

# SOFTWARE TERMS OF USE

Last updated [November 30, 2020]

***PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY***

## AGREEMENT TO TERMS

These Terms and Conditions constitute a legally binding Agreement made between you and JollyCo LLC (“JollyCo”, “we”, “us” or “our”), concerning your access to and use of our software. For purposes of this Agreement, "Software" means all software programs made available by JollyCo LLC including, but not limited to mobile games, downloadable/installable games for personal computers, and consoles.

You agree that by accessing the Software, you have read, understood, and agree to be bound by all of these Terms and Conditions Use. IF YOU DO NOT AGREE WITH ALL OF THESE TERMS and CONDITIONS, THEN YOU ARE EXPRESSLY PROHIBITED FROM USING THE SOFTWARE AND YOU MUST DISCONTINUE USE IMMEDIATELY.

We reserve the right, in our sole discretion, to make changes or modifications to these Terms and Conditions at any time and for any reason. We will alert you about any changes by updating the “Last updated” date of these Terms and Conditions and you waive any right to receive specific notice of each such change. It is your responsibility to periodically review these Terms and Conditions to stay informed of updates. You will be subject to, and will be deemed to have been made aware of and to have accepted, the changes in any revised Terms and Conditions by your continued use of the Software after the date such revised Terms are posted.

You should also read our Privacy Policy to understand how we and third party services collect and use your personal and non-personal data:

<https://jollybattle.com/docs/privacypolicy.pdf>

## INTELLECTUAL PROPERTY RIGHTS

Unless otherwise indicated, the Software is our proprietary property and all source code, databases, functionality, software, website designs, audio, video, text, photographs, and graphics on the Software (collectively, the “Content”) and the trademarks, service marks, and logos contained therein (the “Marks”) are owned or controlled by us or licensed to us, and are protected by copyright and trademark laws and various other intellectual property rights and unfair competition laws of the United States, foreign jurisdictions, and international conventions. The Content and the Marks are provided “AS IS” for your information and personal use only. Except as expressly provided in these Terms of Use, no part of the Software and no Content or Marks may be copied, reproduced, aggregated, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted, distributed, sold,

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## **USER REPRESENTATIONS**

By using the Software, you represent and warrant that: [(1) all registration information you submit will be true, accurate, current, and complete; (2) you will maintain the accuracy of such information and promptly update such registration information as necessary;] (3) you have the legal capacity and you agree to comply with these Terms of Use; [(4) you are not under the age of 6;] (5) not a minor in the jurisdiction in which you reside[, or if a minor, you have received parental permission to use the Software]; (6) you will not access the Software through automated or non-human means, whether through a bot, script or otherwise; (7) you will not use the Software for any illegal or unauthorized purpose; and (8) your use of the Software will not violate any applicable law or regulation.

If you provide any information that is untrue, inaccurate, not current, or incomplete, we have the right to suspend or terminate your account and refuse any and all current or future use of the Software (or any portion thereof).

## **PROHIBITED ACTIVITIES**

Unless you have received prior written authorization from us, you agree not to:

- use cheats, automation software, bots, hacks or any other unauthorized software designed to modify or interfere with the Software and/or any files that are part of the Software;
- commercially exploit our Software, its Gameplay, Characters, Design, 2D or 3D models, Artwork or any other part of the Software;
- create Derivative Works of the Software;
- access or use the Software with any technology or means other than those provided in the Software, or through other explicitly authorized means that we may designate;
- make a copy of the Software available on a network where it could be used by multiple users;
- register domain names, social media accounts or related addresses that include our trademarks;

- use the Software or related assets and/or our trademarks on or in connection with content that (i) promotes cheats, hacks, violence, discrimination, inappropriate themes, illegal activities, or sexually explicit content; (ii) makes untrue, dishonest, disparaging, or libelous statements about our and/or its products, employees, and agents; and/or (iii) contains other objectionable content;
- resell, copy, transfer, distribute, display, translate, or modify the Software or make derivative works of the Software or any part thereof;
- re-use, copy, or distribute text, pictures, music, barcodes, video, data, hyperlinks, displays or any other content provided by the Software;
- redistribute, sublicense, rent, publish, perform, sell, assign, lease, market, transfer, or otherwise make the Software available to third parties;
- seek to disable, reverse engineer, decompile or otherwise attempt to extract the source code of the Software or any part thereof, unless this is expressly permitted or required by applicable law or by the licensing terms governing the use of any open-sourced components included within the Software;
- delete, obscure, or in any manner alter any warning, notice (including but not limited to any copyright or other proprietary rights notice), or link that appears in the Software;
- use the Software when operating vehicles;
- remove or alter our trademarks or logos or legal notices included in the Software or related assets;
- use the service to try to gain unauthorized access to any service, data, account or network by any means;
- post any information that contains nudity, violence, or offensive subject matter or that contains a link to such content;
- make an attempt to or harass, abuse, threaten, defame or otherwise infringe or violate the rights of any other party;
- use the Software in any way that is unlawful, fraudulent, or deceptive;
- use technology or any other means to access our proprietary information not authorized by us;
- use or launch any automated system to access our website or computer systems;
- attempt to introduce viruses or any other malicious computer code that interrupts, destroys, or limits the functionality of any computer software, hardware, or telecommunications equipment;
- attempt to gain unauthorized access to our computer network or user accounts;
- encourage conduct that would constitute a criminal offense, or would give rise to civil liability; or
- use the Software in any manner not expressly allowed in this agreement.

