

END USER LICENSE AGREEMENT

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BY CLICKING ON THE "I AGREE" BUTTON, YOU ACCEPT ALL TERMS AND CONDITIONS SET OUT IN THIS EULA. BY CLICKING ON ANY OTHER BUTTON, YOU REJECT HARMONIX’S OFFER, IN WHICH CASE, YOU MAY NEITHER INSTALL NOR USE THE SOFTWARE (AS DEFINED BELOW). UNLESS SPECIFIED OTHERWISE IN A WRITTEN RETURN POLICY, NO REFUND WILL BE GIVEN BY HARMONIX FOR THE SOFTWARE, IN PARTICULAR WHERE NO MONIES HAVE BEEN PAID TO HARMONIX.

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This EULA governs your use of Harmonix’s Game client software, any updates, upgrades and expansions that replace or supplement Harmonix’s Game client software, and all related documentation which are not distributed with a separate license (collectively, the "Software").

This EULA does not give you any right to obtain reissues or replacements of the Software at any time; furthermore, Harmonix or any third party service provider that may operate the Game (an “Operator”) is not obliged to supply Software updates, upgrades or expansions, or even to operate or continue support the Game or Software, for an indefinite period. In the event that Harmonix supplies any Software updates, upgrades or other modifications to the Software, you agree that you may be required to install or patch the Software in the manner decided by Harmonix in its sole discretion so as to continue Game play. Harmonix may also update the Game remotely, including without limitation, the Software residing on your machine, without your knowledge, and you hereby grant Harmonix your consent to deploy and apply such updates.

To gain access to the Software, you must (a) have acquired the Software (whether on DVD-ROM, CD-ROM or other physical media or by online download) by legal means, (b) have installed the Software on your computer and (c) have accepted this EULA.

The Software alone does not give you the right to play the Game. You are responsible for all taxes and costs of acquiring any hardware, software or other products or services required to play the Game. To play the Game, you may need to enter into a separate agreement with Harmonix or with an Operator, subject to additional terms including terms of service, a privacy policy and/or a code of conduct. You may need to subscribe to an online service, and provide additional information to create an account with Harmonix and/or an Operator (an “Account”). Accounts may only be available to persons of legal age and, solely under the supervision of such persons, to any of

their children under the age of majority. If you are a minor, your parents, guardians or legal caregivers must complete the registration procedure, whereby they must take all responsibility concerning the obligations set forth in this EULA.

This EULA may be modified by Harmonix at any time. You can view the EULA at any time by visiting the applicable Internet site for the Game or other link that we and/or an Operator provides you. We may notify you of modifications a) before you play the Game and/or b) via a specific notice on the applicable Internet site for the Game. You agree to check the Website and review this EULA periodically to familiarize yourself with any modifications that may occur. If you do not agree with any future modifications to this EULA, or are unable to continue to remain in compliance with the same, you must cease your use of the Software and of the Game. You may terminate this EULA in accordance with Section 5. Your continued use of the Software and play of the Game after a modification of the EULA will be deemed as your acceptance of any modified terms.

2. License Grant and Terms of Use

A. Grant

You acknowledge that the Software and the Game are owned by Harmonix and that they are protected by laws governing copyright, trademark, intellectual property rights and all other property rights.

Under the terms of this EULA, and for purposes of your playing the Game, Harmonix grants you a personal, non-exclusive license to install and use the Software and play the Game for your personal use solely as set forth in this EULA and the accompanying documentation. Your acquired rights are subject to your compliance with this EULA. Any commercial use is expressly prohibited.

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Except to the extent permitted under applicable law, you may not decompile, disassemble, or reverse engineer the Software by any means whatsoever. You may not extract code from all or part of the Software, or authorize any third party to perform or to attempt to perform such operations on the Software. You may not remove, alter, or obscure any product identification, copyright, or other intellectual property notices in the Software.

Except as expressly permitted by Harmonix, it is strictly prohibited to use the Software to connect with or play the Game or any facsimile thereof on any servers that are not authorized by Harmonix or any Operator. In addition, you may not emulate or operate such servers or assist any third party to do so.

