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BINDING ARBITRATION  
AND A WAIVER OF CLASS ACTION RIGHTS AS DETAILED BELOW.**

**GUITAR HERO SOFTWARE LICENSE AGREEMENT**

USE OF THIS GUITAR HERO SOFTWARE PROGRAM (AND ANY UPDATES), ANY ONLINE SERVICES, OR DOWNLOADS ASSOCIATED HEREWITH (INCLUDING GHTV), THE SOFTWARE (INCLUDING FIRMWARE) FOR THE GUITAR HERO CONTROLLER ("Guitar Controller"), THE ASSOCIATED MEDIA, PRINTED MATERIALS, AND DOCUMENTATION (collectively, "Program") IS SUBJECT TO THIS SOFTWARE LICENSE AND SERVICE AGREEMENT ("Agreement"). BY OPENING THIS PACKAGE, DOWNLOADING, INSTALLING, OR USING THE PROGRAM OR "CLICKING TO ACCEPT," YOU ACCEPT (1) 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; AND (2) ACTIVISION'S PRIVACY POLICY (AVAILABLE AT <http://www.activision.com/legal/privacy-policy>). 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.

**FOR RESIDENTS IN NORTH AMERICA ONLY:** IF YOU REJECT THESE TERMS, YOU CAN RETURN YOUR GUITAR CONTROLLER AND THE PROGRAM AND REQUEST A REFUND FOR YOUR GUITAR CONTROLLER AND THE PROGRAM WITHIN THIRTY (30) DAYS AFTER THE DATE OF YOUR PURCHASE, BY CALLING (310) 255-2000 IN NORTH AMERICA.

**FOR RESIDENTS OUTSIDE NORTH AMERICA:** If you are under the age of eighteen (18), please ask your parent or guardian to read and accept this Agreement on your behalf before you use the Program. 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 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. IF YOU REJECT THIS AGREEMENT OR ACTIVISION'S PRIVACY POLICY YOUR RETURN RIGHTS IN RELATION TO THE PROGRAM ARE GOVERNED BY YOUR STATUTORY RIGHTS IN THE COUNTRY WHERE YOU BOUGHT THE PROGRAM. PLEASE VISIT <http://support.activision.com>. NOTHING IN THIS PARAGRAPH SHALL AFFECT YOUR STATUTORY RIGHTS. PLEASE NOTE THAT YOUR RIGHTS IN RESPECT OF ONLINE SERVICES AND SERVICE PROVIDED CONTENT ARE COVERED IN SECTIONS 12 AND 13.

ACTIVISION RESERVES THE RIGHT TO MODIFY THIS AGREEMENT AT ANY TIME BY POSTING THE MODIFICATIONS TO <http://support.activision.com/license>, 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.

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 GAME 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 your personal use. 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.

**FOR RESIDENTS OUTSIDE NORTH AMERICA:** For the avoidance of doubt, nothing in Section 2 shall limit your right to sell and transfer the physical disc containing the Program which you have rightfully purchased.

- 3. LICENSE CONDITIONS:** This license is subject to the following limitations ("License Limitations"). Any use of the Program in violation of the License Limitations will result in an immediate termination of your license, and continued use of the Program will be an infringement of Activision's copyrights and other rights in and to the Program.

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, 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) hack or modify the Program, or create, develop, modify, distribute, or use any unauthorized software programs to gain advantage in any offline, online or multiplayer game modes, such behavior will be subject to sanction at Activision's discretion; (9) remove, disable, or circumvent any proprietary notices or labels contained on or within the Program; or (10) export or re-export the Program in violation of any applicable laws or regulations of the United States government.

Unless expressly permitted by Activision and subject to applicable local laws, you agree that the Guitar Controller (and software therein) may not be used with any software product other than the Guitar Hero game product, and your limited license to use the software in the Guitar Controller is expressly conditioned on your use of the Guitar Controller with a Guitar Hero game product. Any other use is prohibited and no other license, express or implied, is granted.

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.

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.

- 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 INCLUDING ANY ACCOUNT RELATING TO GHTV, 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. 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. 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. Broadband internet is required for such patches, updates, and modifications. You are responsible for any and all broadband access and usage fees.

6. **LIMITED HARDWARE WARRANTY (RESIDENTS IN NORTH AMERICA AND AUSTRALIA ONLY):**

**6(A)** Activision warrants to the original consumer purchaser of this Program that the physical media on which this Program is stored and any physical accessories (together the "Goods") will be free from defects in material and workmanship for 90 days from the date of purchase. If the Goods are found defective within 90 days of original purchase, Activision agrees to replace, free of charge, the applicable defective Goods within the applicable 90 day period, upon its receipt of the Program (postage paid, with proof of the date of purchase) so long as the Goods are still being manufactured by Activision. If the Goods are no longer available, Activision retains the right to substitute similar goods of equal or greater value. This warranty is limited to the Goods, as originally provided by Activision, and is not applicable to normal wear and tear. This warranty shall not be applicable, and shall be void, if the defect has arisen through abuse, mistreatment, or neglect. Any implied warranties prescribed by statute are expressly limited to the 90-day period described above. EXCEPT AS SET FORTH HEREIN, THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.

