

April 6, 2022

**IMPORTANT NOTICE FOR RESIDENTS IN NORTH AMERICA ONLY: THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION AND A WAIVER OF CLASS ACTION RIGHTS AS DETAILED IN SECTION 16 BELOW.**

**MOBILE PLAYTEST AGREEMENT**

USE OF THIS SOFTWARE PROGRAM (AND ANY UPDATES), ANY ONLINE SERVICES, OR DOWNLOADS ASSOCIATED HEREWITH, THE ASSOCIATED MEDIA, AND DOCUMENTATION (collectively, "Program") IS SUBJECT TO THIS MOBILE PLAYTEST AGREEMENT, INCLUDING THE GAME TESTER CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT ATTACHED AS ANNEX A (collectively, "Agreement"). IF YOU ARE UNDER THE AGE OF MAJORITY IN YOUR JURISDICTION OR EIGHTEEN (18) YEARS OF AGE, WHICHEVER IS OLDER, PLEASE ASK YOUR PARENT OR GUARDIAN TO READ AND ACCEPT THIS AGREEMENT ON YOUR BEHALF BEFORE YOU USE THE PROGRAM. BY DOWNLOADING, INSTALLING, OR USING THE PROGRAM OR "CLICKING TO ACCEPT," YOU ACCEPT THE TERMS OF THIS AGREEMENT WITH THE ACTIVISION CORPORATE ENTITY SET OUT IN SECTION 17 ("Activision") DEPENDING ON WHERE YOU ACQUIRED AND USE THE PROGRAM. IF YOU DO NOT AGREE TO THESE TERMS, YOU ARE NOT PERMITTED TO INSTALL, COPY, OR USE THE PROGRAM. TO REJECT THESE TERMS, YOU MUST NOT "CLICK TO ACCEPT" THESE TERMS OR INSTALL, COPY, OR USE THE PROGRAM.

IN CASE OF DISCREPANCIES BETWEEN THE ENGLISH TEXT VERSION OF THIS AGREEMENT AND ANY TRANSLATION, THE ENGLISH VERSION SHALL PREVAIL.

**FOR RESIDENTS IN NORTH AMERICA ONLY:** ACTIVISION'S PRIVACY POLICY AVAILABLE AT <http://www.activision.com/legal/privacy-policy> SHALL BE DEEMED TO BE PART OF THE "AGREEMENT" ACCEPTED AND AGREED TO BY YOU AND THE TERMS OF SUCH ARE INCORPORATED HEREIN BY REFERENCE.

**FOR RESIDENTS OUTSIDE NORTH AMERICA:** IF YOU (OR, IF APPLICABLE, YOUR PARENT OR GUARDIAN) DO NOT AGREE TO THIS AGREEMENT, THEN YOU MUST NOT USE OR ACCESS THE PROGRAM OR ANY PART THEREOF. BY "CLICKING TO ACCEPT," YOU REPRESENT AND WARRANT THAT YOU ARE A "NATURAL PERSON" WHO IS OVER THE AGE OF EIGHTEEN (18) OR WHOSE LEGAL GUARDIAN HAS ACCEPTED AND AGREED TO THIS AGREEMENT. YOUR USE OF THE PROGRAM SHALL BE SUBJECT TO THE TERMS OF ACTIVISION'S PRIVACY POLICY AVAILABLE AT <http://www.activision.com/legal/privacy-policy>.

**FOR RESIDENTS OUTSIDE THE EUROPEAN UNION AND THE UNITED KINGDOM:** EXCEPT FOR SECTION 16 (ARBITRATION AND CLASS ACTION WAIVER), ACTIVISION RESERVES THE RIGHT TO MODIFY THIS AGREEMENT AT ANY TIME BY ANY MEANS, INCLUDING WITHOUT LIMITATION BY (1) POSTING THE MODIFICATIONS TO <http://support.activision.com/license> AND/OR (2) REQUIRING YOU TO "CLICK TO ACCEPT" THE AGREEMENT, AND YOUR CONTINUED USE OF THE PROGRAM CONSTITUTES YOUR ACCEPTANCE OF THE MODIFICATIONS. IF ANY FUTURE MODIFICATIONS TO THE AGREEMENT ARE UNACCEPTABLE TO YOU OR CAUSE YOU TO NO LONGER BE IN COMPLIANCE WITH THIS AGREEMENT, YOU MUST TERMINATE, AND IMMEDIATELY STOP USING, THE PROGRAM. IF ANY FUTURE MODIFICATIONS ARE IMPLEMENTED AS A "CLICK TO ACCEPT" AGREEMENT, YOU MAY NOT BE ABLE TO CONTINUE USING THE PROGRAM UNLESS YOU AFFIRMATIVELY ACCEPT THE MODIFIED AGREEMENT.

**FOR RESIDENTS IN THE EUROPEAN UNION AND THE UNITED KINGDOM:** FROM TIME TO TIME, ACTIVISION MAY MODIFY, ADD TO, SUPPLEMENT OR DELETE TERMS OF THIS AGREEMENT, FOR INSTANCE IF THERE IS A CHANGE TO ITS PRODUCTS AND SERVICES, TO IMPROVE PLAYERS' SAFETY OR IN CASE OF CHANGE IN APPLICABLE LAWS. IF ACTIVISION SUBSTANTIALLY CHANGES THE TERMS OF THIS AGREEMENT, ACTIVISION WILL NOTIFY YOU IN ADVANCE BEFORE THE NEW TERMS OF THIS AGREEMENT COME INTO EFFECT AND YOU WILL BE ASKED TO ACCEPT THOSE CHANGES TO CONTINUE TO USE ACTIVISION PRODUCTS AND SERVICES. YOU WILL HAVE THE OPTION TO REFUSE THE AMENDED AGREEMENT, BUT IF YOU DO YOU WILL NO LONGER BE ABLE

TO USE SUCH ACTIVISION PRODUCTS AND SERVICES. THE APPLICABLE VERSION OF THE AGREEMENT IS AVAILABLE ON OUR WEBSITE <http://support.activision.com/license>, SO WE ADVISE YOU TO CHECK WHETHER THE TERMS OF THE AGREEMENT HAVE BEEN UPDATED EACH TIME YOU USE ACTIVISION PRODUCTS AND SERVICES. CHANGES TO THE TERMS OF THIS AGREEMENT WILL NOT AFFECT YOUR RIGHTS, WILL NOT SUBSTANTIALLY CHANGE THE CONTRACTUAL BALANCE BETWEEN YOU AND ACTIVISION, AND WILL NOT HAVE RETROACTIVE EFFECT.

