

**SLIGHTLY MAD STUDIO'S WORLD OF MASS DEVELOPMENT  
TERMS AND CONDITIONS**

This is an ambitious new project from Slightly Mad Studios Limited ("SMS"). The aim is to make the world's largest games developer and use it to create a AAA game – one of our marketing guys called it “a new way to Triple A” – I prefer “the world's largest games developer” but both reflect our ambitions.

So, because this is ambitious and we don't really know each other (yet) our genuinely friendly (but I wouldn't want to mess with them) lawyers have suggested we have a full set of terms and conditions – and these are them. Please do take the time to read them.

As you can probably imagine embarking on a venture like this has a lot of legal issues associated with it. For example, if you are going to become a Team Member and participate in the development of WMD Game you will want to have some guarantees that you will get to play those Game and we will similarly want to make sure that we are allowed to use the work that you contribute, without restriction.

We wish it was as easy as saying “we all know what we intend to do here and we all know what is right and wrong, fair and unfair” but it isn't and so we have asked our genuinely friendly (but I wouldn't want to mess with them) lawyers to prepare the following, that sets out the legal framework for the WMD project.

We have also prepared a summary of some aspects of them. This summary doesn't limit or alter the full terms in any way but should help explain what we are doing.

So, first things first.

**THIS IS NOT AN INVESTMENT OPPORTUNITY.**

**PLEASE DO NOT GET INVOLVED IF THAT IS WHAT YOU THINK IT IS – IT ISN'T.**

The way this works is that we have, over the years, created some state of the art games development tools and tech which we are making available to you, the public, to play with and work on - and help us make a new AAA game (or games). We want to put together a massive games development team and are looking for contributors in all positions including testers, artists, designers, producers, programmers and even marketers and managers.

The people that fill those roles will work alongside the core SMS team that developed games like Need For Speed Shift 1 and 2. You will therefore be part of the Team that makes the game. You won't be employees but should consider yourself freelancers, consultants or contractors - engaged on the terms set out below.

That means that, if you are a Team Member:

- a. you will be able to play Builds or versions of the game whilst it is being developed and a final version of it on the PC platform;
- b. you may contribute to the development of the game in various ways including:
  - (i) providing your personal feedback on the design and other aspects of the game;
  - (ii) creating and developing features or assets to be used in or with the game;
  - (iii) play testing the Builds and providing us with relevant data through that;

- c. you will get access to various other benefits and opportunities that will assist in or be part of the development of a video game, details of which can be found in the Positions and Benefits Section of WMD;
- d. we will pay you for your contributions through a share of the revenues we earn from the game you contribute to as described in the WMD Member Terms and in the Positions and Benefits Section of WMD.

To use and access the WMD site you must accept the WMD Terms. That will give you access to the public facing web site and does not require you to be a Team Member.

To use and access the Member sections of WMD and you must become a Team Member and accept the WMD Member Terms.

To become a Team Member you must accept the WMD Member Terms.

To use the WMD Tools and to create Game Content you must be a Team Member and accept the Game Development Terms.

To play the Builds you must be a Team Member and accept the WMD Build EULA.

## INTRODUCTION

The following terms and conditions (“WMD Terms”) therefore apply to all use of this WMD site. Without limiting their effect they essentially say that you must behave appropriately and responsibly whilst using this WMD site. Additional terms and conditions apply to other aspects of the WMD project. For example all and any contribution to and participation in the development of the Game shall be governed by and subject to the:

- WMD Member Terms;
- WMD Build EULA; and
- Game Development Terms.

## 1. ABOUT WMD AND THESE WMD TERMS

- 1.1. [www.wmdportal.com](http://www.wmdportal.com) (“WMD”) is an online service and platform owned and operated by **Slightly Mad Studios Limited (“SMS”)**, so that a community of games developers and enthusiasts can come together to follow or participate in the development of one or more high quality original video games in conjunction with SMS using SMS’s state of the art development tools and technology (each a “Game”).
- 1.2. These WMD Terms:
  - 1.2.1. apply to all use of WMD and will form a binding agreement between you and SMS;
  - 1.2.2. constitute the entire agreement between you and SMS;
  - 1.2.3. apply to the exclusion of and replace all other terms or conditions of contract you may propose;
  - 1.2.4. shall not be varied by you unless agreed in writing and signed by SMS.
- 1.3. By using WMD you represent and confirm that you understand, accept and are able to understand and accept these WMD Terms and agree to be bound by them.
- 1.4. If you do not accept or understand these WMD Terms you should not use WMD. That includes by using, posting or accessing User Content.
- 1.5. If you are under the age of 18 or don’t understand these WMD Terms or their meaning, please ask a parent or guardian to explain them and their meaning to you.
- 1.6. SMS may make alterations to these WMD Terms from time to time and these variations shall become effective immediately upon being accessible from <http://forum.wmdportal.com/showthread.php?77-Terms-amp-Conditions>.
- 1.7. By using and accessing WMD you confirm that you have the necessary hardware, software and capability required to do so and that you shall be and shall remain responsible for all fees due in respect thereof. SMS shall have no liability in relation to any hardware, software or other services required to make use of WMD.

## 2. REGISTRATION, ACCOUNT AND PASSWORD

- 2.1. In order to use and access WMD you will need to register. To register you will need to submit certain information and choose an account name (“Account Name”), and a Password (“Password”).
- 2.2. The Account Name and Password chosen by and issued to you upon registration with SMS is personal to you so that you can use and access WMD and must not be disclosed to any person without SMS’s prior written consent.
- 2.3. You agree, accept and understand that:
  - 2.3.1. you must ensure that all information held about you by SMS is up to date and that you can amend your registration details at any time through WMD;
  - 2.3.2. you are and shall remain responsible for maintaining the confidentiality of your Account

Name and Password;

- 2.3.3. you are solely liable for any use of WMD using your Account Name, and Password whatsoever.
- 2.4. DO NOT SHARE YOUR ACCOUNT NAME OR PASSWORD WITH ANY OTHER PERSON OR ALLOW ANY OTHER PERSON TO USE YOUR ACCOUNT. SMS IS NOT LIABLE FOR ANY IMPROPER USE OF YOUR ACCOUNT NAME, PASSWORD, OR ACCOUNT OR ANY USE BY ANY THIRD PARTY. IF YOU THINK YOUR ACCOUNT NAME, PASSWORD, OR ACCOUNT HAVE BEEN COMPROMISED YOU MUST INFORM SMS IMMEDIATELY.
- 2.5. You undertake that all the information supplied during registration is truthful, complete and correct. If the information you have supplied is incomplete or incorrect you agree to indemnify SMS against any loss or damage incurred by SMS and any third parties who may suffer damage as a result of the information that you have supplied.

### **3. RIGHTS OF USE AND INTELLECTUAL PROPERTY RIGHTS**

- 3.1. Subject to these WMD Terms and your compliance with them, SMS grants you a non-exclusive, non-transferable, personal, limited right and licence to access and use WMD solely for your private, non-commercial, personal use.
- 3.2. This licence includes the limited right to download content, materials, data and User Content temporarily, for purposes solely connected with the private, non-commercial, personal use of WMD.
- 3.3. You may not transfer, sub license or deal in this right without SMS's prior written permission.
- 3.4. These WMD Terms and the rights granted by them do not give you any title or rights of ownership in WMD and should not be deemed a sale or transfer of any copyright or other right.
- 3.5. Unless otherwise expressly specified, all copyright, design rights, database right, patent rights, trade mark and trade dress rights and other intellectual property rights in WMD belong to and vest in SMS, or are licensed to SMS.
- 3.6. All intellectual property rights of SMS are hereby asserted and reserved.
- 3.7. All third party trade names and trade marks are the property of their respective owners and SMS makes no warranty or representation in relation to them.

