As filed with the Securities and Exchange Commission on January 14, 2003.
Registration No. 333-101271

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

AMENDMENT NO. 1 TO

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ACTIVISION, INC.
(Exact name of registrant as specified in its charter)

Delaware	95-4803544
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

3100 Ocean Park Boulevard
Santa Monica, California 90405
(310) 255-2000
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Ronald Doornink
President
Activision, Inc.
3100 Ocean Park Boulevard
Santa Monica, California 90405
(310) 255-2000
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies To:
Bryan Cave LLP
1290 Avenue of the Americas
New York, New York 10104
Attention: Kenneth L. Henderson, Esq.

Approximate date of commencement of proposed sale to the public:
From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box: [ ]

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box: [X]

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: [ ]

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering: [ ]

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box: [ ]

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a),

may determine.

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SUBJECT TO COMPLETION
PRELIMINARY PROSPECTUS DATED JANUARY 14, 2003

110,391 Shares

ACTIVISION, INC.

Common Stock

_____

The stockholders of Activision, Inc. listed in this prospectus under the section entitled "Selling Stockholders" are offering and selling up to 110,391 shares of our common stock under this prospectus. The shares of common stock being offered hereby were issued by us to the shareholders of Luxoflux Corporation, a California based console software development company, in connection with our acquisition of Luxoflux Corporation on October 4, 2002.

We will not receive any of the proceeds from the sale of shares being offered by the selling stockholders.

Our common stock is traded on the Nasdaq National Market under the symbol "ATVI." On January 10, 2003, the closing sale price of our common stock as reported by Nasdaq was $15.06 per share.

Our principal executive offices are located at 3100 Ocean Park Boulevard, Santa Monica, California 90405, and our telephone number is (310) 255-2000.

No underwriting is being used in connection with this offering of common stock. The shares of common stock are being offered without underwriting discounts. The expenses of this registration will be paid by us. Normal brokerage commissions, discounts and fees will be payable by the selling stockholders.

Investing in our common stock involves risks that are described in the "Risk Factors" section beginning on page 3 of this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The information in this prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

The date of this Prospectus is _____, 2003.

TABLE OF CONTENTS

You should rely only on the information contained or incorporated by reference in this prospectus. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. These securities are not being offered for sale in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus is accurate only as of the date on the front cover of this prospectus. Our business, financial condition, results of operations and prospects may have changed since that date.

Information contained in our web site does not constitute part of this document.

FORWARD LOOKING STATEMENTS

We make statements in this prospectus and the documents incorporated by reference that are considered forward looking statements under the federal securities laws. Such forward looking statements are based on the beliefs of our management as well as assumptions made by and information currently available to them. The words "anticipate," "believe," "may," "estimate," "expect," and similar expressions, and variations of such terms or the negative of such terms, are intended to identify such forward looking statements.

All forward looking statements are subject to certain risks, uncertainties and assumptions. If one or more of these risks or uncertainties materialize, or if underlying assumptions prove incorrect, our actual results, performance or achievements could differ materially from those expressed in, or implied by, any such forward looking statements. Important factors that could cause or contribute to such difference include those discussed under "Risk Factors" in this prospectus and under "Business-Factors Affecting Future Performance" in our Annual Report on Form 10 K for the fiscal year ended March 31, 2002. You should not place undue reliance on such forward looking statements, which speak only as of their dates. We do not undertake any obligation to update or revise any forward looking statements, whether as a result of new information, future events or otherwise. You should carefully consider the information set forth under the heading "Risk Factors."

RISK FACTORS

You should carefully consider the risks described below before investing in our common stock. The occurrence of any of the following risks could harm our business and our prospects. In that event, our business may be negatively affected, the price of our stock may decline and you may lose part or all of your investment.

We depend on a relatively small number of brands for a significant portion of our revenues and profits.

A significant portion of our revenues are derived from products based on a relatively small number of popular brands each year. In addition, many of these products have substantial production or acquisition costs and marketing budgets. In fiscal 2002, 50% of our worldwide net publishing revenues (35% of consolidated net revenues) was derived from two brands, one of which accounted for 44% and the other of which accounted for 6% of worldwide net publishing revenues (31% and 4%, respectively, of consolidated net revenues). In fiscal 2001, two brands accounted for 49% of our worldwide net publishing revenues (37% of consolidated net revenues), one of which accounted for 39% and the other of which accounted for 10% of worldwide net publishing revenues (29% and 8%, respectively, of consolidated net revenues). We expect that a limited number of popular brands will continue to produce a disproportionately large amount of our revenues. Due to this dependence on a limited number of brands, the failure of one or more products based on these brands to achieve anticipated results may significantly harm our business and financial results.

Our future success depends on our ability to release popular products.

The life of any one game product is relatively short, in many cases less than one year. It is therefore important for us to be able to continue to develop many high quality new products that are popularly received. If we are unable to do this, our business and financial results may be negatively

affected.

We focus our development and publishing activities principally on products that are, or have the potential to become, franchise brand properties. Many of these products are based on intellectual property and other character or story rights acquired or licensed from third parties. These license and distribution agreements are limited in scope and time, and we may not be able to renew key licenses when they expire or to include new products in existing licenses. The loss of a significant number of our intellectual property licenses or of our relationships with licensors could have a material adverse effect on our ability to develop new products and therefore on our business and financial results.

Transitions in console platforms have a material impact on the market for interactive entertainment software.

When new console platforms are announced or introduced into the market, consumers typically reduce their purchases of game console entertainment software products for current console platforms in anticipation of new platforms becoming available. During these periods, sales of our game console entertainment software products can be expected to slow down or even decline until new platforms have been introduced and have achieved wide consumer acceptance. Each of the three current principal hardware producers launched a new platform in recent years. Sony made the first shipments of its PlayStation 2 console system in North America and Europe in the fourth quarter of calendar year 2000. Microsoft made the first shipments of its Xbox console system in North America in November 2001 and in Europe and Japan in the first quarter of calendar 2002. Nintendo made the first shipments of its Nintendo GameCube console system in North America in November 2001 and in Europe in May 2002. Additionally, in June 2001, Nintendo launched its Game Boy Advance hand held device. We believe the

next hardware transition cycle will occur in 2005. Delays in the launch, shortages, technical problems or lack of consumer acceptance of these platforms could adversely affect our sales of products for these platforms.

We must make significant expenditures to develop products for new platforms which may not be successful or released when anticipated.

The interactive entertainment software industry is subject to rapid technological change. New technologies could render our current products or products in development obsolete or unmarketable. We must continually anticipate and assess the emergence and market acceptance of new interactive entertainment software platforms well in advance of the time the platform is introduced to consumers. New platforms have historically required the development of new software and also have the effect of undermining demand for products based on older technologies. Because product development cycles are difficult to predict, we must make substantial product development and other investments in a particular platform well in advance of introduction of the platform. If the platforms for which we develop new software products or modify existing products are not released on a timely basis or do not attain significant market penetration, or if we develop products for a delayed or unsuccessful platform, we may not be able to recover in revenues our development costs which could be significant and our business and financial results could be significantly harmed. An announcement by Sega Corporation in calendar 2001 that it was discontinuing its Dreamcast platform shows that even experienced hardware manufacturers are not immune to failure.

We are exposed to seasonality in the purchases of our products.

The interactive entertainment software industry is highly seasonal, with the highest levels of consumer demand occurring during the year-end holiday buying season. As a result, our net revenues, gross profits and operating income have historically been highest during the second half of the year. Additionally, in a platform transition period, sales of game console software products can be significantly affected by the timeliness of introduction of game console platforms by the manufacturers of those platforms, such as Sony, Microsoft and Nintendo. The timing of hardware platform introduction is also often tied to holidays and is not within our control. Further, delays in development, licensor approvals or manufacturing can also affect the timing of the release of our products, causing us to miss key selling periods such as the year-end holiday buying season.

We depend on skilled personnel.

Our success depends to a significant extent on our ability to identify, hire and retain skilled personnel. The software industry is characterized by a high level of employee mobility and aggressive recruiting among competitors for personnel with technical, marketing, sales, product development and management skills. We may not be able to attract and retain skilled personnel or may incur

significant costs in order to do so. If we are unable to attract additional qualified employees or retain the services of key personnel, our business and financial results could be negatively impacted.

We depend on Sony, Nintendo and Microsoft for the manufacture and approval of products that we develop for their hardware platforms.

Generally, when we develop interactive entertainment software products for hardware platforms offered by Sony, Nintendo or Microsoft, the products are manufactured exclusively by that hardware manufacturer. Our hardware platform licenses with Sony, Nintendo and Microsoft provide that the manufacturer may change prices for the manufacturing of products.

In addition, these agreements include other provisions such as approval rights of all products and related promotional materials that give the manufacturer substantial control over our costs and the release of new titles. Since each of the manufacturers is also a publisher of games for its own hardware platforms and manufactures products for all of its other licensees, a manufacturer may give priority to its own products or those of our competitors in the event of insufficient manufacturing capacity. Our business and financial results could be materially harmed by unanticipated delays in the manufacturing and delivery of our products by Sony, Nintendo and Microsoft. In addition, our business and financial results could be materially harmed if Sony, Nintendo or Microsoft used their rights under these agreements to delay the manufacture or delivery of our products, limit the costs recoverable by us to manufacture software for their consoles, or elect to manufacture software themselves or use developers other than us.

If our products contain defects, our business could be harmed significantly.

Software products as complex as the ones we publish may contain undetected errors when first introduced or when new versions are released. We cannot assure you that, despite extensive testing prior to release, errors will not be found in new products or releases after shipment, resulting in loss of or delay in market acceptance. This loss or delay could significantly harm our business and financial results.

Inadequate intellectual property protections could prevent us from enforcing or defending our proprietary technology.

We regard our software as proprietary and rely on a combination of copyright, trademark and trade secret laws, employee and third party nondisclosure agreements and other methods to protect our proprietary rights. We own or license various copyrights and trademarks. While we provide "shrinkwrap" license agreements or limitations on use with our software, it is uncertain to what extent these agreements and limitations are enforceable. We are aware that some unauthorized copying occurs within the computer software industry, and if a significantly greater amount of unauthorized copying of our interactive entertainment software products were to occur, it could cause material harm to our business and financial results.

Policing unauthorized use of our products is difficult, and software piracy can be a persistent problem, especially in some international markets. Further, the laws of some countries where our products are or may be distributed either do not protect our products and intellectual property rights to the same extent as the laws of the United States, or are poorly enforced. Legal protection of our rights may be ineffective in such countries, and as we leverage our software products using emerging technologies such as the Internet and online services, our ability to protect our intellectual property rights and to avoid infringing intellectual property rights of others may diminish. We cannot assure you that existing intellectual property laws will provide adequate protection for our products in connection with these emerging technologies.

We may be subject to intellectual property claims.

As the number of interactive entertainment software products increases and the features and content of these products continue to overlap, software developers increasingly may become subject to infringement claims. Many of our products are highly realistic and feature materials that are based on real world examples, which may inadvertently infringe upon the intellectual property rights of others. Although we believe that we make reasonable efforts to ensure that our products do not violate the intellectual property rights of others, it is possible that third parties still may claim infringement. From time to time, we receive communications from third parties regarding such claims. Existing or future infringement claims against us, whether valid or not, may be time consuming and expensive to defend.

Intellectual property litigation or claims could force us to do one or more of the following:

- Cease selling, incorporating or using products or services that incorporate the challenged intellectual property;
- Obtain a license from the holder of the infringed intellectual property, which if available at all, may not be available on commercially favorable terms; or
- Redesign our interactive entertainment software products, which could cause us to incur additional costs, delay introduction and possibly reduce commercial appeal of our products.

Any of these actions may cause material harm to our business and financial results.

We rely on independent third parties to develop some of our software products.

We often rely on independent third party interactive entertainment software developers to develop some of our software products. Since we depend on these developers in the aggregate, we remain subject to the following risks:

- Continuing strong demand for developers' resources, combined with recognition they receive in connection with their work, may cause developers who worked for us in the past to either work for our competitors in the future or to renegotiate our agreements with them on terms less favorable for us.
- Limited financial resources and business expertise and inability to retain skilled personnel may force developers out of business prior to completing our products or require us to fund additional costs.
- Our competitors may acquire the businesses of key developers or sign them to exclusive development arrangements. In either case, we would not be able to engage such developers' services for our products.

Increased competition for skilled third party software developers also has compelled us to agree to make significant advance payments on royalties to game developers. If the products subject to these arrangements do not generate sufficient revenues to recover these royalty advances, we would have to write-off unrecovered portions of these payments, which could cause material harm to our business and financial results. In a few cases, we also agree to pay developers fixed per unit product royalties after royalty advances are fully recouped. To the extent that sales prices of products on which we have agreed to pay a fixed per unit royalty are marked down, our profitability could be adversely affected.

We operate in a highly competitive industry.

The interactive entertainment software industry is intensely competitive and new interactive entertainment software products and platforms are regularly introduced. Our competitors vary in size from small companies to very large corporations with significantly greater financial, marketing and product development resources than we have. Due to these greater resources, certain of our competitors can undertake more extensive marketing campaigns, adopt more aggressive pricing policies, pay higher fees to licensors for desirable motion picture, television, sports and character properties and pay more to third party software developers than we can. We believe that the main competitive factors in the interactive entertainment software industry include: product features; brand name recognition; compatibility of products with popular platforms; access to distribution channels; quality of products; ease of use; price; marketing support; and quality of customer service.

We compete primarily with other publishers of personal computer and video game console interactive entertainment software. Significant third party software competitors currently include, among others: Acclaim Entertainment, Inc.; Capcom Co. Ltd.; Eidos PLC; Electronic Arts Inc.; Infogrames SA; Konami Company Ltd.; Namco Ltd.; Midway Games, Inc.; Sega Enterprises, Ltd.; Take-Two Interactive Software, Inc.; THQ Inc. and Vivendi Universal Publishing. In addition, integrated video game console hardware and software companies such as Sony Computer Entertainment, Nintendo Co. Ltd. and Microsoft Corporation compete directly with us in the development of software titles for their respective platforms.

We also compete with other forms of entertainment and leisure activities. For example, we believe that the overall growth in the use of the Internet and online services by consumers may pose a competitive threat if customers and potential customers spend less of their available time using interactive

entertainment software and more using the Internet and online services.

We may face difficulty obtaining access to retail shelf space necessary to market and sell our products effectively.

Retailers of our products typically have a limited amount of shelf space and promotional resources, and there is intense competition among consumer interactive entertainment software products for high quality retail shelf space and promotional support from retailers. To the extent that the number of products and platforms increases, competition for shelf space may intensify and may require us to increase our marketing expenditures. Retailers with limited shelf space typically devote the most and highest quality shelf space to the best selling products. We cannot assure you that our new products will consistently achieve such "best seller" status. Due to increased competition for limited shelf space, retailers and distributors are in an increasingly better position to negotiate favorable terms of sale, including price discounts, price protection, marketing and display fees and product return policies. Our products constitute a relatively small percentage of any retailer's sales volume, and we cannot assure you that retailers will continue to purchase our products or to provide our products with adequate levels of shelf space and promotional support on acceptable terms. A prolonged failure in this regard may significantly harm our business and financial results.

Our sales may decline substantially without warning and in a brief period of time because we generally do not have long-term contracts for the sale of our products.

We currently sell our products directly through our own sales force to mass merchants, warehouse club stores, large computer and software specialty chains and through catalogs, as well as to a limited number of distributors, in the United States and Canada. Outside North America, we sell our products directly to retailers as well as third party distributors in certain territories. Our sales are made primarily on a purchase order basis without long-term agreements or other forms of commitments. The loss of, or significant reduction in sales to, any of our principal retail customers or distributors could significantly harm our business and financial results. Our two largest customers, Wal-Mart Stores, Inc. and Toys "R" Us, Inc., accounted for approximately 14% and 7%, respectively, of our consolidated net revenues for fiscal 2002. Our five largest retailers including Wal-Mart and Toys "R" Us, accounted for approximately 35% of our consolidated net revenues for fiscal 2002. Wal-Mart and Toys "R" Us, accounted for approximately 10% and 9%, respectively, of our consolidated net revenues for fiscal 2001. Our five largest retailers, including Wal-Mart and Toys "R" Us, accounted for approximately 34% of our consolidated net revenues for 2001.

We may permit our customers to return our products and to receive pricing concessions which could reduce our net revenues and results of operations.

We are exposed to the risk of product returns and price protection with respect to our distributors and retailers. Return policies allow select distributors and retailers to return defective, shelf-worn and damaged products in accordance with terms granted. Price protection policies, when granted and applicable, allow customers a credit against amounts they owe us with respect to merchandise unsold by them. We may permit product returns from or grant price protection to our customers under certain conditions. The conditions our customers must meet to be granted the right to return products or price protection are, among other things, compliance with applicable payment terms, delivery to us of weekly inventory and sell-through reports, and consistent participation in the launches of our premium title releases. We may also consider other factors, including the facilitation of slow moving inventory and other market factors. When we offer price protection, we offer it with respect to a particular product to all of our retail customers; however, only those customers who meet the conditions detailed above can avail themselves of such price protection. We also offer a 90-day limited warranty to our end users that our products will be free from manufacturing defects. Although we maintain a reserve for returns and price protection, and although we may place limits on product returns and price protection, we could be forced to accept substantial product returns and provide price protection to maintain our relationships with retailers and our access to distribution channels. Product returns and price protection that exceed our reserves could significantly harm our business and financial results.

We may be burdened with payment defaults and uncollectible accounts if our distributors or retailers cannot honor their credit arrangement with us.

Distributors and retailers in the interactive entertainment software industry have from time to time experienced significant fluctuations in their businesses, and a number of them have failed. The insolvency or business failure of any significant retailer or distributor of our products could materially harm

our business and financial results. We typically make sales to most of our retailers and some distributors on unsecured credit, with terms that vary depending upon the customer's credit history, solvency, credit limits and sales history, as well as whether we can obtain sufficient credit insurance. Although we have insolvency risk insurance to protect against our customers' bankruptcy, insolvency or liquidation, this insurance contains a significant deductible and a co-payment obligation, and the policy does not cover all instances of non-payment. In addition, while we maintain a reserve for uncollectible receivables, the reserve may not be sufficient in every circumstance. As a result, a payment default by a significant customer could significantly harm our business and financial results.

We may not be able to maintain our distribution relationships with key vendors.

Our CD Contact, NBG and CentreSoft subsidiaries distribute interactive entertainment software and hardware products and provide related services in the Benelux territories, Germany and the United Kingdom, respectively, and, via export, in other European territories for a variety of entertainment software publishers, many of which are our competitors, and hardware manufacturers. These services are generally performed under limited term contracts. While we expect to use reasonable efforts to retain these vendors, we may not be successful in this regard. The cancellation or non-renewal of one or more of these contracts could significantly harm our business and financial results. Sony and Nintendo products accounted for approximately 34% and 8%, respectively, of our worldwide net distribution revenues for fiscal 2002.

Our international revenues may be subject to regulatory requirements as well as currency fluctuations.

Our international revenues have accounted for a significant portion of our total revenues. International sales and licensing accounted for 49%, 43% and 51% of our total net revenues in fiscal 2002, 2001 and 2000, respectively. We expect that international revenues will continue to account for a significant portion of our total revenues in the future. International sales may be subject to unexpected regulatory requirements, tariffs and other barriers. Additionally, foreign sales which are made in local currencies may fluctuate. Presently, we engage in limited currency hedging activities. Although exposure to currency fluctuations to date has been insignificant, fluctuations in currency exchange rates may in the future have a material negative impact on revenues from international sales and licensing and thus our business and financial results.

Our software may be subject to governmental restrictions or rating systems.

Legislation is periodically introduced at the local, state and federal levels in the United States and in foreign countries to establish a system for providing consumers with information about graphic violence and sexually explicit material contained in interactive entertainment software products. In addition, many foreign countries have laws that permit governmental entities to censor the content and advertising of interactive entertainment software. We believe that mandatory government-run rating systems eventually may be adopted in many countries that are significant markets or potential markets for our products. We may be required to modify our products or alter our marketing strategies to comply with new regulations, which could delay the release of our products in those countries.

Due to the uncertainties regarding such rating systems, confusion in the marketplace may occur, and we are unable to predict what effect, if any, such rating systems would have on our business. In addition to such regulations, certain retailers have in the past declined to stock some of our products because they believed that the content of the packaging artwork or the products would be offensive to the retailer's customer base. While to date these actions have not caused material harm to our business, we cannot assure you that similar actions by our distributors or retailers in the future would not cause material harm to our business.

Our software may be subject to legal claims.

Within the past three years, two lawsuits, Linda Sanders, et al. v. Meow Media, Inc., et al., United States District Court for the District of Colorado, and Joe James, et al. v. Meow Media, Inc., et al., United States District Court for the Western District of Kentucky, Paducah Division, have been filed against numerous video game companies, including us, by the families of victims who were shot and killed by teenage gunmen in attacks perpetrated at schools. These lawsuits allege that the video game companies manufactured and/or supplied these teenagers with violent video games, teaching them how to use a gun and causing them to act out in a violent manner. Both lawsuits referenced in this paragraph have been dismissed and are currently undergoing various stages of the appeals process. The dismissal of the Joe James lawsuit has been affirmed by the United States Court of Appeals for the Sixth Circuit. While our general liability insurance carrier has agreed to defend us in these lawsuits, it is uncertain whether or not the insurance carrier would cover all or any amounts which we

might be liable for if the lawsuits are not decided in our favor. If either of the lawsuits are ultimately decided against us and our insurance carrier does not cover the amounts we are liable for, it could have a material adverse effect on our business and financial results. It is possible that similar additional lawsuits may be filed in the future. Payment of significant claims by insurance carriers may make such insurance coverage materially more expensive or unavailable in the future, thereby exposing our business to additional risk.

We may face limitations on our ability to integrate additional acquired businesses or to find suitable acquisition opportunities.

We intend to pursue additional acquisitions of companies, properties and other assets that can be purchased or licensed on acceptable terms and which we believe can be operated or exploited profitably. Some of these transactions could be material in size and scope. While we will continually be searching for additional acquisition opportunities, we may not be successful in identifying suitable acquisitions. As the interactive entertainment software industry continues to consolidate, we face significant competition in seeking and consummating acquisition opportunities. We may not be able to consummate potential acquisitions or an acquisition may not enhance our business or may decrease rather than increase our earnings. In the future, we may issue additional shares of our common stock in connection with one or more acquisitions, which may dilute our existing shareholders. Future acquisitions could also divert substantial management time and result in short term reductions in earnings or special transaction or other charges. In addition, we cannot guarantee that we will be able to successfully integrate the businesses that we may acquire into our existing business. Our shareholders may not have the opportunity to review, vote on or evaluate future acquisitions.

Our shareholder rights plan, charter documents and other agreements may make it more difficult to acquire us without the approval of our Board of Directors.