We reserve the right to determine in our sole discretion what kind of conduct is considered to be in violation of the terms of this agreement. Furthermore, we reserve the right to take appropriate action as a result of your violation of the terms of this agreement, including but not limited to prohibiting you from using our Software in whole or in part.

# **THIRD-PARTY SERVICES AND CONTENT**

The Software may contain (or you may be sent via the Software) links to other services ("Third-Party Services") as well as articles, photographs, text, graphics, pictures, designs, music, sound, video, information, applications, software, and other content or items belonging to or originating from third parties ("Third-Party Content"). Such Third-Party Services and Third-Party Content are not investigated, monitored, or checked for accuracy, appropriateness, or completeness by us, and we are not responsible for any Third-Party Services accessed through the Software or any Third-Party Content posted on, available through, or installed from the Software, including the content, accuracy, offensiveness, opinions, reliability, privacy practices, or other policies of or contained in the Third-Party Services or the Third-Party Content. Inclusion of, linking to, or permitting the use or installation of any Third-Party Services or any Third-Party Content does not imply approval or endorsement thereof by us. If you decide to leave the Software and access the Third-Party Services or to use or install any Third-Party Content, you do so at your own risk, and you should be aware these Terms of Use no longer govern. You should review the applicable terms and policies, including privacy and data gathering practices, of any service to which you navigate from the Software or relating to any applications you use or install from the Software. Any purchases you make through Third-Party Services will be through other websites and from other companies, and we take no responsibility whatsoever in relation to such purchases which are exclusively between you and the applicable third party. You agree and acknowledge that we do not endorse the products or services offered on Third-Party Services and you shall hold us harmless from any harm caused by your purchase of such products or services. Additionally, you shall hold us harmless from any losses sustained by you or harm caused to you relating to or resulting in any way from any Third-Party Content or any contact with Third-Party Services.

## **SOCIAL MEDIA**

As part of the functionality of the Software, you may link your account with online accounts you have with third-party service providers (each such account, a "Third-Party Account") by either: (1) providing your Third-Party Account login information through the Software; or (2) allowing us to access your Third-Party Account, as is permitted under the applicable terms and conditions that govern your use of each Third-Party Account. You represent and warrant that you are entitled to disclose your Third-Party Account login information to us and/or grant us access to your Third-Party Account, without breach by you of any of the terms and conditions that govern your use of the applicable Third-Party Account, and without obligating us to pay any fees or making us subject to any usage limitations imposed by the third-party service provider of the Third-Party Account. By granting us access to any Third-Party Accounts, you understand that (1) we may access, make available, and store (if applicable) any content that you have provided to and stored in your Third-Party Account (the "Social

Network Content”) so that it is available on and through the Software via your account, including without limitation any friend lists and (2) we may submit to and receive from your Third-Party Account additional information to the extent you are notified when you link your account with the Third-Party Account. Depending on the Third-Party Accounts you choose and subject to the privacy settings that you have set in such Third-Party Accounts, personally identifiable information that you post to your Third-Party Accounts may be available on and through your account on the Site. Please note that if a Third-Party Account or associated service becomes unavailable or our access to such Third-Party Account is terminated by the third-party service provider, then Social Network Content may no longer be available on and through the Software. You will have the ability to disable the connection between your account on the Software and your Third-Party Accounts at any time. PLEASE NOTE THAT YOUR RELATIONSHIP WITH THE THIRD-PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD-PARTY ACCOUNTS IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD-PARTY SERVICE PROVIDERS. We make no effort to review any Social Network Content for any purpose, including but not limited to, for accuracy, legality, or non-infringement, and we are not responsible for any Social Network Content. You acknowledge and agree that we may access your email address book associated with a Third-Party Account and your contacts list stored on your mobile device or tablet computer solely for purposes of identifying and informing you of those contacts who have also registered to use the App. You can deactivate the connection between the Software and your Third-Party Account by contacting us using the contact information below or through your account settings (if applicable).

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You acknowledge and agree that any questions, comments, suggestions, ideas, feedback, or other information regarding the Software ("Submissions") provided by you to us are non-confidential and shall become our sole property. We shall own exclusive rights, including all intellectual property rights, and shall be entitled to the unrestricted use and dissemination of these Submissions for any lawful purpose, commercial or otherwise, without acknowledgment or compensation to you. You hereby waive all moral rights to any such Submissions, and you hereby warrant that any such Submissions are original with you or that you have the right to submit such Submissions. You agree there shall be no recourse against us for any alleged or actual infringement or misappropriation of any proprietary right in your Submissions.