**For residents in North America:** For information about warranty replacement, or other customer service inquires, call (310) 255-2000 in North America; or if you prefer to not call, please visit <http://support.activision.com>. If a replacement is appropriate you will need to return: (1) the original Goods; (2) a copy of your dated sales receipt; (3) your name and return address; (4) a description of the defect and the problem(s) you are encountering; and (5) the incident/RMA number given to you by Customer Support. In the United States, send to: Technicolor HES Southeast, Attn: Activision Returns - RMA# \_\_\_\_\_, 437 Sanford Rd., Lavergne, TN 37086; outside of the United States please visit <http://support.activision.com>.

**For residents of Australia:** This warranty is provided in addition to other rights and remedies you may have regarding the Goods provided to you in this game bundle, under the Australian Consumer Law. The Goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure. Please contact Activision via email at [ausupport@activision.com](mailto:ausupport@activision.com) if you have an issue with the Goods provided to you in this game bundle. If a replacement or repair is required Activision will instruct you on the process. As part of the process you may be asked to send: (1) the CD-ROM/DVD/Blu-ray Disc (not including manual or case) in

protective packaging; (2) the accessory; (3) photocopy of your dated sales receipt; (4) your name and return address typed or clearly printed; (5) a brief note describing the defect, the problem(s) you are encountering, and the system on which you are running the software; and (6) the incident number given to you by Customer Support. You may be required to also send a cheque or money order but if your claim is determined to be valid you may be entitled to a refund of this amount. The provisions of the Limitation of Damages clause below apply only to the extent permitted by the Competition and Consumer Act 2010 (Cth).

**6(B). LIMITED HARDWARE WARRANTY (RESIDENTS OF ALL COUNTRIES OTHER THAN NORTH AMERICA AND AUSTRALIA ONLY):** The warranty for the Program is provided in accordance with your statutory rights as a consumer which will always prevail. For information about Activision's procedures on replacements of the Program in the European Union and other countries outside of North America and Australia, or other customer service inquires please check: <http://support.activision.com>.

## **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:** Without prejudice to any other rights of Activision, this Agreement will terminate automatically if you fail to comply with its terms and conditions. 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. The following provisions shall survive termination of this agreement: LICENSE CONDITIONS (SECTION 3), OWNERSHIP (SECTION 4), LIMITED

HARDWARE WARRANTY (SECTIONS 6A AND 6B), 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., 3100 Ocean Park Boulevard, Santa Monica, California 90405.
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 as a user of the Program (e.g., unlockable content, accounts, stats, virtual assets, codes, achievements, virtual rewards, credits, access, shows, tokens, coins, power-ups, and customizations) in connection with your use of the Program including GHTV, including the Online Services, which you need to "earn", "grind", "buy" and/or "purchase" in order to obtain additional content.

While the Program may allow you to "earn," "grind," "buy," or "purchase" 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. Unless specifically permitted by Activision, you may not, sell, lend, rent, trade, or otherwise transfer any Service Provided Content. 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). Without limiting the above, Service Provided Content may include virtual coins, points or other virtual currencies ("Virtual Currency"). By purchasing or otherwise acquiring Virtual Currency, you obtain a limited license (which is revocable by Activision at any time unless otherwise required by applicable laws) 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. Virtual Currency cannot be sold or transferred, and cannot be exchanged for cash or for any other goods and services, except for other Service Provided Content, where applicable. Subject always to Section 12, or as is otherwise required under applicable law, Virtual Currency is non-refundable. You are not entitled to a refund or any other compensation such as Service Provided Content for any unused Virtual Currency and unused Virtual Currency is non-exchangeable.

There may be Service Provided Content (should you choose to purchase it) which will require you to make a payment with real money, the amount of which will be set out in the Program. All Service Provided Content will be made available immediately when you purchase it with real money and you acknowledge that this is the case and that you will have no right to change your mind and cancel (sometimes known as a 'cooling off' right) once your purchase is complete.

## 12. AVAILABILITY:

**12(A) For residents in North America:** Activision does not guarantee that any online services, play or features associated with the Program (such as GHTV) (“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 GHTV AND OTHER ONLINE SERVICES MAY BE TERMINATED IN WHOLE OR IN PART AT ACTIVISION’S SOLE DISCRETION WITHOUT NOTICE TO YOU, AND IN CONNECTION WITH GHTV’S OR OTHER 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 GHTV, OR OTHER 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 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, in addition to any Service Provided Content which has been paid-for with real money, will substantially comply with the description provided by it at the point of purchase and be of satisfactory quality (in addition any related services provided through them will be provided with reasonable care and skill). Activision may change and update Online Services or Service Provided Content without notice to you (provided always that any such changes do not result in material degradation in the functionality of the Program or any Service Provided Content which has been paid-for with real money). Activision makes no warranty or representation regarding the availability of Online Services and/or Service Provided Content which are free (i.e. not paid-for with real money) and reserves the right to modify or discontinue them in its sole discretion without notice to you, including for example, for economic reasons due to a limited number of users continuing to make use of them over time. 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. Activision is entitled to modify or discontinue Online Services and/or Service Provided Content which are paid-for with real money in its sole discretion upon reasonable notice to you. The warranty for such Online Services and/or Service Provided Content is provided in accordance with your statutory rights as a consumer which will always prevail. 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.

