

BIGWORLD INDIE LICENSE AGREEMENT

This is a LICENSE AGREEMENT made between **BIGWORLD PTY, LTD.** ("BigWorld"), ACN No. 102927239, with offices at Canberra Technology Park, 49 Phillip Avenue, Watson ACT 2602, AUSTRALIA, and You (either on behalf of yourself as an individual or on behalf of an Eligible Entity as its authorized representative) ("You").

BIGWORLD OFFERS THIS BIGWORLD INDIE LICENSE TO YOU IN ORDER TO SUPPORT AND ENCOURAGE INDEPENDENT GAME DEVELOPMENT. IF YOU ARE NOT AN "ELIGIBLE ENTITY" (AS DEFINED BELOW), PLEASE CONTACT BIGWORLD SALES FOR INFORMATION ABOUT OBTAINING A FULL COMMERCIAL LICENSE.

PLEASE READ CAREFULLY: BY INSTALLING THE BIGWORLD TECHNOLOGY (AS DEFINED BELOW) AND/OR CLICKING ON THE 'I AGREE' BUTTON BELOW, YOU (EITHER ON BEHALF OF YOURSELF AS AN INDIVIDUAL OR ON BEHALF OF AN ELIGIBLE ENTITY AS ITS AUTHORIZED REPRESENTATIVE) AGREE TO ALL OF THE TERMS OF THIS AGREEMENT REGARDING THE USE OF THE BIGWORLD TECHNOLOGY AS SET FORTH BELOW. BY CLICKING "I AGREE" YOU HEREBY AFFIRM THAT:

- YOU HAVE READ ALL OF THE TERMS AND CONDITIONS BELOW AND AGREE TO ABIDE BY THEM;
- YOU AGREE TO PAY THE LICENSE FEES AND ROYALTIES, AS AND WHEN DUE;
- YOU MEET THE ELIGIBILITY REQUIREMENTS TO USE THE BIGWORLD TECHNOLOGY UNDER THE TERMS OF THIS AGREEMENT; AND
- YOU HAVE READ THE DESCRIPTION OF THE BIGWORLD TECHNOLOGY AND DOCUMENTATION LOCATED AT [www.bigworldindie.com].

IF YOU DO NOT AGREE WITH ALL OF THE TERMS OF THIS AGREEMENT OR IF YOU DO NOT MEET THE ELIGIBILITY REQUIREMENTS OF THIS AGREEMENT, CLICK ON THE 'I DISAGREE' BUTTON BELOW. THIS WILL CANCEL THE INSTALLATION.

1. DEFINITIONS:

(a) "Authorized Users" means not more than twenty-five (25) people comprising of you and those of your employees or contractors who have registered with the BigWorld support forum page on the BigWorld Website (as defined below), who require access to the BigWorld Technology and who have agreed to the "terms of use" for access to the BigWorld Website.

(b) "BigWorld Technology" means BigWorld's 3D PC client software and tools and BigWorld's Linux-based server software, all in executable object code form only, and two (2) demo games exhibiting the BigWorld Technology, developed by BigWorld for use in designing, developing and operating online computer and video game products. Nothing contained in this Agreement constitutes (i) a representation or warranty by BigWorld that the BigWorld Technology is compatible with any hardware system or (ii) an express or implied promise by BigWorld to make the BigWorld Technology compatible with any hardware system.

(c) "Eligible Entity" means any person or entity (including sole proprietorships) which: (i) employs (whether on a full-time basis, part-time basis, or as independent contractors) not more than twenty-five (25) persons; and (ii) has received funding or gross annual revenues totaling less than Two Hundred Thousand (US) Dollars (US\$200,000/year); and (iii) is not located in an Excluded Territory (defined below); and (iv) is not an affiliate, subsidiary or contractor of any person or entity that is not an Eligible Entity; and (v) is not a hardware manufacturer or an entertainment software publisher or an online software distributor or engaged in the development and licensing of middleware technology that is competitive with the BigWorld Technology. Each contractor that you retain and register for access to the BigWorld Technology must also meet all of the criteria of an "Eligible Entity."