**FOR RESIDENTS IN AUSTRALIA AND NEW-ZEALAND:** NOTHING IN THIS AGREEMENT IS INTENDED TO EXCLUDE, RESTRICT OR MODIFY, OR HAVE THE EFFECT OF EXCLUDING, RESTRICTING OR MODIFYING, THE APPLICATION OF ANY APPLICABLE LAWS IN EITHER AUSTRALIA (UNDER DIVISION 1 OF PART 3-2 OF THE *AUSTRALIAN CONSUMER LAW* (WHICH FORMS SCHEDULE 2 TO THE *COMPETITION AND CONSUMER ACT 2010* (CTH) (“**ACL**”)) OR NEW ZEALAND (UNDER THE *NEW ZEALAND CONSUMER GUARANTEES ACT 1993*) THAT CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED BY AGREEMENT BETWEEN US (THE “**NON-EXCLUDABLE RIGHTS**”).

1. **SERVICES AND ADDITIONAL TERMS OF SERVICE:** USE OF CERTAIN FEATURES OF THE PROGRAM, INCLUDING ONLINE OR MULTIPLAYER COMPONENTS, OR UPDATED FEATURES, MAY REQUIRE ASSENT TO ADDITIONAL TERMS OF SERVICE. YOU WILL BE PROVIDED WITH THESE ADDITIONAL TERMS OF SERVICE AT THE TIME THE APPLICABLE FEATURES ARE MADE AVAILABLE TO YOU. IF YOU DO NOT ASSENT TO THE ADDITIONAL TERMS OF SERVICE, YOU MAY NOT BE ABLE TO ACCESS OR USE THE ADDITIONAL FEATURES THAT ARE SUBJECT TO THE ADDITIONAL TERMS OF SERVICE.
2. **LIMITED USE LICENSE:** Subject to any system requirements, Activision grants you the non-exclusive, non-transferable, limited right and license to install and use one copy of the software component(s) of the Program solely for purposes of Activision’s playtest. All rights not specifically granted are reserved by Activision. The Program is licensed, not sold, for your use. Your license confers no title or ownership in the Program, and should not be construed as a sale of any rights in the Program. This Agreement shall also apply to patches or updates you may obtain for the Program, unless that patch or update is accompanied by additional terms. YOU ACKNOWLEDGE AND AGREE THAT, OTHER THAN LICENSE GRANTED TO YOU BY THIS AGREEMENT, YOU SHALL HAVE NO OWNERSHIP OR PROPERTY INTEREST IN ANY PRODUCT OR SERVICE PROVIDED CONTENT (AS DEFINED BELOW), INCLUDING, WITHOUT LIMITATION, ONLINE ACCOUNTS, ANY VIRTUAL CURRENCY OR GOODS, AND YOU FURTHER ACKNOWLEDGE AND AGREE THAT TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ALL RIGHTS IN AND TO SUCH PRODUCTS AND SERVICE PROVIDED CONTENT ARE AND SHALL FOREVER BE OWNED BY AND INURE TO THE BENEFIT OF ACTIVISION.
3. **LICENSE CONDITIONS:** This license is subject to the following limitations (“License Limitations”). Any use of the Program in violation of the License Limitations is a serious violation of this Agreement and will result in an immediate termination of your license and, if you are a resident outside North America, additional consequences set out in Section 8(2)(c), and continued use of the Program will be an infringement of Activision’s copyrights and other rights in and to the Program.
  - A. You agree that you will not do, or allow, any of the following: (1) exploit the Program commercially; (2) subject to any system requirements, use the Program on more than one system at the same time; (3) make copies of the Program, in whole or in part; (4) without limiting the foregoing clause (3), copy the Program onto a hard drive or other storage device unless the Program itself makes a copy during installation, or unless you are downloading the Program from an authorized Activision online retailer; (5) use the Program in a network, multi-user arrangement, or remote access arrangement, including any online use except as included in the Program functionality; (6) sell, rent, lease, license, distribute, or otherwise transfer the Program; (7) subject to applicable laws, reverse engineer (unless expressly permitted by Activision), derive source code, modify, decompile, disassemble, or create derivative works of the software and other proprietary technology in the Program, in whole or in part; (8) create, develop, modify, offer, make available, distribute, host, promote, advertise, or use any unauthorized software programs to gain advantage in any offline, online or multiplayer game modes, including, but not limited to, cheats, automation software (bots), modded lobbies, hacks, mods, or engaging in any form of cheating, boosting or booting (such behavior will be subject to

sanction at Activision's discretion; for more information see the Program's applicable Security and Enforcement Policy available at support.activision.com (9) remove, disable, or circumvent any proprietary notices or labels contained on or within the Program; or (10) use, access, download, or otherwise export, reexport, or transfer the Program in contravention of applicable export control, economic sanctions, and import laws and regulations, including, but not limited to, the U.S. Export Administration Regulations ("EAR") and regulations promulgated by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC").

B.

**FOR RESIDENTS OUTSIDE THE EUROPEAN UNION AND THE UNITED KINGDOM:**

ALL RIGHTS GRANTED TO YOU UNDER THIS AGREEMENT WILL TERMINATE IMMEDIATELY IN THE EVENT THAT YOU ARE IN BREACH OF ANY OF THE TERMS OF THIS AGREEMENT.

**FOR RESIDENTS IN THE EUROPEAN UNION AND THE UNITED KINGDOM:**

ALL RIGHTS GRANTED TO YOU UNDER THIS AGREEMENT WILL TERMINATE IMMEDIATELY IN THE EVENT THAT YOU SERIOUSLY VIOLATE THE TERMS OF THIS AGREEMENT. VIOLATION OF THIS SECTION B IS A SERIOUS VIOLATION OF THIS AGREEMENT.