**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 laws), 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.

**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 [legallaffairs@activision.com](mailto:legallaffairs@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.

Activision Publishing, Inc.  
3100 Ocean Park Boulevard  
Santa Monica, CA 90405  
Attn: Activision Business and Legal  
Affairs Fax: (310) 255-2152  
E-Mail: [legallaffairs@activision.com](mailto:legallaffairs@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:**

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 by phone ((310) 255-2000) or on the web (<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 and, to the extent applicable, the Consumer Minimum Standards, including the then-current limit on arbitration filing fees. 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., 3100 Ocean Park Boulevard, Santa Monica, CA 90405-3032, 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); 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.

## 17. JURISDICTION AND APPLICABLE LAW

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 you are contracting with Activision Publishing, Inc., 3100 Ocean Park Boulevard, Santa Monica, CA 90405-3032 and any and 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 will be subject to the laws of the State of California, without reference to conflict of laws principles. 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 to be arbitrable.

B. **For residents in the European Union**, then you are contracting with Cooperatie Activision Blizzard International UA of Beechavenue 131, 1119RB Schiphol-Rijk, Netherlands and 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 you are contracting with Cooperatie Activision Blizzard International UA of Beechavenue 131, 1119RB Schiphol-Rijk, Netherlands and 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.

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 via e-mail 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 the e-mail notification from us, or (ii) if you use the Program after the changes have entered into force. In the e-mail 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.

**Service Provided Content:** In addition to the above, the following Right of Withdrawal shall apply to German residents.

If you are a consumer (i.e. a natural person who enters into a legal transaction for purposes that predominantly are outside his trade, business or profession), then you shall have a right of withdrawal as set out hereafter.

**Information concerning the exercise of the right of withdrawal**

**Right of Withdrawal**

You have the right to withdraw from any Purchase Contract within 14 calendar days without giving any reason. The withdrawal period will expire after 14 calendar days from the day of the conclusion of the Purchase Contract. To exercise the right of withdrawal, you must inform us (Cooperatie Activision Blizzard International UA of Beechavenue 131, 1119RB Schiphol-Rijk, Netherlands contact details available at [www.support.activision.com](http://www.support.activision.com) of your decision to withdraw from a Purchase Contract by an unequivocal statement (e.g. a letter sent by post, fax or e-mail). **You may use the model withdrawal form attached hereafter**, but it is not obligatory. To meet the withdrawal deadline, it is sufficient for you to send your communication concerning your exercise of the right of withdrawal before the withdrawal

period has expired.

### **Effects of withdrawal**

If you withdraw from the Purchase Contract, we shall reimburse to you all payments received from you under this Purchase Contract, including the costs of delivery (with the exception of the supplementary costs resulting from your choice of a type of delivery other than the least expensive type of standard delivery offered by us), without undue delay and in any event not later than 14 calendar days from the day on which we are informed about your decision to withdraw from this Purchase Contract. We will carry out such reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of such reimbursement.

If you requested to begin the performance of services under a Purchase Contract during the withdrawal period, you shall pay us an amount which is in proportion to what has been provided until you have communicated us your withdrawal from that Purchase Contract, in comparison with the full coverage of these services under the Purchase Contract.

### **End of the information concerning the exercise of the right of withdrawal**

You lose your right of withdrawal, insofar as the Purchase Contract is a service contract, after the service has been fully performed and if the performance has begun with your prior express consent, and with the acknowledgement that you will lose your right of withdrawal once the service has been fully performed by us.

You lose your right of withdrawal insofar as the Purchase Contract comprises the supply of digital content which is not supplied on a tangible medium if the performance has begun with your prior express consent and your acknowledgment that you thereby lose your right of withdrawal.

Based on the aforesaid you understand that by purchasing Service Provided Content, you consent that we make available these Service Provided Content to you directly after we have accepted your order. You will lose your right of withdrawal once the Service Provided Content have been made fully available to you by us. However, your right of withdrawal is not lost if you purchase Virtual Goods that are granted to you for a certain period of time (e.g. time-limited premium memberships).

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### **Model withdrawal Form**

Please complete and return this withdrawal form if you wish to withdraw from a contract with us.

- To: [Cooperatie Activision Blizzard International UA of Beechavenue 131, 1119RB Schiphol-Rijk, Netherlands,
- I/We hereby give notice that I/We withdraw from my/our contract for the purchase of the following goods/ the provision of the following services:\*
- Ordered/ received on\*:
- Name of consumer(s):
- Address of consumer(s):
- Signature of consumer(s): (only required if this form is notified on paper)
- Date:

(\* ) Delete where appropriate.