

## DEFCON END USER LICENCE AGREEMENT

Date of Last Revision: 21<sup>st</sup> February 2017

### IMPORTANT NOTICE:

**The following end user licence terms and conditions ("EULA") apply to all use, download, and installation of each version and iteration of our game, DEFCON, as made available by us, Introversion Software Limited.**

THE PURCHASE, DOWNLOAD, INSTALLATION, AND USE OF THE GAME, AND THE USE OF OUR WEBSITE ARE ALSO SUBJECT TO OUR PRIVACY POLICY ("**Privacy Policy**") which you can find here: <http://www.introversion.co.uk/introversion/legal/PrivacyPolicy.pdf> .

YOU SHOULD READ THE FOLLOWING EULA CAREFULLY, BEFORE USING, DOWNLOADING OR INSTALLING THE GAME. ALL USE OF THE GAME IS GOVERNED BY AND CONDITIONAL ON YOUR ACCEPTANCE OF, AND COMPLIANCE WITH, THIS EULA. ANY USE, REPRODUCTION, OR REDISTRIBUTION OF THE GAME THAT IS NOT IN ACCORDANCE WITH THE TERMS OF THIS EULA IS EXPRESSLY PROHIBITED.

IF YOU DO NOT ACCEPT THE TERMS OF THE GAME EULA, YOU MAY NOT USE, DOWNLOAD OR INSTALL THE GAME.

### 1. INTRODUCTION

- 1.1. *DEFCON*, and *DEFCON VR Spectator Mode*, and any accompanying online or electronic documentation (together, the "**Game**") has been produced by and is the property of Introversion Software Limited ("**Introversion**"). Introversion is referred to as "**us**", "**we**", and "**our**" in this EULA. Our office is at Winchester House, 3 Winchester Road, Walton-on-Thames, Surrey KT12 2RH. We are a company registered in England, with company number 04354601.
- 1.2. THE TERMS AND CONDITIONS BELOW SET OUT THE AGREEMENT BETWEEN YOU ("**you**") AND US FOR THE PURCHASE, DOWNLOAD, INSTALLATION AND USE OF THE GAME SO PLEASE READ THIS CAREFULLY.
- 1.3. BY DOWNLOADING AND USING THE GAME YOU ARE AGREEING TO BE BOUND BY AND BECOME A PARTY TO THIS EULA. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS EULA YOU SHOULD NOT PURCHASE, DOWNLOAD OR USE THE GAME.

### 2. OWNERSHIP OF THE GAME AND CONTENT

- 2.1. All right, title, interest and ownership rights and any copyright, design right, database right, patents and any rights to inventions, know-how, trade and business names, trade secrets and trade marks (whether registered or unregistered) and any applications therefor and other intellectual property rights (together "**Intellectual**

**Property Rights**”) in the Game and the Game content, including but not limited to all musical samples, text, software, scripts, code, designs, graphics, photos, sounds, music, videos, applications, interactive features and all other content (“**Content**”) belong to us and/or our licensors. All rights are asserted and reserved, save for those granted under this EULA. The Game or Content may contain licensed materials and our licensors may act to protect their interests in the event of any breach of this EULA.

- 2.2. The Game and Content are protected by copyright law, international copyright treaties and conventions and other laws. All rights are asserted and reserved. The Game may contain certain licensed materials and our licensors may act to protect their rights in the event of any breach of this EULA. All trade marks are the property of their respective owners.

### **3. LIMITED USE LICENCE**

- 3.1. You are not sold the Game or any Content but, subject to your compliance with all conditions of this EULA, we grant you a non-exclusive, personal, revocable, non-transferable licence to download, install, and use the Game and Content for your personal, non-commercial use on devices or consoles which you own or control and which have the necessary specifications to run and operate the Game.
- 3.2. The Game and Content are licensed to you in accordance with paragraph 3.1 above. It is not sold to you, and your licence confers no title or ownership in the Game.

### **4. YOUR USE OF THE GAME**

By downloading and installing the Game, you confirm that you are either over 18 years of age or, if you are under 18 years old, that you are 13 years of age or older and you have obtained your parent or guardian’s consent to download, install and use the Game subject to this EULA which they have read and explained to you.