We have adopted a shareholder rights plan under which one right entitling the holder to purchase two three-hundredths of a share of our Series A Junior Preferred Stock price at an exercise price of $40 per share (subject to adjustment) is attached to each outstanding share of common stock. Such shareholder rights plan makes an acquisition of control in a transaction not approved by our Board of Directors more difficult. Our Amended and Restated By-laws have advance notice provisions for nominations for election of nominees to the Board of Directors which may make it more difficult to acquire control of us. Our long-term incentive plans provide in many cases for acceleration of stock options following a change in control, which has the effect of making an acquisition of control more expensive. In addition, some of our officers have severance compensation agreements that provide for substantial cash payments and accelerations of other benefits in the event of a change in control. These agreements and arrangements may also inhibit a change in control and may have a negative effect on the market price of our common stock.

Our stock price is highly volatile.

The trading price of our common stock has been and could continue to be subject to wide fluctuations in response to certain factors, including:

- Quarter to quarter variations in results of operations
- Our announcements of new products
- Our competitors' announcements of new products
- Our product development or release schedule
- General conditions in the computer, software, entertainment, media or electronics industries
- Timing of the introduction of new platforms and delays in the actual release of new platforms
- Changes in earnings estimates or buy/sell recommendations by analysts

- Investor perceptions and expectations regarding our products, plans and strategic position and those of our competitors and customers

In addition, the public stock markets experience extreme price and trading volume volatility, particularly in high technology sectors of the market. This volatility has significantly affected the market prices of securities of many technology companies for reasons often unrelated to the operating performance of the specific companies. These broad market fluctuations may adversely affect the

market price of our common stock.

We do not pay cash dividends on our common stock.

We have not paid any cash dividends on our common stock and do not anticipate paying dividends in the near future.

ACTIVISION, INC.

We are a leading international publisher of interactive entertainment software products. We have built a company with a diverse portfolio of products that spans a wide range of categories and target markets and that is used on a variety of game hardware platforms and operating systems. We have created, licensed and acquired a group of highly recognizable brands which we market to a growing variety of consumer demographics.

Our products cover the action/adventure, action sports, racing, role-playing, simulation, first-person action and strategy game categories. We offer our products in versions which operate on the Sony PlayStation, Sony PlayStation 2, Nintendo 64, Nintendo GameCube and Microsoft Xbox console systems, the Nintendo Game Boy Advance hand held device, as well as on personal computers. Driven partly by the enhanced capabilities of the current generation of platforms, we believe that in the next few years there will be significant growth in the market for interactive entertainment software and we plan to leverage our skills and resources to extend our leading position in the industry.

Our publishing business involves the development, marketing and sale of products, either directly, by license or through our affiliate label program with third party publishers. In addition to publishing, we maintain distribution operations in Europe that provide logistical and sales services to third party publishers of interactive entertainment software, our own publishing operations and manufacturers of interactive entertainment hardware.

Our objective is to be a worldwide leader in the development, publishing and distribution of quality interactive entertainment software products that deliver a highly satisfying consumer entertainment experience. Our strategy includes the following elements:

Create and Maintain Diversity in Product Mix, Platforms and Markets. We believe that maintaining a diversified mix of products can reduce our operating risks and enhance profitability. Therefore, we develop and publish products spanning a wide range of product categories, including action/adventure, action sports, racing, role playing, simulation, first-person action and strategy, and products designed for target audiences ranging from game enthusiasts and children to mass market consumers and "value priced" buyers. Presently, we concentrate on developing, publishing and distributing products that operate on Sony PlayStation 2, Nintendo GameCube and Microsoft Xbox console systems, Nintendo Game Boy Advance hand held device and the personal computer. We typically offer our products for use on multiple platforms in order to reduce the risks associated with any single platform, leverage our costs over a larger installed base and increase unit sales.

Create, Acquire and Maintain Strong Brands. We focus development and publishing activities principally on products that are, or have the potential to become, franchise properties with sustainable consumer appeal and brand recognition. These products can thereby serve as the basis for sequels, prequels and related new products that can be released over an extended period of time. We believe that the publishing and distribution of products based in large part on franchise properties enhances predictability of revenues and the probability of high unit volume sales and operating profits. We have entered into a series of strategic relationships with the owners of intellectual property pursuant to which we have acquired the rights to publish products based on franchises such as Star Trek, various Disney films such as Toy Story 2 and Marvel Comics' properties such as Spider Man, X Men, Blade, Iron Man and Fantastic Four. We have also capitalized on the success of our Tony Hawk's Pro Skater products to sign long term agreements, many of which are exclusive, with numerous other action-sports athletes including superstars Mat Hoffman in BMX biking, Kelly Slater in surfing, Shaun Palmer in snowboarding, Shaun Murray in wakeboarding and Travis Pastrana in motorcross biking and establish the "Activision O2" brand as the dominant brand in the action-sports category.

Enforce Disciplined Product Selection and Development Processes. The success of our publishing business depends, in significant part, on our ability to develop games that will generate high unit volume sales and that can be completed up to our high quality standards. Our publishing units have implemented a formal control process for the selection, development, production and quality assurance of our products. We apply this process, which we refer to as the "Greenlight Process," to products under development with external, as

well as internal resources. The Greenlight Process includes in depth reviews of each project at five intervals during the development process by a team that includes several of our highest ranking operating managers and coordination between our sales and marketing personnel and development staff at each step in the process.

We develop our products using a strategic combination of our internal development resources and external development resources acting under contract with us, some of who are independent and in some of which we have a capital investment. We typically select our external developers based on their track record and expertise in producing products in the same category. One developer will often produce the same game for multiple platforms and will produce sequels to the original game. We believe that this selection process allows us to strengthen and leverage the particular expertise of our internal and external development resources.

Continue to Improve Profitability. We are continually striving to reduce our risk and increase our operating leverage and efficiency with the goal of increased profitability. We believe the key factor affecting our profitability will be the success rate of our product releases. Therefore, our product selection and development process includes, as a significant component, periodic evaluations of the expected commercial success of products under development. Through this process, titles that we determine to be less promising are either discontinued before we incur additional development costs, or if necessary, corrections can be made in the development process. In addition, our focus on cross platform releases and branded products will, we believe, contribute to this strategic goal.

In order to further our emphasis on improved profitability, we have implemented a number of operational initiatives. We have increased our product development capabilities by allocating a portion of our product development investments to experienced independent development companies working under contract with us, thereby taking advantage of specialized third party developers without incurring the fixed overhead obligations associated with increased internally employed staff. Additionally, we have acquired certain experienced and specialized developers when, in our opinion, we can enhance profitability through the elimination of royalty obligations. Our sales and marketing operations work with our studio resources to increase the visibility of new product launches and to coordinate timing and promotion of product releases. Our finance and administration and sales and marketing personnel work together to improve inventory management and accounts receivables collections. We have broadly

instituted objective based reward programs that provide incentives to management and staff throughout the organization to produce results that meet our financial objectives.

Grow Through Continued Strategic Acquisitions and Alliances. The interactive entertainment industry is consolidating, and we believe that success in this industry will be driven in part by the ability to take advantage of scale. Specifically, smaller companies are more capital constrained, enjoy less predictability of revenues and cash flow, lack product diversity and must spread fixed costs over a smaller revenue base. Several industry leaders are emerging that combine the entrepreneurial and creative spirit of the industry with professional management, the ability to access the capital markets and the ability to maintain favorable relationships with strategic developers, property owners and retailers. Through 14 completed acquisitions since 1997, we believe that we have successfully diversified our operations, our channels of distribution, our development talent pool and our library of titles, and have emerged as one of the industry's leaders. We intend to continue to expand our resources through acquisitions, strategic relationships and key license transactions. We expect to focus our acquisition strategy on increasing our development capacity through the acquisition of or investment in selected experienced development firms, and expanding our intellectual property library through licenses and strategic relationships with intellectual property owners.

USE OF PROCEEDS

All net proceeds from the sale of our shares of common stock will go to the stockholders who offer and sell their shares. Accordingly, we will not receive any of the proceeds from the sale of the common stock being offered hereby for the account of the selling stockholders.

SELLING STOCKHOLDERS

The following table sets forth certain information regarding the beneficial ownership of shares of our common stock by the selling stockholders as of November 18, 2002, the number of shares of common stock being offered by this prospectus and the number of shares of common stock beneficially owned by the

selling stockholders after the offering.

Name of Selling Stockholder	Number of Shares of Common Stock Owned Prior to the Offering	Number of Shares of Common Stock Being Offered	Number of Shares of Common Stock Owned After the Offering
Peter Morawiec	38,861	38,861 (1)	0
Adrian J. Stephens	38,861	38,861 (1)	0
Cary I. Hara	14,650	14,650 (1)	0
Joby R. Otero	5,631	5,631 (1)	0
Matthew Whiting	5,631	5,631 (1)	0
Christopher Otcasek	2,252	2,252 (1)	0
Jeffrey Lander	4,505	4,505 (1)	0

All Selling Stockholders as a Group	110,391	110,391	0

(1) All of these shares, as is more fully described below, are (i) subject to certain escrow requirements and (ii) to be issued to the selling stockholders upon completion of certain software program revenue requirements.

Pursuant to an escrow agreement among us, the selling stockholders and Comerica Bank, as escrow agent, an aggregate of 110,391 shares of common stock, or 100% of the total number of shares of common stock issued in connection with the merger, have been deposited in an escrow account in connection with the transaction (the "Escrow Shares"). The Escrow Shares have been deposited in order to ensure that the representations, warranties and covenants made by the selling stockholders under the Merger Agreement are not breached and in order to provide a source of indemnification to Activision pursuant to the Merger Agreement. Two-thirds of the Escrow Shares will be released from escrow and issued to the selling stockholders, to the extent not used to indemnify us, upon fulfillment of certain software program revenue requirements associated with the development of True Crime: Streets of L.A., and one-third of the Escrow Shares will be released from escrow and issued to the selling stockholders, to the extent not used to indemnify us, upon fulfillment of certain software program revenue requirements associated with the development of Shrek 2.

We will file a prospectus supplement to this prospectus to reflect any adjustment in the number of shares of common stock being offered by the selling stockholders hereunder in the event the conditions described above are not fulfilled.

Prior to the acquisition of Luxoflux by us, Luxoflux was a party to various development agreements with us. Other than such contracts and the fact that the selling stockholders were shareholders of Luxoflux, which became a wholly owned subsidiary of ours on October 4, 2002 pursuant to the Merger Agreement, none of the selling stockholders has had a material relationship with us within the past three years.

DESCRIPTION OF CAPITAL STOCK

We have 130,000,000 shares of authorized capital stock, $.000001 par value, consisting of 125,000,000 shares of common stock and 3,750,000 shares of serial preferred stock and 1,250,000 shares of Series A Junior Preferred Stock. As of November 12, 2002, 66,995,133 shares of our common stock were outstanding. Our common stock is listed on the Nasdaq National Market under the symbol "ATVI."

Each outstanding share of common stock entitles the holder to one vote on all matters submitted to a vote of stockholders, including the election of directors. There is no cumulative voting in the election of directors, which means that the holders of a majority of the outstanding shares of common stock can elect all of the directors then standing for election. Subject to preferences which may be applicable to any outstanding shares of preferred stock, holders of common stock are entitled to such distributions as may be declared from time to time by our Board of Directors out of funds legally available. We have not paid, and have no current plans to pay, cash dividends on our common stock. We intend to retain all earnings for use in our business.

Holders of common stock have no conversion, redemption or preemptive rights to subscribe to any of our securities. All outstanding shares of common stock

are fully paid and nonassessable. In the event of any liquidation, dissolution or winding up of the affairs of holders of our common stock will be entitled to share ratably in our assets remaining after provision for payment of liabilities to creditors and preferences applicable to outstanding shares of preferred stock.

The rights, preferences and privileges of holders of common stock are subject to the rights of the holders of any outstanding shares of preferred stock. At present, no shares of preferred stock are outstanding. As of November 12, 2002, we had approximately 3,200 stockholders of record, excluding banks, brokers and depository companies that are stockholders of record for the account of beneficial owners.

The transfer agent for our common stock is Continental Stock Transfer & Trust Company, 17 Battery Place, New York, New York 10004.

PLAN OF DISTRIBUTION

The common stock may be sold from time to time by the selling stockholders, or by pledgees, donees, transferees or other successors in interest. Such sales may be made on one or more exchanges or in the over the counter market, or otherwise, at prices and at terms then prevailing or at prices related to the then current market price, or in negotiated transactions. The shares may be sold from time to time in one or more of the following transactions, without limitation: (a) a block trade in which the broker or dealer so engaged will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction, (b) purchases by a broker or dealer as principal and resale by such broker or dealer or for its account pursuant to this prospectus, as supplemented, (c) an exchange distribution in accordance with the rules of such exchange, and (d) ordinary brokerage transactions and transactions in which the broker solicits purchasers. In addition, any securities covered by this prospectus which qualify for sale pursuant to Rule 144 may be sold under Rule 144 rather than pursuant to this prospectus, as supplemented. From time to time the selling stockholders may engage in short sales, short sales against the box, puts and calls and other transactions in our securities or derivatives thereof, and may sell and deliver the shares in connection therewith.

From time to time selling stockholders may pledge their shares pursuant to the margin provisions of their respective customer agreements with their respective brokers. Upon a default by a selling stockholder, the broker may offer and sell the pledged shares of common stock from time to time as described above.

All expenses of registration of the common stock (other than commissions and discounts of underwriters, dealers or agents), estimated to be approximately $25,000, shall be borne by us. As and when we are required to update this prospectus, we may incur additional expenses in excess of this estimated amount.

LEGAL MATTERS

Certain legal matters in connection with the shares of common stock offered hereby have been passed upon for us by Bryan Cave LLP, 1290 Avenue of the Americas, New York, New York 10104. Kenneth L. Henderson, one of our directors, is a partner of Bryan Cave LLP. In addition, Bryan Cave LLP owns approximately 14,250 shares of our common stock.

EXPERTS

Our consolidated financial statements and schedule for the year ended March 31, 2000 have been incorporated by reference herein and in this registration statement in reliance upon the report of KPMG LLP, independent accountants, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

The consolidated financial statements as of and for the years ended March 31, 2001 and March 31, 2002, incorporated in this prospectus by reference to the Annual Report on Form 10-K for the year

ended March 31, 2002 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, independent accountants, given on the authority of said firm as experts in auditing and accounting.

WHERE YOU CAN FIND MORE INFORMATION

We are a reporting company and file annual, quarterly and special reports, proxy statements and other information with the Securities and Exchange

Commission, or the SEC. You may read and copy such material at the Public Reference Room maintained by the SEC at 450 Fifth Street, N.W., Washington, D.C. 20549. Please call the SEC at 1 800 SEC 0330 for more information on the operation of the Public Reference Room. You can also find our SEC filings at the SEC's web site at http://www.sec.gov.

INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The SEC allows us to "incorporate by reference" information that we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future filings we will make with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934:

- Our Annual Report on Form 10-K for the fiscal year ended March 31, 2002;
- Our Quarterly Report on Form 10-Q for the quarterly periods ended June 30, 2002 and September 30, 2002;
- Our Current Reports on Form 8-K filed on May 22, 2002, June 5, 2002 and June 6, 2002; and
- The description of our common stock and the rights associated with our common stock contained in our Registration Statement on Form S-3, Registration No. 333-46425, and our Registration Statement on Form 8-A, File No. 001-15839, filed on April 19, 2000.

You may request a copy of these filings at no cost, by writing or telephoning us at the following address:

Activision, Inc.
3100 Ocean Park Boulevard
Santa Monica, California 90405
(310) 255-2000
Attn: Investor Relations

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110,391 Shares

ACTIVISION, INC.

Common Stock

PROSPECTUS

_____, 2003

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PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution

The following table itemizes the expenses incurred by Activision, Inc. (the "Company") in connection with the offering of the common stock being registered. All amounts shown are estimates except the Securities and Exchange Commission (the "Commission") registration fee.

Item	Amount
Registration Fee - Securities and Exchange Commission	$ 198*

Legal Fees and Expenses	7,500
Accounting Fees and Expenses	15,000
Miscellaneous	2,500
TOTAL	$25,198

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* Pursuant to Rule 457(p) of the Securities Act of 1933, as amended, the registration fee of $198 is offset against the $57,141 registration fee (of which $537.51 remains) that was previously paid to the Commission relating to 6,900,000 shares of Common Stock previously registered by the registrant pursuant to its Registration Statement on Form S-3 filed with the Commission on July 30, 2001, (File No. 333-66280), which Registration Statement was withdrawn on October 22, 2001, prior to the issuance of any such shares.

Item 15. Indemnification of Directors and Officers

Section 145 of the Delaware General Corporation Law ("DGCL"), paragraphs A and B of Article SIXTH of the Company's Amended and Restated Certificate of Incorporation, as amended (the "Certificate of Incorporation"), and paragraph 5 of Article VII of the Company's Amended and Restated By-laws (the "By-Laws") provide for the indemnification of the Company's directors and officers in a variety of circumstances, which may include liabilities under the Securities Act of 1933, as amended (the "Securities Act").

Paragraph B of Article SIXTH of the Certificate of Incorporation provides mandatory indemnification rights to any officer or director of the Company who, by reason of the fact that he or she is an officer or director of the Company, is involved in a legal proceeding of any nature. Such indemnification rights shall include reimbursement for expenses incurred by such officer or director in advance of the final disposition of such proceeding in accordance with the applicable provisions of the DGCL. Paragraph 5 of Article VII of the Company's By-laws currently provides that the Company shall indemnify its directors and officers to the fullest extent permitted by the DGCL.

Paragraph A of Article SIXTH of the Certificate of Incorporation contains a provision which eliminates the personal liability of a director to the Company and its stockholders for certain breaches of his or her fiduciary duty of care as a director. This provision does not, however, eliminate or limit the personal liability of a director (i) for any breach of such director's duty of loyalty to the Company or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under the Delaware statutory provision making directors personally liable, under a negligence standard, for unlawful dividends or unlawful stock repurchases or redemptions, or (iv) for any transaction from which the director derived an improper personal benefit. This provision offers persons who serve on the Board of Directors of the Company protection against awards of monetary damages resulting from negligent (except as indicated above) and "grossly" negligent actions taken in the performance of their duty of care, including grossly negligent business decisions made in connection with takeover proposals for the Company. As a result of this provision, the ability of the Company or a stockholder thereof to successfully prosecute an action against a director for a breach of his duty of care has been limited. However, the provision does not affect the availability of equitable remedies such as an injunction or rescission based upon a director's breach of his duty of care.

The Company maintains a directors' and officers' insurance policy which insures the officers and directors of the Company from any claim arising out of an alleged wrongful act by such persons in their respective capacities as officers and directors of the Company. In addition, the Company has entered into indemnification agreements with its officers and directors containing provisions which are in some respects broader than the specific indemnification provisions contained in the DGCL. The indemnification agreements require the Company, among other things, to indemnify such officers and directors against certain liabilities that may arise by reason of their status or service as directors or officers (other than liabilities arising from willful misconduct of a culpable nature) and to advance their expenses incurred as a result of any proceeding against them as to which they could be indemnified. The Company believes that these agreements are necessary to attract and retain qualified persons as directors and officers.

It is currently unclear as a matter of law what impact these provisions will have regarding securities law violations. The Commission takes the position that indemnification of directors, officers and controlling persons against liabilities arising under the Securities Act is against public policy as expressed in the Securities Act and therefore is

unenforceable.

Item 16. Exhibits

(a) Exhibits:

5.1 Opinion of Bryan Cave LLP as to the legality of securities being registered.*

10.1 Confidential License Agreement for Nintendo Gamecube (Western Hemisphere), dated as of November 9, 2001, between Nintendo of America Inc. and Activision Publishing, Inc.**

10.2 License Agreement for the Nintendo Gamecube System (EEA), dated as of June 5, 2002, between Nintendo Co., Ltd. and Activision, Inc.**

10.3 Confidential License Agreement for Game Boy Advance (Western Hemisphere), dated as of May 10, 2001, between Nintendo of America, Inc. and Activision Publishing, Inc.**

10.4 Confidential License Agreement for the Game Boy Advance Video Game System (EEA, Austrailia and New Zealand), dated as of September 14, 2001, between Nintendo Co., Ltd. and Activision, Inc.**

10.5 Microsoft Corporation Xbox Publisher License Agreement, dated as of July 18, 2001, between Microsoft Corporation and Activision Publishing, Inc.**

10.6 Amendment to Microsoft Corporation Xbox Publisher License Agreement, dated as of April 19, 2002, between Microsoft Corporation and Activision Publishing, Inc.**

10.7 Xbox Live Distribution Amendment to the Xbox Publisher Licensing Agreement, dated as of October 28, 2002, between Microsoft Corporation and Activision Publishing, Inc.**

10.8 Licensed Publisher Agreement, dated as of July 13, 2002, between Sony Computer Entertainment America Inc. and Activision, Inc.**

10.9 Amendment to Licensed Publisher Agreement, dated as of April 1, 2000, between Sony Computer Entertainment America Inc. and Activision, Inc.**

10.10 Playstation2 Licensed Publisher Agreement, dated as of March 23, 2001, between Sony Computer Entertainment Europe Limited and Activision UK Limited.**

23.1 Consent of Bryan Cave LLP (included as part of Exhibit 5.1).*

23.2 Consent of KPMG LLP.

23.3 Consent of PricewaterhouseCoopers LLP.

24.1 Power of attorney (included on signature page).*

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* Previously Filed
** Portions omitted pursuant to a request for confidential treatment.

Item 17. Undertakings

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the Prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth

in the registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (1)(i) and (1)(ii) do not apply if the registration statement is on Form S-3 or Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Company pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

The Company hereby further undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Company's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

The Company hereby further undertakes to deliver or cause to be delivered with the Prospectus, to each person to whom the Prospectus is sent or given, the latest annual report to security holders that is incorporated by reference in the Prospectus and furnished pursuant to and meeting the requirements of Rule 14a-3 or Rule 14c-3 under the Exchange Act; and, where interim financial information required to be presented by Article 3 of Regulation S-X are not set forth in the Prospectus, to deliver, or cause to be delivered to each person to whom the Prospectus is sent or given, the latest quarterly report that is specifically incorporated by reference in the Prospectus to provide such interim financial information.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, and controlling persons of the Company pursuant to the foregoing provisions, or otherwise, the Company has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that

a claim for indemnification against such liabilities (other than the payment by the Company of expenses incurred or paid by a director, officer or controlling person of the Company in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Company will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Amendment No. 1 to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Los Angeles, State of California, on January 13, 2003.

ACTIVISION, INC.

By: /s/ Ronald Doornink, President

Ronald Doornink, President

Pursuant to the requirements of the Securities Act of 1933, as amended, this Amendment No. 1 to the Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Name	Title	Date
* (Robert A. Kotick)	Chairman, Chief Executive Officer and Director	January 13, 2003
* (Brian G. Kelly)	Co-Chairman and Director	January 13, 2003
/s/ Ronald Doornink (Ronald Doornink)	President, Activision, Inc.; Chief Executive Officer, Activision Publishing Inc. (Principal Executive Officer)	January 13, 2003
* (William J. Chardavoyne)	Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	January 13, 2003
* (Kenneth L. Henderson)	Director	January 13, 2003
* (Barbara S. Isgur)	Director	January 13, 2003
* (Steven T. Mayer)	Director	January 13, 2003
* (Robert J. Morgado)	Director	January 13, 2003

*By: /s/ Ronald Doornink
Ronald Doornink
(Attorney-in-fact)

EXHIBIT INDEX

Exhibit No.	Description
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23.2 Consent of KPMG LLP.