Except as expressly permitted by Harmonix, it is also strictly prohibited to use any third-party software or any other device with a view to modifying the Software in any way, intercepting or scanning Game traffic or communications, changing the way the Game plays or playing in an abnormal manner or in a way that could impair the correct operation of the Game. Such prohibited third party software or devices can include, but are not limited to, those in the nature of “addons”, “hacks”, “cheats”, “trainers”, “mods”, or the like by any name. Except as expressly permitted by Harmonix, the authorizations granted to you in accordance with this EULA may under no circumstances be used for the purpose of creating or supplying any opportunity for third parties to access the Game, including through server emulators or similar devices. To the fullest extent permitted by applicable law, you agree that Harmonix or an Operator may scan your computer’s memory or hard disk drive to detect or locate any such unauthorized third party program or devices, with or without any prior notice to you at any time. Furthermore, you may not use the Software in a manner that would impose an unreasonable or disproportionate burden on the infrastructure of Harmonix or any Operator.

C. No Rights over results of use of Software or over in-Game content

This EULA grants you a simple license to use the Software to play the Game. You have no rights to or in the Game or its content.

You expressly acknowledge that all characters created and all objects or attributes acquired and developed during Game play are an integral part of the Game and strictly remain the property of Harmonix. You further acknowledge that the Software contains, without limitation, the following: (i) graphics, sound effects, music, visual animations and text (hereafter referred to as "Content") to which you have no property rights and no intellectual property rights, and (ii) other content, including contributions by users of the Game.

Where by applicable law you own certain copyrights over any Content created by you by using the Software and/or the Game, you assign to Harmonix all and any intellectual and industrial property rights in all and any such Content. Where such assignment is not possible, you grant to Harmonix any and all comprehensive, exclusive, perpetual, worldwide and assignable rights to use all Content created by you by using the Software and/or the Game immediately upon creation. These rights to use and/or utilize Content shall extend to all known forms of use and include without limitation the rights to copy, reproduce, change, adapt, modify, process, translate the Content, the rights to license and sub-license the Content to third parties, and to market, whether by way of leasing, renting, or otherwise.

You acknowledge and agree that you have, except as may be expressly permitted by Harmonix, no right to and may not sell, auction, give away, or in any way make available, whether free of charge or for a fee, any Content (including any Content generated by yourself or any other user), character/avatar, object, item or any component of the Software or Game, to another person. All of the aforementioned actions, especially those performed via online auctions, forums or chat rooms, will therefore contravene the terms of this EULA. Over and above the violation of the terms of this EULA, which will entitle Harmonix to terminate this EULA and your license to use the Software and play the Game, you acknowledge that the unauthorized trading or other distribution of Game content is detrimental to Harmonix’s image and that of the Game, and Harmonix reserves the right to seek compensation from you to the fullest extent permissible by applicable law.

D. User Content

Notwithstanding the above, in the event that the Game and Harmonix support the creation of user generated content for the Game (“User Content”), the following terms shall apply. All User Content will be subject to the terms of Harmonix’s User Content Submission Policy, which may be accessed at www.harmonixmusic.com/user-content and be considered to be “User Content” as it is defined therein. You may also be subject to additional agreements with respect to User Content that an Operator may require. We may allow you to create User Content for the game, including, but not limited to, game levels, characters, environments, music, avatars, and weapons, and to offer such User Content to other users of the Game. You agree you will not submit or attempt to submit, and we have the right to reject, refuse to accept, remove or otherwise handle as we deem appropriate, any “Unauthorized Content” which is defined as any User Content that is or could be construed as violating any of the terms and conditions of this EULA, our User Content Submission Agreement, and/or any of the terms and conditions set forth in any Additional Agreement, including, without limitation, User Content (i) infringing on a third party’s copyright or other

intellectual property rights; (ii) causing harm, harassing anyone or which may prevent, prohibit, inhibit, restrict or otherwise impair others from using or enjoying the Software or the Game; (iii) providing unauthorized access to the Software, Game or information of other users; (iv) that results in the modification, impairment, disruption, alteration or interference with the use, features, functions, operation or maintenance of the Software or the Game; or (v) that would otherwise violate any requirements, rules, terms or conditions, or laws that may be applicable to the Software or the Game. You are solely responsible and liable for all User Content that you submit or otherwise make available. You expressly agree to grant the rights set forth in Section 5 of the User Content Submission Policy with respect to any User Content you submit, and expressly agree to the provisions set forth in Section 6 of the User Content Submission Policy, including that you represent that you own the rights to the User Content you submit and the right to grant all of the authorizations, permissions, approvals, consents, rights and licenses as described in this EULA and the User Content Submission Agreement.