### **5. SYSTEM REQUIREMENTS**

- 5.1. This Game has been developed to work on the latest version of the PC, Mac, Linux, Nintendo DS, and Xbox platforms at the time of its release. To the extent that the Game offers VR functionality, it has been developed for use on the following VR platforms: (i) Oculus Rift; and (ii) HTC Vive (together the “**VR Platforms**”). Before purchasing the Game, please ensure that your computer and/or device: (i) has sufficient memory to play and store the Game and otherwise meets such other system requirements as are specified by us in connection with the Game; and (ii) is compatible with any VR Platform with which you intend to use the Game.
- 5.2. Microsoft, Apple and Nintendo vendors may from time to time update their software, and we will endeavour, but not be obligated, to update the Game if necessary to ensure that its functionality and performance continue with any updated release.
- 5.3. It is your obligation to ensure that you are using the latest compatible public release of any platform operating system.

5.4. You will require an internet connection, which you must procure at your own expense, to use the Online Service (defined in clause 6.3 below).

## **6. ONLINE SERVICE**

6.1. We may, but shall not be obliged to, provide and maintain certain online functionality, online network play connectivity and interactivity, and other online features relating to the Game ("**Online Service**") subject to the terms and conditions of this EULA. In connection therewith the following additional terms in this clause 6 shall apply.

6.2. The Online Service is for personal use only, on an "as is" basis and all use must be in accordance with the terms of this EULA.

6.3. Where indicated to you before you purchase the Game, we will use reasonable efforts to make the Online Service available for 6 months from the date on which you purchase the Game, subject as set out in this EULA. We warrant only that the Online Service, when made available by us, shall be of satisfactory quality, as described, and fit for purpose.

6.4. To access the Online Service you shall require a digital key that we shall provide to you on your purchase of the Game. Any such digital key is provided for personal use only on an "as is" basis. Where you are having issues with any such key please contact us at [support@introversion.co.uk](mailto:support@introversion.co.uk).

6.5. We will not be liable in any amount for failure to perform any obligation under this EULA if such failure is caused by the occurrence of any unforeseen contingency beyond its reasonable control including without limitation internet outages, communications outages, fire, flood, war, or acts of God.

6.6. Except as expressly provided above there are no other warranties, conditions, or other terms, express or implied, statutory or otherwise, and all such terms are hereby excluded to the maximum extent permitted by law, and subject to your mandatory consumer rights.

6.7. To the maximum extent permitted by law, and save as expressly provided in this EULA. We give no warranty in connection with the Online Service and exclude liability for any loss or damage of any kind howsoever arising, including without limitation any direct, indirect, punitive, or consequential loss whether or not such arises out of any problem you notify to us and we shall have no liability to pay any money by way of compensation, including without limitation all liability in relation to:

6.7.1. the availability of the Online Service;

6.7.2. any incorrect or inaccurate information on the Online Service and all errors, interruptions to or delays in updating the Online Service;

6.7.3. the infringement by any person of any Intellectual Property Rights of any third party caused by their use of the Online Service;

- 6.7.4. any amount or kind of loss or damage due to viruses or other malicious software that may infect a user's computer equipment, software, data or other property caused by persons accessing, using or downloading the Online Service (save to the extent that damage to your device or other digital content which you own is caused by the Online Service as a result of our failure to use reasonable care and skill in which case you may be entitled to compensation or we may be obliged to repair your device;
- 6.7.5. the availability, quality, content or nature of the other site on the internet that are owned and operated by third parties ("**External Sites**") to which the Online Service links and web sites located on or through any External Site, not for any transactions involving External Sites, not for any transactions involving External Sites (including as to "cookies", personal data, confidential information, or purchases of domain names or other services). You should contract the site administrator or webmaster for those External Sites if you have any concerns regarding such links, websites, or transactions;
- 6.7.6. all representations warranties, conditions, and other terms which but for this notice would have effect.
- 6.8. We do not warrant that the operation of the Online Service will be uninterrupted or error free or that any error or interruption can or will be corrected.
- 6.9. We cannot guarantee that the Online Service or a particular part of the Online Service or any Contributions (as defined in clause 7.1) will always be available.