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24.1 Power of attorney (included on signature page).*

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* Previously Filed
** Portions omitted pursuant to a request for confidential treatment.

CONFIDENTIAL LICENSE AGREEMENT
FOR NINTENDO GAMECUBE
(Western Hemisphere)

THIS LICENSE AGREEMENT ("Agreement") is entered into between NINTENDO OF AMERICA INC. ("NOA") at 4820 150th Avenue N.E., Redmond, WA 98052 Attn: General Counsel (Fax: 425-882-3585) and Activision Publishing, Inc. ("LICENSEE") at 3100 Ocean Park Blvd., Santa Monica, CA 90405 Attn: George Rose, Esq. (Fax: (310) 255-2152). NOA and LICENSEE agree as follows:

1. RECITALS

1.1 NOA markets and sells advanced design, high-quality video game systems, including the "NINTENDO GAMECUBE(TM)" system.

1.2 LICENSEE desires use of the highly proprietary programming specifications, unique and valuable security technology, trademarks, copyrights and other valuable intellectual property rights of NOA and its parent company, Nintendo Co., Ltd., which rights are only available for use under the terms of a license agreement, to develop, have manufactured, advertise, market and sell video game software for play on the NINTENDO GAMECUBE system.

1.3 NOA is willing to grant a license to LICENSEE on the terms and conditions set forth in this Agreement.

2. DEFINITIONS

2.1 "Artwork" means the text and design specifications for the Game Disc label and the Printed Materials in the format specified by NOA in the Guidelines.

2.2 "Bulk Goods" means Game Discs that have been printed with the Game Disc label Artwork for delivery to LICENSEE without Printed Materials or other packaging.

2.3 "Check Disc(s)" means the pre-production Game Discs to be produced by Nintendo.

2.4 "Confidential Information" means the information described in Section 8.1.

2.5 "Development Tools" means the development kits, programming tools, emulators and other materials that may be used in the development of Games under this Agreement.

2.6 "Effective Date" means the last date on which all parties shall have signed this Agreement.

2.7 "Finished Goods" means Game Discs that have been fully assembled with the Printed Materials, cellophane wrapped and boxed for delivery to LICENSEE by NOA

2.8 "Game Discs(s)" means custom optical discs for play on the NINTENDO GAMECUBE system on which a Game has been stored.

2.9 "Game(s)" means interactive video game programs (including source and object/binary code) developed for play on the NINTENDO GAMECUBE system.

2.10 "Guidelines" means the then current version of the "NINTENDO GAMECUBE Development Manual," "NINTENDO GAMECUBE Packaging Guidelines," "Nintendo Trademark Guidelines" and the "Nintendo Game Content Guidelines", together with related guidelines provided by NOA to LICENSEE from time to time.

2.11 "Independent Contractor" means any individual or entity that is not an employee of LICENSEE, including any independent programmer, consultant, contractor, board member or advisor.

2.12 "Intellectual Property Rights" means individually, collectively or in any combination, Proprietary Rights owned, licensed or otherwise held by Nintendo that are associated with the development, manufacturing, advertising, marketing or sale of the Licensed Products, including, without limitation, (a) registered and unregistered trademarks and trademark applications used in connection with the NINTENDO GAMECUBE system including "Nintendo(R)", "NINTENDO GAMECUBE(TM)," "GCN" and "Official Nintendo Seal of Quality(R)", and (b) select trade dress associated with the NINTENDO GAMECUBE system and licensed video games for play thereon, (c) Proprietary Rights in the Security Technology employed in the Games or Game Discs by Nintendo, (d) rights in the Development

Tools for use in developing the Games, excluding, however, rights to use, incorporate or duplicate select libraries, protocols and/or sound or graphic files associated with the Development Tools which belong to any third party, without obtaining any necessary licenses or consents, (e) patents, design registrations or copyrights which may be associated with the Game Discs or Printed Materials, (f) copyrights in the Guidelines, and (g) other Proprietary Rights of Nintendo in the Confidential Information.

2.13 "Licensed Products" means (a) Finished Goods, or (b) Bulk Goods after being assembled with the Printed Materials in accordance with the Guidelines by LICENSEE.

2.14 "Marketing Materials" means marketing, advertising or promotional materials developed by or for LICENSEE (or subject to LICENSEE's approval) that promote the sale of the Licensed Products, including but not limited to, television, radio and on-line advertising, point-of-sale materials (e.g., posters, counter-cards), package advertising, print media and all audio or video media other than the Game that is to be included on the Game Disc.

2.15 "NDA" means the non-disclosure agreement related to the NINTENDO GAMECUBE system previously entered into between NOA and LICENSEE.

2.16 "Nintendo" means NOA's parent company, Nintendo Co., Ltd., of Kyoto, Japan, individually or collectively with NOA.

2.17 "Notice" means any notice permitted or required under this Agreement. All notices shall be sufficiently given when (a) personally served or delivered, or (b) transmitted by facsimile, with an original sent concurrently by first class U.S. mail, or (c) deposited, postage prepaid, with a guaranteed air courier service, in each case addressed as stated herein, or addressed to such other person or address either party may designate in a Notice. Notice shall be deemed effective upon the earlier of actual receipt or two (2) business days after transmittal.

2.18 "Price Schedule" means the then current version of NOA's schedule of purchase prices and minimum order quantities for the Licensed Products.

2.19 "Printed Materials" means a plastic disc storage case, title page, instruction booklet, warranty card and poster incorporating the Artwork, together with a precautions booklet in the form specified by NOA.

2.20 "Promotional Disc(s)" means custom optical discs compatible with the NINTENDO GAMECUBE system that incorporate select game promotional or supplemental materials, as may be specified or permitted in the Guidelines.

2.21 "Proprietary Rights" means any rights or applications for rights owned, licensed or otherwise held in patents, trademarks, service marks, copyrights, mask works, trade secrets, trade dress, moral rights and publicity rights, together with all inventions, discoveries, ideas, technology, know-how, data, information, processes, formulas, drawings and designs, licenses, computer programs, software source code and object code, and all amendments, modifications, and improvements thereto for which

such patent, trademark, service mark, copyright mask work, trade secrets, trade dress, moral rights or publicity rights may exist or may be sought and obtained in the future.

2.22 "Rebate Program" means any then current version of NOA's optional rebate program, establishing select terms for price rebates under this Agreement.

2.23 "Reverse Engineer(ing)" means, without limitation, (a) the x-ray, electronic scanning or physical or chemical stripping of semiconductor components, (b) the disassembly, decompilation, decryption or simulation of object code or executable code, or (c) any other technique designed to extract source code or facilitate the duplication of a program or product.

2.24 "Security Technology" means the highly proprietary security features incorporated by Nintendo into the Licensed Products to minimize the risk of unlawful copying and other unauthorized or unsafe usage, including, without limitation, any security signature, bios, data scrambling, password, hardware security apparatus, watermark, hologram, copyright management information system, proprietary manufacturing process or any feature which obstructs piracy, limits unlawful, unsafe or unauthorized use or facilitates or limits compatibility with other hardware or software outside of the Territory or on a different video game system.

2.25 "Term" means three (3) years from the Effective Date.

2.26 "Territory" shall mean all countries within the Western Hemisphere and their respective territories and possessions.

3. GRANT OF LICENSE; LICENSEE RESTRICTIONS

3.1 Limited License Grant. For the Term and for the Territory, NOA grants to LICENSEE a nonexclusive, nontransferable, limited license to use the Intellectual Property Rights to develop (or have developed on their behalf) Games for manufacture, advertising, marketing and sale as Licensed Products, subject to the terms and conditions of this Agreement. Except as permitted under a separate written authorization from Nintendo, LICENSEE shall not use the Intellectual Property Rights for any other purpose.

3.2 LICENSEE Acknowledgement. LICENSEE acknowledges (a) the value of the Intellectual Property Rights, (b) the right, title and interest of Nintendo in and to the Intellectual Property Rights, and (c) the right, title, and interest of Nintendo in and to the Proprietary Rights associated with all aspects of the NINTENDO GAMECUBE system. LICENSEE recognizes that the Games, Game Discs and Licensed Products will embody valuable rights of Nintendo and Nintendo's licensors. LICENSEE represents and warrants that it will not undertake any act or thing which in any way impairs or is intended to impair any part of the right, title, interest or goodwill of Nintendo in the Intellectual Property Rights. LICENSEE's use of the Intellectual Property Rights shall not create any right, title or interest of LICENSEE therein.

3.3 LICENSEE Restrictions and Prohibitions. LICENSEE represents and warrants that it will not at any time, directly or indirectly, do or cause to be done any of the following:

(a) grant access to, distribute, transmit or broadcast a Game by electronic means or by any other means known or hereafter devised, including, without limitation, by wireless, cable, fiber optic, telephone lines, microwave, radiowave, computer or other device network; provided, however, that limited transmissions may be made for the sole purpose of facilitating development under the terms of this Agreement, but no right of retransmission shall attach to any such authorized transmission and reasonable security measures, customary within the high technology industry, shall be utilized to reduce the risk of unauthorized interception or retransmission of any such authorized transmission,

(b) authorize or permit any online activities involving a Game, including, without limitation, multiplayer, peer-to-peer or online play,

(c) modify, install or operate a Game on any server or computing device for the purpose of or resulting in the rental, lease, loan or other grant of remote access to the Game,

(d) emulate, interoperate, interface or link a Game for operation or use with any hardware or software platform, accessory, computer language, computer environment, chip instruction set, consumer electronics device or device other than the NINTENDO GAMECUBE system or the Development Tools,

(e) embed, incorporate, or store a Game in any media or format except the optical disc format utilized by the NINTENDO GAMECUBE system, except as may be necessary as a part of the Game development process under this Agreement,

(f) design, implement or undertake any process, procedure, program or act designed to disable, obstruct, circumvent or otherwise diminish the effectiveness or operation of the Security Technology,

(g) utilize the Intellectual Property Rights to design or develop any interactive video game program, except as authorized under this Agreement,

(h) manufacture or reproduce a Game developed under this Agreement, except through Nintendo, or

(i) Reverse Engineer or assist in Reverse Engineering all or any part of the NINTENDO GAMECUBE system, including the hardware, software (embedded or not) or the Security Technology.

3.4 Nintendo Development Tools. NOA and Nintendo Co., Ltd. may lease, loan or sell Development Tools to LICENSEE to assist in the development of Games under this Agreement. LICENSEE acknowledges the exclusive interest of Nintendo in and to the Proprietary Rights associated with the Development Tools. LICENSEE's use of the Development Tools shall not create any right, title or interest of LICENSEE therein. LICENSEE shall not, directly or indirectly, (a) use the Development Tools for any purpose except the design and development of Games under this Agreement, (b) reproduce or create derivatives of the

Development Tools, except in association with the development of Games under this Agreement, (c) Reverse Engineer the Development Tools, or (d) sell, lease, assign, lend, license, encumber or otherwise transfer the Development Tools. Any tools developed or derived by LICENSEE as a result of a study of the performance, design or operation of the Development Tools shall be considered a derivative work of the Intellectual Property Rights, but may be retained and utilized by LICENSEE in connection with this Agreement. In no event shall LICENSEE (i) seek, claim or file for any patent, copyright or other Proprietary Right with regard to any such derivative work, (ii) make available any such derivative work to any third party, or (iii) use any such derivative work except in connection with the design and development of Games under this Agreement.

3.5 Third Party Development Tools. NOA and Nintendo Co., Ltd. may authorize third parties to develop and market Development Tools to authorized developers of Games. Notwithstanding any referral or information provided or posted regarding such Development Tools, NOA and Nintendo Co., Ltd. make no representations or warranties with regard to any such third party Development Tools. Licensee acquires and utilizes such Development Tools at its own risk. LICENSEE shall not, directly or indirectly, use such Development Tools for any purpose except the design and development of Games under this Agreement. All Nintendo Proprietary Rights contained in or derived from such Development Tools shall remain owned by Nintendo.

3.6 Games Developed for Linked Play on Two Systems. In the event the Guidelines permit LICENSEE to develop a Game for simultaneous or linked play on the NINTENDO GAMECUBE system and on another Nintendo video game system, LICENSEE shall be required to acquire and maintain with NOA such additional licenses as are necessary for the use of the Proprietary Rights associated with such other Nintendo video game system.

4. SUBMISSION AND APPROVAL OF GAME AND ARTWORK

4.1 Submission of a Completed Game to NOA. Upon completion of a Game, LICENSEE shall deliver a prototype of the Game to NOA in a format specified in the Guidelines. Delivery shall be made in accordance with the methods approved in the Guidelines. Each Submission shall include such other information or documentation deemed necessary by NOA, including, without limitation, a complete set of written user instructions, a complete description of any security holes, backdoors, time bombs, cheats, "easter eggs" or other hidden features or characters in the Game ***. LICENSEE must establish that the Game and any other content included on the Game Disc complies with the Advertising Code of Conduct of the Entertainment Software Ratings Board ("ESRB") and has been rated EC, E, M or T by the ESRB.

4.2 Testing of a Completed Game. Upon submission of a completed Game, NOA and Nintendo Co, Ltd. shall promptly test the Game with regard to its technical compatibility with and error-free operation on the NINTENDO GAMECUBE system utilizing the lot check process. Within a reasonable period of time after receipt, NOA shall approve or disapprove such Game. If a Game is disapproved, NOA shall specify in writing the reasons for such disapproval and state what corrections are necessary. After making the necessary corrections, LICENSEE shall submit a revised Game to NOA for testing. NOA shall not unreasonably withhold or delay its approval of any Game. Neither the testing nor approval of a Game by NOA or Nintendo Co., Ltd. shall relieve LICENSEE of its sole responsibility for the development, quality and operation of the Game or in any way create any warranty for Licensed Product by NOA or Nintendo Co., Ltd.

4.3 Production of Check Discs. By submission of a completed Game to NOA in accordance with section 4.1, LICENSEE authorizes Nintendo to proceed with production of Check Discs for such Game. If NOA approves a Game, it shall promptly, and without further notification to or instruction from LICENSEE, submit such Game for the production of Check Discs. Unless otherwise advised by LICENSEE, following production of the Check Discs, NOA shall deliver to LICENSEE approximately ten (10) Check Discs for content verification, testing and final approval by LICENSEE.

4.4 Approval or Disapproval of Check Discs by LICENSEE. If, after review and testing, LICENSEE approves the Check Discs, it shall promptly transmit to NOA a signed authorization for production in the form specified in the Guidelines. If LICENSEE does not approve the sample Check Discs for any reason, LICENSEE shall advise NOA in writing and may, after undertaking any necessary changes or corrections, resubmit the Game to NOA for approval in accordance with the procedures set forth in this Section 4. The absence of a signed authorization form from LICENSEE within five (5) days after delivery of the Check Discs to LICENSEE shall be deemed disapproval of such Check Discs. Production of any order for Licensed Product shall not proceed without LICENSEE's signed authorization.

4.5 Cost of Disc Stamper Production. ***. The payment will be due upon the

earlier of (a) the subsequent submission by LICENSEE of a revised version of the Game to NOA, or (b) six (6) months after the date the Game was first approved by NOA.

4.6 Submission and Approval of Artwork. Prior to submitting a completed Game to NOA under Section 4.1, LICENSEE shall submit to NOA all Artwork for the proposed Licensed Product. Within ten (10) business days of receipt, NOA shall approve or disapprove the Artwork. If any Artwork is disapproved, NOA shall specify in writing the reasons for such disapproval and state what corrections or improvements are necessary. After making the necessary corrections or improvements, LICENSEE shall submit revised Artwork to NOA for approval. NOA shall not unreasonably withhold or delay its approval of any Artwork. The approval of the Artwork by NOA shall not relieve LICENSEE of its sole responsibility for the development and quality of the Artwork or in any way create any warranty for the Artwork or the

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

Licensed Product by NOA. All Artwork must be approved prior to submitting an order for the Licensed Product.

4.7 Artwork for Bulk Goods. If LICENSEE intends to submit an order for Bulk Goods, all Artwork shall be submitted to NOA in accordance with Section 4.6 herein. No Printed Materials shall be produced by LICENSEE until such Artwork has been approved by NOA.

4.8 Promotional Discs. In the event NOA issues Guidelines in the future that permit LICENSEE to develop and distribute Promotional Discs, either separately or as a part of the Licensed Product, the content and specifications of such Promotional Disc shall be subject to all of the terms and conditions of this Agreement, including, without limitation, the Guidelines, the Price Schedule and the submission and approval procedures provided for in this Section 4.

5. ORDER PROCESS, PURCHASE PRICE, PAYMENT AND DELIVERY

5.1 Submission of Orders by LICENSEE. After receipt of NOA's approval for a Game and Artwork, LICENSEE may at any time submit a written purchase order to NOA for such Game. The purchase order shall specify whether the order is for Finished Goods or Bulk Goods. The terms and conditions of this Agreement shall control over any contrary terms of such purchase order or any other written documentation or verbal instruction from LICENSEE. All orders shall be subject to acceptance by NOA in Redmond, WA.

5.2 Purchase Price and Minimum Order Quantities. The purchase price and minimum order quantities for the Licensed Products (both Finished Goods and Bulk Goods) shall be set forth in NOA's then current Price Schedule. Unless otherwise specifically provided for, the purchase price includes the cost of manufacturing a single Game Disc, together with a royalty for the use of the Intellectual Property Rights. No taxes, duties, import fees or other tariffs related to the development, manufacture, import, marketing or sale of the Licensed Products (except for taxes imposed on NOA's income) are included in the Purchase Price and all such taxes are the responsibility of LICENSEE. The Price Schedule is subject to change by NOA at any time without Notice.

5.3 Payment. Upon placement of an order with NOA, LICENSEE shall pay the full purchase price either (a) by tender of an irrevocable letter of credit in favor of NOA (or its designee) and payable at sight, issued by a bank acceptable to NOA and confirmed, if requested by NOA, at LICENSEE's expense, or (b) in cash, by wire transfer to an account designated by NOA. All letters of credit shall comply with NOA's written instructions and all associated banking charges shall be for LICENSEE's account.

5.4 Delivery of Finished Goods. Finished Goods shall be delivered to LICENSEE FCA North Bend, Washington USA, or such other delivery point within the continental United States as may be specified by NOA. Orders may be delivered in partial shipments, at NOA's option. Title to Finished Goods shall vest in LICENSEE ***.

5.5 Delivery of Bulk Goods. Bulk Goods shall be delivered to LICENSEE FCA Torrance, California USA, or such other delivery point within the continental United States as may be specified by NOA. Orders may be delivered in partial shipments, at NOA's option. Title to Bulk Goods shall vest in LICENSEE ***.

5.6 Rebate Program. NOA, at its sole option, may elect to offer LICENSEE a Rebate Program. The terms and conditions of any rebate program shall be subject to NOA's sole discretion. LICENSEE shall not be entitled to offset any claimed rebate amount against other amounts owing NOA. No interest shall be payable by

NOA to LICENSEE on any claimed rebate. The Rebate Program is subject to change or cancellation by NOA at any time without Notice.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

6. MANUFACTURE OF THE LICENSED PRODUCT

6.1 Manufacturing. Nintendo Co. Ltd. shall be the exclusive source for the manufacture of the Game Discs, Check Discs and Promotional Discs, with responsibility for all aspects of the manufacturing process, including the selection of the locations and specifications for any manufacturing facilities, determination of materials and processes, appointment of suppliers and subcontractors and management of all work-in-progress. Upon acceptance by NOA of a purchase order from LICENSEE and receipt of payment as provided for at Section 5.3 herein, NOA shall place the order with Nintendo Co., Ltd. who shall (through its suppliers and subcontractors) arrange for the manufacture of the Licensed Product.

6.2 Security Features. The final release version of the Game, the Game Disc and the Printed Materials shall include such Security Technology as Nintendo, in its sole discretion, deems necessary or appropriate to (a) reduce the risk of unlawful copying or other unlawful, unsafe or unauthorized uses, (b) protect the Proprietary Rights of Nintendo and of the LICENSEE, (c) promote consumer confidence, and (d) increase the quality, reliability or operation of the NINTENDO GAMECUBE system.

6.3 Bulk Goods Orders. LICENSEE may elect to order Bulk Goods under the terms of this Agreement, in which event LICENSEE shall arrange and pay for the production of the Printed Materials and the final assembly of the Licensed Product in accordance with the Guidelines.

6.4 Printed Materials for Bulk Goods. Upon delivery to LICENSEE of Bulk Goods, LICENSEE shall assemble the Printed Materials and Game Discs into the Licensed Products in accordance with the Guidelines. No other materials, items, products or packaging may be included in the assembled Bulk Goods without NOA's prior written consent. Bulk Goods may be sold or distributed by LICENSEE only when fully assembled in accordance with the Guidelines.

6.5 Prior Approval of LICENSEE's Independent Contractors. Prior to the placement of a purchase order for Bulk Goods, LICENSEE shall obtain NOA's approval of any Independent Contractors selected to perform the production and assembly operations. LICENSEE shall provide NOA with the names, addresses and all business documentation reasonably requested by NOA for such Independent Contractors. NOA may, prior to approval and at reasonable intervals thereafter, (a) require submission of additional business or financial information regarding the Independent Contractors, (b) inspect applicable facilities of the Independent Contractors, and (c) be present to supervise any work on the Licensed Products to be done by the Independent Contractors. If at any time NOA deems the Independent Contractor to be unable to meet quality, security or performance standards reasonably established by NOA, NOA may refuse to grant its approval or withdraw its approval upon Notice to LICENSEE. LICENSEE may not proceed with the production of the Printed Materials or assembly of the Licensed Product until NOA's concerns have been resolved to its satisfaction or until LICENSEE has selected and received NOA's approval of another Independent Contractor. NOA may establish preferred or required supply sources for select components of the Printed Materials, which sources shall be deemed preapproved in accordance with this Section 6.5. LICENSEE shall comply with all sourcing requirements established by NOA.

6.6 NOA Inserts for Bulk Goods. NOA, at its option, may provide LICENSEE with NOA produced promotional materials (as provided for at Section 7.7(a) herein), which LICENSEE agrees to include in the assembly of the Bulk Goods.

6.7 Sample Printed Materials for Bulk Goods. Within a reasonable period of time after LICENSEE's assembly of an initial order for a Bulk Goods title, LICENSEE shall provide NOA with (a) six (6) samples of the fully assembled Licensed Product, and (b) seventy (70) samples of the LICENSEE produced Printed Materials (excluding the plastic disc storage case, warranty card, poster and precautions booklet) for such Bulk Goods.

6.8 Retention of Sample Licensed Products by NOA. NOA or Nintendo may, at their own expense, manufacture reasonable quantities of the Game Discs, the Printed Materials or the Licensed

Products to be used for archival purposes, legal proceedings against infringers of the Intellectual Property Rights and for other lawful purposes.