(d) "Game" means not more than one (1) computer software product, in all languages, to be developed and published by you using or incorporating the BigWorld Technology, whether or not such Game is designed to operate as a massively multiplayer online game. When you register with BigWorld, you shall inform BigWorld of the title of the Game to be developed using the BigWorld Technology and provide a description of the principal elements of such Game.

(e) "Gross Revenues" means all monies received by or credited to you from all revenue sources from your sale, distribution or exploitation of the Game, such as, but not limited to, subscription fees, pay-per-play fees, transaction fees from the distribution of the Game and in-Game characters, avatars, merchandise, premiums and services, fees from sale of retail scratch cards and fees from in-Game trading of items and sums derived

from the placement of advertising in-Game and the sale or rental of packaged versions of the Game.

(f) "Term" means the period commencing on the date upon which you click "I Agree" below and download one (1) copy of the BigWorld Technology (the "Effective Date") and ending one (1) year later. Provided that you pay all License Fees and Royalties as and when due pursuant to Clause 7, below, the Term shall be extended for successive terms of one (1) year each, subject to the terms of this Agreement.

(g) "Territory" means the World, except for the following countries which are **excluded** from the Territory: Japan, the People's Republic of China, South Korea, North Korea, Taiwan, Philippines, Vietnam, Thailand, Malaysia, Indonesia, Singapore, India, Russia, Ukraine, Belarus, Estonia, Lithuania, Latvia, Moldova, Georgia, Armenia, Azerbaijan, Kazakhstan, Uzbekistan, Turkmenistan, Kyrgyzstan, Tajikistan, Poland, Slovakia, Czech Republic, Romania, Bulgaria, Hungary, Slovenia, Serbia, Macedonia, Bosnia and Herzegovina, and Croatia (collectively the "Excluded Territory"). You may not use the BigWorld Technology in the Excluded Territory or transfer the BigWorld Technology to any entity located in the Excluded Territory.

(h) "BigWorld Website" means BigWorld's online storefront located at [www.bigworldindie.com].

(i) "Unique Identifiers" means any software or other unique marking, including without limitation software code, watermarks, check sums, documentation and statements that are embedded in the BigWorld Technology by BigWorld, which allow BigWorld to track the BigWorld Technology delivered by BigWorld to you hereunder.

2. RIGHTS AND RESTRICTIONS:

(a) By clicking "I Agree", BigWorld grants to you a personal, non-transferable and non-exclusive license, for the Term and throughout the Territory, to use, reproduce, perform, display and execute the BigWorld Technology solely in connection with the design, development and operation of the Game. You may only use the BigWorld Technology on computers located at your facilities or other approved facilities which have been registered with BigWorld. No facilities belonging to any contractor shall be considered approved facilities and no employees of a contractor shall be considered Authorized Users, unless and until you register such contractor and its employees with BigWorld.

(b) You acknowledge that the BigWorld Technology is copyrighted and contains proprietary information and trade secrets of BigWorld. Your use of the BigWorld Technology under this Agreement is subject to the following restrictions:

(i) You may not manufacture, sell, distribute, sublicense, rent, lease, loan, market, make available to the public, or otherwise transfer the BigWorld Technology or copies of same (whether digitally or in a packaged product) as a stand-alone product or otherwise;

(ii) You may not remove or obscure any copyright notices, proprietary notices or confidentiality legends that are contained on the original copy of the BigWorld Technology delivered to you;

(iii) You may not decompile, reverse engineer, or disassemble the BigWorld Technology;

(iv) You may not disable any security features, Unique Identifiers or anti-piracy software, which BigWorld may elect to incorporate in the BigWorld Technology from time-to-time;

(v) You may not use the BigWorld Technology or other materials which may be provided to you by BigWorld to develop software, or concepts, specifications or content having functionality similar to that of the BigWorld Technology;

(vi) You may not modify, adapt, or translate the BigWorld Technology, except only as incidental to the development of the Game, and any and all additions, enhancements, upgrades, modifications of the BigWorld Technology developed by or for you under this Agreement shall be and remain BigWorld's sole property; and

(vii) You may not grant access to the BigWorld Technology to more than twenty-five (25) Authorized Users and/or anyone who has not registered with the BigWorld support forum page on the BigWorld Website as an Authorized User.