## **7. COMMUNICATIONS**

- 7.1. The Game may allow you and other users of the Game to send communications to us or third parties or contribute content of your own for use in the Game or otherwise by us or third parties (each a "**Contribution**").
- 7.2. To the extent that such Contributions are permitted by the Game, it is an information and entertainment service and ancillary to this we are involved in the transmission, storage, retrieval, hosting, formatting or translation of third party communications without selection or alteration of the content of the communication, for which the Game is a mere conduit.
- 7.3. By installing and using the Game you agree that we have no responsibility to review the content of any Contributions and that all Contributions are made available on the basis that we are not required to and do not exercise any control or judgement in respect of their content. For the avoidance of doubt the views expressed in any Contributions are the views of the individual authors and not those of us expressly specified otherwise by us.
- 7.4. We shall be entitled to remove, restrict, suspend or alter any user account and any Contribution (and the ability to share or create Contributions) for any reason in our discretion including, without limitation, because conduct or content associated with such account or Contributions might be unacceptable as described in this EULA.

- 7.5. You agree we may use, publish, edit, modify and adapt Contributions you make available, or post to or transmit to the Game ("**Your Contributions**") for any reason in our discretion including, without limitation, because conduct or content associated with such account or Contributions might be unacceptable as described in this EULA.
- 7.6. To the extent that Your Contributions are derived from the Game or material provided by us you hereby assign to us all Intellectual Property Rights subsisting in Your Contributions which are owned by you.
- 7.7. You agree and undertake that you are entitled to make available, or post to or transmit to the Game Your Contributions and to grant us those rights set out in clause 7.5, and will not make available, or post to or transmit to the Game any statement, material or other Contributions, not use the Game in any way that:
  - 7.7.1. is abusive, seditious, pornographic, aggressive, homophobic, defamatory, libellous, untrue, hateful, discriminatory, obscene, inflammatory or racist;
  - 7.7.2. harasses, bullies or intimidates any person or obscures or impedes other users' ability to communicate or read conversations (this includes the use of any macros/SPAM to either the general playerbase or a single individual to disrupt chat);
  - 7.7.3. involves exploitative behaviour, through but not limited to, third party programs, bots, scripts or other means which are reasonably prohibited by us from time to time, or which take advantage of bugs, unintended errors, or features that have not been documented, to access restricted parts of the Game or gain an unfair edge over other players or which otherwise constitutes activity which we reasonably deem against the "spirit" of the Game;
  - 7.7.4. encourages any violation of this EULA or of a third party service provider's terms of service;
  - 7.7.5. is unlawful, malicious, misleading (including impersonation), discriminatory or which gives rise to civil or criminal liability or which might call us or the Game into disrepute;
  - 7.7.6. infringes upon the intellectual property or other rights of any third party or facilitates or encourages such infringement or entails the distribution of any player's personal information (other than your own, as a private message);
  - 7.7.7. is technically harmful such as the introduction of computer viruses, worms, logic bombs or other malicious software or harmful data, or otherwise attempts to or actually does modify or interfere with the Game or overburden or disrupt any computer or server used by the Game;
  - 7.7.8. may be deemed a marketing or commercial communication;

- 7.7.9. promotes any illegal or unlawful activity including but not limited to solicitation, gambling or the sale of prescription medicines;
- 7.7.10. is aimed at persons under the age of 18 or which seeks or attempts to make any arrangement to meet a person under the age of 18;
- 7.7.11. contains any restricted material, including but not limited to passwords, medical information or confidential information of any person;
- 7.7.12. constitutes, in our reasonable opinion, cheating or misuse of the Game, or an attempt to gain unauthorised access to the Game or parts thereof, or to the accounts of other users or networks or devices; or
- 7.7.13. solicits, invites, encourages, advocates, incites or provokes any or all of the foregoing.