7. MARKETING AND ADVERTISING

7.1 Approval of Marketing Materials. LICENSEE represents and warrants that the Printed Materials and the Marketing Materials shall be of high quality and comply with (a) the Guidelines, (b) the Advertising Code of Conduct and the Principles and Guidelines for Responsible Advertising of the ESRB, and (c) all applicable laws and regulations in those jurisdictions in the Territory where they will be used or distributed. All LICENSEE controlled websites featuring the Games shall adopt a privacy policy that*** comply with the Children's Online Privacy Protection Act. Prior to actual use or distribution, LICENSEE shall submit to NOA for review samples of all proposed Marketing Materials. NOA shall, within ten (10) business days of receipt, approve or disapprove of the quality of such samples. If any of the samples are disapproved, NOA shall specify the reasons for such disapproval and state what corrections and/or improvements are necessary. After making the necessary corrections and/or improvements, LICENSEE shall submit revised samples for approval by NOA. No Marketing Materials shall be used or distributed by LICENSEE without NOA's prior written approval. NOA shall not unreasonably withhold or delay its approval of any proposed Marketing Materials.

7.2 No Bundling. LICENSEE shall not market or distribute any Finished Goods or Bulk Goods that have been bundled with (a) any peripheral designed for use with the NINTENDO GAMECUBE system that has not been licensed or approved in writing by NOA, or (b) any other product or service where NOA's association or endorsement might be suggested by bundling the products or services.

7.3 Warranty and Repair. LICENSEE shall provide the original consumer with a minimum ninety (90) day limited warranty on all Licensed Products. LICENSEE shall also provide reasonable product service, including out-of-warranty service, for all Licensed Products. LICENSEE shall make such warranty and repair information available to consumers as required by applicable federal and state law.

7.4 Business Facilities. LICENSEE agrees to develop and maintain (a) suitable office facilities within the United States, adequately staffed to enable LICENSEE to fulfill all responsibilities under this Agreement, (b) necessary warehouse, distribution, marketing, sales, collection and credit operations to facilitate proper handling of the Licensed Product, and (c) customer service and game counseling, including telephone service, to adequately support the Licensed Products.

7.5 No Sales Outside the Territory. LICENSEE represents and warrants that it shall not market, sell, offer to sell, import or distribute the Licensed Products outside the Territory, or within the Territory when with actual or constructive knowledge that a subsequent destination of the Licensed Product is outside the Territory.

7.6 Defects and Recall. In the event of a material programming defect in a Licensed Product that would, in NOA's reasonable judgment, significantly impair the ability of a consumer to play the Game, NOA may, after consultation with LICENSEE, require the LICENSEE to recall the Licensed Product and undertake suitable repairs or replacements.

7.7 NOA Promotional Materials, Publications and Events. At its option, NOA may (a) insert in the Printed Materials for the Licensed Products promotional materials concerning Nintendo Power magazine or other NOA products, services or programs, (b) utilize screen shots, Artwork and information regarding the Licensed Products in Nintendo Power, Nintendo Power Source or other advertising, promotional or marketing media, which promotes NOA products, services or programs, and (c) exercise public performance rights in the Games and use related trademarks and Artwork in connection with NOA sponsored contests, tours, conventions, trade shows, press briefings and similar events which promote the NINTENDO GAMECUBE system.

7.8 Nintendo Gateway System. To promote and increase demand for games on Nintendo video game systems, NOA licenses select games in various non-coin activated commercial settings such

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as commercial airlines, cruise ships, rail systems and hotels, where customers play games on specially adapted Nintendo video game hardware referred to as the "Nintendo Gateway System". If NOA identifies a Game for possible license on the Nintendo Gateway System, the parties agree to conduct good faith negotiations to determine commercially reasonable terms for such participation.

8. CONFIDENTIAL INFORMATION

8.1 Definition. Confidential Information means information provided to LICENSEE by Nintendo or any third party working with Nintendo relating to the hardware and software for the NINTENDO GAMECUBE system or the Development Tools, including, but not limited to, (a) all current or future information, know-how, techniques, methods, information, tools, emulator hardware or software, software development specifications, proprietary manufacturing processes and/or trade secrets, (b) any information on patents or patent applications, (c) any business, legal, marketing or sales data or information, and (d) any other information or data relating to development, design, operation, manufacturing, marketing or sales. Confidential Information shall include all confidential information disclosed, whether in writing, orally, visually, or in the form of drawings, technical specifications, software, samples, pictures, models, recordings, or other tangible items which contain or manifest, in any form, the above listed information. Confidential Information shall not include (i) data and information which was in the public domain prior to LICENSEE's receipt of the same hereunder, or which subsequently becomes part of the public domain by publication or otherwise, except by LICENSEE's wrongful act or omission, (ii) data and information which LICENSEE can demonstrate, through written records kept in the ordinary course of business, was in its possession without restriction on use or disclosure, prior to its receipt of the same hereunder and was not acquired directly or indirectly from Nintendo under an obligation of confidentiality which is still in force, and (iii) data and information which LICENSEE can show was received by it from a third party who did not acquire the same directly or indirectly from Nintendo and to whom LICENSEE has no obligation of confidentiality.

8.2 Disclosures Required by Law. LICENSEE shall be permitted to disclose Confidential Information if such disclosure is required by an authorized governmental or judicial entity, provided that LICENSEE shall notify NOA at least thirty (30) days prior to such disclosure. LICENSEE shall use its best efforts to limit the disclosure to the greatest extent possible consistent with LICENSEE's legal obligations, and if required by NOA, shall cooperate in the preparation and entry of appropriate protective orders.

8.3 Disclosure and Use. NOA may provide LICENSEE with highly confidential development information, Guidelines, Development Tools, systems, specifications and related resources and information constituting and incorporating the Confidential Information to assist LICENSEE in the development of Games. LICENSEE agrees to maintain all Confidential Information as strictly confidential and to use such Confidential Information only in accordance with this Agreement. LICENSEE shall limit access to the Confidential Information to LICENSEE's employees having a strict need to know and shall advise such employees of their obligation of confidentiality as provided herein. LICENSEE shall require each such employee to retain in confidence the Confidential Information pursuant to a written nondisclosure agreement between LICENSEE and such employee. LICENSEE shall use its best efforts to ensure that its employees working with or otherwise having access to Confidential Information shall not disclose or make any unauthorized use of the Confidential Information.

8.4 Independent Contractor Use. LICENSEE shall not disclose the Confidential Information, the Guidelines or the Intellectual Property Rights to any Independent Contractor, nor permit any Independent Contractor to perform or assist in development work for a Game, nor utilize any Development Tools without NOA's prior written consent. Each approved Independent Contractor shall be required to enter into a written non-disclosure agreement with NOA prior to receiving any access to or disclosure of such materials from either LICENSEE or NOA.

8.5 Agreement Confidentiality. LICENSEE agrees that the terms, conditions and contents of this Agreement shall be treated as Confidential Information. Any public announcement or press release regarding this Agreement or the release dates for Games developed by LICENSEE under this Agreement shall be subject to NOA's prior written approval. The parties may disclose this Agreement (a) to

accountants, banks, financing sources, lawyers, parent companies and related parties under substantially equivalent confidentiality obligations, (b) in connection with any formal legal proceeding for the enforcement of this Agreement, (c) as required by the regulations of the Securities and Exchange Commission ("SEC"), provided that all Confidential Information regarding NOA shall be redacted from such disclosures to the maximum extent allowed by the SEC, and (d) in response to lawful process, subject to a written protective order approved in advance by NOA.

8.6 Notification Obligations. LICENSEE shall promptly notify NOA of the unauthorized use or disclosure of any Confidential Information and shall promptly act to recover any such information and prevent further breach of the obligations herein. The obligations of LICENSEE set forth herein are in addition to and not in lieu of any other legal remedy that may be available to NOA under

this Agreement or applicable law.

8.7 Continuing Effect of the NDA. The terms of this Section 8 supplement the terms of the NDA, which shall remain in effect. In the event of a conflict between the terms of the NDA and this Agreement, the provisions of this Agreement shall control.

9. REPRESENTATIONS AND WARRANTIES

9.1 LICENSEE's Representations and Warranties. LICENSEE represents and warrants that:

(a) it is a duly organized and validly existing corporation and has full authority to enter into this Agreement and to carry out the provisions hereof,

(b) the execution, delivery and performance of this Agreement by LICENSEE does not conflict with any agreement or understanding to which LICENSEE may be bound, and

(c) excluding the Intellectual Property Rights, LICENSEE is either (i) the sole owner of all right, title and interest in and to the trademarks, copyrights and all other Proprietary Rights incorporated into the Game or the Artwork or used in the development, advertising, marketing and sale of the Licensed Products or the Marketing Materials, or (ii) the holder of such rights, including trademarks, copyrights and all other Proprietary Rights which belong to any third party but have been licensed from such third party by LICENSEE, as are necessary for incorporation into the Game or the Artwork or as are used in the development, advertising, marketing and sale of the Licensed Products or the Marketing Materials under this Agreement.

9.2 NOA's Representations and Warranties. NOA represents and warrants that:

(a) it is a duly organized and validly existing corporation and has full authority to enter into this Agreement and to carry out the provisions hereof, and

(b) the execution, delivery and performance of this Agreement by NOA does not conflict with any agreement or understanding to which NOA may be bound.

9.3 ***.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

9.4 ***.

9.5 LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER NOA NOR NINTENDO CO., LTD. (NOR THEIR AFFILIATES, LICENSORS, SUPPLIERS OR SUBCONTRACTORS) SHALL BE LIABLE FOR LOSS OF PROFITS, OR FOR ANY SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF LICENSEE OR ITS CUSTOMERS ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE BREACH OF THIS AGREEMENT BY NOA, THE MANUFACTURE OF THE LICENSED PRODUCTS OR THE USE OF THE LICENSED PRODUCTS ON ANY NINTENDO VIDEO GAME SYSTEM BY LICENSEE OR BY ANY END USER.

10. INDEMNIFICATION

10.1 LICENSEE's Indemnification. LICENSEE shall indemnify and hold harmless NOA and Nintendo Co., Ltd. (and any of their respective affiliates, subsidiaries, licensors, suppliers, officers, directors, employees or agents) from any claims, losses, liabilities, damages, expenses and costs, including, without limitation, reasonable attorneys' fees and costs and any expenses incurred in the settlement or avoidance of any such claim, which result from or are in connection with:

(a) a breach of any of the provisions, representations or warranties undertaken by LICENSEE in this Agreement,

(b) any infringement of a third party's Proprietary Rights as a result of the design, development, advertising, marketing, sale or use of any aspect of the Licensed Products, Promotional Materials or the Marketing Materials,

(c) any claims alleging a defect, failure to warn, bodily injury (including death) or other personal or property damage arising out of, or in connection with, the design, development, advertising, marketing, sale

or use of any of any aspect of the Licensed Products, and

(d) any federal, state or foreign civil or criminal actions relating to the design, development, advertising, marketing, sale or use of any aspect of the Licensed Products, Promotional Materials or the Marketing Materials.

NOA and LICENSEE shall give prompt Notice to the other of any claim which is or which may be subject to indemnification under this Section 10.1. With respect to any such third party claim, LICENSEE, as indemnitor, shall have the right to select counsel and to control the defense and/or settlement thereof. NOA may, at its own expense, participate in such action or proceeding with counsel of its own choice. LICENSEE shall not enter into any settlement of any matter in which (i) NOA or Nintendo Co., Ltd. has been named as a party, or (ii) claims relating to the Intellectual Property Rights have been asserted, without NOA's prior written consent. NOA shall provide reasonable assistance to LICENSEE in its defense of any such claim.

10.2 LICENSEE's Insurance. LICENSEE shall, at its own expense, obtain a comprehensive policy of general liability insurance (including coverage for advertising injury and product liability claims) from a recognized insurance company. Such policy of insurance shall be in an amount of not less than

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

*** and shall provide for adequate protection against any suits, claims, loss or damage by the Licensed Products. Such policy shall name NOA and Nintendo Co., Ltd. as additional insureds and shall specify it may not be canceled without thirty (30) days' prior written Notice to NOA. If LICENSEE fails to maintain such insurance at any time during the Term and for a period of two (2) years thereafter, NOA may secure such insurance at LICENSEE's expense.

10.3 Suspension of Production. In the event NOA deems itself at risk with respect to any claim, action or proceeding under this Section 10, NOA may, at its sole option, suspend production, delivery or order acceptance for any Licensed Products, in whole or in part, pending resolution of such claim, action or proceeding.

11. PROTECTION OF PROPRIETARY RIGHTS

11.1 Joint Actions against Infringers. LICENSEE and NOA may agree to jointly pursue cases of infringement involving of the Licensed Products, as such Licensed Products will contain Proprietary Rights owned by each of them. Unless the parties otherwise agree, or unless the recovery is expressly allocated between them by the court, in the event of such an action, any recovery shall be used first to reimburse LICENSEE and NOA for their respective reasonable attorneys' fees and costs, pro rata, and any remaining recovery shall be distributed to LICENSEE and NOA, pro rata, based upon the fees and costs incurred in bringing such action.

11.2 Actions by LICENSEE. LICENSEE, without the consent of NOA, may bring any action or proceeding relating to an infringement or potential infringement of LICENSEE's Proprietary Rights in the Licensed Products. LICENSEE shall make reasonable good faith efforts to inform NOA of such actions in a timely manner. LICENSEE will have the right to retain all proceeds it may derive from any recovery in connection with such actions.

11.3 Actions by NOA. NOA, without the consent of LICENSEE, may bring any action or proceeding relating to an infringement or potential infringement of NOA's Intellectual Property Rights in the Licensed Products. NOA shall make reasonable, good faith efforts to inform LICENSEE of such actions likely to affect LICENSEE's rights in a timely manner. NOA will have the right to retain all proceeds it may derive from any recovery in connection with such actions.

12. ASSIGNMENT

12.1 No Assignment by LICENSEE. This Agreement is personal to LICENSEE and may not be sold, assigned, delegated, sublicensed or otherwise transferred or encumbered, in whole or in part, without NOA's prior written consent, which consent may be withheld by NOA in its sole discretion. In the event of an assignment or other transfer in violation of this Agreement, NOA shall have the unqualified right to immediately terminate this Agreement without further obligation to LICENSEE.

12.2 Assignment by Operation of Law. In the event of an assignment by operation of law which purports to affect this Agreement, LICENSEE shall, not later than thirty (30) days thereafter, give Notice and seek consent thereto from NOA. Such Notice shall disclose the name of the assignee, the effective

date and the nature and extent of the assignment. An assignment by operation of law includes, but is not limited to (a) a merger of LICENSEE into another business entity or a merger of another business entity into LICENSEE, (b) the sale, assignment or transfer of all or substantially all of the assets of LICENSEE to a third party, (c) the sale, assignment or transfer to a third party of any of the LICENSEE's intellectual property rights which are used in the development of or are otherwise incorporated into any Licensed Products, or (d) the sale, assignment or transfer of any of LICENSEE's stock resulting in the acquirer having management power over or voting control of LICENSEE. Following the later of (i) an assignment by operation of law, or (ii) receipt of Notice of an assignment by operation of law, NOA shall have the unqualified right for a period of ninety (90) days to immediately terminate this Agreement without further obligation to LICENSEE.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

12.3 Non-Disclosure Obligation. In no event shall LICENSEE disclose or allow access to Nintendo's Confidential Information prior to or upon the occurrence of an assignment, whether by operation of law or otherwise, unless and until NOA gives its written consent to such disclosure.

13. TERM AND TERMINATION

13.1 Term. This Agreement shall commence on the Effective Date and continue for the Term, unless earlier terminated as provided for herein.

13.2 Default or Breach. In the event that either party is in default or commits a breach of this Agreement, which is not cured within thirty (30) days after Notice thereof, then this Agreement shall automatically terminate on the date specified in such Notice.

13.3 Bankruptcy. At NOA's option, this Agreement may be terminated immediately and without Notice in the event that LICENSEE (a) makes an assignment for the benefit of creditors, (b) becomes insolvent, (c) files a voluntary petition for bankruptcy, (d) acquiesces to any involuntary bankruptcy petition, (e) is adjudicated as a bankrupt, or (f) ceases to do business.

13.4 Termination Other Than by Breach. Upon the expiration of this Agreement or its termination other than by LICENSEE's breach, LICENSEE shall have a period of *** to sell any unsold Licensed Products. All Licensed Products in LICENSEE's control following the expiration of such sell-off period shall be destroyed by LICENSEE within ten (10) days and Notice of such destruction (with proof certified by an officer of LICENSEE) shall be delivered to NOA.

13.5 Termination by LICENSEE's Breach. If this Agreement is terminated by NOA as a result of a breach of its terms and conditions by LICENSEE, LICENSEE shall immediately cease all distribution, advertising, marketing or sale of any Licensed Products. All Licensed Products in LICENSEE's control as of the date of such termination shall be destroyed by LICENSEE within ten (10) days and Notice of such destruction (with proof certified by an officer of LICENSEE) shall be delivered to NOA.

13.6 Breach of NDA or other NOA License Agreements. At NOA's option, any breach by LICENSEE of (a) the NDA, or (b) any other license agreement between NOA and LICENSEE relating to the development of games for any Nintendo video game system, which breach is not cured within the time period for cure allowed under the applicable agreement, shall be considered a material breach of this Agreement entitling NOA to terminate this Agreement in accordance with Section 13.5 herein.

13.7 No Further Use of the Intellectual Property Rights. Upon expiration and/or termination of this Agreement, LICENSEE shall cease all use of the Intellectual Property Rights for any purpose, except as may be required in connection with the sale of the Licensed Products authorized under Section 13.4 herein. LICENSEE shall, within thirty (30) days thereafter, (a) return to NOA all Development Tools, and (b) return to NOA or destroy all Guidelines, writings, drawings, models, data, tools and other materials and things in LICENSEE's possession or in the possession of any past or present employee, agent or contractor receiving the information through LICENSEE, which constitute or relate to or disclose any Confidential Information, without making copies or otherwise retaining any such information. Proof of such return or destruction shall be certified by an officer of LICENSEE and promptly provided to NOA.

13.8 Termination by NOA's Breach. If this Agreement is terminated by LICENSEE as a result of a breach of its terms or conditions by NOA, LICENSEE may continue to sell the Licensed Products in the Territory until the expiration of the Term, at which time the provisions of Section 13.4 shall apply.

14. GENERAL PROVISIONS

14.1 Export Control. LICENSEE agrees to comply with the export laws and regulations of the United States and any other country with jurisdiction over the Licensed Products or the Development Tools.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

14.2 Force Majeure. Neither party shall be liable for any breach of this Agreement occasioned by any cause beyond the reasonable control of such party, including governmental action, war, riot or civil commotion, fire, natural disaster, labor disputes, restraints affecting shipping or credit, delay of carriers, inadequate supply of suitable materials, or any other cause which could not with reasonable diligence be controlled or prevented by the parties. In the event of material shortages, including shortages of materials or production facilities necessary for production of the Licensed Products, NOA reserves the right to allocate such resources among itself and its licensees.

14.3 Records and Audit. During the Term and for a period of ***, LICENSEE agrees to keep accurate, complete and detailed records relating to the use of the Confidential Materials, the Development Tools and the Intellectual Property Rights. Upon *** Notice to LICENSEE, NOA may, at its expense, audit LICENSEE's records, reports and other information related to LICENSEE's compliance with this Agreement; provided, however, that NOA shall not, during the course of the audit, access LICENSEE's source code, development plans, marketing plans, internal business plans or other items deemed confidential by LICENSEE, except to the extent such materials incorporate, disclose or reference Nintendo's Confidential Information or Intellectual Property Rights.

14.4 Waiver, Severability, Integration, and Amendment. The failure of a party to enforce any provision of this Agreement shall not be construed to be a waiver of such provision or of the right of such party to thereafter enforce such provision. In the event that any term, clause or provision of this Agreement shall be construed to be or adjudged invalid, void or unenforceable, such term, clause or provision shall be construed as severed from this Agreement, and the remaining terms, clauses and provisions shall remain in effect. Together with the NDA, this Agreement constitutes the entire agreement between the parties relating to the subject matter hereof. All prior negotiations, representations, agreements and understandings are merged into, extinguished by and completely expressed by this Agreement and the NDA. Any amendment to this Agreement shall be in writing, signed by both parties.

14.5 Survival. In addition to those rights specified elsewhere in this Agreement, the rights and obligations set forth in Sections 3, 8, 9, 10, 11, 12 and 13 shall survive any expiration or termination of this Agreement to the degree necessary to permit their complete fulfilment or discharge.

14.6 Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington, without regard to its conflict of laws principles. Any legal actions (including judicial and administrative proceedings) with respect to any matter arising under or growing out of this Agreement, shall be brought in a court of competent jurisdiction in King County, Washington. Each party hereby consents to the jurisdiction and venue of such courts for such purposes.

14.7 Equitable Relief. LICENSEE acknowledges that in the event of its breach of this Agreement, no adequate remedy at law may be available to NOA and that NOA shall be entitled to seek injunctive or other equitable relief in addition to any relief available at law.

14.8 Attorneys' Fees. In the event it is necessary for either party to this Agreement to undertake legal action to enforce or defend any action arising out of or relating to this Agreement, the prevailing party in such action shall be entitled to recover from the other party all reasonable attorneys' fees, costs and expenses relating to such legal action or any appeal therefrom.

14.9 Counterparts and Signature by Facsimile. This Agreement may be signed in counterparts, which shall together constitute a complete Agreement. A signature transmitted by facsimile shall be considered an original for purposes of this Agreement.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the

dates set forth below.

NOA:	LICENSEE:
NINTENDO OF AMERICA INC.	ACTIVISION PUBLISHING, INC.
By: /s/	By: /s/ George Rose
Title: Executive VP, Administration	Title: Senior VP & Gen. Counsel
Date: 11/9/01	Date: 11/1/01

LICENSE AGREEMENT FOR THE NINTENDO GAMECUBE SYSTEM (EEA)

THIS LICENSE AGREEMENT ("Agreement") is entered into between NINTENDO CO., LTD. ("NCL") at 11-1 Kamitoba Hokotate-cho, Minami-ku, Kyoto, Japan 601-8501 (Fax: 81.75.662.9620), Attn: General Manager, International Business Administrative Department, and ACTIVISION, INC., a corporation of California, and its subsidiaries (Activision UK, Ltd., a limited company of the United Kingdom; ATVI France, S.A.R.L., a corporation of France; Activision GmbH, a corporation of Germany, and Activision Pty., Ltd., a limited company of Australia) (jointly and severally "LICENSEE") at 3100 Ocean Park Blvd., Santa Monica, CA 90405, Attn: Mr. Michael Hand (facsimile: 310.255.2152). NCL and LICENSED agree as follows:

1. RECITALS

1.1 NCL designs, develops, manufactures, markets and sells advanced design, high-quality video game systems, including the "NINTENDO GAMECUBE(TM)" system.

1.2 LICENSEE desires use of the highly proprietary programming specifications, unique and valuable security technology, trademarks, copyrights and other valuable intellectual property rights of NCL, which rights are only available for use under the terms of a license agreement, to develop, have manufactured, advertise, market and sell video game software for play on the NINTENDO GAMECUBE system.

1.3 NCL is willing to grant a license to LICENSEE on the terms and conditions set forth in this Agreement.

2. DEFINITIONS

2.1 "Artwork" means the text and design specifications for the Game Disc label and the Printed Materials in the format specified by NCL in the Guidelines.