- C. You agree not to do any of the following actions while using the Program: (A) harass, threaten, embarrass or cause distress or discomfort upon another participant, user, or other individual or entity; (B) transmit any UGC (as defined in Section 14) that Activision considers to be disruptive, unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, hateful, or racially, sexually, ethnically or otherwise objectionable; (C) impersonate any person or entity, including but not limited to Activision; (D) disrupt normal Program functionality, or otherwise act in a manner that negatively affects other participants and/or the overall Program experience; (E) post or transmit any unsolicited advertising, promotional materials, or any other forms of solicitation; (F) intentionally or unintentionally violate any applicable law, regulation or treaty while using or accessing the Program; (G) post multiple posts of the same content (i.e., "spam"); or (H) invade the privacy or violate or infringe any right of any person or entity, including, without limitation, any intellectual property right.
- D. You represent and warrant that you (1) are not subject to U.S. sanctions or export restrictions and otherwise are eligible to utilize the Program under applicable laws and regulations; (2) are not located or ordinarily resident in a country or region subject to comprehensive or near-comprehensive U.S. sanctions/embargo, unless your use of the Program in such country or region is authorized by U.S. law; (3) are not an official, employee, agent, or contractor of, or directly or indirectly acting or purporting to act for or on behalf of, a government (including any political subdivision, agency, or instrumentality thereof or any person directly or indirectly owned or controlled by the foregoing) or political party (e.g., Cuban Communist Party, Workers' Party of Korea) subject to U.S. sanctions/embargo or any other entity in a sanctioned/embargoed country or region or subject to U.S. sanctions/embargo; and (4) will not use the Program in connection with an end-use prohibited by U.S. law.
- E. Parents and guardians of children under the age of majority in their jurisdiction or 18 years of age, whichever is older, agree that you will be responsible for all uses of the Program by your child whether or not such uses were authorized by you.
- F. Communications made using a Product should not be considered private. Activision may monitor and/or record your communications (including without limitation chat text or voice communications) when you are using a Product, and you hereby provide your irrevocable, express consent to such monitoring and recording. You acknowledge and agree that you have no expectation of privacy concerning the transmission of any UGC or communications, including without limitation chat text or voice communications. Because voice chat and other communications may be viewed and/or heard by other users, users should avoid revealing any personally identifiable information.

Additionally, Activision may, with or without notice to you, disclose your Internet Protocol (IP) address(es), personal information, chat logs, and other information about you and your activities consistent with the Activision Privacy Policy available at <https://www.activision.com/legal/privacy-policy>.

4. **OWNERSHIP:** All title, ownership rights, and intellectual property rights in and to the Program are owned by Activision, affiliates of Activision, or Activision’s licensors. The Program is protected by the copyright laws of the United States of America, international copyright treaties, conventions and other laws. The Program may contain certain licensed materials, and Activision’s licensors may protect their rights in the event of any violation of this Agreement. NOTWITHSTANDING ANYTHING TO THE CONTRARY, YOU ACKNOWLEDGE AND AGREE THAT YOU SHALL HAVE NO OWNERSHIP OR OTHER PROPERTY INTEREST IN ANY ACCOUNT STORED OR HOSTED ON AN ACTIVISION SYSTEM (“ACCOUNT”), AND YOU FURTHER ACKNOWLEDGE AND AGREE THAT ALL RIGHTS IN AND TO THESE ACCOUNTS ARE AND SHALL FOREVER BE OWNED BY AND INURE TO THE BENEFIT OF ACTIVISION.

**FOR RESIDENTS IN NORTH AMERICA:** ACTIVISION MAY SUSPEND, TERMINATE, MODIFY OR DELETE ANY OF THESE ACCOUNTS AT ANY TIME FOR ANY REASON OR NO REASON, WITH OR WITHOUT NOTICE TO YOU.

5. **PATCHES AND UPDATES:** Activision may deploy or provide mandatory patches, updates, and modifications to the Program that must be installed for you to continue to use the Program. Broadband internet is required for such patches, updates, and modifications. You are responsible for any and all broadband access and usage fees.

**FOR RESIDENTS OUTSIDE THE EUROPEAN UNION AND THE UNITED KINGDOM:** Activision may update the Program remotely without notifying you, and you hereby grant to Activision consent to deploy and apply such patches, updates, and modifications.

**FOR RESIDENTS IN THE EUROPEAN UNION AND THE UNITED KINGDOM:** Activision may update the Program remotely without notifying you, provided that any such updates do not result in material derogation in the functionality of the Program, and you hereby grant to Activision consent to deploy and apply such patches, updates, and modifications.

6. **INTENTIONALLY OMITTED.**

7. **LIMITATION OF DAMAGES**

**7(A) FOR RESIDENTS IN NORTH AMERICA:**

ACTIVISION SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM POSSESSION, USE, OR MALFUNCTION OF THE PROGRAM, INCLUDING DAMAGES TO PROPERTY, COMPUTER FAILURE OR MALFUNCTION AND, TO THE EXTENT PERMITTED BY LAW, DAMAGES FOR PERSONAL INJURIES, EVEN IF ACTIVISION HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES. ACTIVISION’S LIABILITY SHALL NOT EXCEED THE ACTUAL PRICE PAID FOR THE LICENSE TO USE THE PROGRAM. SOME STATES/COUNTRIES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS AND/OR THE EXCLUSION OR LIMITATION OF DAMAGES, SO THE ABOVE LIMITATIONS AND/OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

**7(B) FOR RESIDENTS OUTSIDE NORTH AMERICA:**

NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE ACTIVISION’S LIABILITY TO YOU:

- FOR DEATH OR PERSONAL INJURY CAUSED BY OUR NEGLIGENCE;

- FOR FRAUDULENT MISREPRESENTATION; OR
- FOR ANY OTHER LIABILITY THAT MAY NOT, UNDER THE LAWS OF THE JURISDICTION WHERE YOU RESIDE, BE LIMITED OR EXCLUDED.

SUBJECT TO THIS, IN NO EVENT SHALL ACTIVISION BE LIABLE TO YOU FOR ANY BUSINESS LOSSES AND ANY LIABILITY ACTIVISION DOES HAVE FOR LOSSES YOU SUFFER IS STRICTLY LIMITED TO LOSSES THAT WERE REASONABLY FORESEEABLE AND SHALL NOT, IN AGGREGATE, EXCEED THE GREATER OF THE FOLLOWING: THE TOTAL PRICE PAID BY YOU FOR THE PROGRAM (PLUS ANY PAID-FOR SERVICE PROVIDED CONTENT) OVER THE PREVIOUS 12-MONTHS FROM THE DATE ON WHICH THE LIABILITY ARISES; OR THE SUM OF GBP£500 OR EQUIVALENT AMOUNT UNDER THE CURRENT FOREIGN EXCHANGE RATE.

