

HIGAMES OÜ
TERMS OF USE
Version 2

Effective Date: [02.10.2020]

1. INTRODUCTION

1.1. These Terms of Use (“Terms of Service” or “Terms”) govern the relationship between you and HIGAMES OÜ (together with its parents, subsidiaries, representatives, affiliates, officers, and directors, “Hi Games” or “we” or “us”) regarding your access to and use of Hi Games’s games, mobile apps, websites, content, products, and any related services (collectively the “Services”).

1.2. When you use or access our Services in any capacity, you represent that you are at least 13 years old (or at least 16, if you reside in the EU) and that you understand and agree to these Terms. If you are under the age of 18, you agree that you have gotten permission from a parent or guardian to use our Services. If you access our Services through a third-party platform or site, you may be required to comply with their policies in addition to these Terms.

1.3. Our collection and use of personal data in connection with Services is described in our Privacy Policy, which is incorporated by reference into these Terms.

1.4. We may amend these Terms by posting the amended versions on our website or in the supplemental terms of the applicable Service(s). By continuing to access or use our Services after we post amended versions, you confirm your agreement to the Terms, as amended. If you do not agree with any of the changes, you must immediately stop accessing our Services and your license to use our Services will immediately terminate.

1.5. This is a legally binding agreement, and you should read it carefully. By installing, using, or otherwise accessing our Services, you confirm your agreement to be bound by these Terms. If you do not agree with any of these terms, you may not install, use, or otherwise access our Services.

1.6. Please note that the section below titled “GOVERNING LAW AND DISPUTE RESOLUTION” contains a binding arbitration agreement and class action waiver. they affect your legal rights. Please read them.

1.7. You may only use this Services and any materials found in this Services (including, but not limited to, any images, logos, designs, insignia, marks, pictures, sounds, text, messages, tools, software, technology, products, files, information, data, demos, promotional materials, audio-visual and multimedia works and any other items or expressions) (collectively, "Materials") in accordance with this Terms and you agree to comply with these Terms at all times.

2. LIMITED LICENSE

2.1. Subject to your agreement and your continued compliance with these Terms and all relevant Hi Games policies, Hi Games grants you a non-exclusive, non-transferable, non-sublicensable, revocable limited license (subject to the limitations below) to access and use the Services for your own personal (i.e. non-commercial) use only. Such license is subject to these Terms and does not include:

- (i) any commercial use of Services or the Materials therein;
- (ii) the distribution, public performance, public display, making publicly available, or other unauthorized exploitation of any Materials;
- (iii) modifying or otherwise making any derivative uses of Services or the Materials, or any portion thereof;
- (iv) downloading (other than the page caching) of any portion of Services, the Materials or any information contained therein, except as expressly permitted on the Hi Games website; or
- (v) any Services or the Materials other than for their intended purposes.

2.2. Any Services or the Materials other than as specifically authorized herein, without the prior written permission of Hi Games, is strictly prohibited and will terminate the license granted herein. Such unauthorized use may also violate applicable laws, including without limitation copyright and trademark laws and applicable communications regulations and statutes. Unless explicitly stated herein, nothing in these Terms shall be construed as conferring any license to intellectual property rights, whether by estoppel, implication or otherwise. Hi Games may revoke this license at any time.

2.3. Restrictions

2.3.1. You specifically agree to the following license restrictions in connection with Services:

- (i) If you have been previously banned from accessing our Services, you are prohibited from re-accessing Services.
- (ii) You are prohibited from using our Services for commercial purposes.
- (iii) You are prohibited from using our Services to advertise, solicit, or transmit any commercial advertisements, which include but are not limited to chain letters, junk, spam, or repetitive messaging (both targeted and un-targeted).
- (iv) You are prohibited from creating an Account on someone else's behalf.
- (v) You are prohibited from creating an Account using inaccurate or false information.
- (vi) You are prohibited from renting, selling, gifting, or giving away your Account or Account-related information.
- (vii) You are prohibited from selling or transferring prizes or rewards obtained in connection with Services to any other person or entity.
- (viii) You are prohibited from removing, obscuring or altering any notice of copyright or other proprietary notices present on or in any Materials.