## **8. RESTRICTIONS**

- 8.1. You may only use the Game for your personal, private, and non-commercial use.
- 8.2. You are not entitled to and must not:
  - 8.2.1. sell, distribute, reproduce, transfer, publically display, translate, modify (except for Permitted Modding – defined below), adapt, create derivative works from, deconstruct, reverse engineer, decompile or disassemble, rent, lease, loan, sub-license or otherwise deal in copies or reproductions of the Game to other parties in any way except as permitted by this EULA;
  - 8.2.2. remove, delete, obscure, disable, modify, add to, tamper with, or circumvent any program code or data, copyright, trade mark, or other proprietary notices, labels or copy protection software contained on or within the Game or Content;
  - 8.2.3. exploit the Game, Content, or any of its parts thereof for any commercial purpose including, but not limited to, using the Game for any illegal or immoral purposes;
  - 8.2.4. export OR re-export the Game or any copy or adaptation in violation of any applicable laws or regulations;
  - 8.2.5. CREATE data or executable programs which mimic data or functionality in the Game except in the case of Permitted Modding;
  - 8.2.6. REMOVE, disable or circumvent any copy protection software contained on or within the Game or Content; and
  - 8.2.7. USE the Game or Content for any illegal or immoral purposes.

- 8.3. Notwithstanding paragraph 8.2 above you may reverse engineer, decompile or disassemble the Game only insofar as you are entitled to do so by the Copyright, Designs and Patents Act 1988 or other applicable law.
- 8.4. All works or copies of works arising from activities permitted by paragraph 8.3 shall belong to, vest in and be the exclusive property of us upon creation, and you shall permanently delete all such works in your possession or control immediately once you have concluded those activities.

## **9. MODDING**

- 9.1. "**Modding**" means any adaptation, modification distribution, copying, translation, porting, or making available of any works which derive from or incorporate any part of the Game, including the Source Code. For the avoidance of doubt, Modding does not include your own personal use of a Game which you have purchased from us or our distributors in compliance with any licence terms applicable to use of that Game.
- 9.2. "**Mods**" means the product and/or result of any Modding.
- 9.3. "**Source Code**" means the source code, design and associated preliminary materials, object code, file formats and specifications, build and compilation scripts and instructions, databases, configuration data, audio, video, literal and other media and materials, including accompanying documentation relating to or comprising the Games which is owned by us or our licensors.
- 9.4. We allow you to carry out Modding to the Game and/or Source Code for the purpose of making Mods provided you don't sell them for money or try to make money from them.
- 9.5. MODDING AND MODS ARE SUBJECT TO OUR DEVELOPER LICENCE AGREEMENT WHICH YOU CAN ACCESS [\[\[HERE\]\]](#). BEFORE MAKING ANY MODS PLEASE READ THE DEVELOPER LICENCE AGREEMENT AND ENSURE THAT YOU AGREE WITH ITS TERMS. IF YOU DO NOT ACCEPT THE TERMS OF THE DEVELOPER LICENCE AGREEMENT YOU MAY NOT MOD THE GAME AND/OR OUR SOURCE CODE.

## **10. LIMITED WARRANTY AND LIABILITY**

- 10.1. THE GAME IS PROVIDED 'AS IS' AND ON AN 'AS AVAILABLE' BASIS WITHOUT ANY REPRESENTATION, ENDORSEMENT OR WARRANTY OF ANY KIND OTHER THAN THAT IT WILL BE OF SATISFACTORY QUALITY, AS DESCRIBED, AND FIT FOR PURPOSE.
- 10.2. WE DO NOT GUARANTEE THAT THE GAME WILL BE:
  - 10.2.1. FREE OF ERRORS, VIRUSES OR BUGS OR OTHER DEFECTS;
  - 10.2.2. THAT THE GAME OR ANY INFORMATION DISPLAYED OR DISTRIBUTED THROUGH THE GAME OR IN THE ACCOMPANYING DOCUMENTATION WILL BE ACCURATE OR COMPLETE;

10.2.3. THAT ANY DEFECTS IN THE GAME WILL BE CORRECTED; OR

10.2.4. THAT OPERATION OF THE GAME WILL BE UNINTERRUPTED.

10.3. YOU ACKNOWLEDGE THAT USE OF THE GAME OR RELIANCE ON ANY SUCH INFORMATION SHALL BE AT YOUR SOLE RISK.

10.4. NOTHING IN THIS EULA SHALL EXCLUDE OR LIMIT OUR LIABILITY FOR FRAUDULENT MISREPRESENTATIONS OR FOR DEATH OR PERSONAL INJURY RESULTING FROM OUR NEGLIGENCE OR THAT OF OUR EMPLOYEES OR AGENTS.