### **4. RESTRICTIONS AND OBLIGATIONS**

- 4.1. You agree to comply with these WMD Terms and all rules applicable to the use of WMD.
- 4.2. Notwithstanding any other provision of these WMD Terms you agree and undertake not to:
  - 4.2.1. hack, attempt to hack, modify, adapt, merge, translate, decompile, disassemble, reverse engineer or create derivative works out of WMD or any part of it EXCEPT if and to the extent permitted by the Game Development Terms;
  - 4.2.2. remove, delete, obscure, disable, modify, add to or tamper with any program code or data, copyright, trade mark or other proprietary notices and legends contained on or in WMD;
  - 4.2.3. create software which replicated or mimics any data or functionality in WMD EXCEPT if and to the extent permitted by the Game Development Terms;
  - 4.2.4. use or deal in WMD except as permitted by these WMD Terms or the Game Development Terms;
  - 4.2.5. include contact details intended to enable communication outside of WMD in any Communication;
  - 4.2.6. use your access to WMD, or information gathered from it, for the sending of unsolicited bulk email;

- 4.2.7. provide hypertext links, URL links, graphic links, hyperlinks or other direct connection for profit or gain to WMD without SMS's prior written permission;
- 4.2.8. make WMD or any part of it available to any third party who has not or does not agree to the WMD Terms;
- 4.2.9. display, publish, copy, print, post or otherwise use WMD and the information contained therein for the benefit of any third party or website;
- 4.2.10. use or process WMD or any part of it unfairly or for any illegal or immoral purpose.
- 4.3. WMD may only be accessed and used via authorized servers. You must take no action to bypass authorized servers and/or third party software to modify any aspect of WMD and you expressly consent to SMS monitoring your computer's random access memory for said unauthorized third party programs.

## **5. FORUM AND COMMUNICATIONS**

- 5.1. WMD is an information, entertainment and education service and ancillary to this SMS is involved in the transmission, storage, retrieval and dealing with third party content and communications ("User Content") without review, selection or alteration of their content - for which it is a mere conduit.
- 5.2. The views expressed in any User Content are the views of the individual authors and not those of SMS unless specified otherwise by SMS.
- 5.3. SMS is not responsible for and disclaims all liability in respect of any comments, views or remarks expressed in any User Content.
- 5.4. By using WMD you acknowledge that SMS has no responsibility to review the content of any User Content and that all User Content is made available on the basis that SMS is not required to and does not exercise any control or judgement of their content.
- 5.5. Notwithstanding the foregoing SMS shall be entitled to remove or reject any User Content and remove or suspend your ability to post, make available or access User Content.
- 5.6. You agree that SMS may use, publish, edit, modify and adapt the User Content you make available, or post to or transmit to WMD ("Your User Content") for any and all purposes relating to WMD and the business of SMS and you hereby grant it an unrestricted non-exclusive right and licence and all necessary permissions, consents and licences required for it to use Your User Content in that way. You further waive all so called moral rights in Your User Content.
- 5.7. You agree and undertake that you are entitled to make available, or post to or transmit to WMD Your User Content and will not make available, or post to or transmit to WMD any statement, material or other User Content, nor use WMD in any way, that:
  - 5.7.1. is unlawful or which gives rise to civil or criminal liability;
  - 5.7.2. promotes any illegal or unlawful activity;
  - 5.7.3. infringes any copyright or other intellectual property right of any third party or assists infringement or piracy;
  - 5.7.4. includes any computer virus, worms, logic bombs or other malicious software or technically harmful data;
  - 5.7.5. is abusive, pornographic, defamatory, discriminatory or obscene;
  - 5.7.6. harasses any person;
  - 5.7.7. markets or promotes any third party;
  - 5.7.8. interferes with another user's use and enjoyment of WMD;
  - 5.7.9. impersonates any moderator, administrator or any staff or other persons connected with SMS;
  - 5.7.10. infringes upon or violates any third party's rights, including but not limited to intellectual

- property rights, rights of privacy, including unauthorized disclosure of a person's name, email address, physical address or phone number, and/or rights of publicity;
- 5.7.11. contains any restricted material, including but not limited to passwords, medical information or confidential information of any person;
  - 5.7.12. solicits passwords or personal information;
  - 5.7.13. provides instructional information about illegal activities such as making or buying illegal weapons, buying or selling illegal drugs, violating someone's privacy, or providing or creating computer viruses;
  - 5.7.14. contains video, photographs, or images of another person without his or her permission (or in the case of a minor, the minor's legal guardian);
  - 5.7.15. exploits any person;
  - 5.7.16. tries to gain unauthorized access to any computer, servers or any part of WMD including its servers, network and the computers of other users;
  - 5.7.17. tries to gain unauthorized access to any profiles, blogs, chat rooms, communities, account information, bulletins, or other aspects of WMD;
  - 5.7.18. engages in or solicits commercial activities or sales without SMS's prior written consent such as, without limitation gambling, betting, sweepstakes, sales advertising, investments and pyramid schemes;
  - 5.7.19. refers to any material that is inappropriate;
  - 5.7.20. seeks or attempts to make any arrangement to meet a minor or which may have such a meeting as its object or effect; or
  - 5.7.21. solicits, invites, encourages, advocates, incites or provokes any or all of the foregoing.
- 5.8. If you discover any material which you believe contravenes these WMD Terms please inform SMS or a forum moderator with details of the page you found it on.
- 5.9. IT IS A KNOWN RISK OF INTERNET USAGE THAT PEOPLE ARE NOT NECESSARILY WHO THEY SAY THEY ARE. PEOPLE MAY PROVIDE INFORMATION OR BEHAVE IN A WAY THAT IS UNRELIABLE, MISLEADING, UNLAWFUL OR ILLEGAL. SMS HAS NO WAY OF TELLING IF STATEMENTS MADE BY OTHER USERS ARE TRUE. THIS IS A DECISION THAT CAN ONLY BE MADE BY YOU. YOU SHOULD THEREFORE EXERCISE SOME DEGREE OF CAUTION WHEN USING ANY WEBSITE. BY USING WMD AND ITS SERVICES YOU ACCEPT THAT THIS IS THE CASE AND ACCEPT THAT YOU THEREFORE USE WMD AT YOUR OWN RISK. PLEASE TAKE PARTICULAR CARE IN RELATION TO THE DISCLOSURE OF YOUR OWN PERSONAL INFORMATION SUCH AS YOUR SURNAME, ADDRESS, EMAIL ADDRESS, TELEPHONE NUMBER AND PLACES YOU GO.
- 5.10. You acknowledge and agree that, if necessary, SMS will communicate with you via the email address you have provided to SMS. Notices that are applicable to all SMS's customers shall be made available on the WMD websites or otherwise within WMD. You will be deemed to have received a notice at the time the email is sent or the time the notice is posted on our websites or within WMD.
- 5.11. All emails sent by SMS and attachments thereto are intended for the addressee only.
- 5.12. Certain forums and sections of WMD may only be available to Team Members and these terms and conditions shall also apply to those forums and sections of WMD.

## **6. LIABILITY**

- 6.1. SMS provides and maintains WMD for personal information, education and entertainment on an "as is" basis and is liable only to provide its services with reasonable skill and care.