2.3.2. You further agree that under no circumstance will you:

- (i) Engage in acts that are inappropriate and/or in conflict with the spirit or intent of Services or these Terms.
- (ii) Attempt to gain unauthorized access to, circumvent, modify, disrupt, overburden, or otherwise impair any aspect of our Services (including Accounts of others) or related technology, devices, systems or networks.

- (iii) Engage in unlawful, abusive, threatening, obscene, defamatory, libelous, harassing, hateful, violent, racist, or otherwise objectionable or offensive acts, whether by posting and/or transmitting such information through our Services, or by any other means (e.g., by posting links to such content).
- (iv) Engage in acts or attempts to abuse, threaten, harm, harass, or advocate or incite harassment and/or violence towards another person, group, our employee(s) or our Services, or engage in any acts in violation of other publicly posted Hi Games policies (e.g. forum rules).
- (v) Use our Services to post, supply or make available any material or information that infringes on any copyright, trademark, patent, trade secret, right of privacy, right of publicity, or any other right of a person or entity.
- (vi) Use our Services to post, display, or transmit any other person or entity's private information, including personally identifiable and/or financial information.
- (vii) Copy or reproduce (except as expressly permitted), translate, reverse engineer, derive source code from, modify, disassemble, decompile, or create derivative works based on or related to Services.
- (viii) Scrape, harvest, or extract data from Services.
- (ix) Seek to obtain advantage or information from our Services using methods not expressly permitted by Hi Games.
- (x) Engage in solicitation or attempted solicitation of personal information from other users of our Services.
- (xi) Institute, engage in, assist with, or become involved in any form of attacks upon our Services, including but not limited to denial-of-service attacks, creation or distribution of viruses or malware, or attempts to disrupt our Services or others' enjoyment of our Services.
- (xii) Create, use, offer, promote, advertise, make available, and/or distribute exploits, cheats, bots, software, hacks, mods or any unauthorized third-party code or software that can be used to interfere with, alter or modify our Services, or that can be used in conjunction with our Services.
- (xiii) Impersonate another person, including without limitation any other user or any Hi Games employee.
- (xiv) Use our Services to violate any applicable law or regulation and order of any governmental authority in your use of this Services and the Materials
- (xv) Use our Services for any activities other than what are reasonably considered the common and usual activities associated with Services for general entertainment.

2.4. Access or Use of Services Associated With Your Account

2.4.1. When you access or use Services, you create an account with us ("Account"). In some cases, you may be asked to create a username and password (collectively known as "Login Information"). You are responsible for all use of Services and activity related to your Account, including all transactions and payments associated with that Account (which may include but are not limited to the use of your credit card and other payment systems). You agree to maintain accurate, complete, and up-to-date information in your Account, and our Privacy Policy describes how you can keep your

personal information up-to-date. It is your sole responsibility to maintain the confidentiality of your Login Information.

2.4.2. You agree not to engage in any acts that may compromise the integrity, fair play and/or security of your Account, including but not limited to sharing Login Information or permitting unauthorized access, loss, or theft. If you learn or suspect that your Account has been compromised, please contact us immediately. We also urge you to modify your Login Information to prevent further damage. We will not be responsible to you for any losses or harm you may suffer as a result of an unauthorized person accessing your Account and/or using your Login Information in connection with our Services.

2.4.3. You are solely responsible for your interactions with other users of our Services and any other parties with whom you interact through Services. We reserve the right, but have no obligation, to become involved with any disputes related to those interactions. You agree to fully cooperate with us to investigate any suspected unlawful, fraudulent or improper activity, including, without limitation, by granting us access to any password-protected portions of your Account as may be required. If you have a dispute with any other user(s), you release us from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or related to such disputes.

