by—
 - a. the person in default; or
 - b. any officer of an undertaking who is responsible for the default.



LEGAL CHALLENGE VII

CLARIFICATIONS

CLARIFICATIONS RELEASED 22/12/2023:**1. What is the market share of Clarity Frames in the game development market?**

As of December 2023, Clarity Frames is estimated to hold a market share of 30.67%. Their main competitor, Youdobe®, has an estimated market share of 23.12%.

2. What additional services and tools are bundled with the Clarity Engine?

Following the latest 5.0 update, Clarity comes packed with a rendering and physics engine, scripting tools, VR and AR tools, a modelling and animation suite, a sound engine and a built-in music creation suite, networking support, procedural generation support, as well as generative AI tools that assist in both animation and asset creation.

3. Has Fungaming paid Clarity Frames any royalties for using Clarity to develop Surplus Nitro 64+ and Funky Punky?

Fungaming has not paid any royalties to Clarity Frames for Surplus Nitro 64+ or Funky Punky; both titles were still under development by the time Clarity Frames sent the Notification of Breach of License Agreement (**Exhibit 7**) to Fungaming.

4. Is there a connection between Biopunk Funk, Funky Punky and Surplus Nitro 64+ to the extent that they could be considered derivatives?

Funky Punky is an under-development rhythm mobile game based on and situated in the fictional universe of Biopunk Funk, using similar settings, characters, and tropes. Surplus Nitro 64+ is an under-development PC and console port of the mobile video game Surplus Nitro 64, featuring improved performance and enhanced graphics.

5. Did Clarity Frames quadruple the royalty rate and lower the payment threshold to \$1,000,000 for *all* Clarity 5.0 licensees worldwide, or did these changes only impact Clarity 5.0 licensees based in jurisdictions affected by sanctions?

Clarity Frames applied the same policy to all developers using Clarity 5.0, irrespective of their location.

6. Does the licensing of the "Licensed Technology," as defined in the agreement, constitute an "export" and/or "supply" of intellectual property rights and/or IT consultancy services restricted via Exhibit 5?

As of December 2023, Obliland has yet to clarify or specify what goods and services fall under the imposed sanctions and export controls.

7. Did Fungaming enter into a sublicensing agreement with any of its affiliates before granting them access to Clarity 5.0?

In July 2020, Fungaming entered into a sublicense agreement for Clarity 5.0 with FG Ufa and FG Sardinia. In September 2022, following an internal audit and before entering into a publishing agreement with Micrando, Fungaming entered into a written sublicense agreement with FG Hong Kong.

8. Was the negotiation and execution of the Clarity License Agreement managed by Claude Thiery?

Being the workaholic that he is, and even though he was on leave, Claude asked his team to keep him in the loop throughout Clarity Frame's negotiations with Fungaming.

9. What is FG Sardinia responsible for?

FG Sardinia is responsible for researching and developing innovative gameplay mechanics and experiments with new technologies such as AR, AI and VR. The studio is also working on various plug-ins that add further functionality to the Clarity Engine, for the in-house use.

10. For which games is FG Ufa responsible for asset creation and 3D animation?

FG Ufa is responsible for developing assets, textures, and 3D animation (including modelling and rigging) for Biopunk Funk and Funky Punky. The studio also supports the development of the PC and the console ports of Surplus Nitro 64; the team is upscaling, enhancing, and, in some cases, re-creating Nitro's assets from scratch.

11. Can we receive an overview or a map of Terryland & Obiland? We believe that it is important to show the laws that govern these lands and possibly their land proximity to some of the other territories listed in the problem.

Unfortunately, now any public release of these maps may be considered to be a threat to the national security of either of the countries (as each has certain border areas are hotly disputed with third parties), thus given the political climate we decided not to risk the possible closure of the court and the detention of its steering committee.

12. Page 31 out of 42 - Exhibit 5 - how do we access the link to the press release at the bottom of the page?

As a rather unpredictable development of the recently introduced trade restrictions, the payment method of the official IT provider of Obliland's Ministry of Foreign Affairs has been affected, leading to the cancellation of its AWS plan and, consequently, making the ministry's press-releases temporary inaccessible. While the media blames security-affiliated hacker groups from the sanctioned countries, the United States of America and the European Union already sent their cybersecurity teams to address the issue, and once Obliland finds a means to pay their bill, they will immediately start working on finding a way to restore the payments for the other bill, which will bring the press-releases back online.

13. Is the Pandemic relevant to the problem? The timeline given in the facts lends to the Pandemic also affecting international trade?

From the position of Obliland and Terryland, there's no "*the Pandemic*" per se, as historically in their regions there have always been overlapping waves of diseases such as Smallpox Variola Chimera, SARS, Cordyceps, MERS, the Vocal Cord Parasite, MPX and H5N1. Because the ministries of health of both countries share the approach of making everyone protected from infection by getting everyone infected, several pandemic events are always present in the lives of their citizens.

14. Can you confirm whether Terryland and Obliland are party to any international law treaties or frameworks concerning international trade law, trade disputes or the imposition of sanctions?

Obliland is a contracting party to the Berne Convention for the Protection of Literary and Artistic Works. Obliland is also a member state of the World Intellectual Property Organization ("WIPO") and the World Trade Organization. Obliland is a signatory to all WIPO-Administered Treaties, including the WIPO Copyright Treaty.

15. What is the correct date of the Notification of Amendment?

The Notification of Amendment is dated 3 July 2023.

16. Was the Clarity License Agreement amended prior to the Notice of Amendment submitted by the Respondent?

No amendments were made to the Clarity License Agreement (**Exhibit 3**) prior to the Notification of Amendment of the License Agreement (**Exhibit 6**).

17. Could you please specify who / what is meant by "Investigating Authority" referenced within Chapter III of exhibit 8?

We could, but we are afraid that we will then be investigated, and these proceedings will be disrupted. For additional details, see question 19.

18. When Clarity Frames sent the Notification of Amendment to Fungaming (Exhibit 6), did Obliland officially implement/introduce sanctions materially similar to the Press Statement (Exhibit 5)?

Yes, Obliland implemented sanctions and export controls materially similar in scope to the Press Statement issued by its Ministry of Foreign Affairs (**Exhibit 5**).

19. Is the Investigating Authority merely the adjudicating authority that resolves claims brought under Chapter I and/or Chapter II of the Obliland Competition Act? Can the Investigating Authority bring a claim under Chapter I and/or Chapter II of the Act?

The Investigating Authority, in addition to examining and resolving claims brought under the Competition Act, can bring a claim under Chapters I and II. However, this constitutes a procedural issue and falls outside of the scope of this case.

20. Does an issue of standing (i.e., who can bring an action to enforce the Competition Act) constitute a procedural issue within the meaning of p. 5 n.* of the Legal Challenge VII?

Yes.