## 8. TERMINATION:

1. **FOR RESIDENTS OF NORTH AMERICA:** Without prejudice to any other rights of Activision, if you fail to comply with the terms and conditions of this Agreement and subject to the severity of your breach, Activision, at its discretion, may either sanction your behavior or terminate this Agreement. The applicable Program's Security and Enforcement Policy available at [support.activision.com](http://support.activision.com) sets out more in detail sanctionable actions and the types of applicable sanctions. In the event of termination for this reason, you must destroy all copies of the Program and all of its component parts. You may also terminate the Agreement at any time by permanently deleting any installation of the Program, and destroying all copies of the Program in your possession or control.
2. **FOR RESIDENTS OUTSIDE OF NORTH AMERICA:**
  - a. ACTIVISION MAY TERMINATE THE LICENSE GRANTED TO YOU UNDER THIS AGREEMENT AND/OR SUSPEND, MODIFY, OR DELETE YOUR ACCOUNT AT ANY TIME WITHOUT GIVING YOU ANY PRIOR NOTICE IF YOU SERIOUSLY VIOLATE THIS AGREEMENT. SERIOUS VIOLATIONS ARE VIOLATIONS OF IMPORTANT PROVISIONS WHICH INCLUDE SECTION 3, 11(A) AND 11(D) OF THIS AGREEMENT, REPEATED VIOLATIONS OF OTHER PROVISIONS OF THIS AGREEMENT (INCLUDING FURTHER NON-COMPLIANCE WHERE YOU HAVE ALREADY RECEIVED A PRIOR WARNING), OR AS OTHERWISE DETAILED IN THE APPLICABLE PROGRAM'S SECURITY AND ENFORCEMENT POLICY AVAILABLE AT [support.activision.com](http://support.activision.com). IF YOU THINK THAT SUCH DECISION WAS TAKEN WRONGLY, YOU CAN CONTACT ACTIVISION AT [support.activision.com](http://support.activision.com). IF ACTIVISION CANNOT RESOLVE YOUR COMPLAINT AND YOU ARE A RESIDENT OF THE EUROPEAN UNION, YOU CAN USE THE ONLINE DISPUTE RESOLUTION PLATFORM SET UP BY THE EUROPEAN COMMISSION WHICH YOU CAN ACCESS AT <http://ec.europa.eu/odr>.
  - b. ACTIVISION MAY ALSO TERMINATE THE LICENSE GRANTED TO YOU UNDER THIS AGREEMENT AND/OR SUSPEND, MODIFY, OR DELETE YOUR ACCOUNT IF IT HAS ANOTHER VALID REASON TO DO SO (FOR EXAMPLE, CEASING AN ONLINE SERVICE FOR ECONOMIC REASONS DUE TO A LIMITED NUMBER OF USERS CONTINUING TO MAKE USE OF THE SERVICE OVER TIME) OR WITHOUT REASON BY GIVING YOU A REASONABLE PRIOR NOTICE.
  - c. IF ACTIVISION TERMINATES THE LICENSE GRANTED TO YOU UNDER THIS AGREEMENT AND/OR SUSPENDS OR DELETED YOUR ACCOUNT, THIS MEANS THAT:
    - i. YOUR ACCESS TO AND RIGHT TO USE THE PROGRAM WILL BE REVOKED.
3. The following provisions shall survive termination of this agreement: LICENSE CONDITIONS (SECTION 3), OWNERSHIP (SECTION 4), , LIMITATION OF DAMAGES (SECTIONS 7A AND 7B),

TERMINATION (SECTION 8), INDEMNITY (SECTION 10), SERVICE PROVIDED CONTENT (SECTION 11), AVAILABILITY (SECTION 12), ACCESS (SECTION 13), BINDING ARBITRATION AND CLASS ACTION WAIVER (SECTION 16), JURISDICTION AND APPLICABLE LAW (SECTION 17), AND MISCELLANEOUS (SECTION 18).

- 9. For residents in North America-- U.S. GOVERNMENT RESTRICTED RIGHTS:** The Program has been developed entirely at private expense and are provided as "Commercial Computer Software" or "restricted computer software." Use, duplication or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clauses in DFARS 252.227-7013 or as set forth in subparagraph (c)(1) and (2) of the Commercial Computer Software Restricted Rights clauses at FAR 52.227-19, as applicable. The Contractor/Manufacturer is Activision Publishing, Inc., 2701 Olympic Boulevard, Building B, Santa Monica, California 90404.
- 10. For residents in North America-- INDEMNITY:** You agree to indemnify, defend, and hold Activision, its partners, affiliates, licensors, contractors, officers, directors, employees, and agents harmless from all damages, losses and expenses arising directly or indirectly from your breach of this Agreement and/or your acts and omissions in using the Program pursuant to the terms of this Agreement.
- 11. SERVICE PROVIDED CONTENT:** "Service Provided Content" consists of all virtual materials, information and content provided to you (e.g., unlockable content, accounts, stats, virtual assets, virtual currencies, codes, achievements, virtual rewards, credits, access, shows, tokens, coins, power-ups, and customizations) in connection with your use of the Program, including the Online Services, which you need to "earn" or "grind", in order to obtain additional content.

While the Program may allow you to "earn" or "grind" Service Provided Content within or in connection with gameplay, you do not in fact own or have any property interest in the Service Provided Content. Unless otherwise specified in writing, any Service Provided Content that you receive is licensed to you as set forth herein, and you shall have no ownership right thereto in any Service Provided Content.