(c) Upon clicking "I Agree", you grant to BigWorld a non-exclusive license to use, reproduce, perform, display your company name and trademark and the name of the Game and segments of and images from the Game in connection with advertising, publicity and promotion for BigWorld's computer software business.

(d) The license granted herein does not include any right, title or interest in or to the BigWorld Technology, nor to any intellectual property therein or associated therewith, all of which remain the exclusive property of BigWorld. All rights not specifically granted to you herein are reserved to BigWorld without restriction. This Agreement applies to the Game only; you may not utilize the BigWorld Technology in or in connection with the development of any works based on, derived from or inspired by the Game (e.g., sequels), or other computer software products of any kind or type, whether or not derivative of such Game, without obtaining a separate license from BigWorld.

3. **SUPPORT:** Upon payment of all applicable License Fees, you and your Authorized Users shall be able to access BigWorld's support forum for the BigWorld Technology. BigWorld is not obligated to modify or alter the BigWorld Technology in any way or otherwise provide technical support except as expressly provided in this Clause 3. You will promptly report any errors, problems and defects in the BigWorld Technology and provide suggestions for enhancements to the BigWorld Technology (for convenience, referred to collectively as "Feedback") to BigWorld and work with BigWorld to resolve any problems with the BigWorld Technology, whether such problems are discovered by BigWorld or you. You irrevocably grant to BigWorld a perpetual, irrevocable right to use the Feedback for its current and future business purposes.

4. YOUR OBLIGATIONS:

(a) The BigWorld copyright, patent and trademark notices shall appear on the legal notices screen of the Game and on each item of packaging, if any, (including any user manuals) and promotional material in the following form: BigWorld Technology © 2002 – 2009. All rights reserved. You shall include in a splash screen during the "boot up" of the Game and in the packaging of the Game, if any, (including user manuals) and in all paid advertisements and publicity issued by you or under your control (including all websites operated by you) a credit in substantially the following form: *Powered by BigWorld Technology™*. In no event shall such credit be smaller in size, placement or appearance than any credit which is given to a manufacturer of a hardware system or any other licensor of technology used by you in or in connection with the Game.

(b) You shall provide to BigWorld, without charge and upon commencement of any "Beta" testing of the Game ("closed" or "open," whichever occurs first), five (5) fully-paid perpetual user licenses with full access to all levels and all features of the Game.

(c) You will register on the BigWorld Website and maintain (and cause each contractor to register on the BigWorld Website and to maintain) a list of all Authorized Users who have had access to the BigWorld Technology. You shall comply (and cause each contractor to comply) with BigWorld's reasonable written requests from time to time to provide BigWorld with copies of the list and updates thereto and of all confidentiality agreements entered into by you (and each contractor) with such Authorized Users. You must advise all Authorized Users of their responsibilities under their confidentiality agreements, both at the time such person's access to the BigWorld Technology commences and at the time such access ceases. You shall be liable for any acts or omissions of all Authorized Users and your liability hereunder shall be as a primary obligor and not as a surety. You acknowledge that the BigWorld Technology contains Unique Identifiers that allows BigWorld to track the BigWorld Technology delivered to you hereunder. You may not remove or disable the Unique Identifiers embedded in the BigWorld Technology. You acknowledge that in the event BigWorld discovers that a third party that is not an Authorized User possesses a copy of or is using the BigWorld Technology embedded with the same Unique Identifiers as your copy of the BigWorld Technology, then you shall be deemed to be in breach of your obligations under this Clause 6(c) and this Agreement will terminate without notice to you and without prejudice to any other remedies that may be available to BigWorld.

(d) You shall distribute the Game in accordance with all applicable laws, treaties and governmental orders and regulations.

(e) You acknowledge that your use of BigWorld Technology may subject you to further rights and obligations pursuant to third party software libraries. You shall include the following copyright, patent and trademark notices on the legal notices screen of the Game in the following form:

"Copyright (c) 2001, 2002, 2003, 2004, 2005, 2006 Python Software Foundation; All Rights Reserved"
[License terms located at <http://www.python.org/download/releases/2.5.4/license/>].