2.2 "Bulk Goods" means Game Discs that have been printed with the Game Disc label Artwork for delivery to LICENSEE without Printed Materials or other packaging.

2.3 "Check Disc(s)" means the pre-production Game Discs to be produced by NCL.

2.4 "Confidential Information" means the information described in Section 8.1.

2.5 "Development Tools" means the development kits, programming tools, emulators and other materials that may be used in the development of Games under this Agreement.

2.6 "Effective Date" means the last date on which all parties shall have signed this Agreement.

2.7 "Finished Goods" means Game Discs that have been fully assembled with the Printed Materials, protective wrapped and boxed for delivery to LICENSEE by NCL. The Finished Goods may also include the Optional Printed Materials.

2.8 "Game Disc(s)" means custom optical discs for play on the NINTENDO GAMECUBE system on which a Game has been stored.

2.9 "Game(s)" means interactive video game programs (including source and object/binary code) developed for play on the NINTENDO GAMECUBE system.

2.10 "Guidelines" means the then current version of the "NINTENDO GAMECUBE Development Manual," "NINTENDO GAMECUBE Packaging Guidelines" pertaining to the layout, trademark usage and the requirements of the Game Disc label, instruction manual and Game Disc packaging, "Nintendo Trademark Guidelines" and "Guidelines on Ethical Content," together with related guidelines that may be provided by NCL to LICENSEE from time to time. The Guidelines on Ethical Content are attached as Annex A, and the remainder of the Guidelines have been, or may be, provided to LICENSEE independent of this Agreement. The Guidelines may be changed or updated by Nintendo from time to time without notice.

2.11 "Independent Function/Use" means a derivative work that has one or more functions/uses that are independent of and separate from the applicable Intellectual Property Right.

2.12 "Independent Contractor" means any individual or entity that is not an employee of LICENSEE, including any independent programmer, consultant, contractor, board member or advisor.

2.13 "Intellectual Property Rights" means individually, collectively or in any combination, Proprietary Rights owned, licensed or otherwise held by Nintendo that are associated with the development, manufacturing, advertising, marketing or sale of the Licensed Products, including, without limitation, (a) registered and unregistered trademarks and trademark applications used in connection with the NINTENDO GAMECUBE system including "Nintendo(TM)", "NINTENDO GAMECUBE(TM)," "GCN", "NGC" and "Official

Nintendo Seal of Quality(TM)", (b) select trade dress associated with the NINTENDO GAMECUBE system and licensed video games for play thereon, (c) Proprietary Rights in the Security Technology employed in the Games or Game Discs by NCL, (d) rights in the Development Tools for use in developing the Games, excluding, however, rights to use, incorporate or duplicate select libraries, protocols and/or sound or graphic files associated with the Development Tools which belong to any third party, without obtaining any necessary licenses or consents, (e) patents, patent applications, design registrations, utility models, or copyrights which may be associated with the Game Discs or Printed Materials, (f) copyrights in the Guidelines, and (g) other Proprietary Rights of NCL in the Confidential Information.

2.14 "Licensed Products" means (a) Finished Goods when fully assembled, or (b) Bulk Goods after being assembled with the Printed Materials in accordance with the Guidelines by LICENSEE.

2.15 "Marketing Materials" means marketing, advertising or promotional materials developed by or for LICENSEE (or subject to LICENSEE's approval) that promote the sale of the Licensed Products, including but not limited to, television, radio and on-line advertising, point-of-sale materials (e.g., posters, counter-cards), package advertising, print media and all audio or video media other than the Game that is to be included on the Game Disc.

2.16 "NDA" means the non-disclosure agreement related to the NINTENDO GAMECUBE system previously entered into between NCL and LICENSEE or between one of NCL's subsidiaries and LICENSEE.

2.17 "Nintendo" means NCL individually or collectively with its subsidiary.

2.18 "Notice" means any notice permitted or required under this Agreement. All Notices shall be sufficiently given when (a) personally served or delivered, or (b) transmitted by facsimile, with an original sent concurrently by registered air mail, or (c) deposited, carriage prepaid, with a guaranteed air courier service, in each case addressed as stated herein, or addressed to such other person or address either party may designate in a Notice, or (d) transmitted by e-mail with an express written acknowledgement of receipt sent personally by or on behalf of the recipient (which shall include any automated reply). Notice shall be deemed effective upon the earlier of actual receipt or three (3) business days after transmittal by facsimile (with an original sent concurrently by registered air mail) or deposit with a guaranteed air courier service.

2.19 "Optional Printed Materials" means other optional printed materials such as a warranty card and poster incorporating the Artwork.

2.20 "Price Schedules" mean the then current version(s) of Nintendo's schedules of purchase prices and minimum order quantities for the Licensed Products, the Printed Materials and the Optional Printed Materials. The Price Schedules have been, or will be, provided to LICENSEE independent of this Agreement and may be changed or updated by Nintendo from time to time without notice.

2.21 "Printed Materials" means a plastic disc storage case, title page, and instruction booklet, together with a precautions booklet in the form specified by NCL.

2.22 "Promotional Disc(s)" means custom optical discs compatible with the NINTENDO GAMECUBE system that incorporate select game promotional or supplemental materials, as may be specified or permitted in the Guidelines.

2.23 "Proprietary Rights" means any rights or applications for rights to the extent recognized in the Territory relating or applicable to the NINTENDO GAMECUBE system and owned, licensed or otherwise held in patents, trademarks, service marks, copyrights, semiconductor chip layout or masks, trade secrets,

trade dress, moral rights and publicity rights, together with all inventions, discoveries, ideas, know-how, data, information, processes, methods, procedures, formulas, drawings and designs, computer programs, software source code and object code, and all amendments, modifications, and improvements thereto for which such patent, trademark, service mark, copyright, semiconductor chip layout or masks, trade secrets, trade dress, moral rights or publicity rights may exist or may be sought and obtained in the future.

2.24 "Rebate Program" means any then current version of NCL's optional rebate program, establishing select terms for price rebates under this Agreement.

2.25 "Reverse Engineer(ing)" means any technique designed to extract source code or facilitate the duplication of a program or product including, without limitation, (a) the x ray, electronic scanning or physical or chemical stripping of semiconductor components, or (b) the disassembly, decompilation, decryption or simulation of object code or executable code.

2.26 "Security Technology" means the highly proprietary security features incorporated by NCL into the Licensed Products to minimize the risk of unlawful copying and other unauthorized or unsafe usage, including, without limitation, any security signature, bios, data scrambling, password, hardware security apparatus, watermark, hologram, copyright management information system, proprietary manufacturing process or any feature

that obstructs piracy, limits unlawful, unsafe or unauthorized use or facilitates or limits compatibility with other hardware or software outside of the Territory or on a different video game system.

2.27 "Term" means three (3) years from the Effective Date.

2.28 "Territory" means any and all countries within the European Economic Area; namely Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom. The Territory also includes Australia, New Zealand, and Switzerland. NCL may add additional countries to the Territory upon written notice to LICENSEE.

2.29 "(TM)" means trademark of NCL, whether registered or not.

3. GRANT OF LICENSE, LICENSEE RESTRICTIONS

3.1 Limited License Grant. For the Term and for the Territory, NCL grants to LICENSEE a nonexclusive, nontransferable, limited license to use the Intellectual Property Rights for the purpose of and to the extent necessary to develop (or have developed on its behalf) Games for manufacture, advertising, marketing and sale as Licensed Products, subject to the terms and conditions of this Agreement. This license is royalty free.

3.2 LICENSEE Acknowledgment. LICENSEE's use of the Intellectual Property Rights shall not create any right, title or interest of LICENSEE therein. In the event that LICENSEE challenges NCL's ownership or the validity of the Intellectual Property Rights, NCL may terminate this Agreement without any notice or procedure.

3.3 Restrictions on License Grant. The present limited license to LICENSEE does not extend to the use of the Intellectual Property Rights for the following purposes:

(a) granting access to, distributing, transmitting or broadcasting a Game by electronic means or by any other means known or hereafter devised, including, without limitation, by wireless, cable, fiber optic, telephone lines, microwave, radiowave, computer or other device network; provided, however, that limited transmissions may be made for the sole purpose of facilitating development under the terms of this Agreement, but no right of retransmission shall attach to any such authorized transmission and reasonable security measures, customary within the high technology industry, shall be utilized to reduce the risk of unauthorized interception or retransmission of any such authorized transmission,

(b) authorizing or permitting any online activities involving a Game, including, without limitation, multiplayer, peer-to-peer or online play,

(c) modifying, installing or operating a Game on any server or computing device for the purpose of or resulting in the rental, lease, loan or other grant of remote access to the Game,

(d) emulating, interoperating, interfacing or linking a Game for operation or use with any hardware or software platform, accessory, computer language, computer environment, chip instruction set, consumer electronics device or device other than the NINTENDO GAMECUBE system or the Development Tools,

(e) embedding, incorporating, or storing a Game in any media or format except the optical disc format utilized by the NINTENDO GAMECUBE system, except as may be necessary as a part of the Game development process under this Agreement,

(f) designing, implementing or undertaking any process, procedure, program or act designed to disable, obstruct, circumvent or otherwise diminish the effectiveness or operation of the Security Technology,

(g) utilizing the Intellectual Property Rights to design or develop any interactive video or computer game program, except as authorized under this Agreement,

(h) manufacturing or reproducing a Game developed under this Agreement, except through Nintendo, or

(i) Reverse Engineering or assisting in Reverse Engineering all or any part of the NINTENDO GAMECUBE system, including the hardware, software (embedded or not) or the Security Technology, except as specifically permitted under the laws and regulations applicable in the Territory.

3.4 NCL Development Tools. NCL may lease, loan or sell Development Tools to LICENSEE to assist in the development of Games under this Agreement. LICENSEE acknowledges the exclusive interest of NCL in and to the Proprietary Rights associated with the Development Tools. LICENSEE's use of the Development Tools shall not create any right, title or interest of LICENSEE therein. Any license to LICENSEE to use the Development Tools does not extend to: (a) use of the Development Tools for any purpose except the design and development of Games under this Agreement, (b) reproduction or creation of derivatives of the Development Tools, except in association with the development of Games under this Agreement, (c) Reverse Engineering of the Development Tools, except as specifically permitted by the laws and regulations applicable in the Territory, or (d) selling, leasing, assigning, lending, licensing, encumbering or otherwise transferring the Development Tools. Any tools developed or derived by LICENSEE as a result of a study of the performance, design or operation of the Development Tools shall be considered a

derivative work of the Intellectual Property Rights, but may be retained and utilized by LICENSEE in connection with this Agreement. Unless LICENSEE can demonstrate that such derivative work has Independent Functions/Uses, it shall be deemed to have granted NCL an indefinite, worldwide, royalty-free, transferable and exclusive license (including the right to sub-license) to such derivative work. To the extent that LICENSEE can demonstrate one or more Independent Functions/Uses, LICENSEE shall be deemed to have granted to NCL a royalty-free and transferable non-exclusive license (including the right to sub-license) in relation to such Independent Functions/Uses for the Term and an indefinite, worldwide, royalty-free, transferable and exclusive license (including the right to sub-license) in relation to all other functions/uses.

3.5 Third Party Development Tools. NCL may authorize third parties to develop and market Development Tools to authorized developers of Games. Notwithstanding any referral or information provided or posted regarding such Development Tools, NCL makes no representations or warranties with regard to any such third party Development Tools. LICENSEE acquires and utilizes such Development Tools at its own risk. LICENSEE shall not, directly or indirectly, use such Development Tools for any purpose except the design and development of Games under this Agreement. All of NCL's Proprietary Rights contained in or derived from such Development Tools shall remain owned by NCL.

3.6 Games Developed for Linked Play on Two Systems. In the event the Guidelines permit LICENSEE to develop a Game for simultaneous or linked play on the NINTENDO GAMECUBE system and on another NCL video game system, LICENSEE shall be required to acquire and maintain with NCL such additional licenses as are necessary for the use of the Proprietary Rights associated with such other NCL video game system.

4. SUBMISSION AND APPROVAL OF GAME AND ARTWORK

4.1 Submission of a Completed Game to NCL. Upon completion of a Game, LICENSEE shall deliver a prototype of the Game to NCL in a format specified in the Guidelines. Delivery shall be made in accordance with the methods approved in the Guidelines. Each submission shall include such other information or documentation deemed necessary by NCL, including, without limitation, a complete

set of written user instructions, a complete description of any security holes, backdoors, time bombs, cheats, "Easter eggs" or other hidden features or characters in the Game ***. LICENSEE must establish that the Game and any other content included on the Game Disc complies with the guidelines of the European Leisure Software Publishers Association (ELSPA), the Syndicate des Editeurs de Logiciels de Loisir (SELL), Interactive Software Federation of Europe (ISFE) (should ISFE adopt any such guidelines in the future), Unterhal Tungssoftware Selbstkontrolle (USK), or other independent European body, or the Office of

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Film and Literature Classification (OFLC), as applicable. LICENSEE shall provide NCL with a certificate of a rating for the Game from the ELSPA, SELL, ISFE, USK, or other independent European body other than "AO" or "ADULTS ONLY."

4.2 Testing of a Completed Game. Upon submission of a completed Game, NCL shall promptly test the Game with regard to its technical compatibility with and error-free operation on the NINTENDO GAMECUBE system utilizing the lot check process. Within a reasonable period of time after receipt, NCL shall approve or disapprove such Game. If a Game is disapproved, NCL shall specify in writing the reasons for such disapproval and state what corrections are necessary. After making the necessary corrections, LICENSEE shall submit a revised Game to NCL for testing. NCL shall not unreasonably withhold or delay its approval of any Game. Neither the testing nor approval of a Game by NCL shall relieve LICENSEE of its sole responsibility for the development, quality and operation of the Game or in any way create any warranty for the Licensed Product by NCL.

4.3 Production of Check Discs. By submission of a completed Game to NCL in accordance with Section 4.1, LICENSEE authorizes NCL to proceed with production of Check Discs for such Game. If NCL approves a Game, it shall promptly, and without further notification to or instruction from LICENSEE, submit such Game for the production of Check Discs. Unless otherwise advised by LICENSEE, following production of the Check Discs, NCL, shall deliver to LICENSEE approximately ten (10) Check Discs for content verification, testing and final approval by LICENSEE.

4.4 Approval or Disapproval of Check Discs by LICENSEE. If, after review and testing, LICENSEE approves the Check Discs, it shall promptly transmit to NCL a signed authorization for production in the form specified in the Guidelines. If LICENSEE does not approve the sample Check Discs for any reason, LICENSEE shall advise NCL in writing and may, after undertaking any necessary changes or corrections, resubmit the Game to NCL for approval in accordance with the procedures set forth in this Section 4. The absence of a signed authorization form from LICENSEE within five (5) days after delivery of the Check Discs to LICENSEE shall be deemed disapproval of such Check Discs. Production of any order for Licensed Product shall not proceed without LICENSEE's signed authorization.

4.5 Cost of Check Disc Production. ***. The payment will be due upon the earlier of (a) the subsequent submission by LICENSEE of a revised version of the Game to NCL, or (b) six (6) months after the date the Game was first approved by NCL.

4.6 Submission and Approval of Artwork. Prior to submitting a completed Game to NCL under Section 4.1, LICENSEE shall submit to NCL all Artwork for the proposed Licensed Product. Within ten (10) business days of receipt, NCL shall approve or disapprove the Artwork. If any Artwork is disapproved, NCL shall specify in writing the reasons for such disapproval and state what corrections or improvements are necessary. After making the necessary corrections or improvements, LICENSEE shall submit revised Artwork to NCL for approval. NCL shall not unreasonably withhold or delay its approval of any Artwork. The approval of the Artwork by NCL shall not relieve LICENSEE of its sole responsibility for the development and quality of the Artwork or in any way create any warranty for the Artwork or the Licensed Product by NCL. All Artwork must be approved prior to submitting an order for the Licensed Product.

4.7 Artwork for Bulk Goods. If LICENSEE intends to submit an order for Bulk Goods, all Artwork and other materials to be included with the Licensed Product shall be submitted to NCL in accordance with Section 4.6 herein. No Printed Materials shall be produced by LICENSEE until such Artwork has been approved by NCL.

4.8 Promotional Discs. In the event NCL issues Guidelines in the future that permit LICENSEE to develop and distribute Promotional Discs, either separately or as a part of the Licensed Product, the content and specifications of such Promotional Disc shall be subject to all of the terms and conditions of this Agreement, including, without limitation, the Guidelines, the Price Schedule and the submission and approval procedures provided for in this Section

4.

5. ORDER PROCESS, PURCHASE PRICE, PAYMENT AND DELIVERY

5.1 Submission of Orders by LICENSEE. After receipt of NCL's approval for a Game and Artwork, LICENSEE may at any time submit a written purchase order to NCL for such Game. The purchase order shall specify whether the order is for Finished Goods or Bulk Goods, and for Finished Goods the purchase order may also specify any Optional Printed Materials. The terms and conditions of this Agreement shall control over any contrary terms of such purchase order or any other written documentation or verbal instruction from LICENSEE. All orders shall be subject to acceptance by NCL or its designee.

5.2 Purchase Price and Minimum Order Quantities. The purchase price and minimum initial order and re-order quantities for the Licensed Products (both Finished Goods and Bulk Goods) and Printed Materials and Optional Printed Materials shall be as set forth in Nintendo's then current Price Schedules. Unless otherwise specifically provided for, the purchase price includes the cost of manufacturing the Game Disc(s). Current Price Schedules

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

have been, or will be, provided to LICENSEE independent of this Agreement. No taxes, duties, import fees or other tariffs related to the development, manufacture, import, marketing or sale of the Licensed Products are included in the Purchase Price and all such impositions are the responsibility of LICENSEE. The Price Schedules are subject to change by Nintendo at any time without Notice.

5.3 Payment. Upon placement of an order with NCL, LICENSEE shall pay the full purchase price either (a) by tender of an irrevocable letter of credit in favor of NCL (or its designee) and payable at sight, issued by a bank acceptable to NCL and confirmed, if requested by NCL, at LICENSEE's expense, or (b) in cash, by wire transfer to an account designated by NCL. All letters of credit shall comply with NCL's written instructions and all associated banking charges shall be for LICENSEE's account.

5.4 Shipment and Delivery. NCL shall deliver the Finished Goods or Bulk Goods ordered by LICENSEE to LICENSEE, CIP LICENSEE's delivery location for destinations in Europe and F.O.B. Grossostheim, Germany, with shipment at LICENSEE's direction and expense, or such other delivery point as may be specified by Nintendo. Upon mutual consent of NCL and LICENSEE, orders may be delivered in partial shipments ***. Such orders shall be delivered only to countries within the Territory.

5.5 Rebate Program. NCL, at its sole option, may elect to offer LICENSEE a Rebate Program. The terms and conditions of any Rebate Program shall be subject to NCL's sole discretion. LICENSEE shall not be entitled to offset any claimed rebate amount against other amounts owing NCL. No interest shall be payable by NCL to LICENSEE on any claimed rebate. The Rebate Program is subject to change or cancellation by NCL at any time without Notice.

6. MANUFACTURE OF THE LICENSED PRODUCT

6.1 Manufacturing. NCL shall manufacture the Game Discs, Check Discs and Promotional Discs, with responsibility for all aspects of the manufacturing process, including the selection of the locations and specifications for any manufacturing facilities, determination of materials and processes, appointment of suppliers and subcontractors, and management of all work-in-progress. Upon acceptance by NCL of a purchase order from LICENSEE and receipt of payment as provided for at Section 5.3 herein, NCL shall (through its suppliers and subcontractors) arrange for the manufacture of the Licensed Product.

6.2 Security Features. The final release version of the Game, the Game Disc and the Printed Materials shall include such Security Technology as NCL, in its sole discretion,

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

deems necessary or appropriate to (a) reduce the risk of unlawful copying or other unlawful, unsafe or unauthorized uses, (b) protect the Proprietary Rights of NCL and of the LICENSEE, (c) promote consumer confidence, and (d) increase the quality, reliability or operation of the NINTENDO GAMECUBE system.

6.3 Bulk Goods Orders. LICENSEE may elect to order Bulk Goods under the terms of this Agreement, in which event LICENSEE shall arrange and pay for the production of the Printed Materials and the final assembly of the Licensed Product in accordance with the Guidelines.

6.4 Printed Materials for Bulk Goods. Upon delivery to LICENSEE of Bulk Goods, LICENSEE shall assemble the Printed Materials and Game Discs into the Licensed Products in accordance with the Guidelines. Bulk Goods may be sold or distributed by LICENSEE only when fully assembled in accordance with the Guidelines. NCL may establish quality standards with regard to some or all of the Printed Materials and may identify to LICENSEE certain named suppliers within the Territory who NCL believes can meet such quality standards. LICENSEE may choose its own suppliers of such Printed Materials but shall comply with all such quality standards as may be notified to LICENSEE by NCL from time to time.

6.5 Sample Printed Materials for Bulk Goods. Within a reasonable period of time after LICENSEE's assembly of an initial order for a Bulk Goods title, LICENSEE shall provide NCL with (a) two (2) samples of the fully assembled Licensed Product, and (b) *** of the LICENSEE-produced Printed Materials (excluding the plastic disc storage case, warranty card, poster and precautions booklet) for such Bulk Goods.

6.6 Retention of Sample Licensed Products by NCL. NCL may, at its own expense, manufacture reasonable quantities of the Game Discs, the Printed Materials or the Licensed Products not to exceed fifty (50) copies, to be used for archival purposes, legal proceedings against infringers of the Intellectual Property Rights and for other lawful purposes, not to include sales of the copies.

7. MARKETING AND ADVERTISING

7.1 Approval of Marketing Materials. LICENSEE represents and warrants that the Printed Materials and the Marketing Materials shall be of high quality and comply with the Guidelines, and shall comply with all applicable laws, regulations, orders, and official codes in those jurisdictions in the Territory where they will be used or distributed. All LICENSEE-controlled web sites featuring the Games shall adopt a privacy policy that complies ***

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

***. Prior to actual use or distribution, LICENSEE shall submit to NCL for review samples of all proposed Marketing Materials. NCL shall, within ten (10) business days of receipt, approve or disapprove of the quality of such samples. If any of the samples are disapproved, NCL shall specify the reasons for such disapproval and state what corrections and/or improvements are necessary. After making the necessary corrections and/or improvements, LICENSEE shall submit revised samples for approval by NCL. No Marketing Materials shall be used or distributed by LICENSEE without NCL's prior written approval. NCL shall not unreasonably withhold or delay its approval of any proposed Marketing Materials.

7.2 Bundling. In order to avoid use of the licensed Intellectual Property Rights giving rise to any implication of NCL's sponsorship, association, approval or endorsement where this is not the case, LICENSEE shall not, without NCL's prior written approval, market or distribute any Finished Goods or Bulk Goods that have been bundled with (a) any peripheral designed for use with the NINTENDO GAMECUBE system that has not been licensed or approved in writing by NCL, or (b) any other product or service where NCL's association or endorsement might be suggested by bundling the material, item, products or services.