- 6.2. External Sites have not been verified or reviewed by SMS and all use and access of External Sites is made at your own risk. "External Sites" means third party websites and online services to which WMD links.
- 6.3. SMS gives no other warranty in connection with WMD and to the maximum extent permitted by law, SMS excludes liability for:
- 6.3.1. any loss or damage of any kind howsoever arising, including any direct, indirect, special, punitive or consequential loss whether or not such arises out of any problem which SMS has been made aware of;
  - 6.3.2. the accuracy, currency or validity of information and material contained within any User Content or WMD;
  - 6.3.3. any interruptions to or delays in updating WMD;
  - 6.3.4. any incorrect or inaccurate information on WMD;
  - 6.3.5. the infringement by any person of any copyright or other intellectual property rights of any third party through any User Content or use of WMD;
  - 6.3.6. the availability, quality, content or nature of External Sites;
  - 6.3.7. any transaction involving External Sites;
  - 6.3.8. any amount or kind of loss or damage due to viruses or other malicious software that may infect a user's computer equipment, software, data or other property caused by persons accessing, using or downloading WMD, or any User Content;
  - 6.3.9. all representations, warranties, conditions and other terms and conditions which but for this notice would have effect.
- 6.4. SMS does not warrant that the operation of WMD will be uninterrupted or error free.
- 6.5. SMS will not be liable in any amount for failure to perform any obligation under these Terms if such failure is caused by the occurrence of any unforeseen contingency beyond the reasonable control of such party including Internet outages, communications outages, fire, flood, war or act of God.
- 6.6. Except as provided above there are no other warranties, conditions or other terms and conditions, express or implied, statutory or otherwise, and all such terms and conditions are hereby excluded to the maximum extent permitted by law.
- 6.7. You agree that in relation to your use of WMD you will not in any way conduct yourself in a manner which is unlawful or which gives rise to civil or criminal liability or which might call into disrepute SMS, WMD or any WMD Game.
- 6.8. You agree that you are and shall remain responsible for maintaining the confidentiality of your Password and membership account and for all activities that occur under your account.
- 6.9. You hereby indemnify, defend and hold SMS and SMS's officers, directors, owners, agents, information providers, affiliates, licensors and licensees (collectively, the "Indemnified Parties") harmless from and against any and all liability and costs (including reasonable attorneys fees) incurred by the Indemnified Parties in connection with any claim arising out of any breach by you of these WMD Terms or claims arising from your use of WMD any User Content and any use of your membership account. You shall cooperate with SMS in the defence of any claim. SMS reserves the right, at SMS's own expense, to assume the exclusive defence and control of any matter otherwise subject to indemnification by you.

## **7. TERMINATION**

- 7.1. Without limiting to any other rights it may have SMS may remove, restrict, cancel or suspend access to and use of WMD and any part of it in the event that you breach of any of these WMD Terms.

## **8. POLICY ON PRIVACY, DATA, COOKIES AND MARKETING COMMUNICATIONS**

### Data

- 8.1. SMS may ask you for and / or you may submit certain personal and non-personal information and /or data to it through WMD (such as your name, email address, contact details and information concerning your use of WMD and Builds) when you subscribe, sign up to or otherwise use WMD, Use Content or the WMD Tools, Game Content or Builds.
- 8.2. SMS may also record which parts of WMD and its relates features and services you are interested in as well as user traffic patterns, site use and other information concerning your use of WMD, Use Content and the WMD Tools, Game Content and Builds. This information will be kept securely in accordance with an internal security policy and may be used to:
  - 8.2.1. process and make available Your User Content and your subscription to WMD and to enable your use of WMD and associated services;
  - 8.2.2. open and run your account and provide you with an up to date, efficient and reliable service;
  - 8.2.3. monitor the use of WMD;
  - 8.2.4. monitor your contributions (if any) to the Game;
  - 8.2.5. provide feedback on the use of Builds (where applicable); and
  - 8.2.6. generally run WMD and the WMD project.
- 8.3. By subscribing and submitting your data you agree to this use.
- 8.4. SMS WILL ONLY USE INFORMATION COLLECTED ABOUT YOU IN ACCORDANCE WITH THE DATA PROTECTION ACT 1998.
- 8.5. From time to time SMS also monitor and record telephone calls for training purposes and to improve the service to you.
- 8.6. SMS will never collect sensitive information about you without your explicit consent.
- 8.7. If you believe SMS has information about you that you do not want SMS to have or that is incorrect please contact SMS as described below and SMS shall correct or remove the data as you request as soon as is reasonably practicable.

### Marketing Communications

- 8.8. SMS gives you a choice of whether or not you want SMS or other reputable companies to contact you about future offers, events and new services or related activities that you may find useful. SMS will not sell or trade personal information to other companies but SMS would like to keep you informed of the developments on WMD and certain games and SMS would like to share data with other reputable companies who may have interesting offers and information for you (inside or outside the EU).
- 8.9. SMS will not send you any marketing emails or pass your information on to third parties unless you give your consent or you have given it already.

### Cookies

- 8.10. SMS uses 'cookies' on WMD. Cookies are a way that information such as whether you have visited WMD before is recorded on your computer and are used by SMS to improve WMD and the services available to you. If you do not wish for SMS to use cookies when you use WMD please adjust your Internet browser settings to not accept cookies. Your computer's help file should tell you how to do this but please note that this may affect your ability to use WMD and games.
- 8.11. If you don't disable cookies WMD will ask for and store details including your name and email address and may automatically insert certain information on the subscription or User Content forms so that you can use WMD with less form filling.

### Privacy

- 8.12. If you have any other concerns over privacy, this privacy policy or WMD please contact SMS as



described below.

## **9. GENERAL**

- 9.1. These WMD Terms are subject to your statutory and common law consumer rights and shall not limit any rights you might have that may not be excluded under applicable law nor shall it exclude or limit SMS's liability for death or personal injury resulting from its negligence nor any fraudulent acts or representations.
- 9.2. These WMD Terms together with such of the WMD Member Terms; WMD Build EULA and the Game Development Terms as shall become applicable shall constitute the entire agreement between you and SMS relating to the subject matter thereof and shall apply to the exclusion of all other terms and conditions or conditions of contract which you may propose.
- 9.3. Use of the word "including" in these WMD Terms means including without limitation.
- 9.4. Failure to enforce any of these WMD Terms will not be deemed a waiver of any term or right.
- 9.5. If any part of these WMD Terms is found to be unenforceable, it will be construed as far as possible to reflect the intention and the remainder of the provisions will remain in full force and effect.
- 9.6. WMD is intended for and directed at the United Kingdom and no representation or warranty is made as to whether WMD complies with the regulatory regime and local laws of any other country.
- 9.7. Use of and participation in WMD and any aspect of it and these WMD Terms are subject to the laws of England which shall exclusively govern the interpretation, application and effect of all the permissions, exclusions, licences and conditions of use relating thereto and shall be construed in accordance with the laws of England and the parties submit to the exclusive jurisdiction of the English courts.
- 9.8. SMS shall be entitled to assign and otherwise transfer the agreement covered by the Terms and any rights and obligations hereunder it on giving you reasonable notice, which may include via WMD.
- 9.9. Slightly Mad Studios Limited:  
Registered company number 06552778 (England & Wales).  
Registered company address: 5TH FLOOR MILL HOUSE, 8 MILL STREET, LONDON, UNITED KINGDOM, SE1 2BA
- 9.10. All questions, comments or enquiries should be directed to SMS via the contact details listed at the end of this document. We will endeavour to respond to any query or questions within 48 hours.