3. Usage of Digital Rights Management Technology

The Software is distributed subject to Harmonix's right to use access control and copy protection technology ("Digital Rights Management"). If used, Digital Rights Management may affect or limit your ability to install and/or make copies of the Software and may involve the installation or placement on your computer of certain additional files or tools which may permanently remain on your computer whether or not the Software is being used or has been removed. This EULA will terminate immediately if you attempt to circumvent any Digital Rights Management used in relation to the Software.

4. Respect for Privacy and Consent to Use of Data

To facilitate the provision of any updates or upgrades or expansions to the Software, any dynamically served content, product support and other services to you, including marketing, tailored communications and online play of the Game, you agree that Harmonix and third parties (including any Operators, if applicable) which are providing Harmonix authorized services to you in connection with this Software ("Related Parties"), may collect, use, store and transmit analytics, metrics, behavior data, game play statistics, technical and related information that identifies your computer (including an Internet Protocol address), operating system and application software and peripheral hardware. Harmonix and the Related Parties may also use this information, to improve our products and services and may share anonymous data with third parties.

By accepting this EULA, you expressly permit Harmonix to use the information provided to it, and to forward it to its subsidiaries and licensees, companies affiliated to its group, and trading partners. You agree that Harmonix may use any data stored by it to contact you from time to time. Harmonix agrees that its use of any information or data collected or used by it in relation to the Software and Game will be stored and handled in accordance with Harmonix's privacy policy accessible at www.HarmonixMusic.com/privacy. Additional terms may apply to you in certain jurisdictions.

If you are playing the Game through an Account with an Operator or other Related Party, you should also consult the applicable privacy policy of that Related Party for any additional terms.

You further acknowledge that Harmonix or any Related Parties have a legitimate concern with monitoring your use of the Software in playing the Game. You acknowledge that you have no guarantee of privacy with regard to your communications and information within the Game or in relation to any ancillary services access through the use of the Software (including but not limited to chat rooms or similar functions). Harmonix may also collect, use, store, transmit and publicly display statistical data regarding game play (including scores, rankings and achievements), or identify content that is created and shared by you with other players.

Harmonix reserves the right to monitor and store information that you send or receive using the Software, including maintaining a copy of that information after your cessation of the use of the Software or play of the Game. This information is collected in order to enable Harmonix to better know users and serve them, in particular as regards to the provision of services associated with the Game. Information collected about you through your use of the Software, may include, but is not limited to name, age, contact details including email address, system configuration, Game play time, micro-transactions conducted, and other data that may be collected from time to time.