7.3 Warranty and Repair. LICENSEE shall provide the original consumer with a minimum one hundred eighty (180) day (or such longer minimum period as may be required by applicable law) limited warranty on all Licensed Products. LICENSEE shall also provide reasonable product service, including out-of-warranty service, for all Licensed Products. LICENSEE shall make such warranty and repair information available to consumers as required by applicable law.

7.4 Business Facilities. LICENSEE agrees to develop and maintain sufficient customer service, either directly or through a third party, to adequately support the Licensed Products.

7.5 No Sales Outside the Territory. LICENSEE represents and warrants that it shall not market, sell, offer to sell, import or distribute the Licensed Products outside the Territory, or within the Territory when with actual or constructive knowledge that a subsequent destination of the Licensed Product is outside the Territory.

7.6 Defects and Recall. In the event of a material programming defect in a Licensed Product that would, in NCL's reasonable judgment, significantly impair

the ability of a consumer to play the Game, NCL may, after consultation with LICENSEE, require LICENSEE, at LICENSEE's expense, to recall the Licensed Products and undertake suitable repairs or replacements.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

7.7 NCL Promotional Materials, Publications and Events. With a view to improving the competitiveness of the video game products consisting of NCL video game systems and services and compatible software published by LICENSEE, at its option, NCL may: (a) insert in the Printed Materials for the Licensed Products promotional materials concerning, publications about, and promotions for such video game products; (b) utilize screen shots, Artwork and information regarding the Licensed Products in NCL published magazines or other publications, or in other advertising, promotional or marketing media which promotes such video game products; and (c) exercise public performance rights in the Games and use related trademarks and Artwork in connection with NCL sponsored contests, tours, conventions, trade shows, press briefings and similar events which promote such video game products. Nintendo shall submit to Licensee for review printed materials and related art for the Game that Nintendo intends to use in publications or media or marketing programs.

7.8 Nintendo Gateway System. To promote and increase demand for games on NCL video game systems, NCL licenses select games in various non-coin activated commercial settings such as commercial airlines, cruise ships, rail systems and hotels, where customers play games on specially adapted NCL video game hardware referred to as the "Nintendo Gateway System." If NCL identifies a Game for possible license on the Nintendo Gateway System, the parties agree to conduct good faith negotiations to determine commercially reasonable terms for such participation.

8. CONFIDENTIAL INFORMATION

8.1 Definition. Confidential Information means information provided to LICENSEE, by NCL or any third party working with NCL relating to the hardware and software for the NINTENDO GAMECUBE system or the Development Tools, including, but not limited to, (a) all current or future information, know-how, techniques, methods, information, tools, emulator hardware or software, software development specifications, proprietary manufacturing processes and/or trade secrets, (b) any information on any inventions, patents or patent applications, (c) any business, legal, marketing or sales data or information, and (d) any other information or data relating to development, design, operation, manufacturing, marketing or sales. Confidential Information shall include all confidential information disclosed, whether in writing, orally, visually, or in the form of drawings, technical specifications, software, samples, pictures, models, recordings, or other tangible items that contain or manifest, in any form, the above listed information. Confidential Information shall not include (i) data and information that was in the public domain prior to LICENSEE's receipt of the same hereunder, or that subsequently becomes part of the public domain by publication or otherwise, except by LICENSEE's wrongful act or omission,

(ii) data and information that LICENSEE can demonstrate, through written records kept in the ordinary course of business, was in its possession without restriction on use or disclosure prior to its receipt of the same hereunder and was not acquired directly or indirectly from NCL under an obligation of confidentiality which is still in force, and (iii) data and information that LICENSEE can show was received by it from a third party who did not acquire the same directly or indirectly from NCL and to whom LICENSEE has no obligation of confidentiality.

8.2 Disclosures Required by Law. LICENSEE shall be permitted to disclose Confidential Information if such disclosure is required by an authorized governmental or judicial entity, provided that LICENSEE shall notify NCL at least thirty (30) days prior to such disclosure. LICENSEE shall use its best efforts to limit the disclosure to the greatest extent possible consistent with LICENSEE's legal obligations and, if required by NCL, shall cooperate in the preparation and entry of appropriate court orders limiting the persons to whom Confidential Information may be disclosed and the extent of disclosure of such Confidential Information.

8.3 Disclosure and Use. Nintendo may provide LICENSEE with highly confidential, development information, Guidelines, Development Tools, systems, specifications and related resources and information constituting and incorporating the Confidential Information to assist LICENSEE in the development of Games. LICENSEE agrees to maintain all Confidential Information as strictly confidential and to use such Confidential Information only in accordance with

this Agreement. LICENSEE shall limit access to the Confidential Information to LICENSEE's employees having a strict need to know and shall advise such employees of their obligation of confidentiality as provided herein. LICENSEE shall require each such employee to retain in confidence the Confidential Information pursuant to a written non-disclosure agreement between LICENSEE and such employee. LICENSEE shall use its best efforts to ensure that its employees working with or otherwise having access to Confidential Information shall not disclose or make any unauthorized use of the Confidential Information.

8.4 Independent Contractor Use. LICENSEE shall not disclose the Confidential Information, the Guidelines or the Intellectual Property Rights to any Independent Contractor, nor permit any Independent Contractor to perform or assist in development work for a Game, nor utilize any Development Tools without NCL's prior written consent. Each approved Independent Contractor shall be required to enter into a written non-disclosure agreement with NCL prior to receiving any access to or disclosure of such materials from either LICENSEE or Nintendo.

At LICENSEE's option, the written non-disclosure agreement may be with LICENSEE rather than with NCL, in which case the form and substance of the non-disclosure agreement must be acceptable to NCL. Also, in such case LICENSEE shall provide to NCL on a continuing basis a listing of all Independent Contractors who have received or been granted access to Confidential Information along with copies of the applicable written non-disclosure agreements. In addition, LICENSEE shall take all reasonable measures to ensure that its Independent Contractors fulfill the requirements of the applicable written non-disclosure agreements.

LICENSEE shall use its best efforts to ensure that its employees and Independent Contractors working with or otherwise having access to Confidential Information shall not disclose or make unauthorized use of the Confidential Information. LICENSEE agrees to indemnify NCL against all loss or damage, including consequential economic loss, for breach of these obligations by the LICENSEE, its employees and Independent Contractors.

8.5 Agreement Confidentiality. LICENSEE agrees that the terms, conditions and contents of this Agreement shall be treated as Confidential Information. Any public announcement or press release regarding this Agreement or the release dates for Games developed by LICENSEE under this Agreement shall be subject to NCL's prior written approval. The parties may disclose this Agreement (a) to accountants, banks, financing sources, lawyers, parent companies and related parties under substantially equivalent confidentiality obligations, (b) in connection with any formal legal proceeding for the enforcement of this Agreement, (c) as required by the regulations of the government agency in the Territory that regulates publicly funded securities, provided that all Confidential Information regarding NCL shall be omitted from such disclosures to the maximum extent allowed by such government agency, and (d) in response to lawful process, subject to a written protective order approved in advance by NCL.

8.6 Notification Obligations. LICENSEE shall promptly notify NCL of the unauthorized use or disclosure of any Confidential Information and shall promptly act to recover any such information and prevent further breach of the obligations herein. The obligations of LICENSEE set forth herein are in addition to and not in lieu of any other legal remedy that may be available to NCL under this Agreement or applicable law.

8.7 Continuing Effect of the NDA. The terms of this Section 8 supplement the terms of the NDA, which shall remain in effect. In the event of a conflict between the terms of the NDA and this Agreement, the provisions of this Agreement shall control.

9. REPRESENTATIONS AND WARRANTIES

9.1 LICENSEE's Representations and Warranties. LICENSEE represents and warrants that:

(a) it is a duly organized and validly existing corporation and has full authority to enter into this Agreement and to carry out the provisions hereof,

(b) the execution, delivery and performance of this Agreement by LICENSEE does not conflict with any agreement or understanding to which LICENSEE may be bound, and

(c) excluding the Intellectual Property Rights, LICENSEE is either (i) the sole owner of all right, title and interest in and to the trademarks,

copyrights and all other Proprietary Rights incorporated into the Game or the Artwork or used in the development, advertising, marketing and sale of the Licensed Products or the Marketing Materials, or (ii) the holder of such rights, including trademarks, copyrights and all other Proprietary Rights which belong to any third party but have been licensed from such third party by LICENSEE, as are necessary for incorporation into the Game or the Artwork or as are used in the development, advertising, marketing and sale of the Licensed Products or the Marketing Materials under this Agreement.

9.2 NCL's Representations and Warranties. NCL represents and warrants that:

(a) it is a duly organized and validly existing corporation and has full authority to enter into this Agreement and to carry out the provisions hereof, and

(b) the execution, delivery and performance of this Agreement by NCL does not conflict with any agreement or understanding to which NCL may be bound.

9.3 ***

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

***

9.4 ***.

9.5 LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER NCL NOR ITS AFFILIATES, LICENSORS, SUPPLIERS OR SUB-CONTRACTORS SHALL BE LIABLE FOR LOSS OF PROFITS, OR FOR ANY SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF LICENSEE OR ITS CUSTOMERS ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE BREACH OF THIS AGREEMENT BY NCL, THE MANUFACTURE OF THE LICENSED PRODUCTS OR THE USE OF THE LICENSED PRODUCTS ON ANY NCL VIDEO GAME SYSTEM BY LICENSEE OR BY ANY END USER.

10. INDEMNIFICATION

10.1 LICENSEE's Indemnification. LICENSEE shall indemnify and hold harmless NCL (and any of its respective affiliates, subsidiaries, licensors, suppliers, officers, directors, employees or agents) from any claims, losses, liabilities, damages, expenses and costs, including, without limitation, reasonable attorneys' fees and costs and any expenses incurred in the settlement or avoidance of any such claim, which result from or are in connection with:

(a) a breach of any of the provisions, representations or warranties undertaken by LICENSEE in this Agreement,

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

(b) any infringement of a third party's Proprietary Rights as a result of the design, development, advertising, marketing, sale or use of any aspect of the Licensed Products, Promotional Materials or the Marketing Materials,

(c) any claims alleging a defect, failure to warn, bodily injury (including death) or other personal or property damage arising out of, or in connection with, the design, development, advertising, marketing, sale or use of any of any aspect of the Licensed Products, and

(d) any civil or criminal actions relating to the design, development, advertising, marketing, sale or use of any aspect of the Licensed Products, Marketing Materials or any other promotional materials.

NCL and LICENSEE shall give prompt Notice to the other of any claim which is or which may be subject to indemnification under this Section 10.1. With respect to any such third party claim, LICENSEE, as indemnitor, shall have the right to select counsel and to control the defense and/or settlement thereof. NCL may, at its own expense, participate in such action or proceeding with counsel of its own choice. LICENSEE shall not enter into any settlement of any matter in which (i) NCL has been named as a party, or (ii) claims relating to the Intellectual Property Rights have been asserted, without NCL's prior written consent. NCL shall provide reasonable assistance to LICENSEE in its defense of any such claim.

10.2 LICENSEE's Insurance. LICENSEE shall, at its own expense, obtain a comprehensive policy of general liability insurance (including coverage for advertising injury and product liability claims) from a recognized insurance company. Such policy of insurance shall be in an amount of not less than the equivalent of *** and shall provide for adequate protection against any suits, claims, loss or damage by the Licensed Products. Such policy shall name NCL as an additional insured and shall specify it may not be canceled without thirty (30) days' prior written Notice to NCL. If LICENSEE fails to maintain such insurance at any time during the Term and for a period of two (2) years thereafter, NCL may secure such insurance at LICENSEE's expense.

10.3 Suspension of Production. In the event NCL deems itself at risk with respect to any claim, action or proceeding under this Section 10, NCL may, at its sole option, suspend production, delivery or order acceptance for any Licensed Products, in whole or in part, pending resolution of such claim, action or proceeding.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

11. PROTECTION OF PROPRIETARY RIGHTS

11.1 Joint Actions against Infringers. LICENSEE and NCL may agree to jointly pursue cases of infringement involving the Licensed Products, as such Licensed Products will contain Proprietary Rights owned by each of them. Unless the parties otherwise agree, or unless the recovery is expressly allocated between them by the court, in the event of such an action, any recovery shall be used first to reimburse LICENSEE and NCL for their respective reasonable attorneys' fees and costs, pro rata, and any remaining recovery shall be distributed to LICENSEE and NCL, pro rata, based upon the fees and costs incurred in bringing such action.

11.2 Actions by LICENSEE. LICENSEE, without the consent of NCL, may bring any action or proceeding relating to an infringement or potential infringement of LICENSEE's Proprietary Rights in the Licensed Products. LICENSEE shall make reasonable good faith efforts to inform NCL of such actions in a timely manner. LICENSEE will have the right to retain all proceeds it may derive from any recovery in connection with such actions.

11.3 Actions by NCL. NCL, without the consent of LICENSEE, may bring any action or proceeding relating to an infringement or potential infringement of NCL's Intellectual Property Rights in the Licensed Products. NCL shall make reasonable, good faith efforts to inform LICENSEE of such actions likely to affect LICENSEE's rights in a timely manner. NCL will have the right to retain all proceeds it may derive from any recovery in connection with such actions.

12. ASSIGNMENT

12.1 No Assignment by LICENSEE. This Agreement is personal to LICENSEE and may riot be sold, assigned, delegated, sublicensed or otherwise transferred or encumbered, in whole or in part, without NCL's prior written consent, ***. In the event of an assignment or other transfer in violation of this Agreement, NCL shall have the unqualified right to immediately terminate this Agreement without further obligation to LICENSEE.

12.2 Assignment by Operation of Law. In the event of an assignment by operation of law which purports to affect this Agreement, LICENSEE shall, not later than thirty (30) days thereafter, give Notice and seek consent thereto from NCL. Such Notice shall disclose the name of the assignee, the effective date and the nature and extent of the assignment. An assignment by operation of law includes, but is not limited to (a) a merger of LICENSEE into another business entity or a merger of another business entity into LICENSEE, (b) the sale,

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

assignment or transfer of all or substantially all of the assets of LICENSEE to a third party, (c) the sale, assignment or transfer to a third party of any of the LICENSEE's proprietary rights that are used in the development of or are otherwise incorporated into any Licensed Products, or (d) the sale, assignment or transfer of any of LICENSEE's stock resulting in the acquirer having management power over or voting control of LICENSEE. Following the later of (i) an assignment by operation of law, or (ii) receipt of Notice of an assignment by operation of law, NCL shall have the unqualified right for a period of ninety (90) days to immediately terminate this Agreement without further obligation to LICENSEE.

12.3 Non-Disclosure Obligation. In no event shall LICENSEE disclose or allow access to NCL's Confidential Information prior to or upon the occurrence of an assignment, whether by operation of law or otherwise, unless and until NCL gives its written consent to such disclosure.

13. TERM AND TERMINATION

13.1 Term. This Agreement shall commence on the Effective Date and continue for the Term, unless earlier terminated as provided for herein.

13.2 Default or Breach. In the event that either party is in default or commits a material breach of this Agreement, which is not cured within thirty (30) days after Notice thereof, then this Agreement shall automatically terminate on the date specified in such Notice.

13.3 Bankruptcy. At NCL's option, this Agreement may be terminated immediately and without Notice in the event that LICENSEE (a) makes an assignment for the benefit of creditors, (b) becomes insolvent, (c) files a voluntary petition for bankruptcy, (d) acquiesces to any involuntary bankruptcy petition, (e) is adjudicated as a bankrupt, or (f) ceases to do business.

13.4 Termination Other Than by Breach. Upon the expiration of this Agreement or its termination other than by LICENSEE's breach, LICENSEE shall have a period of *** to sell any unsold Licensed Products. All Licensed Products in LICENSEE's control following the expiration of such sell-off period shall be destroyed by LICENSEE within ten (10) days and Notice of such destruction (with proof certified by an officer of LICENSEE) shall be delivered to NCL.

13.5 Termination by LICENSEE's Breach. If this Agreement is terminated by NCL as a result of a material breach of its terms and conditions by LICENSEE, LICENSEE shall immediately cease all distribution, advertising, marketing or sale of any Licensed Products. All Licensed Products in LICENSEE's control as of the date of such termination shall be

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

destroyed by LICENSEE within ten (10) days and Notice of such destruction (with proof certified by an officer of LICENSEE) shall be delivered to NCL.

13.6 Breach of NDA or other NCL License Agreements. At NCL's option, any breach by LICENSEE of (a) the NDA, or (b) any other license agreement between NCL and LICENSEE relating to the development of games for any NCL video game system, which breach is not cured within the time period for cure allowed under the applicable agreement, shall be considered a material breach of this Agreement entitling NCL to terminate this Agreement in accordance with Section 13.5 herein.

13.7 No Further Use of the Intellectual Property Rights. Upon expiration and/or termination of this Agreement, LICENSEE shall cease all use of the Intellectual Property Rights for any purpose, except as may be required in connection with the sale of the Licensed Products authorized under Section 13.4 herein. LICENSEE shall, within thirty (30) days thereafter, (a) return to NCL all Development Tools, and (b) return to NCL or destroy all Guidelines, writings, drawings, models, data, tools and other materials and things in LICENSEE's possession or in the possession of any past or present employee, agent or contractor receiving the information through LICENSEE, which constitute or relate to or disclose any Confidential Information, without making copies or otherwise retaining any such information. Proof of such return or destruction shall be certified by an officer of LICENSEE and promptly provided to NCL.

13.8 Termination by NCL's Breach. If this Agreement is terminated by LICENSEE as a result of a material breach of its terms or conditions by NCL, LICENSEE may continue to sell the Licensed Products in the Territory until the expiration of the Term, at which time the provisions of Section 13.4 shall apply.

14. GENERAL PROVISIONS

14.1 Compliance with Applicable Laws and Regulations. LICENSEE shall at all times comply with applicable laws, regulations, orders, and official codes of practice in the countries of the Territory relating to or in any way affecting this Agreement and LICENSEE's performance under this Agreement, including, without limitation, the export laws and regulations of any country with jurisdiction over the Licensed Products and/or either party. LICENSEE shall not market, distribute, or sell the Game(s) and/or Game Disc(s) in any country in the Territory in which such marketing, distribution or sale would violate any applicable laws, regulations, orders, or official codes of practice of such

country. NCL may from time to time give notice to LICENSEE of laws, regulations, orders, and official codes of practice whether existing, new or revised, applicable to this Agreement.

14.2 Force Maieure. Neither party shall be liable for any breach of this Agreement occasioned by any cause beyond the reasonable control of such party, including governmental action, war, riot or civil commotion, fire, natural disaster, labor disputes, restraints affecting shipping or credit, delay of carriers, inadequate supply of suitable materials, or any other cause which could not with reasonable diligence be controlled or prevented by the parties. In the event of material shortages, including shortages of materials or production facilities necessary for production of the Licensed Products, NCL reserves the right to allocate such resources among itself and its licensees.

14.3 Records and Audit. During the Term and for a period of *** thereafter, LICENSEE agrees to keep accurate, complete and detailed records relating to the use of the Confidential Information, the Development Tools and the Intellectual Property Rights. Upon *** Notice to LICENSEE, NCL may, at its expense, arrange for a third party audit of LICENSEE's records, reports and other information related to LICENSEE's compliance with this Agreement; provided, however, that NCL shall not, during the course of the audit, access LICENSEE's source code, development plans, marketing plans, internal business plans or other items deemed confidential by LICENSEE, except to the extent such materials incorporate, disclose or reference NCL's Confidential Information or Intellectual Property Rights.

14.4 Waiver, Severability, Integration, and Amendment. The failure of a party to enforce any provision of this Agreement shall not be construed to be a waiver of such provision or of the right of such party to thereafter enforce such provision. In the event that any term, clause or provision of this Agreement shall be construed to be or adjudged invalid, void or unenforceable, such term, clause or provision shall be construed as severed from this Agreement, and the remaining terms, clauses and provisions shall remain in effect. Together with the NDA, this Agreement constitutes the entire agreement between the parties relating to the subject matter hereof. All prior negotiations, representations, agreements and understandings are merged into, extinguished by and completely expressed by this Agreement and the NDA. Any amendment to this Agreement shall be in writing, signed by both parties.

14.5 Survival. In addition to those rights specified elsewhere in this Agreement, the rights and obligations set forth in Sections 3, 8, 9, 10, 11, 12 and 13 shall survive any expiration or termination of this Agreement to the degree necessary to permit their complete fulfilment or discharge.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

14.6 Governing Law and Venue. This Agreement shall be governed by the laws of Japan. Any legal actions (including judicial and administrative proceedings) with respect to any matter arising under or growing out of this Agreement, shall be brought only in Kyoto District Court, Kyoto, Japan. Each party hereby consents to the jurisdiction and venue of such courts for such purposes.

14.7 Equitable Relief. LICENSEE acknowledges that in the event of its breach of this Agreement, no adequate remedy at law may be available to NCL and that NCL shall be entitled to seek injunctive or other equitable relief in addition to any relief available at law.

14.8 Attorneys' Fees. In the event it is necessary for either party to this Agreement to undertake legal action to enforce or defend any action arising out of or relating to this Agreement, the prevailing party in such action shall be entitled to recover from the other party all reasonable attorneys' fees, costs and expenses relating to such legal action or any appeal therefrom.

14.9 Expansion of Rights. NCL may expand the rights granted to LICENSEE under this Agreement by providing written notice of such expansion of rights to LICENSEE and without having to enter into a written addendum to the present Agreement with LICENSEE.

14.10 Delegation of Duties. NCL, at its option, may delegate its duties under the present Agreement to a wholly owned subsidiary. To the extent necessary for the parties to carry out their duties under this Agreement, NCL shall provide notice to LICENSEE of any such delegation, including to whom at NCL's wholly owned subsidiary communications from LICENSEE under this Agreement may be directed. Also in the event of a delegation by NCL, the provisions of this Agreement shall continue to govern the relationship between NCL and LICENSEE and shall govern the relationship between NCL's subsidiary and

LICENSEE,, subject to any amendments or modifications to this Agreement which such subsidiary and LICENSEE may agree to in their relationship. NCL shall remain obligated under the present Agreement for the performance of NCL's duties by NCL's subsidiary.

14.11 Counterparts and Signature by Facsimile. This Agreement may be signed in counterparts, which shall together constitute a complete Agreement. A signature transmitted by facsimile shall be considered an original for purposes of this Agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the dates set forth below.

NCL:

Nintendo Co., Ltd.

By: /s/ Santura ?
- ----------

President

Date: Jun. -5, 2002
- ----------

LICENSEE:

Activision, Inc.

By: /s/ George Rose

George Rose
General counsel

Date: 4/16/02

LICENSEE:

Activision UK, Ltd.

By: /s/ George Rose

George Rose
Director

Date: 4/16/02

LICENSEE:

ATVI France, S.A.R.I.

Patrick Chachuat
Director

Date: 4/20/02

LICENSEE:
Activision GmbH

By: /s/ George Rose

George Rose
Managing Director

Date: 4/16/02

LICENSEE:

Activision Pty, Ltd.