## **World of Mass Development Member Terms and Conditions**

### **POSITION - LEVELS AND BENEFITS**

We are looking to build the world's largest games development team and to do that we need you. You can join at various different levels depending on your interest, commitment and skillset. So, if you just want to follow development, play the Builds and let the tech we have in the Builds provide us with feedback then that's fine – great even – you can join at the “Junior” level.

You can also get promoted if your contribution deserves it and your fellow Team Members vote for it. Or, you can promote yourself and upgrade your Position to the level that best suits you and your commitment. The higher the Position the more access and benefits you get, the more WMD Tools you will be able to use and the more advanced your contribution will be. Therefore the higher your Position the higher the potential Fees will be in respect of your contributions. PLEASE NOTE: WHATEVER YOUR POSITION YOU MUST MAKE A CONTRIBUTION TO A GAME TO GET FEES FOR THAT GAME.

So, the following terms apply in addition to the WMD Terms and in particular the WMD Member Terms and set out details of the rights you have as a Team Member.

**These additional terms and conditions (“WMD Member Terms”) apply to your participation in WMD (in addition to the WMD Terms set out above, the Game Development Terms; and WMD Build EULA. You will need to agree to these WMD Member Terms become a Team Member. “Team Members” have the additional rights and benefits described in these WMD Member Terms, which may include the following depending on the Team Member's level:**

- access the Members section of WMD, including without limitation the Member Forums;
- install and play Builds of the Game throughout the development of the Game;
- participate in the development of the Game; and
- use the WMD Tools;
- contribute Game Content;
- earn Fees in respect of your contributions.

**In any case by doing those things you agree to be bound by these WMD Member Terms in addition to the WMD Terms. You should therefore read them carefully.**

**Without limiting their effect, they can be summarised as:**

- in order to participate in the development of the WMD Game you will need to be a Team Member and have a Position;
- A Position will entitle you to the applicable benefits described below and in the Positions and Benefits Section of WMD, which include Fees in respect of your contribution and certain voting rights;
- you may only use ANY tools, technology and software that are provided through or in connection with WMD for the purpose of following and participating in the Game development projects we specifically designate;
- we must be able to use anything that you contribute and we must have the right to be able to do whatever we like with them;

- you must be able to give us those rights and must not infringe or “rip-off” anyone else’s rights or work as part of this project (i.e. you can only use your own original work and WMD Tools and Game Content which we make available);
- you must behave reasonably, fairly and lawfully in connection with the site and the development project and must not do anything bad or that is prohibited in the applicable terms and conditions;
- you are responsible and liable for everything you do or is done using your user account.

**ALL AS MORE FULLY EXPLAINED BELOW.**

**1. TEAM MEMBERS AND POSITIONS**

- 1.1. The WMD site is generally free to use and access, however there are addition levels of membership that Team Members may have (“Positions”).
- 1.2. you will need to become Team Member and purchase a Position in order to obtain applicable rights and which may include (amongst other things and depending on your Position):
  - 1.2.1. access the Members section of WMD, including without limitation the Member Forums;
  - 1.2.2. install and play Builds of the Game throughout the development of the Game (subject to the terms of the WMD Build EULA);
  - 1.2.3. participate in the development of the Game;
  - 1.2.4. download and use the WMD Tools (subject to the terms of the Game Development Terms);
  - 1.2.5. contribute Game Content;
  - 1.2.6. earn Fees in respect of your contributions.
- 1.3. Positions have no cash or real world value. It is a condition and fundamental term of these WMD Member Terms and your use of WMD that you may not and must not sell, barter, swap, exchange, trade, lend, rent or otherwise deal in any way with any Position or any other aspect of WMD including your WMD Account, Account Name or Password.
- 1.4. Being a Team Member and having a Position is a feature of WMD that gives you certain limited rights and permissions subject to these WMD Member Terms.
- 1.5. Being a Team Member and having a Position does not give you any actual ownership or rights of ownership in any Game, Game Content, SMS Tools or WMD, or any other property whether tangible or intangible but do give the rights described at in these WMD Member Terms.

**2. POSITIONS AND BENEFITS**

2.1. The rights to use, access, contribute to and earn through WMD, as well as any Fees that Team Members will earn for their contributions, will depend on your Position.

2.2. The Positions and related rights and benefits that apply to that Position are as detailed below:

| <b>POSITION</b>       | <b>RIGHTS AND BENEFITS</b>  |
|-----------------------|---|
| <b>SENIOR MANAGER</b> | <ul style="list-style-type: none"> <li>Can CREATE NEW project-specific forum threads</li> <li>Can PM developers</li> <li>GAIN a dedicated sub-forum</li> <li>Can ATTEND meetings</li> <li>Can play ALL builds</li> <li>Can access Game Scripts</li> <li>Fees</li> <li>Vote</li> </ul> |
| <b>MANAGER</b>        | <ul style="list-style-type: none"> <li>Can CREATE NEW project-specific forum threads</li> <li>Can PM developers</li> <li>Can ATTEND meetings</li> <li>Can play BI-WEEKLY builds</li> <li>Can access Game Scripts</li> <li>Fees</li> <li>Vote</li> </ul>                               |
| <b>SENIOR</b>         | <ul style="list-style-type: none"> <li>Can CREATE NEW project-specific forum threads</li> <li>Can WATCH meetings live</li> <li>Can play WEEKLY builds</li> <li>Fees</li> <li>Vote</li> </ul>  |
| <b>FULL MEMBER</b>    | <ul style="list-style-type: none"> <li>Can CREATE NEW project-specific forum threads</li> <li>Can READ meeting minutes</li> <li>Can play WEEKLY builds</li> <li>Fees</li> <li>Vote</li> </ul>   |
| <b>TEAM MEMBER</b>    | <ul style="list-style-type: none"> <li>Can CREATE NEW project-specific forum threads</li> <li>Can READ meeting minutes</li> <li>Can play WEEKLY builds</li> <li>Fees</li> <li>Vote</li> </ul>   |
| <b>JUNIOR</b>         | <ul style="list-style-type: none"> <li>Can REPLY to project-specific forum threads</li> <li>Can READ meeting minutes</li> <li>Can play MONTHLY builds</li> <li>Fees</li> <li>Vote</li> </ul>  |

### **3. PURCHASING POSITIONS**

- 3.1. You may purchase Positions using your credit or debit card or through a PayPal account or as otherwise described in these WMD Member Terms.
- 3.2. Positions are advertised for sale on WMD so that you may offer to purchase them for the price stated in the manner described below.
- 3.3. When you complete and submit the online form required to purchase Positions you are offering to purchase them for the price stated ("Order").
- 3.4. Orders are subject to these WMD Member Terms and will be confirmed by email. Orders are deemed accepted when SMS sends the confirmation email.
- 3.5. The charge will appear on your credit card bill, bank or PayPal statement. Credit card Orders will be confirmed by email and are deemed accepted when SMS sends the confirmation email. All Order details and invoices will be sent to the credit card or debit card billing address and not the shipping address where they differ.
- 3.6. You will not be charged for any Orders that cannot be fulfilled and where appropriate SMS will re-credit to your account any sum debited by SMS.
- 3.7. SMS may cancel any sale and not provide Positions if it is reasonable to do so and may change or discontinue the availability of Positions at any time at its sole discretion.
- 3.8. The availability of rights and benefits of each Position is a service that commences when WMD makes any of the services or benefits described above available to you, following which you shall not be entitled to cancel your Order.
- 3.9. SMS cannot guarantee that Positions will always be available.
- 3.10. PLEASE DO NOT SEND CASH, POSTAL ORDER, MONEY ORDER OR CHEQUE. SMS MAY NOT ACCEPT THEM (BUT RESERVES THE RIGHT TO DO SO). SMS WILL NOT BE RESPONSIBLE FOR CASH, POSTAL ORDER, MONEY ORDER OR CHEQUE LOST IN THE POST OR SENT TO BUT NOT RECEIVED BY SMS.