- a. You may not, sell, lend, rent, trade, or otherwise transfer any Service Provided Content, except for other Service Provided Content where applicable. Any sale of Service Provided Content, including, but not limited to, virtual currency for "real" money or exchange of those items or virtual currency for value outside of the Program is prohibited.
- b. Service Provided Content may be altered, removed, deleted, or discontinued by Activision (e.g., upon termination of this Agreement and/or cessation of online support for the Program as set out in Section 8) even if you have not "used" or "consumed" the Service Provided Content prior to alteration, removal, deletion, or discontinuation. Without limiting the above, Service Provided Content may include virtual coins, points or other virtual currencies ("Virtual Currency").
- c. By acquiring Virtual Currency, you obtain a limited license (which is revocable by Activision at any time unless otherwise required by applicable laws and, for residents outside North America only, in accordance with Section 8) to access and select from other Service Provided Content. Virtual Currency has no monetary value and does not constitute currency or property of any type. Virtual Currency may be redeemed for other Service Provided Content only, if at all. Subject to applicable local law, Virtual Currency is non-refundable and you are not entitled to a refund or any other compensation such as Service Provided Content for any unused Virtual Currency. Any unused Virtual Currency is non-exchangeable. Activision may revise the pricing for the Service Provided Content and Virtual Currency offered through the Program at any time. Activision may limit the total amount of Service Provided Content or Virtual Currency that may be acquired at any one time, and/or limit the total amount of Service Provided Content or Virtual Currency that may be held in your account in the aggregate.
- d. You are only allowed to acquire Service Provided Content or Virtual Currency from Activision or our authorized partners through the Program, and not in any other way.

- e. Activision reserves the right to refuse your request(s) to acquire Service Provided Content and/or Virtual Currency. You agree that you will be solely responsible for paying any applicable taxes related to the acquisition of, use of or access to Service Provided Content and/or Virtual Currency.

## **12. AVAILABILITY:**

**12(A) For residents in North America:** Activision does not guarantee that any online services, play or features associated with the Program (collectively, “Online Services”) or Service Provided Content will be available at all times or at any given time or that Activision will continue to offer Online Services or Service Provided Content for any particular length of time. Activision may change and update Online Services or Service Provided Content without notice to you. Activision makes no warranty or representation regarding the availability of Online Services and reserves the right to modify or discontinue Online Services in its sole discretion without notice, including for example, ceasing an Online Service for economic reasons due to a limited number of users continuing to make use of the Online Service over time. **NOTWITHSTANDING ANYTHING TO THE CONTRARY, YOU ACKNOWLEDGE AND AGREE THAT ONLINE SERVICES MAY BE TERMINATED IN WHOLE OR IN PART AT ACTIVISION’S SOLE DISCRETION WITHOUT NOTICE TO YOU, AND IN CONNECTION WITH ONLINE SERVICES’ TERMINATION, ANY AND ALL SERVICE PROVIDED CONTENT LICENSED TO YOU MAY BE TERMINATED. YOU ASSUME ANY AND ALL RISK OF LOSS ASSOCIATED WITH THE TERMINATION OF ONLINE SERVICES AND ANY LOSS OF SERVICE PROVIDED CONTENT OR OTHERWISE.**

**12(B) For residents outside North America:** Subject to the next sentence, Activision does not guarantee that the Program, any Online Services or Service Provided Content will be available or error-free at all times or at any given time. Activision warrants that the Program will substantially comply with the description provided by it and be of satisfactory quality (in addition any related services provided through them will be provided with reasonable care and skill). Activision reserves the right to modify or discontinue the Program, Online Services or Service Provided Content in its sole discretion upon reasonable notice to you, including for example, ceasing Online Services for economic reasons due to a limited number of users continuing to make use of them over time. Activision may change and update (or require you to update) the Program, Online Services or Service Provided Content without notice to you to implement minor technical adjustment and improvements (for example, to address a security threat) or to reflect changes in relevant laws and regulatory requirements). Activision may also make other changes to the Program, Online Services or Service Provided Content by giving you a reasonable prior notice. If such changes are not acceptable to you, you may contact Activision to terminate your license before the changes take effect and discuss refund options for any service or content paid for but not received. Activision is not liable or responsible for any failure to perform, or delay in performance of, any of its obligations that is caused by events outside its reasonable control. If such circumstances result in material degradation in the functionality of the Program or Service Provided Content then your obligation to make any payment to download, use or access them will be suspended for the duration of such period. Please see Section 7 in respect of Activision's limitation on damages, but nothing in this paragraph shall affect your statutory rights.

**13. ACCESS: YOU ARE SOLELY RESPONSIBLE FOR ANY THIRD PARTY COSTS YOU INCUR TO USE THE PROGRAM AND SERVICES.** You acknowledge and agree that you will provide at your own cost and expense the equipment, Internet, or other connection charges required to access and use the Program. Activision makes no warranty that the Program can be accessed or used on all systems, controllers, or devices, by means of any specific Internet or other connection provider, or in all territories. The Program may integrate, be integrated into, or be provided in connection with third-party services and content. Activision does not control those third-party services and content. You should read the terms of use agreements and privacy policies that apply to such third-party services and content. You acknowledge that you are not entitled to any Program related adjustments to your registered region, associated store prices, or content. You acknowledge that you are not entitled to any Program related adjustments to your registered region, associated store prices, or content.

**14. USER GENERATED CONTENT:** The Program may include means by which you and other users may share user generated content (“UGC”). To the fullest extent permitted by applicable law, by submitting any UGC you automatically grant (or represent and warrant that the owner of such rights has expressly granted) Activision a perpetual, worldwide, royalty-free, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate, sub-license, create derivative works from and distribute such UGC or incorporate such UGC



content into any form, medium, or technology now known or later developed throughout the universe, and agree that Activision shall be entitled to unrestricted use of the UGC for any purpose whatsoever, commercial or otherwise, without compensation (but subject to applicable local legislation), notice or attribution. You waive and agree not to assert against Activision or any of its partners, affiliates, subsidiaries or licensees, any moral or similar rights you may have in any of your UGC. To the extent the Program permits other users to access and use your UGC, you also grant such users the right to use, copy, modify, display, perform, create derivative works from, and otherwise communicate and distribute your UGC on or through the Program without further notice, attribution or compensation to you. You may only upload your own UGC to the Program; do not upload anyone else's UGC. Activision reserves the right (but has no obligation) to remove, block, edit, move, or disable UGC for any reason in Activision's sole discretion. Activision is not responsible for, and does not endorse or guarantee, the opinions, views, advice or recommendations posted or sent by other users.