10.5. TO THE FULLEST EXTENT PERMISSABLE BY LAW, INCLUDING IN YOUR LOCAL JURISDICTION, WE EXCLUDE ALL OTHER LIABILITY FOR ANY LOSS OR DAMAGE, INCLUDING ANY LIABILITY OR DAMAGE TO ANY DEVICE OR COMPUTER SYSTEM (SAVE TO THE EXTENT THAT DAMAGE TO YOUR DEVICE OR OTHER DIGITAL CONTENT WHICH YOU OWN IS CAUSED BY THE GAME AS A RESULT OF OUR FAILURE TO USE REASONABLE CARE AND SKILL IN WHICH CASE YOU MAY BE ENTITLED TO COMPENSATION OR WE MAY BE OBLIGED TO REPAIR YOUR DEVICE).

10.6. NOTHING IN THIS EULA SHALL LIMIT YOUR STATUTORY CONSUMER RIGHTS.

10.7. You should back-up to another secure location, on a regular basis, any data files concerning your use of the Game as we accept no liability for lost or corrupted data.

## **11. INDEMNITY**

11.1. You must adhere to the terms of this EULA and not do anything that infringes the rights of anyone else or do anything in breach of this EULA which may give a person a claim against us.

11.2. If you breach the EULA, and we get challenged, threatened or sued by someone because of it, we may hold you responsible and that means you may have to pay us back for any damage we suffer as a result. Therefore it's important that you comply with this EULA.

11.3. You further agree that we would be irreparably damaged if the terms of the EULA were not specifically enforced, and therefore you agree that we shall be entitled, without bond, other security, or proof of damages, to appropriate equitable remedies with respect to breaches of the EULA, in addition to such other remedies as we may otherwise have available to it under applicable laws.

11.4. Our licensors shall be third-party beneficiaries under this EULA and shall have the express right to enforce its provisions and to enjoy the benefits of its protections.

## **12. TERM AND TERMINATION**

12.1. This EULA, and any licence granted by it, is effective upon your download, installation, and/or use of the Game and remains effective until terminated by either of us.

12.2. You may terminate the EULA at any time by deleting and removing all copies of the Game from your devices on which you have installed it, and destroying your copy of the Game in your possession.

12.3. The EULA and any licence granted by it will terminate automatically if you fail to abide by any term or condition of this EULA. In that event we may, at our discretion, give you notice of termination of this EULA and any licence granted by it. Upon such notice you must cease all use of the Game and immediately delete and erase all copies of the Game and all and any copies in your possession or control and stored on any media whatsoever, and on our request certify that you have done so.

12.4. The following clauses of this EULA shall survive termination: Clause 2 (Ownership of the Game and Content); Clause 10 (Limited Warranty and Liability); Clause 11 (Indemnity); Clause 12 (Term and Termination); and Clause 15 (General).

### **13. DATA COLLECTION AND FEEDBACK**

13.1. THE PURCHASE, DOWNLOAD, INSTALLATION, AND USE OF THE GAME, AND THE USE OF OUR WEBSITE ARE ALSO SUBJECT TO OUR PRIVACY POLICY: <http://www.introversion.co.uk/introversion/legal/Introversion%20Software%20Ltd%20-%20Privacy%20Policy%202017.pdf> ("**Privacy Policy**").

13.2. The Game includes automatic feedback software which, when installed on your computer, may collect and send data to and from us concerning your use of the Game including, without limitation:

13.2.1. your computer's specification and IP address;

13.2.2. any bugs, errors or defects in the operation of the game which are detected;

13.2.3. feedback on your use of the game; and

13.2.4. the performance of the game on your computer.

13.3. If you do not want your computer to send this data to us please do not use the Game whilst connected to the Internet.

### **14. HEALTH AND SAFETY AND PRECAUTIONS**

The Game may contain flashing lights, realistic images and simulations. Please consult the relevant health and safety precautions, and operating instructions, for the applicable platform (including any relevant VR Platform) before downloading, installing, and playing the Game.