2.4.4. We reserve the right to reclaim and/or remove any usernames at our discretion at any time, for any reason. You may have only one Account per game on a properly supported device.

2.5 Suspension and Termination of Account and Services

2.5.1. Without limiting any other remedies, we may suspend, terminate, delete, limit, or modify Accounts or access to Services or any portions thereof, hold, delay, or remove hosted content, take legal and technical steps to prevent access to Services, or take other action consistent with these Terms, with or without notice to you, if we suspect or determine, in our sole discretion, that you have failed to comply with any of these Terms or have otherwise engaged in illegal activity or improper use of our Services. This may result in the loss or termination of your Account, information, persona, rankings, benefits, Virtual Items defined in Section 5 below, in-game purchases, or other losses. We are not and will not be held responsible for loss of any Account, information, persona, rankings, benefits, Virtual Items, in-game purchases, or other losses incurred, and are under no obligation to compensate you therefor.

2.5.2. We reserve the right to stop offering and/or supporting our Services or any portion thereof, including but not limited to any particular game, at any time for any reason. If this does occur, your license to access or use the applicable Services will automatically terminate and you may lose access to any content that you may have submitted or were in the process of submitting. We reserve the right to terminate any Account that has been inactive for 180 days or more. We are not required to notify you in advance of these actions, or to provide you any refunds, compensation, or any material or non-material benefit for discontinued or terminated Services or losses resulting therefrom.

2.5.3. You may choose to close your Account for any reason and at any time. If you choose to exercise this right, please inform Hi Games that you wish to close your Account by emailing privacy@higames.io and requesting that your Account be closed. You understand that if you close your Account, you may no longer have access to information previously associated with your Account (including, without limitation, your game progress and any Virtual Items associated with your Account).

3. OWNERSHIP

3.1. The Services and all rights, title and interest therein are and shall remain the property of Hi Games or its licensors. This may include without limitation all games, mobile applications, software (including server software), websites, titles, characters, character names or profiles, stories, dialogue, animations, art, concepts, content, audio sounds and effects, musical compositions, visual effects, methods of operation, documentation, moral rights, in-game chat transcripts, all recordings of games and game play, and Virtual Items appearing and/or originating in our Services, whether provided, earned or purchased. Neither these Terms nor your use of Services convey or grant to you any rights:

(i) in or related to Services, except for the limited license granted above; or

(ii) to use or reference Hi Games or its licensors' company name(s), logos, product and service names, or marks.

3.2. You acknowledge and agree that you will have no ownership or other property interest in any Account created in connection with Services. You further acknowledge and agree that all interest in and rights to any such Account are and will be owned in perpetuity by and solely for the benefit of Hi Games.

4. USER CONTENT

4.1. While Hi Games welcomes your comments and feedback regarding its Services, Hi Games does not accept or consider any materials for use in any of its Services which have not been specifically requested by Hi Games. In the event that you submit, upload, publish, transmit, or otherwise make available to us materials, data, information, communications, pictures, sounds or any other legal content using Services ("User Content"), you understand and agree to the following terms:

(i) You hereby grant to Hi Games a perpetual, irrevocable, royalty-free, worldwide, fully paid up, non-exclusive, sub-licensable right and license to exploit the User Content and all elements thereof, in any and all media, formats and forms, known now or hereafter devised. Hi shall have the unlimited right to copy, reproduce, fix, modify, adapt, translate, reformat, prepare derivatives, add to and delete from, rearrange and transpose, manufacture, commercialize, publish, distribute, sell, license, sublicense, transfer, rent, lease, transmit, publicly display, make publicly available, publicly perform, provide access to, broadcast, use and practice the User Content as well as all modified and derivative works thereof and any and all elements contained therein, and use or incorporate a portion or portions of the User Content or the elements thereof in conjunction with or into any other material, without notice to or consent from you, and without compensation to you or any other person or entity.