5. COMPENSATION:

(a) **License Fee:** By clicking "I Agree" at the end of this Agreement, you shall pay to BigWorld the amount set forth in BigWorld's then current pricing schedule [Two Hundred Ninety-Nine US Dollars (US \$299)] as an

annual, non-cancelable and non-refundable license fee for use of the BigWorld Technology during the Term (the "License Fee"). Commencing on the first anniversary of the Effective Date, you shall pay to BigWorld the annual non-refundable License Fee as set forth in BigWorld's then-current pricing schedule for continued use of the BigWorld Technology. This Agreement shall automatically terminate without notice if you fail to make any payment of the annual License Fee and BigWorld shall be relieved of all obligations to provide you access to the BigWorld Website or support forums for technical support.

(b) **Royalties:** In addition to payments of License Fees, you shall pay to BigWorld a royalty of ten percent (10%) of Gross Revenues for the Game. Statements as to royalties payable hereunder shall be sent to BigWorld on a quarterly (calendar year) basis within thirty (30) days following the end of each calendar quarterly period along with payment of any royalties shown due on such statements. The first statement and royalty payment shall be due thirty (30) days after the quarter ending immediately following the initial commercial release of the Game. You shall maintain books of account concerning the computation of Gross Revenues and royalties due hereunder. BigWorld or its certified public or chartered accountant may examine your books relating to the computation of Gross Revenues and royalties due hereunder, and make copies thereof during your normal business hours, upon reasonable written notice. All costs of such examination shall be at BigWorld's sole expense unless such examination reveals a deficiency of five percent (5%) or more in the amount you owe BigWorld, in which event you shall reimburse BigWorld promptly for such costs.

(c) **Taxes and Payments:** All payments to BigWorld under this Agreement shall be subject to all required withholdings for any taxes, including any sales, use or goods and services taxes that are required under applicable laws and regulations. You shall provide BigWorld with official tax receipts or other such documents sufficient to substantiate any amounts withheld and, if required, you shall obtain exemption certificates on BigWorld's behalf to take advantage of any applicable tax treaties between your country of residence and Australia. All payments shall be made in U.S. Dollars without set-off of any amount or nature whatsoever, whether based on any claimed debt or liability of BigWorld to you. The receipt and deposit of monies by BigWorld shall not prevent or limit BigWorld's right to contest the accuracy and/or correctness of any statement in respect of such monies. Any sums not paid when due shall bear interest compounded daily from the original due date until the date of actual receipt of payment, at the rate of one and one-half percent (1.5%) per month (or such lesser amount as may be permitted under the laws of the Australian Capital Territory) without prejudice to any other rights of BigWorld in connection therewith.

6. REPRESENTATIONS AND WARRANTIES:

(a) You represent and warrant that:

(i) you are an individual eighteen (18) years of age or older, and all information provided by you to BigWorld when registering is true and accurate;

(ii) you meet all of the requirements to be an Eligible Entity;

(iii) you have the full power, authority and freedom to enter into this Agreement and perform your obligations hereunder, and this Agreement constitutes a valid and binding obligation that you agree to undertake, and is enforceable in accordance with its terms;

(iv) the making of this Agreement by you does not violate any agreement, right or obligation existing between you and any other person, firm or corporation and no consents of any third parties are required for you to enter into this Agreement; and

(v) neither the computer software nor the documentation thereto, nor any part of any character, object, sound or music embodied in the Game, infringes or shall infringe upon any common law or statutory rights or intellectual property rights of any third party including, without limitation, contractual rights, patents, copyrights, mask-work rights, trade secrets, rights of privacy and other intellectual property rights.