5. Consent to Monitor

WHEN RUNNING THE SOFTWARE, HARMONIX AND/OR AN OPERATOR OR OTHER DESIGNEE OF HARMONIX MAY MONITOR YOUR USE AND PLAY OF THE SOFTWARE IN ACCORDANCE WITH THIS AGREEMENT AND OUR PRIVACY POLICY. SUCH TECHNOLOGY MAY MONITOR YOUR COMPUTER'S RANDOM ACCESS MEMORY (RAM) FOR UNAUTHORIZED THIRD PARTY PROGRAMS RUNNING CONCURRENTLY WITH THE GAME. AN "UNAUTHORIZED THIRD PARTY PROGRAM" AS USED HEREIN SHALL BE DEFINED AS ANY THIRD PARTY SOFTWARE, INCLUDING WITHOUT LIMITATION ANY "ADDON", "MOD", "HACK", "TRAINER", OR "CHEAT" THAT IN HARMONIX'S SOLE DETERMINATION: (I) ENABLES OR FACILITATES CHEATING OF ANY TYPE; (II) ALLOWS USERS TO MODIFY OR HACK THE GAME INTERFACE, ENVIRONMENT, AND /OR EXPERIENCE IN ANY WAY NOT EXPRESSLY AUTHORIZED BY HARMONIX; OR (III) INTERCEPTS, "MINES", OR OTHERWISE COLLECTS INFORMATION FROM OR THROUGH THE GAME. IN THE EVENT THAT THE GAME DETECTS AN UNAUTHORIZED THIRD PARTY PROGRAM, THE GAME MAY (A) COMMUNICATE INFORMATION BACK TO HARMONIX, INCLUDING WITHOUT LIMITATION YOUR ACCOUNT NAME, DETAILS ABOUT THE UNAUTHORIZED THIRD PARTY PROGRAM DETECTED, AND THE TIME AND DATE THE UNAUTHORIZED THIRD PARTY PROGRAM WAS DETECTED; AND/OR (B) HARMONIX MAY EXERCISE ANY OR ALL OF ITS RIGHTS UNDER THIS AND/OR ANY OTHER AGREEMENT BETWEEN YOU AND HARMONIX, INCLUDING BUT NOT LIMITED TO THE HARMONIX TERMS OF SERVICE, WITH OR WITHOUT PRIOR NOTICE TO THE USER.

This EULA will terminate immediately if you attempt to circumvent any such monitoring technology used by Harmonix in relation to the Software.

6. Termination of the Agreement

This EULA is effective until terminated.

Harmonix may terminate this EULA immediately without prior notice if you fail to comply or otherwise violate the terms of this EULA, infringing the intellectual property rights of any third party, manifestly endangering public order or good moral standards as determined by us in our sole discretion, or if Harmonix are unable to verify or authenticate any information about you that you supply during the Game or any other activity connected to the Software. We may also decide to terminate this EULA in the event that we terminate the operation of the Game.

You may terminate this EULA at any time by informing Harmonix or any applicable Operator in writing or by such means as may be implemented for such purposes by Harmonix or an Operator.

Promptly upon termination, you must cease all use of the Software and destroy all copies of the Software in your possession or control. You acknowledge and agree that the termination of this EULA or permanent deletion of the Software may render your Account and any in-game attributes or Content unusable, for which you will not hold Harmonix in any way responsible.

Termination will not limit any of Harmonix's other rights or remedies at law or in equity. Sections 2B-D, 8, 9, 10 to 17 of this EULA shall survive termination or expiration of this EULA for any reason.

7. Warranties

This Section is to be read subject to Sections 7 and 8.

A. No warranty on Software operation or Game play

You acknowledge that, owing to the complexity of computer technology, as well as the nature of online games themselves and their play over a global communications network outside Harmonix's control, Harmonix cannot and does not guarantee that the Software, the Game and any updates, upgrades or expansions Software will run

permanently or uninterrupted on your computer. Harmonix is not liable for delays or difficulties, especially of a technical nature, that are due to circumstances beyond its control.

B. Limited Remedy For Defects

In the event that there is any defect in the Software or the recording media on which it is embodied, your sole remedy is a replacement copy of the Software. You may also have additional rights under applicable local law, which varies by jurisdiction.

8. Disclaimer of Warranties

TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, THE SOFTWARE, THE GAME AND ALL OTHER SERVICES PROVIDED BY HARMONIX ARE PROVIDED TO YOU "AS IS," WITH ALL FAULTS, WITHOUT WARRANTY OF ANY KIND, AND YOUR USE IS AT YOUR SOLE RISK. THE ENTIRE RISK OF SATISFACTORY QUALITY AND PERFORMANCE RESIDES WITH YOU. HARMONIX AND HARMONIX'S LICENSORS DO NOT MAKE, AND HEREBY DISCLAIM, ANY AND ALL EXPRESS, IMPLIED OR STATUTORY WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF THIRD PARTY RIGHTS, AND WARRANTIES (IF ANY) ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. HARMONIX DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE SOFTWARE OR THE GAME; THAT THE SOFTWARE OR THE GAME WILL MEET YOUR REQUIREMENTS; THAT OPERATION OF THE SOFTWARE OR THE GAME WILL BE UNINTERRUPTED, VIRUS-FREE OR ERROR-FREE, OR THAT THE SOFTWARE WILL BE COMPATIBLE WITH THIRD PARTY SOFTWARE OR THAT ANY ERRORS IN THE SOFTWARE OR THE GAME WILL BE CORRECTED. NO ORAL OR WRITTEN ADVICE PROVIDED BY HARMONIX, AN OPERATOR OR ANY AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES OR THE LIMITATIONS ON THE APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO SOME OR ALL OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU.