(ii) In the event you upload or otherwise transmit to Hi Games any concepts, ideas, or feedback relating to Hi Games' Services, you shall not be entitled to any compensation for any such submission, unless expressly agreed between you and Hi Games, and Hi Games may freely use any such submission in any manner it deems appropriate. You further hereby grant to Hi Games the unconditional, irrevocable right to use and exploit your name, likeness and any other information or material submitted or transmitted to Hi Games in connection with any User Content, without any obligation to you. Any such submission by you shall not create any contractual relationship between you and Hi Games. Except to the extent that any such waiver is prohibited by law, you hereby waive

the benefit of any provision of law known as "moral rights" or "droit moral" or any similar law in any country of the world, regardless of whether User Content is altered or changed in any manner.

(iii) As a user, you are personally and solely responsible for all information posted and/or sent, transmitted, or provided to others by you in connection with our Services, including but not limited to User Content posted in forums, blogs, and player chat features. You represent, warrant, and affirm that your User Content is accurate, that it does not violate any applicable laws or rights especially the copyright, trademark, patent, trade secret or other intellectual property rights of any third party, that you have the appropriate permissions or rights from any third parties whose information or intellectual property is comprised in the User Content, and that such User Content is free of malware, viruses, adware, spyware or any malicious code. You agree not to submit and/or transmit any User Content that is unlawful, tortious, defamatory, libelous, obscene, invasive of the privacy of another person, threatening, harassing, abusive, violent, hateful, racist, or otherwise objectionable or inappropriate. We do not assume any liability or responsibility for any user behavior or for monitoring User Content or conduct in connection with Services. We may, but are not obligated to, review, monitor, reject, deny, or remove User Content, at our sole discretion and at any time and for any reason, without notice to you.

4.2. Please do not use these mediums to share or post information you wish to remain confidential. However, User Content may be processed by us in accordance with our Privacy Policy. Please contact us if you have questions regarding your User Content or Account by emailing us at privacy@higames.io.

5. FEES AND PURCHASE TERMS

5.1. Any time you purchase virtual currency (including but not limited to virtual cash and other in-game premium currency), virtual in-game items, and any other premium goods or services in connection with our Services (collectively, "Virtual Items") with real currency (i.e., real world money), Hi Games grants you a limited, personal, non-transferable, non-sublicensable, revocable license to use such Virtual Items. All purchases and redemptions of such Virtual Items through our Services are final and non-refundable, unless otherwise determined by us. Hi Games may manage, regulate, control, modify or eliminate Virtual Items at any time, with or without notice to you. Hi Games will have no liability to you or any third party in the event that Hi Games exercises any such rights.

5.2. Virtual Items have no real-world value. Other than as expressly authorized in our Services, you may not sell, redeem or otherwise transfer Virtual Items to any person or entity, including but not limited to Hi Games, another user or any third party.

5.3. You understand that use of Services may result in charges to you, and you agree to pay all fees and applicable taxes incurred by you or anyone using your Account. Payments will be enabled using the payment method tied to your Account. We may revise the pricing for the goods and services offered through our Services at any time. We may also from time to time provide certain users with offers and discounts that may result in different amounts charged for the same or similar services or goods obtained through the use of Services, and you agree that such offers and discounts, unless also made available to you, shall have no bearing on your use of Services or payments charged to your Account. You acknowledge and agree that we are under no obligation to provide you with a refund for any items (including Virtual Items) that are in your Account, for any reason, including but not limited

to termination of your Account or when closing your Account, whether such actions are voluntary or involuntary.

6. UPDATES TO OUR SERVICE

6.1. These Terms constitute the entire agreement between you and Hi Games relating to the subject matter hereof. Hi Games may, from time to time, change, modify or update these Terms, and the revised Terms will apply prospectively. While Hi Games will make all reasonable efforts to inform you of any such updates, you acknowledge and agree that Hi Games may update Services, with or without informing or otherwise notifying you. For easier reference, Hi Games will mention that as “Last Revised” date above.