(b) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BIGWORLD TECHNOLOGY IS LICENSED "AS IS" AND WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ANY EMPLOYEE OR REPRESENTATIVE OF BIGWORLD WILL CREATE ANY EXPRESS OR IMPLIED WARRANTY NOT CONTAINED IN THIS CLAUSE 6(b) OR EXTEND OR MODIFY ANY WARRANTIES MADE AS OF THE EFFECTIVE DATE OF THIS AGREEMENT AND YOU MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE. THE FOREGOING DISCLAIMERS MAY BE DEEMED VOID IN CERTAIN JURISDICTIONS, TO THE EXTENT THE ABOVE DISCLAIMERS ARE DEEMED VOID,

YOU HEREBY ACKNOWLEDGE AND AGREE THAT IN NO EVENT SHALL BIGWORLD'S LIABILITY HEREUNDER EXCEED TWO HUNDRED NINETY-NINE (U.S.) DOLLARS (US\$299).

7. INDEMNIFICATION: You shall indemnify, defend and hold BigWorld harmless from any claims, suits, loss, liability, cost or expense (including reasonable attorney's fees) and damage suffered by BigWorld arising out of or connected in any way with a breach of any of your representations, warranties and agreements herein made. You may not settle any such claim that does not fully release BigWorld from liability (and without admission of guilt) without the prior written consent of BigWorld. BigWorld shall have the right, at BigWorld's expense, to participate in the defense thereof with counsel of BigWorld's choice.

8. LIMITATION ON LIABILITIES: BigWorld shall not be liable to you for any incidental, consequential, special, or punitive damages of any kind or nature, arising out of the breach of this Agreement or any termination of this Agreement, whether such liability is asserted on the basis of contract, tort (including negligence or strict liability), or otherwise, even if BigWorld has been warned of the possibility of any such loss or damage. The disclaimer of warranty and limitation of liability set forth hereinabove are fundamental elements of the basis of the bargain between the parties hereto and BigWorld would not have entered into this Agreement without such limitations. IN NO EVENT WILL BIGWORLD'S LIABILITY UNDER THIS AGREEMENT EXCEED TWO HUNDRED NINETY-NINE (U.S.) DOLLARS (US\$299).

9. DEFAULT/TERMINATION:

(a) Each of the following shall constitute a default by you (hereinafter referred to as "Your Default") upon which this Agreement shall automatically terminate without notice from BigWorld:

(i) if you fail to pay the License Fees and/or Royalties when due;

(ii) if you engage a third party to publish or distribute the Game;

(iii) if you grant access to the BigWorld Technology to more than twenty-five (25) Authorized Users and/or to any person or entity who is not an Authorized User;

(iv) if you fail to perform any of your material obligations hereunder;

(v) if you petition for or consent to any relief under any bankruptcy, reorganization, receivership, insolvency, compromise or similar laws or statutes, or if you consent to appointment of a receiver, liquidator, trustee or assignee in bankruptcy or if you make an assignment for benefit of, or composition with, creditors, or if a third party commences any insolvency proceeding against you;

(vi) if you elect to sell substantially all of your assets, or wind up, liquidate or dissolve and to distribute your assets or to enter into any transaction of merger or consolidation, prior to the expiration of the Term hereof without BigWorld's prior written approval; or

(vii) if you assign, sublicense or delegate any or all of your rights or obligations hereunder or transfer or grant access to the BigWorld Technology to an entity other than an Eligible Entity.

(b) In the event this Agreement is terminated for Your Default, your rights to use the BigWorld Technology shall be terminated and you may not thereafter design or develop, or permit third parties to design or develop, the Game or market, advertise, distribute or sell the Game in any place whatsoever if it incorporates the BigWorld Technology unless and until you enter into a full commercial license with BigWorld. All sums which you paid to BigWorld prior to such termination are not refundable and any sums which were due and payable by you to BigWorld prior to such termination (including unpaid License Fees and Royalties) shall remain due and owing to BigWorld. All materials delivered by BigWorld to you (including without limitation any and all computer software files and documentation) which are in the your possession (or in the possession of any Authorized User) will be destroyed within ten (10) days of the date of termination of this Agreement and you agree that neither you nor any Authorized User shall thereafter retain any photocopies, backup copies, or other reproductions or transcriptions of any portion of BigWorld's Confidential Information.