**For residents of all countries outside North America:** Users of the Program create, upload, download and use UGC at their own risk. If you upload or make available to other users your UGC via our Program, we do not control, monitor, endorse or own your UGC, and you are commissioning us to host and make available such UGC subject to the above license.

Complaints about the content of any UGC must be sent to [legalaaffairs@activision.com](mailto:legalaaffairs@activision.com) and must contain details of the specific UGC giving rise to the complaint.

**15. For residents in North America-- COPYRIGHT NOTICE:**

If you believe that any content appearing in the Program and/or UGC has been copied in a way that constitutes copyright infringement, please forward the following information to the copyright agent named below. Your copyright infringement notification must comply with the Digital Millennium Copyright Act ("DMCA"). You are encouraged to review 17 U.S.C. § 512(c)(3) or consult with an attorney prior to sending a notice hereunder. To file a copyright infringement notice, you will need to send a written communication that includes the following to the address listed below: (a) your name, address, telephone number, and email address; (b) a description of the copyrighted work that you claim has been infringed; (c) the exact URL or a description of where the alleged infringing material is located; (d) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; (e) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; and (f) a statement by you, under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

Copyright Agent  
Activision Publishing, Inc.  
2701 Olympic Boulevard, Building B  
Santa Monica, California 90404  
Attn: Activision Business and Legal Affairs  
E-Mail: [legalaaffairs@activision.com](mailto:legalaaffairs@activision.com)

Please note that the DMCA provides that you may be liable for damages (including costs and attorney fees) if you knowingly misrepresent that material or activity is infringing. Please also note that the information provided in your copyright infringement notice may be provided to the person responsible for the allegedly infringing material.

**16. For residents in North America-- BINDING ARBITRATION AND CLASS ACTION WAIVER:**

**READ THIS SECTION CAREFULLY. IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT.**

These BINDING ARBITRATION AND CLASS ACTION WAIVER provisions apply to you if you are domiciled in and/or acquired and use the Program in the United States. These provisions may also apply to you if you are domiciled



in and/or acquired and use the Program from outside the United States. See JURISDICTION AND APPLICABLE LAW below for details.

**Initial Dispute Resolution:** Activision's Customer Support department is available at <https://support.activision.com/> to address any concerns you may have regarding the Program. Most concerns are quickly resolved in this manner to our customers' satisfaction. The parties shall use their best efforts to settle any dispute, claim, question, or disagreement directly through consultation and good faith negotiations which shall be a precondition to either party initiating a lawsuit or arbitration.

**Binding Arbitration:** If the parties do not reach an agreed upon solution within a period of 30 days from the time informal dispute resolution is pursued pursuant to the paragraph above, then either party may initiate binding arbitration as the sole means to formally resolve claims, subject to the terms set forth below. Specifically, all claims arising out of or relating to this Agreement (including its interpretation, formation, performance and breach), the parties' relationship with each other and/or your use of the Program shall be finally settled by binding arbitration administered by JAMS in accordance with the provisions of its Comprehensive Arbitration Rules or Streamlined Arbitrations Rules, as appropriate, excluding any rules or procedures governing or permitting class actions. This arbitration provision is made pursuant to a transaction involving interstate commerce, and the Federal Arbitration Act (the "FAA") shall apply to the interpretation, applicability, enforceability and formation of this Agreement notwithstanding any other choice of law provision contained in this Agreement. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability, or formation of this Agreement, including without limitation any claim that all or any part of this Agreement is void or voidable, or whether a claim is subject to arbitration. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator's award shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction.

The JAMS Rules governing the arbitration may be accessed at <http://www.jamsadr.com/> or by calling JAMS at (800) 352-5267. Your arbitration fees and your share of arbitrator compensation shall be governed by the JAMS Comprehensive Arbitration Rules, but shall not incorporate the JAMS Class Action Procedures, and, to the extent applicable, the Consumer Minimum Standards, including the then-current limit on arbitration filing fees. To the extent the filing fee for the arbitration exceeds the cost of filing a lawsuit, Activision will pay the additional cost. The parties understand that, absent this mandatory provision, they would have the right to sue in court and have a jury trial. They further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court.

**Location:** If you are a resident of the United States, arbitration will take place at any reasonable location within the United States convenient for you. For residents outside the United States, arbitration shall be initiated in Los Angeles County, California, and you and Activision agree to submit to the personal jurisdiction of any federal or state court in Los Angeles County, California, in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator.

**Class Action Waiver:** The parties further agree that any arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. YOU AND ACTIVISION AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provision set forth above shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

**Exception - Litigation of Intellectual Property and Small Claims Court Claims:** Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may bring an action in state or federal court that only asserts claims for patent infringement or invalidity, copyright infringement, moral rights violations, trademark infringement, and/or trade secret misappropriation, but not, for clarity, claims related to the license granted to you for the Program under this Agreement. Either party may also seek relief in a small claims court for disputes or claims within the scope of that court's jurisdiction.

**30 Day Right to Opt Out:** You have the right to opt-out and not be bound by the arbitration and class action waiver provisions set forth in the "Binding Arbitration," "Location," and "Class Action Waiver" paragraphs above by sending written notice of your decision to opt-out to the following address: Activision Publishing, Inc., 2701 Olympic Boulevard, Building B, Santa Monica, CA 90404, Attn: Legal. The notice must be sent within 30 days of purchasing the Program (or if no purchase was made, then within 30 days of the date on which you first access or use the Program and agree to these terms); otherwise, you shall be bound to arbitrate disputes in accordance with the terms of those paragraphs. If you opt-out of these arbitration provisions, Activision also will not be bound by them.

**Changes to this Section:** Activision will provide 60-days' notice of any changes to this Section. Changes will become effective on the 60th day and will apply prospectively only to any claims arising after the 60th day.