### **4. FEES**

- 4.1. For the purpose of these WMD Member Terms:
  - 4.1.1. "Revenues" shall mean 70% of the total sums actually and directly received by SMS in respect of sales of the Game (including without limitation in Game purchases) less applicable taxes, credits, charge backs and refunds;
  - 4.1.2. "Fees" shall mean your share of Revenues as determined by your WMD Position and these WMD Member Terms (including without limitation as described in the 1 Section of WMD;
  - 4.1.3. "Your Account" shall mean such PayPal account as you nominate. You will need to arrange for a PayPal account to be established and will provide SMS with full details of it in order that SMS may make payments to it. You will be responsible for your PayPal account and any sums held in it. PayPal's terms and conditions shall also apply to Your Account.
- 4.2. If you make a contribution to Game you will be entitled to earn the Fees following the commercial release of the Game.
- 4.3. In order to earn Fees you must make a contribution to the Game.
- 4.4. Any Fees you receive will be based on the WMD Position held by you and will be calculated as follows:
  - 4.4.1. SMS shall notify you of the total Revenues earned and received by it and the Fees due to you on a quarterly basis by email or otherwise on or through WMD, if any Fees are then due.

- 4.4.2. If any Fees are due, SMS will then make payment of the applicable Fees into Your Account within 14 days following notifying you of the amount due to you, as described above.
- 4.4.3. SMS may provide you with access to a page or pages within WMD from which you will be able to obtain and review information concerning the sales of the Game, the Revenues and Fees due or paid to you (based on the latest information available to SMS).
- 4.4.4. Any overpayment by SMS may be deducted from any balances owing to you and if such balances do not cover the over payment it shall be refunded by you within 30 days of such over payment being discovered and you being notified.
- 4.4.5. SMS shall be entitled to retain 10% of the Fees in respect of refunds and credits, such sum to be liquidated on a quarterly.
- 4.4.6. SMS shall have no liability for any non-payment or incorrect payments made because you have failed to set up Your Account or have provided SMS with incorrect information concerning Your Account.
- 4.4.7. No interest shall be due on any Fees.
- 4.5. You will be responsible for all your own tax, national insurance, VAT and other liabilities as well as those of any employee or other person working with or under you and agree to indemnify us in respect thereof.
- 4.6. You are only entitled to receive Fees and participate in the Fees aspects of WMD if you are a resident of those countries where your doing so and is lawful.
- 4.7. **NO WARRANTY OR REPRESENTATION IS GIVEN AS TO WHETHER ANY FEES WILL BE PAID TO YOU.**

## **5. COMMERCIAL RELEASE**

- 5.1. The time, manner, place and all other aspects of commercial release of the Game shall be determined by SMS in its sole discretion.
- 5.2. The use and making available of your contributions by SMS in connection with WMD and the development of any Game shall not be deemed to amount to commercial release of them and no Fees or other payment shall be due in respect thereof.
- 5.3. Fees shall only be due in respect of commercial release of applicable Game to persons other than Team Members.

## **6. CONTRIBUTIONS**

- 6.1. Subject to the Game Development Terms, all and any contributions you make to WMD or SMS concerning WMD, the Game or any Builds, shall be deemed Your User Content and the WMD Terms shall apply in all respects.
- 6.2. You shall not be deemed an employee, partner or agent of SMS and shall not do anything whereby you may be represented as SMS's partner, agent or employee.
- 6.3. You will comply with all laws, regulations applicable to Your User Content and comply with all policies concerning Your User Content as we make available to you.

## **7. VOTES**

- 7.1. The development and creative direction of the Game(s) will be guided by the votes of Team Members.
- 7.2. Team Members will from time to time be asked to vote on decisions concerning the Game(s)'s development ("Poll").
- 7.3. Your Position will determine what Polls you may vote in and votes you have in that Poll.

7.4. The higher your Position the more influence you will have.

## **8. FEES**

8.1. Fees are determined by your Position.

8.2. To qualify for the Fees you will have to contribute in some way. YOU MUST MAKE A CONTRIBUTION TO A GAME TO GET FEES FOR THAT GAME.

8.3. However you don't need to be a technical genius to do so. The WMD service is set up so that we can gain valuable feedback and contributions from all Team Members even if all they do is play the Builds that we make available – so long as they allow for their computer to send us information concerning their use of the Builds. That information may include details of bugs, performance issues, gameplay habits and other data that will contribute to the overall improvement of the Games as it goes through various iterations of development.

8.4. The more involved you want to be the more involved you can be and there are 2 ways of doing so:

8.4.1. you can get promoted if your contribution is sufficient. If you have even the most basic Membership can you become a Senior Member of the Team if your contribution justifies it and other Team Members vote for you to be promoted;

8.4.2. you can upgrade your Position.

8.5. Promotion occurs as described in the relevant sections of WMD and is determined by the Votes of Team Members.

## **9. ACCESS AND BENEFITS**

9.1. During the development of the game you may also get access to builds (playable versions) that you can test and provide feedback on.

9.2. We will take feedback on board and use it to influence the direction of the game.

**Game Development Terms**

The following terms and conditions (“Game Development Terms”) will apply to any and all use of the WMD Tools and Game Content in addition to the WMD Member Terms; WMD Build EULA and the WMD Terms. In the event of any inconsistency between these Game Development Terms and any other terms and conditions (including without limitation the WMD Member Terms; WMD Build EULA and the WMD Terms) these Game Development Terms shall prevail. Defined terms used in these Game Development Terms are as defined in the Interpretation section below unless otherwise defined in the WMD Member Terms; WMD Build EULA and the WMD Terms.

- YOU MUST BE A MEMBER OF WMD TO USE, DOWNLOAD OR INSTALL THE WMD TOOLS.
- ALL USE OF THE WMD TOOLS IS GOVERNED BY AND CONDITIONAL ON YOUR ACCEPTANCE OF AND COMPLIANCE WITH THESE GAME DEVELOPMENT TERMS.
- ANY USE OF THE WMD TOOLS NOT IN ACCORDANCE WITH THE GAME DEVELOPMENT TERMS IS EXPRESSLY PROHIBITED.
- IF YOU HAVE BEEN SUPPLIED WITH A PHYSICAL COPY OF THE WMD TOOLS WITHOUT HAVING AN OPPORTUNITY TO READ THE GAME DEVELOPMENT TERMS AND YOU DO NOT ACCEPT THEM, YOU MUST IMMEDIATELY CEASE ALL USE OF IT.

By using, downloading or installing the WMD Tools you represent and confirm that you understand, accept and are able to understand and accept these Game Development Terms and agree to be bound by them.

If you do not accept or understand these Game Development Terms you should not use, download or install the WMD Tools.