By: /s/ George Rose

George Rose
Director

Date: 4/16/02

ANNEX A

Guidelines on Ethical Content

The following Guidelines on Ethical Content are presented for assistance in the development of Games by defining the types of the theme inconsistent with NCL's corporate philosophy. Exceptions may be made when necessary to maintain the integrity of the Game or the Game's theme. Games shall not:

(a) contain sexually explicit content including but not limited to nudity, rape, sexual intercourse and sexual touching; for instance, NCL does not allow barebreasted women in Games, however, mild displays of affection such as kissing or hugging are acceptable;

(b) contain language or depictions which specifically denigrate members of any race, gender, ethnicity, religion or political group;

(c) depict gratuitous or excessive blood or violence. NCL does not permit depictions of animal cruelty or torture;

(d) depict verbal or physical spousal or child abuse;

(e) permit racial, gender, ethnic, religious or political stereotypes; for example, religious symbols such as crosses will be acceptable when fitting into the theme of the Game and not promoting a specific religious denomination;

(f) use profanity, obscenity or incorporate language or gestures that are offensive by prevailing public standards and tastes; and

(g) promote the use of illegal drugs, smoking materials, tobacco and/or alcohol; for example NCL does not allow an unnecessary beer or cigarette advertisement anywhere in a Game; however, Sherlock Holmes smoking a pipe would be acceptable as it fits the theme of the Game.

CONFIDENTIAL LICENSE AGREEMENT
FOR GAME BOY ADVANCE
(Western Hemisphere)

THIS LICENSE AGREEMENT ("Agreement") is entered into between NINTENDO OF AMERICA INC. ("NOA"), at 4820 150th Avenue N.E., Redmond, WA 98052 Attn: General Counsel (Fax: 425-8823585) and Activision Publishing, Inc., ("LICENSEE") at 3100 Ocean Park Blvd, Santa Monica, CA 90405 Attn: George Rose (Fax: (310) 255-2152). NOA and LICENSEE agree as follows:

1. RECITALS

1.1 NOA markets and sells advanced design, high-quality video game systems, including the GAME BOY(R) ADVANCE system.

1.2 LICENSEE desires a license to use highly proprietary programming specifications, development tools, trademarks and other valuable intellectual property rights of NOA and its parent company, Nintendo Co., Ltd. (collectively "Nintendo"), to develop, have manufactured, advertise, market and sell video game software for play on the GAME BOY ADVANCE system.

1.3 NOA is willing to grant a license to LICENSEE on the terms and conditions set forth in this Agreement.

2. DEFINITIONS

2.1 "Artwork" means the design specifications for the Game Cartridge label and Printed Materials in the format specified by NOA in the Guidelines.

2.2 "Development Tools" means the development kits, programming tools, emulators, and other materials that may be used in the development of Games under this Agreement.

2.3 "Effective Date" means the last date on which all parties shall have signed this Agreement.

2.4 "Finished Product(s)" means the fully assembled and shrink-wrapped Licensed Products, each including a Game Cartridge, Game Cartridge label and Printed Materials.

2.5 "Game Cartridges(s)" means custom cartridges specifically manufactured under the terms of this Agreement for play on the GAME BOY ADVANCE system, incorporating semiconductor components in which a Game has been stored.

2.6 "Game(s)" means interactive video game programs (including source and object/binary code) developed for play on the GAME BOY ADVANCE system.

2.7 "Guidelines" means the current version or any future revision of the "Game Boy Packaging Guidelines", "Nintendo Trademark Guidelines", "Game Boy Advance Development Manual" and related guidelines.

2.8 "Independent Contractor" means any individual or entity that is not an employee of LICENSEE, including any independent programmer, consultant, contractor, board member or advisor.

2.9 "Intellectual Property Rights" means individually, collectively or in any combination, Proprietary Rights owned, licensed or otherwise held by Nintendo that are associated with the development, manufacturing, advertising, marketing or sale of the Licensed Products, including, without limitation, (a) registered and unregistered trademarks and trademark applications used in connection with video games for play on the GAME BOY ADVANCE system including "Nintendo(R)", "GAME BOY(R) ADVANCE," "AGB" and the "Official Nintendo Seal of Quality(R)", (b) select trade dress associated with the

GAME BOY ADVANCE system and licensed video games for play thereon, (c) Proprietary Rights in the Security Technology incorporated into the Game Cartridges, (d) rights in the Development Tools for use in developing the Games, (e) patents or design registrations associated with the Game Cartridges, (f) copyrights in the Guidelines, and (g) other Proprietary Rights of Nintendo in Confidential Information.

2.10 "Licensed Products" means (a) Finished Products, or (b) Stripped Products when fully assembled and shrink-wrapped with the Printed Materials.

2.11 "Marketing Materials" means marketing, advertising or promotional materials developed by or for LICENSEE (or subject to LICENSEE's approval) to promote the sale of the Licensed Products, including, but not limited to,

television, radio and on-line advertising, point-of-sale materials (e.g. posters, counter-cards), package advertising and print media or materials.

2.12 "NDA" means the non-disclosure agreement providing for the protection of Confidential Information related to the GAME BOY ADVANCE system previously entered into between NOA and LICENSEE.

2.13 "Notice" means any notice permitted or required under this Agreement. All notices shall be sufficiently given when (a) personally served or delivered, or (b) transmitted by facsimile, with an original sent concurrently by first class U.S. mail, or (c) deposited, postage prepaid, with a guaranteed air courier service, in each case addressed as stated herein, or addressed to such other person or address either party may designate in a Notice. Notice shall be deemed effective upon the earlier of actual receipt or two (2) business days after transmittal.

2.14 "Price Schedule" means the current version or any future revision of NOA's schedule of purchase prices and minimum order quantities for the Licensed Products.

2.15 "Printed Materials" means the box, user instruction booklet, poster, warranty card and LICENSEE inserts incorporating the Artwork, together with a precautions booklet as specified by NOA.

2.16 "Proprietary Rights means any rights or applications for rights owned, licensed or otherwise held in patents, trademarks, service marks, copyrights, mask works, trade secrets, trade dress, moral rights and publicity rights, together with all inventions, discoveries, ideas, technology, know-how, data, information, processes, formulas, drawings and designs, licenses, computer programs, software source code and object code, and all amendments, modifications, and improvements thereto for which such patent, trademark, service mark, copyright, mask work, trade secrets, trade dress, moral rights or publicity rights may exist or may be sought and obtained in the future.

2.17 "Reverse Engineer(ing)" means, without limitation, (a) the x-ray, electronic scanning or physical or chemical stripping of semiconductor components, (b) the disassembly, decompilation, decryption or simulation of object code or executable code, or (c) any other technique designed to extract source code or facilitate the duplication of a program or product.

2.18 "Security Technology" means, without limitation, any security signature, bios, data scrambling, password, hardware security apparatus, watermark, hologram, copyright management information system or any feature which facilitates or limits compatibility with other hardware or software outside of the Territory or on a different video game system.

2.19 "Stripped Product(s)" means the Game Cartridges with Game Cartridge labels affixed.

2.20 "Term" means three (3) years from the Effective Date.

2.21 "Territory" means all countries within the Western Hemisphere and their respective territories and possessions.

3. GRANT OF LICENSE; LICENSEE RESTRICTIONS

3.1 Limited License Grant. For the Term and for the Territory, NOA grants to LICENSEE a nonexclusive, nontransferable, limited license to use the Intellectual Property Rights to develop Games for manufacture, advertising, marketing and sale as Licensed Products, subject to the terms and conditions of this Agreement. Except as permitted under a separate written authorization from Nintendo, LICENSEE shall not use the Intellectual Property Rights for any other purpose.

3.2 LICENSEE Acknowledgement. LICENSEE acknowledges (a) the value of the Intellectual Property Rights, (b) the right, title, and interest of Nintendo in and to the Intellectual Property Rights, and (c) the right, title and interest of Nintendo in and to the Proprietary Rights associated with all aspects of the GAME BOY ADVANCE system. LICENSEE recognizes that the Games, Game Cartridges and Licensed Products will embody valuable rights of Nintendo and Nintendo's licensors. LICENSEE represents and warrants that it will not undertake any act or thing which in any way impairs or is intended to impair any part of the right, title, interest or goodwill of Nintendo in the Intellectual Property Rights. LICENSEE's use of the Intellectual Property Rights shall not create any right, title or interest of LICENSEE therein.

3.3 LICENSEE Restrictions and Prohibitions. LICENSEE represents and warrants that it will not at any time, directly or indirectly, do or cause to be done any of the following:

(a) grant access to, distribute, transmit or broadcast a Game by electronic means or by any other means known or hereafter devised, including, without limitation, by wireless, cable, fiber optic, telephone lines, microwave, radiowave, computer or other device network; provided, however, that limited transmissions may be made for the sole purpose of facilitating development under the terms of this Agreement, but no right of retransmission shall attach to any such authorized transmission and, reasonable security measures, customary within the high technology industry, shall be utilized to reduce the risk of unauthorized interception or retransmission of any such authorized transmission,

(b) authorize or permit any online activities involving a Game, including, without limitation, multiplayer, peer-to-peer or online play,

(c) modify, install or operate a Game on any server or computing device for the purpose of or resulting in the rental, lease, loan or other grant of remote access to the Game,

(d) emulate, interoperate, interface or link a Game for operation or use with any hardware or software platform, accessory, computer language, computer environment, chip instruction set, consumer electronics device or device other than the GAME BOY ADVANCE system or the Development Tools,

(e) embed, incorporate, or store a Game in any media or format except the cartridge format utilized by the GAME BOY ADVANCE system, except as may be necessary as a part of the Game development process under this Agreement,

(f) design, implement or undertake any process, procedure, program or act designed to circumvent the Security Technology,

(g) utilize the Intellectual Property Rights to design or develop any interactive video game program, except as authorized under this Agreement,

(h) manufacture or reproduce a Game developed under this Agreement, except through Nintendo, or

(i) Reverse Engineer or assist in the Reverse Engineering of all or any part of the GAME BOY ADVANCE system, including the hardware or software (whether embedded or otherwise), or the Security Technology.

3.4 Development Tools. Nintendo may lease, loan or sell Development Tools to LICENSEE to assist in the development of Games under this Agreement. Ownership and use of any Development Tools provided to LICENSEE by Nintendo shall be subject to the terms of this Agreement. LICENSEE acknowledges the exclusive interest of Nintendo in and to the Proprietary Rights associated with the Development Tools. LICENSEE's use of the Development Tools shall not create any right, title or interest of LICENSEE therein. LICENSEE shall not, directly or indirectly, (a) use the Development Tools for any purpose except the design and development of Games under this Agreement, (b) reproduce or create derivatives of the Development Tools, except in association with the development of Games under this Agreement, (c) Reverse Engineer the Development Tools, or (d) sell, lease, assign, lend, license, encumber or otherwise transfer the Development Tools. Any tools developed or derived by LICENSEE as a result of a study of the performance, design or operation of the Development Tools shall be considered derivative works of the Intellectual Property Rights, but may be retained and utilized by LICENSEE in connection with this Agreement. In no event shall LICENSEE (i) seek, claim or file for any patent, copyright or other Proprietary Right with regard to any such derivative work, (ii) make available any such derivative work to any third party, or (iii) use any such derivative work except in connection with the design and development of Games under this Agreement.

4. SUBMISSION OF GAME AND ARTWORK FOR APPROVAL

4.1 Development and Sale of the Games. LICENSEE may develop Games and have manufactured, advertise, market and sell Licensed Products for play on the GAME BOY ADVANCE system only in accordance with this Agreement.

4.2 Third Party Developers. LICENSEE shall not disclose the Confidential Information, the Guidelines or the Intellectual Property Rights to any Independent Contractor, nor permit any Independent Contractor to perform or assist in development work for a Game, unless and until such Independent Contractor has been approved by NOA and has executed a written confidentiality agreement with NOA relating to the GAME BOY ADVANCE system.

4.3 Delivery of Completed Game. Upon completion of a Game, LICENSEE shall deliver a prototype of the Game to NOA in a format specified in the Guidelines, together with written user instructions, a complete description of any security holes, backdoors, time bombs, cheats, "easter eggs" or other hidden features or

characters in the Game ***. NOA shall promptly evaluate the Game with regard to (a) its technical compatibility with and error-free operation on the GAME BOY ADVANCE system, and (b) its compliance with the game content guidelines of the Entertainment Software Ratings Board ("ESRB"). LICENSEE shall provide NOA with a certificate of a rating for the Game from the ESRB other than "AO" or "ADULTS ONLY".

4.4 Approval of Completed Game. NOA shall, within a reasonable period of time after receipt, approve or disapprove each submitted Game. If a Game is disapproved, NOA shall specify in writing the reasons for such disapproval and state what corrections or improvements are necessary. After making the necessary corrections or improvements, LICENSEE shall submit a revised Game to NOA for approval. NOA shall not unreasonably withhold or delay its approval of any Game. The approval of a Game by NOA shall not relieve LICENSEE of its sole responsibility for the development, quality and operation of the Game or in any way create any warranty for a Game or a Licensed Product by NOA.

4.5 Submission of Artwork. Upon submission of a completed Game to NOA, LICENSEE shall prepare and submit to NOA the Artwork for the proposed Licensed Product. Within ten (10) business days of receipt, NOA shall approve or disapprove the Artwork. If any Artwork is disapproved, NOA shall specify in writing the reasons for such disapproval and state what corrections or improvements are necessary. After making the necessary corrections or improvements, LICENSEE shall submit revised Artwork to NOA for approval. NOA shall not unreasonably withhold or delay its approval of any Artwork. The approval of the Artwork by NOA shall not relieve LICENSEE of its sole responsibility for the development and quality of the Artwork or in any way create any warranty for the Artwork or the Licensed product by NOA.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

4.6 Artwork for Stripped Product. If LICENSEE submits an order for Stripped Product, all Artwork shall be submitted to NOA in advance of NOA's acceptance of the order and no production of Printed Materials shall occur until such Artwork has been approved by NOA under Section 4.5 herein.

5. ORDER PROCESS, PURCHASE PRICE, PAYMENT AND DELIVERY

5.1 Submission of Orders by LICENSEE. LICENSEE may at any time submit written purchase orders to NOA for any approved Licensed Product title. The purchase order shall specify whether it is for Finished Product or Stripped Product. The terms and conditions of this Agreement shall control over any contrary terms of such purchase order or any other written documents submitted by LICENSEE. All orders are subject to acceptance by NOA in Redmond, WA.

5.2 Purchase Price and Minimum Order Quantities. The purchase price and minimum order quantities for the Licensed Products shall be set forth in NOA's then current Price Schedule. The purchase price includes the cost of manufacturing together with a royalty for the use of the Intellectual Property Rights. No taxes, duties, import fees or other tariffs related to the development, manufacture, import, marketing or sale of the Licensed Products are included in the purchase price and all such taxes are the responsibility of LICENSEE (except for taxes imposed on NOA's income). The Price Schedule is subject to change by NOA at any time without Notice.

5.3 Payment. Upon placement of an order with NOA, LICENSEE shall pay the full purchase price to NOA either (a) by placement of an irrevocable letter of credit in favor of NOA and payable at sight, issued by a bank acceptable to NOA and confirmed, if requested by NOA, at LICENSEE's expense, or (b) in cash, by wire transfer to NOA's designated account. All associated banking charges shall be for LICENSEE's account.

5.4 Shipment and Delivery. The Licensed Products shall be delivered F.O.B. Japan or such other delivery point specified by NOA, with shipment at LICENSEE's direction and expense. Orders may be delivered by NOA in partial shipments, each directed to not more than two (2) destinations designated by LICENSEE within the Territory. Title to the Licensed Products shall vest in accordance with the terms of the applicable letter of credit or, in the absence thereof, at the point of delivery.

6. MANUFACTURE OF THE LICENSED PRODUCT

6.1 Manufacturing. Nintendo Co., Ltd. shall be the exclusive source for the manufacture of the Game Cartridges, with responsibility for all aspects of the manufacturing process, including the selection of the locations and specifications for any manufacturing facilities, determination of materials and processes, appointment of suppliers and subcontractors and management of all work-in-progress.

6.2 Manufacture of the Licensed Products. Upon acceptance by NOA of a purchase order for an approved Licensed Product title and payment as provided for under Section 5.3 herein, NOA (through Nintendo Co., Ltd., and/or its subcontractors), will arrange for the manufacture of Finished Product or Stripped Product, as specified in LICENSEE's purchase order.

6.3 Security Features. The final release version of the Game, Game Cartridges and Printed Materials shall include such Security Technology as Nintendo, in its sole discretion, may deem necessary or appropriate.

6.4 Production of Stripped Product Printed Materials. For Stripped Product, LICENSEE shall arrange and pay for the production of the Printed Materials using the Artwork. Upon receipt of an order of Stripped Product, LICENSEE shall assemble the Game Cartridges and Printed Materials into the Licensed Products. Licensed Products may be sold or otherwise distributed by LICENSEE only in fully assembled and shrink-wrapped condition.

6.5 Prior Approval of LICENSEE's Independent Contractor. Prior to the placement of a purchase order for Stripped Product, LICENSEE shall obtain NOA's approval of any Independent

Contractors selected to perform the production and assembly operations. LICENSEE shall provide NOA with the names, addresses and all business documentation reasonably requested by NOA for such Independent Contractors. NOA may, prior to approval and at reasonable intervals thereafter, (a) require submission of additional business or financial information regarding the Independent Contractors, (b) inspect the facilities of the Independent Contractors, and (c) be present to supervise any work on the Licensed Products to be done by the Independent Contractors. If at any time NOA deems an Independent Contractor to be unable to meet quality, security or performance standards reasonably established by NOA, NOA may refuse to grant its approval or withdraw its approval upon Notice to LICENSEE. LICENSEE may not proceed with the production of the Printed Materials or assembly of the Licensed Product until NOA's concerns have been resolved to its satisfaction or until LICENSEE has selected and received NOA's approval of another Independent Contractor.

6.6 NOA Inserts for Stripped Product. NOA, at its option, may provide LICENSEE with NOA produced promotional materials (as provided for at Section 7.7(a) herein), which LICENSEE agrees to include in the assembly of the Licensed Products.

6.7 Sample Printed Materials and Stripped Product. Within a reasonable period of time after LICENSEE's assembly of the initial order for a Stripped Product title, LICENSEE shall provide NOA with (a) one (1) sample of the fully assembled, shrink-wrapped Licensed Product, and (b) *** samples of LICENSEE produced Printed Materials for such Licensed Product.

6.8 Retention of Sample Licensed Products by Nintendo. Nintendo may, at its own expense, manufacture reasonable quantities of the Game Cartridges or the Licensed Products to be used for archival purposes, legal proceedings against infringers of the Intellectual Property Rights or for other lawful purposes ***.

7. MARKETING AND ADVERTISING

7.1 Approval of Marketing Materials. LICENSEE represents and warrants that the Marketing Materials shall (a) be of high quality and comply with the Guidelines, (b) comply with all voluntary ESRB advertising, marketing or merchandising guidelines, and (c) comply with all applicable laws and regulations in those jurisdictions in the Territory where they will be used or distributed. Prior to actual use or distribution, LICENSEE shall submit to NOA for review samples of all proposed Marketing Materials. NOA shall, within ten (10) business days of receipt, approve or disapprove the quality of such samples. If any of the samples are disapproved, NOA shall specify the reasons for such disapproval and state what corrections and/or improvements are necessary. After making the necessary corrections and/or improvements, LICENSEE shall submit revised samples for approval by NOA. No Marketing Materials shall be used or distributed by LICENSEE without NOA's prior written approval. NOA shall not unreasonably withhold or delay its approval of any proposed Marketing Materials.

7.2 No Bundling. LICENSEE shall not market or distribute any Finished Product or Stripped Product that has been bundled with (a) any peripheral designed for use with the GAME BOY ADVANCE system which has not been licensed or approved in writing by NOA, or (b) any other product or service where NOA's sponsorship, association, approval or endorsement might be suggested by the bundling of the products or services.

7.3 Warranty and Repair. LICENSEE shall provide the original consumer with

a minimum ninety (90) day limited warranty on all Licensed Products. LICENSEE shall also provide reasonable product service, including out-of-warranty service, for all Licensed Products.

7.4 Business Facilities. LICENSEE agrees to develop and maintain (a) suitable office facilities within the United States, adequately staffed to enable LICENSEE to fulfill all responsibilities under this Agreement, (b) necessary warehouse, distribution, marketing, sales, collection and credit operations to facilitate proper handling of the Licensed Products, and (c) customer service and game counseling, including telephone service, to adequately support the Licensed Products.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

7.5 No Sales Outside the Territory. LICENSEE represents and warrants that it shall not market, sell, offer to sell, import or distribute the Licensed Products outside the Territory, or within the Territory when with actual or constructive knowledge that a subsequent destination of the Licensed Product is outside the Territory.

7.6 Defects and Recall. In the event of a material programming defect in a Licensed Product that would, in NOA's reasonable judgment, significantly impair the ability of a consumer to play the Game, NOA may, after consultation with LICENSEE, require the LICENSEE to recall the Licensed Product and undertake suitable repairs or replacements.

7.7 NOA Promotional Materials, Publications and Events. At its option, NOA may (a) insert in the Printed Materials for the Licensed Products promotional materials concerning Nintendo Power magazine or other NOA products, services or programs, (b) utilize screen shots, Artwork and information regarding the Licensed Products in Nintendo Power, Nintendo Power Source or other advertising, promotional or marketing media which promotes Nintendo products, services or programs, and (c) exercise public performance rights in the Games and use related trademarks and Artwork in connection with NOA sponsored contests, tours, conventions, trade shows, press briefings and similar events which promote the GAME BOY ADVANCE system.

7.8 Nintendo Gateway System. To promote and increase demand for games on Nintendo video game systems, NOA licenses a system (the "Nintendo Gateway System") in various non-coin activated commercial settings such as commercial airlines, cruise ships, rail systems and hotels, where customers play games on specially adapted Nintendo video game systems. If NOA identifies a Game for - possible license on the Nintendo Gateway System, the parties agree to conduct good faith negotiations toward including the Game in the Nintendo Gateway System.

8. CONFIDENTIAL INFORMATION

8.1 Definition. "Confidential Information" means information provided to LICENSEE by Nintendo or any third party working with Nintendo relating to the hardware and software for the GAME BOY ADVANCE system or the Development Tools, including, but not limited to, (a) all current or future information, know-how, techniques, methods, information, tools, emulator hardware or software, software development specifications, and/or trade secrets, (b) any patents or patent applications, (c) any business, marketing or sales data or information, and (d) any other information or data relating to development, design, operation, manufacturing, marketing or sales. Confidential Information shall include all confidential information disclosed, whether in writing, orally, visually, or in the form of drawings, technical specifications, software, samples, pictures, models, recordings, or other tangible items which contain or manifest, in any form, the above listed information. Confidential Information shall not include (i) data and information which was in the public domain prior to LICENSEE's receipt of the same hereunder, or which subsequently becomes part of the public domain by publication or otherwise, except by LICENSEE's wrongful act or omission, (ii) data and information which LICENSEE can demonstrate, through written records kept in the ordinary course of business, was in its possession without restriction on use or disclosure, prior to its receipt of the same hereunder and was not acquired directly or indirectly from Nintendo under an obligation of confidentiality which is still in force, and (iii) data and information which LICENSEE can show was received by it from a third party who did not acquire the same directly or indirectly from Nintendo and to whom LICENSEE has no obligation of confidentiality.