## 17. JURISDICTION, APPLICABLE LAW AND CONTRACTING PARTIES

The Program is made available subject to the terms of this Agreement. If you acquired and use the Program from:

**A. For residents in the United States, Mexico, or Canada,** then any claims arising out of this Agreement (including interpretation, claims for breach, and all other claims (including consumer protection, unfair competition, and tort claims)) will be subject to the laws of the State of Delaware, without reference to conflict of laws principles. If any court or arbitrator determines that the "Class Action Waiver" paragraph set forth above is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then any and all claims arising out of this Agreement (including interpretation, claims for breach, and all other claims (including consumer protection, unfair competition, and tort claims)) shall be decided under the laws of the state where you were a citizen at the time you obtained or bought the Program that was subject to this Agreement. In addition, you and we irrevocably consent to the exclusive jurisdiction and venue of state or federal courts in Los Angeles County, California to resolve any claims that are subject to exceptions to the arbitration agreement described in BINDING ARBITRATION AND CLASS ACTION WAIVER above, or otherwise determined not to be arbitrable.

**B. For residents in the European Union,** then the laws of England and Wales govern the interpretation of this Agreement and apply to claims for breach of it, without reference to conflict of laws principles. All other claims, including claims regarding consumer protection laws, unfair competition laws, and in tort, will be subject to the laws of the European Union country (e.g., the United Kingdom, the French Republic, or the Federal Republic of Germany) in which you acquired and use the Program. In addition, with respect to jurisdiction, you may choose either the courts of the country (e.g., the United Kingdom, the French Republic, or the Federal Republic of Germany) in which you acquired and use the Program, or in the alternative the courts of England and Wales or other court as applicable under the Brussels Regulation EC 44/2001.

**C. For residents in Australia or Japan,** then the laws of Australia govern the interpretation of this Agreement and apply to claims for breach of it, without reference to conflict of laws principles. All other claims, including claims regarding consumer protection laws, unfair competition laws, and in tort, will be subject to the laws of the country in which you acquired and use the Program (being either Australia or Japan). To the extent permitted by applicable law, you agree to the jurisdiction of the courts of New South Wales, Australia.

**D. For residents in the Rest of the World,** if you acquired and use this Program from countries other than those listed in sections A, B and C above, then you do so on your own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable, and you expressly indemnify and hold harmless Activision from any and all claims, loss, injury, damage, or costs arising from your use of the Program to the extent permitted by applicable law. No warranty or representation is made by Activision that the Program or any use of the Program outside of the countries listed in sections A, B and C above complies with any applicable local law. Further your use of the Program and all claims arising out of or related to the Program or this Agreement will, to the extent permitted under applicable law, be subject to the laws of England and Wales, without reference to conflict of laws principles and you consent to the jurisdiction of the courts of England and Wales.

E. Contracting Parties

**For residents in the United States, Mexico, or Canada**, you are contracting with Activision Publishing, Inc., 2701 Olympic Boulevard, Building B, Santa Monica, CA 90404.

**For residents in EMEA (Europe including United Kingdom, Middle East and Africa, Russia)**, you are contracting with Activision Blizzard UK Ltd, The Ampersand Building, 178 Wardour Street, London, United Kingdom, W1F 8FY.

**For residents in LATAM (excluding Mexico)**, when using the Program on:

- the Battle.net platform as well as any Nintendo platforms, you are contracting with Activision Publishing, Inc. of 2701 Olympic Boulevard, Building B, Santa Monica, CA 90404.
- any other platforms (including through a mobile device), you are contracting with Activision Blizzard International LLC of 2701 Boulevard, Building B, Santa Monica, CA 90404

**For residents in Korea**, (except when using the Program through a mobile device which is excluded) you are contracting with Blizzard Entertainment Limited of 15F, Parnas Tower, 521, Teheran-ro, Gangnam-gu, Seoul, Korea

**For residents in APAC (excluding Korea)**, when using the Program on:

- a mobile device (except in the following territories which are excluded: Hong Kong, Macau, and Taiwan, South Korea, Vietnam, Thailand, Malaysia, Indonesia, Philippines, Singapore, Laos, Brunei, Myanmar, Cambodia, and East Timor) you are contracting with Activision Blizzard International LLC of 2701 Olympic Boulevard, Building B, Santa Monica, CA 90404

To the fullest extent permitted by applicable law, if any user outside of the United States is entitled to commence and/or participate in legal proceedings within the United States, then that user agrees to be bound by the BINDING ARBITRATION AND CLASS ACTION WAIVER provisions above.

**18. MISCELLANEOUS:** This Agreement is the complete agreement concerning this license between the parties and supersedes all prior agreements and representations between them. If any provision of this Agreement is held to be unenforceable, the applicable provision shall be reformed only to the extent necessary to make it enforceable and the remaining provisions of this Agreement shall not be affected, except as otherwise expressly provided herein.

## **19. SUPPLEMENTAL TERMS– GERMANY**

The following Sections below supersede and replace the corresponding Sections above for residents in Germany:

**Modification of Terms:** From time to time, Activision may need to amend this Agreement, for example to reflect or include new products or services, to enhance security for users or because of changes in the law. If Activision makes such a change to this Agreement we will inform you of the particular changes in advance no later than thirty (30) calendar days before such changes come into force and you shall be deemed to have accepted these changes (i) unless you have notified us of your objection to such changes within thirty (30) calendar days from the moment of receipt of notification from us, or (ii) if you use the Program after the changes have entered into force. In the notification, we will inform you of your right to object, of the applicable notice period and the legal consequences of a failure to object.

The latest version of this Agreement will always be available on our website, so we recommend that you check for updates to this Agreement each time you use the Program. Changes to the Agreement shall not affect your accrued rights, shall not substantially disrupt the contractual balance between you and us under this Agreement and shall not have retroactive effect.