9. Limitation of Liability

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10. Indemnity

BY USING THE SOFTWARE, YOU HEREBY AGREE TO INDEMNIFY AND HOLD HARMONIX, ITS EMPLOYEES AND ITS DIRECTORS HARMLESS AGAINST ANY CLAIM, LIABILITY, LOSS, INJURY DAMAGE, COST OR EXPENSE (INCLUDING REASONABLE SOLICITORS' FEES) INCURRED BY HARMONIX ARISING OUT OF OR FROM YOUR USE OF THE SOFTWARE OR THE GAME

Miscellaneous

11. Compliance with law

You must respect all applicable laws regarding the use of the Software and the Game.

12. Injunctive Relief

You agree that a breach of this EULA may cause irreparable injury to Harmonix for which monetary damages would not be an adequate remedy and Harmonix shall in such event be entitled to seek equitable relief in addition to any other remedies it may have hereunder or at law.

13. Governing Law

The laws of the Commonwealth of Massachusetts, excluding its conflicts-of-law rules, govern this License and/or your use of the Software; and you expressly agree that exclusive jurisdiction for any claim or action arising out of or relating to this License and/or your use of the Software shall be the federal or state courts that cover Boston, Massachusetts, and you expressly consent to the exercise of personal jurisdiction of such courts. Please note that your conduct may also be subject to other local, state, national, and international laws.

14. Export

You agree to abide by U.S. and other applicable export control laws and agree not to transfer the Software to a foreign national or national destination, which is prohibited by such laws, without first obtaining, and then complying with, any requisite government authorization. You certify that you are not a person with whom Harmonix is prohibited from transacting business under applicable law.

15. Third Party Beneficiaries

Notwithstanding anything in this EULA to the contrary, you hereby acknowledge that Harmonix's licensors, as well as any applicable Operator, are third-party beneficiaries of this EULA and have the right to bring an action directly against you for a breach of this EULA to the extent required to enforce their respective rights in and to the Software or Game.

16. Entire Agreement

Except as specifically set forth in this EULA, this EULA constitutes the entire agreement between you and Harmonix with respect to the Software and supersedes all prior or contemporaneous understandings, either express or implicit, regarding such subject matter, provided that this EULA shall coexist with, and shall not supersede, any Additional Agreements. To the extent the terms of this EULA conflict with the Additional Agreements, the conflicting terms in the Additional Agreements will govern. No amendment to or modification of this EULA will be binding unless made in writing and signed by Harmonix. None of Harmonix's, or any of Harmonix's Operators, distributors, agents, or any of their respective employees are authorized to make modifications or additions to this EULA.

IN PARTICULAR, NOTHING IN THIS AGREEMENT MAY BE SUPERSEDED OR INVALIDATED BY ANY TERMS OF SERVICE OFFERED TO YOU BY AN OPERATOR FOR THE PURPOSES OF USING THE SOFTWARE TO PLAY THE GAME.

17. Severability and Survival

If any provision of this EULA is illegal or unenforceable under applicable law, the remainder of the provision shall be amended to achieve as closely as possible the effect of the original term and all other provisions of this EULA shall continue in full force and effect.

18. No Waiver

No failure to exercise, nor a delay in exercising, any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of any other right hereunder. In the event of a conflict between this EULA and any applicable purchase or other terms, the terms of this EULA shall govern the relationship between you and Harmonix.

Harmonix Music Systems, Inc. 625 Massachusetts Avenue, 2nd Floor, Cambridge, Massachusetts 02139.