7. DISCLAIMER OF WARRANTIES

7.1. Without limiting Hi Games’s liability under Section 8 below, Services are provided on an “as is” and “as available” basis for your use, with no warranties of any kind, express or implied, including without limitation the warranties of merchantability, fitness for a particular purpose, title, non-infringement, and those arising from course of dealing or usage of trade, and all use is at your own risk. Hi Games does not warrant that you will be able to access or use our Service at the times or locations of your choosing; that our Services will be of a certain quality or suitability, or will be uninterrupted or error-free; that defects will be corrected; or that our Services are free of viruses or other harmful components.

8. LIMITATION OF LIABILITY AND INDEMNITY

8.1. Limitation of Liability

To the extent permitted by applicable law, in no event will Hi Games be liable, whether in contract, warranty, tort, product liability, strict liability or other theory, to you or any other natural person or entity for any damages (including but not limited to loss of revenues, lost profits, lost data or business interruption, other intangible losses, or any indirect, incidental, special or consequential damages) arising out of or in connection with any use of, inability to use or results of use of this Services or any Materials on or in this Services, even if Hi Games or its representative has been advised of the possibility of such damages.

8.2. Indemnification

You agree to defend and indemnify Hi Games, its companies, officers, directors, contractors, employees, agents, third-party suppliers, licensors, partners and affiliates against and from any third-party claims, liabilities, losses, injuries, damages, costs or including legal fees and expenses incurred by Hi Games arising out of or relating to:

- (i) your use or misuse of our Services or goods or services obtained in connection therewith;
- (ii) any breach or violation of these Terms;
- (iii) our use of your User Content; or (iv) any breach of the representations, warranties, and covenants made by you herein.

8.3. We reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate with our defense of these claims. We will use reasonable efforts to notify you of any such matter upon becoming aware of it.

You agree that the provisions in this paragraph will survive any termination of your Account(s) or of our Services.

9. GOVERNING LAW and DISPUTE RESOLUTION

9.1. If a dispute arises between you and us, we prefer amicable resolution to protracted legal battles. To that end, we have created an informal dispute resolution program we believe can resolve most matters. Before initiating any court proceeding, you must first exhaust the step below to resolution:

ESCALATION: If you've followed the above steps, but you feel that the issue remains unresolved after our agents have stated that a matter is closed, please email us at support@higames.io and specify the issue you believe is unresolved. Our player care leads will work with you further to resolve your issue. In some cases, we may address the issue remotely. In others, we may ask to speak with you directly and will arrange a mutual time to discuss your matter. If you provide us with your phone number for this purpose, it will not be used for other purposes.

9.2. This Agreement shall be governed by and construed in accordance with the laws of Switzerland without reference to its choice of law rules.

9.3. You agree that you can only bring claims against Hi Games on an individual basis. You cannot bring a claim as a plaintiff or class member in a class, collective, consolidated, or representative action. The provisions of the U.N. Conventions on Contracts for the International Sale of Goods and any other applicable arbitration rules shall not apply to any matters related to these Terms applications.

10. GENERAL PROVISIONS

10.1. Severability

You and Hi Games agree that if any portion of these Terms is found unlawful, void, or for any reason unenforceable, in whole or in part, that provision will be ineffective only to the extent of such finding and as to such jurisdiction, without affecting the validity or enforceability thereof in any other manner or jurisdiction and without affecting the remaining provisions of these Terms, which will be enforced to the fullest extent of the law. No amendment or severing of any provision of these Terms shall affect the validity or enforceability of any remaining provisions.

10.2. Assignment

Hi Games may assign or delegate these Terms, in whole or in part, to any person or entity at any time with or without your approval.

10.3. Force Majeur

We will not be liable for any delay or failure to perform resulting from causes outside of our reasonable control, including without limitation any failure to perform hereunder due to unforeseen circumstances or causes such as acts of God, war, terrorism, riots, embargoes, acts of civil or military authorities, fires, floods, accidents, strikes, or shortages of transportation facilities, fuel, energy, labor or materials.