**ACTIVISION PUBLISHING, INC.**

**ANNEX A: GAME TESTER CONFIDENTIALITY  
AND NON-DISCLOSURE AGREEMENT**

This Game Tester Confidentiality and Non-Disclosure Agreement (this “Agreement”), effective as of the date of acceptance by the undersigned recipient of information from Activision (“Recipient”) (the “Effective Date”), is entered into by and between Activision Publishing, Inc., a Delaware corporation with offices at 2701 Olympic Boulevard Building B, Santa Monica, CA 90404, U.S.A., and its affiliates and subsidiaries (“Activision”), and Recipient with reference to the following facts:

**RECITALS:**

WHEREAS, Recipient has been selected to conduct game testing with respect to Activision’s upcoming game tentatively entitled Project Aurora (the “Game”) and prior to having Recipient participate in the Game testing and Activision disclosing Confidential Information (as defined below) to Recipient, Activision requires that Recipient enter into this Agreement; and

WHEREAS, because of the highly sensitive nature of the Confidential Information, Activision will be taking additional security measures with respect to the Game testing (as described below) and Recipient consents to conducting Game testing in accordance with the security measures Activision implements;

NOW THEREFORE, in consideration of Activision’s furnishing of Confidential Information to Recipient, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Activision and Recipient agree as follows:

1. For purposes of this Agreement, “Confidential Information” shall mean all information related to the Game, all information obtained in connection with testing the Game, all testing activities with respect to the Game, all information relating to the circumstances of the Game testing, and all feedback provided related to the Game, including but not limited to Recipient’s testing activities and Recipient’s feedback related to the Game. Confidential Information shall specifically include but not be limited to Game features, Game content, music contained within the Game, audiovisual aspects of the Game, and the circumstances of the Game testing. Confidential Information also includes any written or recorded summary or analysis of Confidential Information prepared by Recipient, other testing participants or Activision employees or agents.
2. RECIPIENT EXPRESSLY ACKNOWLEDGES AND UNDERSTANDS THAT ANY BREACH OF THIS AGREEMENT WILL SUBJECT RECIPIENT TO CIVIL AND CRIMINAL LIABILITY TO THE MAXIMUM EXTENT ALLOWED BY LAW.

Except as may be required by court order, subpoena or lawful demand of a governmental agency, Recipient agrees: (a) to hold any Confidential Information obtained by it in the strictest confidence; (b) not to directly or indirectly reveal, report, publish, post on social media or internet websites, disclose or transfer any Confidential Information to any person or entity; (c) not to make copies of any Confidential Information without Activision’s prior written approval; and (d) not utilize any of the Confidential Information for any purpose whatsoever (other than for the sole purpose of conducting testing of the Game and providing feedback related to that testing to Activision). If Recipient receives notice that it is required to disclose Confidential Information pursuant to a court order, subpoena or lawful demand of a governmental agency, Recipient shall promptly notify Activision of such requirement prior to making any such disclosure and provide reasonable cooperation to Activision so that Activision may contest the required disclosure or intervene to seek appropriate protective orders. Further, Recipient shall limit its disclosure to only that portion of Confidential Information that its counsel reasonably advises that Recipient is legally required to disclose.

3. Recipient shall not bring into any Game testing location any recording device (including video or audio recorders, cameras, cellular phones with video or camera capabilities, portable computer drives, iPods, MP3 devices, USB thumb drives, CDs and DVDs). Other than Recipient’s own permissible belongings, Recipient

shall not remove anything from any Game testing location without express permission. With respect to the foregoing restrictions, Activision shall be permitted to search Recipient and Recipient's belongings brought into a Game testing location (including bags, carrying cases, and containers). Activision may use metal detectors or other similar scanning devices in connection with such searches. Recipient hereby consents to undergo such searches as reasonably necessary by Activision to protect against recording or storage of Confidential Information, and/or any other breach of this Agreement by Recipient. Activision may retain any such item during the duration of any testing, if Activision reasonably believes such item may contain Confidential Information, as reasonably necessary to (i) test for Confidential Information, (ii) remove Confidential Information, or (iii) document Recipient's breach of this Agreement.

4. All rights, title and interest, including all intellectual property and proprietary rights, in and to any Confidential Information obtained by Recipient pursuant to this Agreement, and all copies thereof, shall be and remain the sole and exclusive property of Activision. Recipient shall and hereby does assign, transfer and convey to Activision all rights, title and interest, if any, that Recipient may obtain or have in and to any Confidential Information, including any summary or analysis of Confidential Information prepared by Recipient hereunder. Neither this Agreement nor any disclosure of Confidential Information hereunder grants any right or license under any trademark, copyright, patent, or other intellectual property right now or hereafter owned or controlled by Activision. Without limiting the generality of the foregoing, Recipient shall not modify, prepare derivative works based upon, dismantle, reverse engineer, or in any other manner copy or disassemble any Confidential Information of Activision. All such Confidential Information, and any copies, summary or analysis thereof, shall be promptly returned to Activision or destroyed by Recipient upon Activision's request.

5. Because of the unique and highly sensitive nature of the Confidential Information, Recipient acknowledges that Activision and/or its licensors may suffer irreparable harm if Recipient fails to comply with the provisions of this Agreement and that monetary damages will be inadequate to compensate Activision for such breach. Accordingly, Recipient agrees that Activision may, in addition to any other remedies available to it at law or in equity, be entitled to seek injunctive and other equitable relief to enforce the terms of this Agreement and to prevent any actual, potential or threatened violation of this Agreement by Recipient and in seeking such relief, Activision will not be required to post any security or to prove the inadequacy of available remedies at law. Recipient expressly agrees that it shall bear all costs and expenses, including attorneys' fees and costs, incurred by Activision in an enforcement action resulting from Recipient's breach of this Agreement. Recipient shall indemnify, defend and hold harmless Activision from and against all claims, damages, liabilities, losses and expenses (including attorneys' fees and costs) arising out of or relating to Recipient's breach of this Agreement.

6. Recipient's obligations under this Agreement shall continue in perpetuity except that, to the extent Confidential Information is publicly released by Activision, Recipient's obligations under Paragraph 3 of this Agreement shall cease but only as to the specific Confidential Information publicly released by Activision.

7. This Agreement shall be governed by the applicable laws of the State of California and the undersigned expressly submits to jurisdiction and venue of the State and Federal courts located in Los Angeles County, California, USA. This Agreement, in addition to any other agreements into which Recipient has entered related to Confidential Information of Activision, contains the entire and complete understanding of the parties with respect to the subject matter hereof and supersedes all prior representations and understandings, whether oral or written. This Agreement may not be amended or modified except in a writing signed by both parties.

8. If any of the provisions of this Agreement shall be held unenforceable by a court, the remaining portions hereof shall remain in full force and effect.

9. Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of that or any other right or remedy.

10. Nothing in this Agreement shall obligate Activision to disclose any Confidential Information to Recipient. The parties understand that nothing herein requires either party to proceed with any proposed transaction or relationship in connection with which Confidential Information may be disclosed.

11. The parties agree that an electronically-copied or click-to-accept signature has the same effect as an original signature.