#### **PLEASE READ THIS NOTICE BEFORE YOU USE THE GAME**

Some people experience side effects such as motion sickness, epileptic seizures, momentary loss of consciousness dizziness, motion sickness or nausea when viewing certain types of flashing light or pattern including when using VR equipment and viewing

VR content. This may happen where a person has not previously suffered in this way and have no known symptoms or history of such side effects. If you or anyone considering using the Game, including without limitation our VR play DEFCON VR Spectator Mode, suffers in this way, has a condition which makes this possible or has experienced similar symptoms, please consult a doctor before using the Game. If you or they are already using the Game please stop and consult a doctor.

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

### **PLEASE FOLLOW THESE PRECAUTIONS WHENEVER USING THE GAME:**

#### PLEASE DO:

- ALWAYS READ THE RELEVANT HEALTH AND SAFETY INFORMATION AND OPERATING INSTRUCTIONS FOR THE APPLICABLE PLATFORM BEFORE USING THE GAME AND BEFORE USING VR EQUIPMENT;
- Only play the Game in a safe environment; and
- Be aware of your surroundings before playing the game or using the VR Platforms.

#### PLEASE DO NOT:

- use a VR headset and/or VR hardware, the VR Platforms, or play the Game if you are sick, sleep, or feel tired, fatigue or discomfort, under the influence of alcohol or drugs, or hung-over;
- use the VR Platforms, VR equipment and/or play the Game while in a moving vehicle such as a car, bus, or train;
- play the Game or use VR hardware for too long at any one time, please follow all guidance applicable to or accompanying the platform you use in respect of playing time and take a 10 to 15 minute break every 30 minutes.

### **NOTICE TO PARENTS AND CARERS:**

The platforms (including VR Platforms) with which the Game is compatible may be accompanied by information and guidance regarding the use of that platform by children. Some platforms recommend that children under 13 years of age avoid using them. Please consult the terms of use, operating instructions, and health and safety precautions for the relevant platform before allowing your child to play the Game and/or use VR equipment.

THE GAME, INCLUDING DEFCON VR SPECTATOR MODE, CONTAINS AGE APPROPRIATE CONTENT AND ITS CONTENTS MAY NOT BE SUITABLE FOR CHILDREN UNDER 18 YEARS OF AGE. PLEASE CHECK THE RELEVANT AGE RATING BEFORE YOU PURCHASE, INSTALL OR USE THE GAME.

Please observe children whilst they play the Game or use the VR Platforms, and/or VR equipment. Please ensure that you and they follow the precautions described above and in the health and safety warnings for the relevant platform. If your child experiences dizziness, altered vision, eye or muscle twitching, involuntary movements, loss of awareness, disorientation, or convulsions or any other side effects PLEASE STOP ALL USE IMMEDIATELY and consult a doctor.

Prolonged use of the Game, VR Platforms and VR equipment should be avoided. Please ensure that children take regular breaks from using VR equipment, and monitor children closely during and after use of VR equipment for any negative effects.

## **15. GENERAL**

- 15.1. In the event that any provision of the EULA shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this EULA shall remain in full force and effect.
- 15.2. Subject to your local consumer laws: (i) in the event of any dispute between you and us regarding this EULA and/or your use of the Game, the laws of England and Wales will apply; and (ii) you agree that in the event that we are unable to settle any dispute with you informally, then any court or arbitration proceedings shall be held in England only.
- 15.3. Alternative dispute resolution is a process where an independent body considers the facts of a dispute and seeks to resolve it, without you having to go to court. If you are not happy with how we have handled any complaint, you may want to consider an alternative dispute resolution provider. In addition, please note that disputes may be submitted for online resolution to the [European Commission Online Dispute Resolution](#) platform.
- 15.4. The terms of the EULA are personal to you and you are not permitted to assign, sub-license, transfer, or dispose of your rights or obligations under the EULA.
- 15.5. The Game may not be re-exported, downloaded or otherwise exported into (or to a national or resident of) any country to which this country has an embargo in force.

### **INTROVERSION SOFTWARE LIMITED**

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