**It is therefore agreed that:**

**1. INTERPRETATION**

1.1 In these Game Development Terms the following terms have the following meanings:

- “**Build**” means each separate iteration of the Game whilst in development as made available by SMS to the Team Members;
- “**Derivative Content**” means any software, assets or other content which:
  - (i) includes or comprises any modification, adaptation, improvement, amendment, translation or alteration to any part of the Game Content (other than in your case your own Your Original Content only);
  - (ii) is / are Developed using the WMD Tools;
  - (iii) includes or comprises any modification, adaptation, improvement, amendment, translation or alteration to any part of the Game Content or is otherwise based on or derived from any part of the Game Content (other than in your case your own Your Original Content only);
  - (iv) includes or comprises any feedback, comments or suggestions concerning the foregoing made by any Team Member;
- “**Develop**” means make, create, modify adapt, build and otherwise develop;



|                                       |   |
|---------------------------------------|---|
| <b>“Game Content”</b>                 | means WMD Code and Assets, Derivative Content and Your Original Content together;   |
| <b>“Game”</b>                         | means the video game product to be Developed through WMD, by SMS in collaboration with Team Members using WMD Tools and Game Content;   |
| <b>“Intellectual Property Rights”</b> | means copyright, design right, database right, patent rights and rights to inventions, know-how, performance rights, trade mark rights and rights in trade dress and names, trade secrets, trade and service marks (whether registered or unregistered) and any applications therefor and all rights in confidential information; |
| <b>“Team Member”</b>                  | means those individuals or groups of individuals who are entitled to create or contribute to the Development of the Game under these Game Development Terms.  |
| <b>“Trade Marks”</b>                  | means such trade marks and trading names as SMS uses in connection with the Game and Game Content;  |
| <b>“Upload”</b>                       | means upload, submit, transmit, post, place on or make available through WMD;   |
| <b>“WMD Code and Assets”</b>          | means such proprietary software, assets and materials of SMS as SMS makes available under these Game Development Terms for use in and as part of the Development of Game Content together with such related documentation as SMS may make available in connection therewith;  |
| <b>“WMD Game Content”</b>             | means all and any Game Content other than, in the case of you only, Your Original Content;  |
| <b>“WMD Tools”</b>                    | means such proprietary software and development tools of SMS as SMS makes available under these Game Development Terms to assist in the Development of Game Content together with such documentation as SMS may make available in connection therewith;   |
| <b>“Your Original Content”</b>        | means any software, asset or other content which is created by you <u>and</u> :<br>(i) does not contain and is not based on or derived from any WMD Tools or Game Content (other than in your case your own Your Original Content only); and<br>(ii) is not Developed using the WMD Tools;  |

1.2 The headings used in these Game Development Terms are for ease of reference only and shall not affect its interpretation.

1.3 Unless the context otherwise requires a reference in these Game Development Terms to any gender includes all genders and a reference to the singular includes the plural and vice versa.

1.4 Reference to the words “include”, “includes” and “including” shall be read as to be “without limitation”.

## **2. USE OF THE WMD TOOLS AND GAME CONTENT**

2.1. The WMD Tools and Game Content are made available through WMD for the sole purpose of Developing Game Content in accordance with these Game Development Terms only.

2.2. Following acceptance of and conditional upon your acceptance of the Game Development Terms, SMS grants to you a non-exclusive, non-transferable, limited, personal right and licence to download, install

and use such WMD Tools and WMD Game Content as are made available to you based on your Position through WMD, solely in connection with the Development of Game Content.

- 2.3. You shall not use WMD Tools or any WMD Game Content other than in connection with the Development of Game Content and not as part of any other product, application or service.
- 2.4. All rights in respect of WMD Tools and WMD Game Content not expressly granted by these Game Development Terms are retained by SMS.
- 2.5. No other rights or licenses are granted, or implied with respect to WMD Tools or WMD Game Content or any part thereof.
- 2.6. You do not have any right to sub-licence any of the rights granted hereunder.
- 2.7. Nothing in these Game Development Terms shall prevent, restrict or hinder or affect the use or exploitation of WMD Tools or Game Content by SMS or any person authorised by SMS. WMD Tools and all Game Content may be reused by SMS in any manner or media as SMS deems fit.
- 2.8. You shall not use WMD Tools or any WMD Game Content that is provided to you in object code, executable or library form, other than in that form and shall not (unless expressly permitted otherwise by applicable law) directly or indirectly:
  - 2.8.1. modify or adapt the WMD Tools;
  - 2.8.2. modify or adapt any WMD Game Content other than by using the WMD Tools;
  - 2.8.3. translate, reverse engineer, decompile, disassemble or otherwise attempt to derive source code or the algorithmic nature of any element of the WMD Tools or WMD Game Content;
  - 2.8.4. disclose, distribute or otherwise make available to any third party any WMD Tools or WMD Game Content except by Uploading to the designated section and servers of WMD;
  - 2.8.5. assign, transfer, sell, lease, rent, charge, or otherwise deal in or encumber the WMD Tools or any Game Content except as required by these Game Development Terms; or
  - 2.8.6. assist, permit, allow or authorise the doing of any of the foregoing.
- 2.9. In the event only that you are a Senior Member or Executive Member:
  - 2.9.1. SMS may make available certain parts of the WMD Code and Assets and other Game Content in source code form;
  - 2.9.2. clause 2.8.2 shall not apply to such source code but all other terms and conditions of these Game Development Terms shall.

### **3. INTELLECTUAL PROPERTY RIGHTS**

- 3.1. SMS owns or is the licensor of all Intellectual Property Rights in all Game Content other than Your Original Content.
- 3.2. All Intellectual Property Rights in all Derivative Content Developed by you shall belong to and vest in SMS on creation and you hereby assign to SMS with full title guarantee and including by way of a present assignment of future copyright, any and all Intellectual Property Rights you have or come to have in the Derivative Content.
- 3.3. All Intellectual Property Rights in Your Original Content Developed by you shall belong to and vest in you on creation and you hereby grant to SMS a perpetual, irrevocable, unrestricted, non-exclusive, sub-licensable, royalty free, right and licence to use, reproduce, modify, adapt, copy, sub-licence, distribute, publish, exploit and otherwise use Your Original Content and all Intellectual Property Rights therein in all respects in any and all media, including without limitation in connection with the development and exploitation of the Game.

- 3.4. You hereby waive all and any so called moral rights and similar rights in any Game Content and agree that SMS shall have the total and unlimited rights to use, modify and adapt any Game Content for all purposes and in any manner it wishes.
- 3.5. You shall at the request and reasonable expense of SMS do such things and execute such documents as necessary to give effect to this clause 3 or protect, enforce or perfect SMS's Intellectual Property Rights, including without limitation those assigned to SMS by this clause 3.
- 3.6. You are not entitled to and shall not use with or incorporate, include or integrate into or with the Game Content or WMD Tools any open source or general public licence software any software that may give rise to any obligation to:
  - 3.6.1. make available to any third party any part of the WMD Tools, Game or WMD Game Content or related source code;
  - 3.6.2. grant permission for creating derivative works of WMD Tools, Game or WMD Game Content;
  - 3.6.3. permit any third party to use WMD Tools, Game or WMD Game Content Game in any way;
  - 3.6.4. do anything that derogates from or undermines the Intellectual Property Rights of SMS hereunder.
- 3.7. SMS shall retain Intellectual Property Rights in the Trade Marks and you shall not at any time:
  - 3.7.1. apply anywhere in the world to register any trade mark identical to or so nearly resembling the Trade Marks as to be likely to deceive or cause confusion;
  - 3.7.2. use the Trade Marks as part of any corporate business or trading name or style;
- 3.8. You shall not at any time make any comment, statement or representation for, on behalf SMS or otherwise hold itself out as being an associated company of or able to bind SMS in any way.
- 3.9. You shall not at any time claim or acquire any right of ownership, title or interest in or to any part of the WMD Tools or WMD Game Content, or any part of thereof, nor any Intellectual Property Rights therein.