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Our Software may offer in-app purchases. Even though our Software offers In-App Purchases, in a limited timeframe, you can play and access all levels of the Software without making any In-App Purchases by using real money. Limited timeframe is set by us.

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ALL PURCHASES ARE FINAL. YOU HEREBY ACKNOWLEDGE THAT WE ARE NOT REQUIRED TO PROVIDE A REFUND FOR ANY REASON, AND THAT YOU WILL NOT RECEIVE MONEY OR OTHER COMPENSATION FOR UNUSED VIRTUAL ITEMS/SUBSCRIPTIONS WHEN AN ACCOUNT IS CLOSED, WHETHER SUCH CLOSURE WAS VOLUNTARY OR INVOLUNTARY, UNLESS OTHERWISE REQUIRED BY APPLICABLE LAW.

## **SOFTWARE MANAGEMENT**

We reserve the right, but not the obligation, to: (1) monitor the Software for violations of these Terms of Use; (2) take appropriate legal action against anyone who, in our sole discretion, violates the law or these Terms of Use, including without limitation, reporting such user to law enforcement authorities; (3) in our sole discretion and without limitation, refuse, restrict access to, limit the availability of, or disable (to the extent technologically feasible) any of your Contributions or any portion thereof; (4) in our sole discretion and without limitation, notice, or liability, to remove from the Software or otherwise disable all files and content that are excessive in size or are in any way burdensome to our systems; and (5) otherwise manage the Software in a manner designed to protect our rights and property and to facilitate the proper functioning of the Software.

## **USER DATA COLLECTION AND USAGE**

We do not collect classical Personal Data through our Software (such as you name, address, email or phone number) and you can use our Software without providing us with your classical Personal Data. We will receive your classical Personal Data (such as you name, address, email or phone number) only when you contact us directly and will use such Personal Data only to respond to your inquiry.

To facilitate Software support, Software development and improvement as well as other services to you, you agree that we or other third parties may use analytic technologies to collect, use, store and transmit non-personally identifiable technical and related data regarding your device (including unique device ID or UDID), IP address, geolocation, device maker and model, operating system. In addition, we and/or third parties may collect, store, use and transmit non-personally identifiable game play data, session data, carrier information as well as online and Software usage metrics, statistics and/or analytics. The Personal Data collected by third parties will be collected, used, stored, transferred and disclosed pursuant to the third party's Privacy Policy.

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The Software may use the following ad serving services:

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## PRIVACY POLICY

We respect your privacy rights and recognize the importance of protecting any information collected about you. Please review our Privacy Policy [<https://jollybattle.com/docs/privacypolicy.pdf>]. By using the Software, you agree to be bound by our Privacy Policy, which is incorporated into these Terms of Use.

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## **INDEMNIFICATION**

You agree to defend, indemnify, and hold us harmless, including our subsidiaries, affiliates, and all of our respective officers, agents, partners, and employees, from and against any loss, damage, liability, claim, or demand, including reasonable attorneys' fees and expenses, made by any third party due to or arising out of: (1) [your Contributions]; (2) use of the Software; (3) breach of these Terms of Use; (4) any breach of your representations and warranties set forth in these Terms of Use; (5) your violation of the rights of a third party, including but not limited to intellectual property rights; or (6) any overt harmful act toward any other user of the Software with whom you connected via the Software. Notwithstanding the foregoing, 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, at your expense, with our defense of such claims. We will use reasonable efforts to notify you of any such claim, action, or proceeding which is subject to this indemnification upon becoming aware of it.

## **GOVERNING LAW**

This Agreement is governed by, and shall be interpreted, construed and enforced in accordance with, the laws of the state of Florida, without giving effect to any choice of law or conflict of laws provisions that would cause the application of the law of any other State or jurisdiction. The Parties acknowledge and agree that the state of Florida has a substantial relationship to the circumstances, transactions and events giving rise to this Agreement.

## **CHOICE OF FORUM**

The Parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of, and venue in, any state or federal court in City of Miami, Florida (Miami-Dade County) ("a Permitted Court") for the purposes of any legal action or lawsuit arising out of this Agreement or any of the transactions or obligations contemplated thereby, and in each case appropriate appellate courts therefrom. Neither Party shall commence any such legal action or lawsuit in a court other than a Permitted Court. The Parties hereby irrevocably and unconditionally waive any objection that such Party might now have or in the future have, and shall not

plead or claim, that any such legal action or lawsuit brought in a Permitted Court has been brought in an inconvenient forum. The Parties further irrevocably and unconditionally waive any objection to the laying of venue of such legal action or lawsuit in a Permitted Court.

## **CONTACT INFORMATION**

In order to resolve a complaint regarding the Software or to receive further information regarding use of the Software, please contact us at:

Corporate Name: JollyCo LLC

Corporate Address: 601 Heritage Drive, STE 207 Jupiter, FL, 33458-2777

Corporate Phone Number: Tel. 786- 812-1555

Email: [jollybattle.com@gmail.com](mailto:jollybattle.com@gmail.com)