10. MISCELLANEOUS:

(a) All notices, statements and/or payments to be given to the parties hereunder shall be addressed to the parties at the addresses set forth on the first page hereof or at such other address as the parties shall

designate in writing from time to time. All notices shall be in writing and may be sent by personal delivery (to an officer of the party being served), mail, or facsimile or e-mail (if such facsimile or e-mail is also confirmed by mail or personal delivery of the hard copy), all charges prepaid, to the appropriate address set forth above (which address for notices may be changed by notice given as aforesaid). Such notices shall be deemed given when personally delivered, all charges prepaid, or on the date five (5) days following the date of mailing, except that notices of change of address shall be effective only after the actual receipt thereof.

(b) You may not assign, delegate or sublicense any of your rights and obligations under this Agreement without BigWorld's prior written consent.

(c) This Agreement contains the entire understanding between the parties hereto relating to the BigWorld Technology. There are no representations, warranties, terms, conditions, undertakings or collateral Agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement. This Agreement cannot be changed, modified, amended or terminated except by an instrument in writing executed by both you and BigWorld. The headings and captions used herein are inserted for convenience of reference only and shall not affect the interpretation of this Agreement. No waiver, modification or cancellation of any term or condition of this Agreement shall be effective unless executed in writing by the party charged therewith. Except as otherwise provided in this Agreement, all rights and remedies herein or otherwise shall be cumulative and none of them shall be in limitation of any other right or remedy. In the event that the text of this Agreement is translated into a language other than English and the parties executed both an English language version and a translated version of this Agreement, it is understood and agreed that the English language version of the Agreement shall, for all purposes (including with out limitation in the event of a dispute between the parties to this Agreement), be the controlling version of the Agreement.

(d) This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between BigWorld and you. Neither you nor BigWorld shall have any right, power or authority to obligate or bind the other in any manner whatsoever, and nothing herein contained shall give or is intended to give any rights of any kind to any third persons.

(e) This agreement shall be governed by the laws of Australia and the Australia Capital Territory. You acknowledge that your failure to perform any of the terms or conditions of this Agreement shall result in immediate and irreparable damage to BigWorld; that there will be no adequate remedy at law for such failures; and that BigWorld shall be entitled to equitable relief by way of temporary and permanent injunctions and such other further relief as any court with jurisdiction may deem just and proper. If BigWorld retains the services of any attorney to enforce any rights hereunder, you shall pay to BigWorld all costs and expenses including, but not limited to arbitration costs, attorney's fees, lawyers fees and expenses, and consulting expert fees and expenses incurred by BigWorld in connection with enforcing its rights under this Agreement.

(f) If any provision of this Agreement is or becomes or is deemed invalid, illegal or unenforceable under the applicable laws or regulations of any jurisdiction, then either such provision will be deemed amended to conform to such laws or regulations without materially altering the intention of the parties or it shall be stricken and the remainder of this Agreement shall remain in full force and effect.

11. **CONFIDENTIALITY:** This Agreement provides for the protection of information provided by BigWorld to you, being information relating to the BigWorld Technology, tools and techniques, software algorithms and routines, designs, drawings, schematics and other documentation relating thereto and other confidential and proprietary business information of BigWorld (hereinafter collectively referred to as "Confidential Information"). You shall keep in confidence and not disclose the Confidential Information to any third party, without the written permission of the BigWorld. This requirement of confidentiality shall not apply to any information that (i) is in the public domain through no wrongful act of the you; (ii) is rightfully received by you from a third party who is not bound by a restriction of nondisclosure; (iii) is already in your possession without restriction as to disclosure; (iv) was independently developed by you; or (v) required to be disclosed by operation of law or by order of a court or administrative body of competent jurisdiction, (provided that prior to such disclosure, BigWorld shall first receive notice thereof from you and have the opportunity to contest such order or requirement of disclosure or seek appropriate protective order). You may disclose the Confidential Information only to those Authorized Users who need to know such information to effectuate the purposes of this Agreement and only to the extent necessary for such purpose. You may not disclose any of BigWorld's Confidential Information to any third party which is engaged in the development and licensing of middleware technology that is competitive with the BigWorld Technology.

END OF LICENSE AGREEMENT TERMS