#### 4. **YOUR OBLIGATIONS**

- 4.1. You shall abide by and not remove or alter any copyright notices, confidentiality, restricted or proprietary rights notices, legends or marking contained in the WMD Tools and WMD Game Content.
- 4.2. You will be responsible for any Game Content and other materials that you Upload and you accept full responsibility and liability for that Game Content. SMS shall have no liability in relation thereto.
- 4.3. By Uploading any Game Content or other materials you expressly warrant, represent and confirm that:
  - 4.3.1. you are not a minor or else you do have your parent's or guardian's permission to do so on these Game Development Terms;
  - 4.3.2. your Game Content may be used on and in connection with WMD and the Development of the Game;
  - 4.3.3. your name may be advertised and used in connection with any Game Content you Upload;
  - 4.3.4. SMS will have all such rights as it requires to use such Game Content on and / or in connection with WMD and the Development of the Game and Game Content and to give all consents (if any) required including under copyright and other intellectual property, data protection and privacy laws world wide, for that use only;
  - 4.3.5. you own or have proper licenses, permissions and other consents in place in respect of all features and resources used in the Game Content;
  - 4.3.6. any Game Content you submit and the use of it as envisaged by these Game Development Terms does not and will not infringe any third party Intellectual Property Rights or other rights;
  - 4.3.7. you are entitled to grant the rights granted and you are not under any contractual or other obligations preventing you from doing so;

- 4.3.8. you have received all necessary permissions and consents required for the use of any Game Content by SMS, as described in these Game Development Terms;
- 4.3.9. that you have not granted any other person any rights that are inconsistent with the assignments, grants and licences granted hereunder.
- 4.4. At any time SMS shall have the right to disclose in a press release, on WMD or in any other public or private situation that the Game and Game Content were Developed using WMD Tools and Game Content and by Team Members, including without limitation yourself.
- 4.5. You shall notify SMS of any actual, threatened or suspected infringement or unauthorized use of SMS's Intellectual Property Rights in the WMD Tools and / or Game Content, promptly on becoming aware of the same.

## 5. **OBLIGATIONS OF SMS**

- 5.1. SMS will use its reasonable endeavours to:
  - 5.1.1. procure that you receive a credit in the Game as would be expected for a member of a games development team who made the same or a similar contribution as you made to the Game;
  - 5.1.2. provide or make available to you the WMD Tools as and when such WMD Tools becomes available in such format as appropriate to your level of membership;
  - 5.1.3. provide or make available to you a copy of the Game after the commercial release of the Game.

## 6. **WARRANTIES AND LIABILITY**

- 6.1. You warrant, represent and undertake to SMS that:
  - 6.1.1. You are free to enter into and perform these Game Development Terms;
  - 6.1.2. You shall only use the WMD Tools and WMD Game Content in accordance with these Game Development Terms and in accordance with the licences granted hereunder and in particular shall not use WMD Tools or WMD Game Content or any part or parts in connection with any other game, software or other production, presentation, product or service;
  - 6.1.3. You shall not infringe the Intellectual Property Rights of SMS at any time;
  - 6.1.4. Your contribution to the Game, including without limitation Your Original Content and any Derivative Content you contribute, shall not infringe any third party Intellectual Property Rights or other rights nor otherwise be unlawful;
  - 6.1.5. You will comply with all applicable laws in connection with these Game Development Terms;
  - 6.1.6. You shall take all reasonable measures to ensure that WMD Tools and WMD Game Content shall not be used by or fall into the possession or control of any third party and shall provide sufficient protection from unauthorised disclosure, copying and use.
- 6.2. IT IS ACKNOWLEDGED, ACCEPTED AND AGREED THAT THE WMD TOOLS AND ALL GAME CONTENT MADE AVAILABLE BY WMD ARE AND WILL BE THROUGHOUT THE DEVELOPMENT OF GAME CONTENT A WORK IN PROGRESS AND ARE SUPPLIED 'AS IS' WITH NO GUARANTEE OF FITNESS FOR PURPOSE AND NO GUARANTEE THAT THEY ARE FREE OF BUGS, ERRORS OR DEFECTS. IT IS THEREFORE EXPRESSLY AGREED AND UNDERSTOOD THAT SMS SHALL GIVE NO WARRANTY OR REPRESENTATION IN RESPECT OF ANY WMD TOOLS OR GAME CONTENT NOR THEIR FUNCTIONALITY, OPERATIONAL STABILITY OR SUITABILITY FOR THE TASKS REQUIRED OF THEM. IN THE EVENT THAT WMD TOOLS OR GAME CONTENT CEASE TO OPERATE OR BECOME DEFECTIVE SMS GIVES NO UNDERTAKING THAT ANY DEFECTS CAN

OR WILL BE CORRECTED AND SMS SHALL NOT BE REQUIRED TO REMEDY SUCH DEFECT OR MAKE THE WMD TOOLS OR GAME CONTENT OPERATIONAL FOR THE PURPOSES CONTEMPLATED IN THESE GAME DEVELOPMENT TERMS. YOU AGREE, ACKNOWLEDGE AND ACCEPT THAT (a) THE WMD TOOLS AND GAME CONTENT ARE INCOMPLETE; AND (b) THE WMD TOOLS AND GAME CONTENT MAY (AND LIKELY WILL) CONTAIN DEFECTS AND/OR ERRORS. YOU ARE ADVISED TO BACK-UP AND OTHERWISE SAFEGUARD ALL DATA AND PROGRAMMES ON YOUR COMPUTER AND TO NOT RELY ON THE CORRECT FUNCTIONING OR PERFORMANCE OF THE WMD TOOLS AND GAME CONTENT.

- 6.3. To the maximum extent permitted by law, SMS excludes liability for any loss or damage of any kind howsoever arising, including any direct, indirect, punitive or consequential loss whether or not such loss or damage arises out of any problem you notify to SMS and SMS shall have no liability to pay any money by way of compensation in relation to:
- 6.3.1. Any fault, defect, error in or interruption to the use any element of the WMD Tools or Game Content;
  - 6.3.2. Any amount or kind of loss or damage due to viruses or other malicious software that may infect your computer equipment, software, data or other property caused by persons using the WMD Tools or Game Content;
  - 6.3.3. Any circumstances described at clause 6.1 above;
  - 6.3.4. Any content in the WMD Tools and Game Content including incorrect or inaccurate information therein;
  - 6.3.5. Any indirect, incidental, special or consequential damages of any kind, including but not limited to loss of use or interruption of business, loss of profits, goodwill, business, revenue, data, or use, incurred by either party or any third party, whether arising in contract, tort or otherwise even if advised of the possibility of such damages;
  - 6.3.6. Any loss or damage caused by any malicious or mischievous modification of the WMD Tools or Game Content or other form of hacking;
  - 6.3.7. Any loss of data caused by the use of the WMD Tools or Game Content;
  - 6.3.8. Any unauthorised access by any third party to the WMD Tools, Game Content, WMD or your computer, or your failure to adopt and keep in force proper and adequate internal security procedures;
  - 6.3.9. Any unauthorised use of WMD Tools, Game Content or WMD;
  - 6.3.10. Any adaptation or modification of WMD Tools or Game Content;
  - 6.3.11. The operation of WMD Tools or Game Content on any hardware for which it was not specifically designed and intended.
- 6.4. Nothing in these Game Development Terms shall exclude or limit SMS's liability for fraudulent misrepresentation or death or personal injury caused by its negligence.
- 6.5. Due to the nature of computer software, SMS does not warrant that the operation of WMD Tools and Game Content will be uninterrupted or error free or that errors can be corrected and SMS gives no warranty in respect of any software not Developed by SMS, nor the use and compatibility of any WMD Tools, Game or Game Content with any third party software or any hardware.
- 6.6. Nothing in this clause shall confer any right or remedy upon you to which you would not otherwise be legally entitled nor shall it restrict any right or remedy to which you would otherwise be entitled.
- 6.7. SMS will not be liable in any amount for failure to perform any obligation hereunder if such failure is caused by the occurrence of any unforeseen contingency beyond the reasonable control of SMS including internet outages, communications outages, power failures, fire, flood, war or act of God.