10.4. Claims of Copyright Infringement

The Digital Millennium Copyright Act of 1998 (the “DMCA”) provides recourse for copyright owners who believe their rights under US copyright law have been infringed. If you believe in good faith that materials hosted by us infringe your copyright (for example, materials posted by a user on one of our forums), you or your agent can send us a notice requesting that the material be removed or access to it blocked.

If you believe your copyright-protected work has been posted on Services in a way that constitutes copyright infringement (please consult an attorney to better understand your rights and obligations under Section 512(c) of the Copyright Act and other laws), please contact our DMCA Agent with a notice containing the following information:

- Reasonably sufficient details to enable us to identify the work claimed to be infringed (e.g., title, author, any registration or tracking number, URL) or, in the case of multiple works, a representative list of such works;
- Reasonably sufficient details to enable us to identify and locate the material claimed to be infringing (e.g., a link to the page that contains the material);
- Your name, address, telephone number, and, if available, email address;
- A statement that you have a good faith belief that the use of the material identified above is not authorized by the copyright owner, its agent, or the law;
- A written statement, under penalty of perjury, that the information in your notice is accurate and that you are authorized to act on behalf of the owner of the exclusive right that is alleged to be infringed; and
- Your physical or electronic signature.

If you believe material that you have posted to Services has been improperly taken down, you may file a written counter-notice with our DMCA Agent. Please include the following details:

- Identification of the material that has been removed or to which access has been disabled and the location at which it appeared before it was removed or disabled;
- A statement, under penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification;
- Your name, address, telephone number, and, if available, email address;
- A statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located or, if your address is outside the US, for any judicial district in which Hi Games may be found, and that you will accept service of process from the person who submitted a notice in compliance with Section (c)(1)(C) of the DMCA, as described above; and
- Your physical or electronic signature.

DMCA notices must meet current statutory requirements imposed by the DMCA.

Please send DMCA notices to our DMCA Agent at the following address: DMCA Agent, Hi Games, Inc., 300 Delaware Ave Ste 210 #290 Wilmington, DE 19801 or by email (subject line “DMCA Communication”) support@higames.io

Please note that under Section 512(f) of the Copyright Act, any person who knowingly materially misrepresents that material or activity is infringing, or that material or activity was removed or disabled by mistake, may be subject to liability. Please also be advised that we enforce a policy of terminating the Accounts of repeat infringers (i.e., users who have made two or more postings for which we receive a notice of infringement).

Hi Games’s DMCA Agent should be contacted only for the purposes set forth in this Section. NON-DMCA INQUIRIES DIRECTED TO Hi GAMES’ DMCA AGENT WILL NOT BE ANSWERED. MISUSE OF THE DMCA CAN SUBJECT YOU TO LIABILITY.

10.5. Entire Agreement

These Terms, including any additional policies and documents referenced in this agreement, are the entire agreement between you and Hi Games. They supersede all prior understandings between you and Hi Games, regardless of the medium (oral, written electronic) and practice (custom, policy, course of business, precedent) by which such understandings were communicated.

10.6. No Waiver

Any failure of Hi Games to enforce any right or provision in these Terms shall not constitute a waiver or relinquishment of such right or provision unless acknowledged and agreed to by us in writing. The express waiver by Hi Games of any provision, condition, or requirement of these Terms will not constitute a waiver of any future obligation to comply with such provision, condition or requirement. Except as expressly and specifically set forth in these Terms, no representations, statements, consents, waivers, or other acts or omissions by Hi Games will be deemed a modification of these Terms or legally binding, unless documented in physical writing, hand signed by both you and a duly appointed officer of Hi Games.

10.7. Notices

We may give notice to you via: (i) postings on Services; (ii) email, telephone, or text message to any email address or phone number connected with your Account; (iii) written communication sent by mail to any address connected with your Account. All notices given by you or required from you under these Terms must be in writing and addressed to: Hi Games Inc. 300 Delaware Ave Ste 210 #290 Wilmington, DE 19801. Any notices that you provide without compliance with this subsection will have no legal effects.