- 6.8. By downloading, using and / or installing the WMD Tools, Game or Game Content you confirm that you have the necessary hardware, software and capability required to do so and that you shall be and shall remain responsible for all fees due in respect thereof. SMS shall have no liability in relation to any hardware, software or other services required to make use of WMD.
- 6.9. The warranties, undertakings and terms contained above in this clause 6 shall survive termination of these Game Development Terms.
- 6.10. In the event of any successful claim that WMD Tools, Game or Game Content infringes any third party Intellectual Property Right, SMS shall at its election take any action it deems appropriate including, but not limited to, the suspension or termination of the rights granted hereunder in respect of the WMD Tools, Game Content and WMD Project

## 7. **INDEMNITY**

- 7.1. You shall indemnify and hold harmless SMS, its assigns and sub-licensees on demand from and against all valid and successful claims, demands, losses, costs, charges and expenses (including, without limitation, legal expenses) arising from or incurred by reason of the breach of these Game Development Terms.
- 7.2. SMS shall at its option have sole conduct of any claims to which this clause 7 might in its opinion relate and you shall not settle, compromise or make any admission in respect of any such claim without the prior written consent of the SMS.
- 7.3. You shall provide the SMS with such assistance as SMS may reasonably require in connection with any such claim.

## 8. **CONFIDENTIALITY**

- 8.1. No Game Content contributed or made available by you will be deemed confidential.
- 8.2. If you receive any information, WMD Tools or Game Content from SMS that is marked "confidential" by SMS you shall keep such information, WMD Tools and Game Content secret and confidential and not disclose it to any third party.
- 8.3. All source code received from SMS shall be deemed SMS's confidential information and you shall keep such source code secret and confidential and not disclose it to any third party (which shall not include Uploading it to the designated section and servers of WMD).

## 9. **TERMINATION**

- 9.1. Without limiting to any other rights it may have SMS may remove, restrict, cancel or suspend access to and use of WMD, Game, Game Content and / or WMD Tools in the event that it considers it necessary for legal or commercial reasons. Termination shall be without prejudice to the accrued rights of SMS.

## 10. **GENERAL**

- 10.1. The rights contained herein are personal to you and you shall not permit access to and use of WMD Tools or Game Content by any third party.
- 10.2. Any notice due under these Terms shall be sent via email or otherwise posted on WMD.
- 10.3. If SMS does not enforce any provision of these Terms such will not be considered a waiver of any provision or right.
- 10.4. No waiver, express or implied, by either party of any breach by the other of any of the provisions of these Game Development Terms shall operate as a waiver of any preceding or succeeding breach of the same or any other provision of these Game Development Terms.

- 10.5. Nothing in these Game Development Terms shall be deemed to give rise to a partnership or agency relationship between the parties and neither of the parties shall do or suffer to be done anything whereby it may be represented as a partner or agent of the other party.
- 10.6. If at any time any part of these Game Development Terms is or becomes unenforceable, such part will be construed as far as possible to reflect the parties' intentions and the remainder of the provisions will remain in full force and effect.
- 10.7. No person who is not a party to these Game Development Terms shall be entitled to enforce any of the terms pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 10.8. These Game Development Terms shall be governed by and construed in accordance with the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English Courts.
- 10.9. SMS may make alterations to these Game Development Terms from time to time and these variations shall become effective immediately upon being accessible from <http://forum.wmdportal.com/showthread.php?77-Terms-amp-Conditions>.
- 10.10. All questions, comments or enquiries should be directed to SMS by using the applicable contact form. We will endeavour to respond to any query or questions within 48 hours.

## **WMD Build EULA**

The following terms and conditions (“WMD Build EULA”) apply to all use, download and installation of the each iteration of the Game whilst in development as made available by SMS Team Members (“Builds”), in addition to the WMD Member Terms, WMD Terms and where applicable the Game Development Terms.

YOU SHOULD READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY, BEFORE USING, DOWNLOADING OR INSTALLING ANY BUILD. ALL USE OF BUILDS IS GOVERNED BY AND CONDITIONAL ON YOUR ACCEPTANCE OF AND COMPLIANCE WITH THESE TERMS AND CONDITIONS AND THE TERMS AND CONDITIONS OF WMD.

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- o install or use the Build (or permit its use) on more than one computer at the same time nor use or permit use of the Build;
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The Build includes automatic feedback software which, when installed on your computer, may collect and sends data to and from SMS concerning your use of the Build including, without limitation:

- your computer's specification and IP address;
- any bugs, errors or defects in the operation of the Build which are detected;
- feedback on your use of the Build; and
- the performance of the Build on your computer.

All data collected will be processed accordance with the policy contained in the WMD Terms .

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PLEASE NOTE THAT IF YOU DO NOT PROVIDE FEEDBACK IN CONNECTION WITH THE BUILDS YOU MAY NOT BE DEEMED TO BE MAKING A CONTRIBUTION TO THE APPLICABLE GAME(S). THIS MAY HAPPEN IF YOU DISABLE THE AUTOMATIC FEEDBACK FUNCTION OR ONLY USE THE BUILD WHEN NOT CONNECTED TO THE INTERNET AND MAY AFFECT YOUR ENTITLEMENT TO FEES UNDER THE WMD MEMBER TERMS.

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## **Contact Information**

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**DEVELOPERS:** [devcontact@wmdportal.com](mailto:devcontact@wmdportal.com)

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Builds may contain flashing lights, realistic images and simulations.

### **PLEASE READ THIS NOTICE BEFORE YOU OR YOUR CHILD USE ANY BUILD**

Some people experience side effects such as motion sickness, epileptic seizures, momentary loss of consciousness dizziness, motion sickness or nausea when viewing certain types of flashing light or pattern including when playing video games. This may happen where a person has not previously suffered in this way and have no known symptoms or history of such side effects. If you or anyone considering using a Build suffers or has suffered in this way, has a condition which makes this possible or has experienced similar symptoms, please consult a doctor before using any Build. If you or they are already using the Build please stop and consult a doctor.

If you or any part of you feels tired, fatigue or discomfort whilst playing a Build or any games please stop and rest. If it continues after you stop playing please consult a doctor. If you have suffered or suffer from an injury playing games can aggravate it. In that case please consult a doctor. Failure to follow this advice may result in long term injury.

### **PLEASE FOLLOW THESE PRECAUTIONS WHENEVER USING ANY BUILD:**

Please do not:

- sit or stand too close to the TV screen / monitor but sit or stand a safe distance away;
- use a Build or play games if you are sick, sleepy, or feel tired, fatigue or discomfort;
- play in a room that is not well-lit;
- play for too long at any one time. Please take a 10- to 15-minute break every hour.

**Notice to parents and carers:**

Please observe children whilst they play games. Please ensure that you and they follow the precautions described above. If you or they experience dizziness, altered vision, eye or muscle twitching, involuntary movements, loss of awareness, disorientation, or convulsions or any other side effects PLEASE STOP ALL USE IMMEDIATELY and consult a doctor.