8.2 Disclosures Required by Law. LICENSEE shall be permitted to disclose Confidential Information if such disclosure is required by an authorized governmental or judicial entity, provided that NOA is given Notice thereof at least thirty (30) days prior to such disclosure. LICENSEE shall use its best efforts to limit the disclosure to the greatest extent possible consistent with

LICENSEE's legal obligations, and if required by NOA, shall cooperate in the preparation and entry of appropriate protective orders.

8.3 Disclosure and Use. NOA may provide LICENSEE with highly confidential development information, Guidelines, Development Tools, systems, specifications and related resources and information constituting and incorporating the Confidential Information to assist LICENSEE in the

development of Games. LICENSEE agrees to maintain all Confidential Information as strictly confidential and to use such Confidential Information only in accordance with this Agreement. LICENSEE shall limit access to the Confidential Information to LICENSEE's employees having a strict need to know and shall advise such employees of their obligation of confidentiality as provided herein. LICENSEE shall require each such employee to retain in confidence the Confidential Information pursuant to a written nondisclosure agreement between LICENSEE and such employee. LICENSEE shall use its best efforts to ensure that its employees working with or otherwise having access to Confidential Information shall not disclose or make any unauthorized use of the Confidential Information.

8.4 No Disclosure to Independent Contractors. LICENSEE shall not disclose the Confidential Information to any Independent Contractor without the prior written consent of NOA. Any Independent Contractor seeking access to Confidential Information shall be required to enter into a written nondisclosure agreement with NOA prior to receiving any access to or disclosure of the Confidential Information from either LICENSEE or NOA.

8.5 Agreement Confidentiality. LICENSEE agrees that the terms, conditions and contents of this Agreement shall be treated as Confidential Information. Any public announcement or press release regarding this Agreement or the release dates for Games developed by LICENSEE under this Agreement shall be subject to NOA's prior written approval. The parties may disclose this Agreement (a) to accountants, banks, financing sources, lawyers, parent companies and related parties under substantially equivalent confidentiality obligations, (b) in connection with any formal legal proceeding for the enforcement of this Agreement, (c) as required by the regulations of the Securities and Exchange Commission ("SEC"), provided that all Confidential Information regarding NOA shall be redacted from such disclosures to the maximum extent allowed by the SEC, and (d) in response to lawful process, subject to a written protective order approved in advance by NOA.

8.6 Notification Obligations. LICENSEE shall promptly notify NOA of the unauthorized use or disclosure of any Confidential Information and shall promptly act to recover any such information and prevent further breach of the obligations herein. The obligations of LICENSEE set forth herein are in addition to and not in lieu of any other legal remedy that may be available to NOA under this Agreement or applicable law.

8.7 Continuing Effect of the NDA. The terms of this Section 8 supplement the terms of the NDA, which shall remain in effect. In the event of a conflict between the terms of the NDA and this Agreement, the terms of this Agreement shall control.

9. REPRESENTATIONS AND WARRANTIES

9.1 LICENSEE's Representations and Warranties. LICENSEE represents and warrants that:

(a) it is a duly organized and validly existing corporation and has full authority to enter into this Agreement and to carry out the provisions hereof,

(b) the execution, delivery and performance of this Agreement by LICENSEE does not conflict with any agreement or understanding to which LICENSEE may be bound, and

(c) excluding the Intellectual Property Rights, LICENSEE is either (i) the sole owner of all right, title and interest in and to the trademarks, copyrights and other intellectual property rights used on or in association with the development, advertising, marketing and sale of the Licensed Products and the Marketing Materials, or (ii) the holder of such rights to the trademarks, copyrights and other intellectual property rights which have been licensed from a third party as are necessary for the development, advertising, marketing and sale of the Licensed Products and the Marketing Materials under this Agreement.

9.2 NOA's Representations and Warranties. NOA represents and warrants that:

(a) it is a duly organized and validly existing corporation and has full

authority to enter into this Agreement and to carry out the provisions hereof, and

(b) the execution, delivery and performance of this Agreement by NOA does not conflict with any agreement or understanding to which NOA may be bound.

9.3 ***

9.4 ***

9.5 LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER NOA NOR NINTENDO CO., LTD. (OR THEIR RESPECTIVE AFFILIATES, LICENSORS OR SUPPLIERS) SHALL BE LIABLE FOR LOSS OF PROFITS, OR FOR ANY SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF LICENSEE OR ITS CUSTOMERS ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE BREACH OF THIS AGREEMENT BY NOA, THE MANUFACTURE OF THE LICENSED PRODUCTS OR THE USE OF THE LICENSED PRODUCTS ON ANY NINTENDO VIDEO GAME SYSTEM BY LICENSEE OR ANY END USER.

10. INDEMNIFICATION

10.1 LICENSEE's Indemnification. LICENSEE shall indemnify and hold harmless NOA and Nintendo Co., Ltd. (and any of their respective affiliates, subsidiaries, licensors, suppliers, officers, directors, employees or agents) from any claims, losses, liabilities, damages, expenses and costs, including, without limitation, reasonable attorneys' fees and costs and any expenses incurred in the settlement or avoidance of any such claim, which result from or are in connection with:

(a) a breach of any of the provisions, representations or warranties undertaken by LICENSEE in this Agreement,

(b) any infringement of a third party's Proprietary Rights as a result of the design, development, advertising, marketing, sale or use of the Licensed Products or the Marketing Materials,

(c) any claims alleging a defect, failure to warn, bodily injury (including death) or other personal or property damage arising out of, or in connection with, the design, development, advertising, marketing, sale or use of any of the Licensed Products, and

(d) any federal, state or foreign civil or criminal actions relating to the design, development, advertising, marketing, sale or use of the Licensed Products or the Marketing Materials.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

NOA and LICENSEE shall give prompt Notice to the other of any indemnified claim under this Section 10.1. With respect to any third party claim subject to this indemnity clause, LICENSEE, as indemnitor, shall have the right to select counsel and to control the defense and/or settlement thereof. NOA may, at its own expense, participate in such action or proceeding with counsel of its own choice. LICENSEE shall not enter into any settlement of any such claim in which (i) NOA or Nintendo Co., Ltd. has been named as a party, or (ii) claims relating to the Intellectual Property Rights have been asserted, without NOA's prior written consent. NOA shall provide reasonable assistance to LICENSEE in its defense of any such claim.

10.2 LICENSEE's Insurance. LICENSEE shall, at its own expense, obtain a comprehensive policy of general liability insurance (including coverage for advertising injury and product liability claims) from a recognized insurance company. Such policy of insurance shall be in an amount of not less than Five Million Dollars ($5,000,000 US) on a per occurrence basis and shall provide for adequate protection against any suits, claims, loss or damage by the Licensed Products. Such policy shall name NOA and Nintendo Co., Ltd. as additional insureds and shall specify that it may not be canceled without thirty (30) days' prior written Notice to NOA. A Certificate of Insurance shall be provided to NOA's Licensing Department not later than the date of the initial order of Licensed Products under this Agreement. If LICENSEE fails to maintain such insurance at any time during the Term and for a period of two (2) years thereafter, NOA may secure such insurance at LICENSEE's expense.

10.3 Suspension of Production. In the event NOA deems itself at risk with respect to any claim, action or proceeding under this Section 10, NOA may, at its sole option, suspend production, delivery or order acceptance for any Licensed Products, in whole or in part, pending resolution of such claim, action or proceeding.

11. PROTECTION OF PROPRIETARY RIGHTS

11.1 Joint Actions Against Infringers. LICENSEE and NOA may agree to jointly pursue cases of infringement involving of the Licensed Products, as such Licensed Products will contain Proprietary Rights owned by each of them. Unless the parties otherwise agree, or unless the recovery is expressly allocated between them by the court, in the event of such an action, any recovery shall be used first to reimburse LICENSEE and NOA for their respective reasonable attorneys' fees and costs incurred in bringing such action, pro rata, and any remaining recovery shall be distributed to LICENSEE and NOA, pro rata, based upon the fees and costs incurred in bringing such action.

11.2 Actions by LICENSEE. LICENSEE, without the consent of NOA, may bring any action or proceeding relating to an infringement or potential infringement of LICENSEE's Proprietary Rights in the Licensed Products. LICENSEE shall make reasonable efforts to inform NOA of such actions in a timely manner. LICENSEE will have the right to retain all proceeds it may derive from any recovery in connection with such actions.

11.3 Actions by NOA. NOA, without the consent of LICENSEE, may bring any action or proceeding relating to an infringement or potential infringement of NOA's Intellectual Property Rights in the Licensed Products. NOA shall make reasonable efforts to inform LICENSEE of such actions in a timely manner. NOA will have the right to retain all proceeds it may derive from any recovery in connection with such actions.

12. ASSIGNMENT

12.1 No Assignment by LICENSEE. This Agreement is personal to LICENSEE and may not be sold, assigned, delegated, sublicensed or otherwise transferred or encumbered, in whole or in part, without NOA's prior written consent, ***. In the event of an assignment or other transfer in violation of this Agreement, NOA shall have the unqualified right to immediately terminate this Agreement without further obligation to LICENSEE.

12.2 Assignment by Operation of Law. In the event of an assignment of this Agreement by operation of law, LICENSEE shall, not later than thirty (30) days thereafter, give Notice and seek consent

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

thereto from NOA. Such Notice shall disclose the name of the assignee, the effective date and the nature and extent of the assignment. An assignment by operation of law includes, but is not limited to (a) a merger of LICENSEE into another business entity or a merger of another business entity into LICENSEE, (b) the sale, assignment or transfer of all or substantially all of the assets of LICENSEE to a third party, (c) the sale, assignment or transfer to a third party of any of LICENSEE's intellectual property rights which are used in the development of or are otherwise incorporated into any Licensed Products, or (d) the sale, assignment or transfer of any of LICENSEE's stock resulting in the acquirer having management power over or voting control of LICENSEE. Following the later of (i) such an assignment by operation of law, or (ii) receipt of Notice therefor, NOA shall have the unqualified right for a period of ninety (90) days to immediately terminate this Agreement without further obligation to LICENSEE.

12.3 Non-Disclosure Obligation. In no event shall LICENSEE disclose or allow access to NOA's Confidential Information prior to or upon the occurrence of an assignment, whether by operation of law or otherwise, unless and until NOA gives its written consent to such disclosure.

13. TERM AND TERMINATION

13.1 Term. This Agreement shall commence on the Effective Date and continue for the Term, unless earlier terminated as provided for herein.

13.2 Default or Breach. In the event that either party is in default or commits a breach of this Agreement, which is not cured within thirty (30) days after Notice thereof, then this Agreement shall automatically terminate on the date specified in such Notice.

13.3 Bankruptcy. At NOA's option, this Agreement may be terminated immediately and without Notice in the event that LICENSEE (a) makes an assignment for the benefit of creditors, (b) becomes insolvent, (c) files a voluntary petition for bankruptcy, (d) acquiesces to any involuntary bankruptcy petition, (e) is adjudicated as a bankrupt, or (f) ceases to do business.

13.4 Termination Other Than by Breach. Upon the expiration of this Agreement or its termination other than by LICENSEE's breach, LICENSEE shall

have a period of *** to sell any unsold Licensed Products. All Licensed Products in LICENSEE's control following the expiration of such sell-off period shall be destroyed by LICENSEE within ten (10) days and proof of such destruction (certified by an officer of LICENSEE) shall be provided to NOA.

13.5 Termination by LICENSEE's Breach. If this Agreement is terminated by NOA as a result of a breach of its terms and conditions by LICENSEE, LICENSEE shall immediately cease all distribution, advertising, marketing or sale of any Licensed Products. All Licensed Products in LICENSEE's control as of the date of such termination shall be destroyed by LICENSEE within ten (10) days and proof of such destruction (certified by an officer of LICENSEE) shall be provided to NOA.

13.6 Breach of NDA or Other NOA License Agreements. At NOA's option, any breach by LICENSEE of (a) the NDA, or (b) any other license agreement between NOA and LICENSEE relating to the development of games for any Nintendo video game system which is not cured within the time period for cure allowed under the applicable agreement, shall be considered a material breach of this Agreement entitling NOA to terminate this Agreement in accordance with Section 13.5 herein.

13.7 No Further Use of the Intellectual Property Rights. Upon expiration and/or termination of this Agreement, LICENSEE shall cease all use of the Intellectual Property Rights for any purpose, except as may be required in connection with the sale of Licensed Products authorized under Section 13.4 herein. LICENSEE shall, within thirty (30) days thereafter, return or destroy all Guidelines, writings, drawings, models, data, tools and other materials and things in LICENSEE's possession or in the possession of any past or present employee, agent or contractor receiving the information through LICENSEE, which constitute or relate to or disclose any Confidential Information, without making copies or otherwise retaining any such information. Proof of any destruction shall be certified by an officer of LICENSEE and promptly provided to NOA.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

13.8 Termination by NOA's Breach. If this Agreement is terminated by LICENSEE as a result of a breach of its terms or conditions by NOA, LICENSEE may continue to sell the Licensed Products in the Territory until the expiration of the Term, at which time the provisions of Section 13.4 shall apply.

14. GENERAL PROVISIONS

14.1 Export Control. LICENSEE agrees to comply with the export laws and regulations of the United States and any other country with jurisdiction over the Licensed Products and/or either party.

14.2 Force Majeure. Neither party shall be liable for any breach of this Agreement occasioned by any cause beyond the reasonable control of such party, including governmental action, war, riot or civil commotion, fire, natural disaster, labor disputes, restraints affecting shipping or credit, delay of carriers, inadequate supply of suitable materials or any other cause which could not with reasonable diligence be controlled or prevented by the parties. In the event of material shortages, including shortages of materials or production facilities necessary for production of the Licensed Products, NOA reserves the right to allocate such resources among itself and its licensees.

14.3 Records and Audit. During the Term and for a period of *** LICENSEE agrees to keep accurate, complete and detailed records related to the development and sale of the Licensed Products and the Marketing Materials. Upon *** Notice to LICENSEE, NOA may, at its expense, audit LICENSEE's records, reports and other information related to LICENSEE's compliance with this Agreement.

14.4 Waiver, Severability, Integration, and Amendment. The failure of a party to enforce any provision of this Agreement shall not be construed to be a waiver of such provision or of the right of such party to thereafter enforce such provision. In the event that any term, clause or provision of this Agreement shall be construed to be or adjudged invalid, void or unenforceable, such term, clause or provision shall be construed as severed from this Agreement, and the remaining terms, clauses and provisions shall remain in effect. Together with the NDA, this Agreement constitutes the entire agreement between the parties relating to the subject matter hereof. All prior negotiations, representations, agreements and understandings are merged into, extinguished by and completely expressed by this Agreement and the NDA. Any amendment to this Agreement shall be in writing, signed by both parties.

14.5 Survival. In addition to those rights specified elsewhere in this Agreement, the rights and obligations set forth in Sections 3, 8, 9, 10 and 13

shall survive any expiration or termination of this Agreement to the degree necessary to permit their complete fulfilment or discharge.

14.6 Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington, without regard to its conflict of laws principles. Any legal action (including judicial and administrative proceedings) with respect to any matter arising under or growing out of this Agreement, shall be brought in a court of competent jurisdiction in King County, Washington. Each party hereby consents to the jurisdiction and venue of such courts for such purposes.

14.7 Equitable Relief. LICENSEE acknowledges that in the event of its breach of this Agreement, no adequate remedy at law may be available to NOA and that NOA shall be entitled to seek injunctive or other equitable relief in addition to any relief available at law.

14.8 Attorneys' Fees. In the event it is necessary for either party to this Agreement to undertake legal action to enforce or defend any action arising out of or relating to this Agreement, the prevailing party in such action shall be entitled to recover from the other party all reasonable attorneys' fees, costs and expenses relating to such legal action or any appeal therefrom.

14.9 Counterparts and Signature by Facsimile. This Agreement may be signed in counterparts, which shall together constitute a complete Agreement. A signature transmitted by facsimile shall be considered an original for purposes of this Agreement.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the dates set forth below.

NOA:	LICENSEE:
NINTENDO OF AMERICA INC.	ACTIVISION PUBLISHING, INC.
By: /s/ John H. Bauer	By: /s/ George Rose
Title: Executive VP, Administration	Title: Sr. VP & Gen. Counsel
Date: 5/10/01	Date: 4/24/01

CONFIDENTIAL LICENSE AGREEMENT FOR THE GAME BOY ADVANCE VIDEO GAME SYSTEM (EEA, AUSTRALIA AND NEW ZEALAND)

THIS LICENSE AGREEMENT ("Agreement") is entered into between NINTENDO CO., LTD. ("NCL") at 11-1 Kamitoba Hokotate-cho, Minami-ku, Kyoto, Japan 601-8501, attention: General Manager, International Business Administration Department (facsimile: 81.75.662.9619), and Activision, Inc., a corporation of California, and its subsidiaries (Activision UK, Ltd., a limited company of the United Kingdom; ATVI France, S.A.R.L., a corporation of France; Activision GmbH, a corporation of Germany, and Activision Pty., Ltd., a limited company of Australia) (jointly and severally "LICENSEE") at 3100 Ocean Park Blvd., Santa Monica, CA 90405, Attn: Mr. Michael Hand (facsimile: 310.255.2152). NCL and LICENSEE agree as follows:

1. RECITALS

1.1 NCL designs, develops, manufactures, markets and sells advanced design, high-quality video game systems, including the GAME BOY ADVANCE(TM) system.

1.2 LICENSEE desires a license to use highly proprietary programming specifications, development tools, trademarks and other valuable Intellectual Property Rights of NCL, to develop, have manufactured, advertise, market and sell video game software for play on the GAME BOY ADVANCE system.

1.3 NCL is willing to grant a license to LICENSEE on the terms and conditions set forth in this Agreement.

2. DEFINITIONS

2.1 "Artwork" means the design specifications for the Game Cartridge label and Printed Materials in the format specified by NCL in the Guidelines.

2.2 "Development Tools" means the development kits, programming tools, emulators, and other materials that may be used in the development of Games under this Agreement.

2.3 "Effective Date" means the last date on which all parties shall have signed this Agreement.

2.4 "Finished Product(s)" means the fully assembled Licensed Products, each including a Game Cartridge with a Game Cartridge label packaged in a plastic bag or other form of protective packaging, and Printed Materials.

2.5 "Game Cartridges(s)" means custom cartridges for play on the GAME BOY ADVANCE system, incorporating semiconductor components in which a Game has been stored.

2.6 "Game(s)" means interactive video game programs (including source and object/binary code) developed for play on the GAME BOY ADVANCE system.

2.7 "Guidelines" means the current version or any future revision of the "Game Boy Advance Guidelines" pertaining to the layout, trademark usage and other requirements for the Game Cartridge label, instruction manual and Game Cartridge packaging, "Game Boy Advance Development Manual", "Guidelines on Ethical Content", and related guidelines. The Guidelines on Ethical Content are attached as Annex A, and the remainder of the Guidelines have been provided to LICENSEE independent of this Agreement. The Guidelines may be changed or updated from time to time without notice.

2.8 "Independent Contractor" means any individual or entity that is not an employee of LICENSEE, including any independent programmer, consultant, contractor, board member or advisor.

2.9 "Intellectual Property Rights" means individually, collectively or in any combination, Proprietary Rights owned, licensed or otherwise held by NCL that are associated with the development, manufacturing, advertising, marketing or sale of the Licensed Products, including, without limitation: (a) registered and unregistered trademarks and trademark applications used in connection with video games for play on the GAME BOY ADVANCE system including "Nintendo(TM)", "GAME BOY ADVANCE(TM)," "AGB" and the "Official Nintendo Seal of Quality(TM)" (some of these trademarks are set forth in Annex B, attached); (b) select trade dress associated with the GAME BOY ADVANCE system and licensed video games for play thereon; (c) Proprietary Rights in the Security Technology incorporated

into the Game Cartridges; (d) rights in the Development Tools provided by or on behalf of NCL for use in developing the Games; (e) patents, patent applications, utility models, or design registrations associated with the Game Cartridges; (f) copyrights in the Guidelines; and (g) other Proprietary Rights of NCL in Confidential Information.

2.10 "Licensed Products" means (a) Finished Products when fully assembled with Game Cartridge label affixed and packaged in a plastic bag or other form of protective

packaging with the Printed Materials; or (b) Stripped Products with Game Cartridge label affixed.

2.11 "Marketing Materials" means marketing, advertising or promotional materials developed by or for LICENSEE (or subject to LICENSEE's approval) to promote the sale of the Licensed Products, including but not limited to television, radio and on-line advertising, point-of-sale materials (e.g. posters, counter-cards), package advertising, and print.

2.12 "NDA" means the non-disclosure agreement providing for the protection of Confidential Information related to the GAME BOY ADVANCE system previously entered into between NCL and/or NOA and LICENSEE.

2.13 "NOA" means NCL's subsidiary, Nintendo of America Inc., of Redmond, Washington, USA.

2.14 "Notice" means any notice permitted or required under this Agreement. All notices shall be sufficiently given when (a) personally served or delivered, or (b) transmitted by facsimile, with an original sent concurrently by mail, or (c) deposited, postage prepaid, with a guaranteed air courier service, in each case addressed as stated herein, or addressed to such other person or address either party may designate in a Notice. Notice shall be deemed effective upon the earlier of actual receipt or two (2) business days after transmittal.

2.15 "Price Schedule" means the current version(s) or any future revision(s) of NCL's schedule of purchase prices and minimum order quantities for the Licensed Products. The Price Schedule has been provided to Licensee independent of this Agreement and may be changed or updated from time to time without notice.

2.16 "Printed Materials" means the box, user instruction booklet, poster, warranty card and LICENSEE inserts incorporating the Artwork, together with a precautions booklet as specified by NCL.

2.17 "Proprietary Rights" means any rights or applications for rights to the extent recognized in the Territory relating to the GAME BOY ADVANCE System, and owned, licensed or otherwise held in patents, trademarks, service marks, copyrights, semiconductor chip layouts or masks, trade secrets, trade dress, moral rights and publicity rights, together with all inventions, discoveries, ideas, know-how, data, information, processes, methods, procedures, formulas, drawings and designs, computer programs, software source code and object code, and all amendments, modifications, and improvements thereto for which such patent, trademark, service mark, copyright, semiconductor chip layout or mask, trade secrets, trade dress, moral rights or publicity rights may exist or may be sought and obtained in the future.

2.18 "Reverse Engineer(ing)" means any technique designed to extract source code or facilitate the duplication of a program or product including, without limitation, (a) the x-ray, electronic scanning or physical or chemical stripping of semiconductor components, or (b) the disassembly, decompilation, decryption or simulation of object code or executable code.

2.19 "Security Technology" means, without limitation, any security signature, bios, data scrambling, password, hardware security apparatus, watermark, hologram, copyright management information system or any feature which facilitates or limits compatibility with other hardware or software outside of the Territory or on a different video game system.

2.20 "Stripped Product(s)" means the Game Cartridges with Game Cartridge labels affixed.

2.21 "Term" means three (3) years from the Effective Date.

2.22 "Territory" means any and all countries within the European Economic Area; namely Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom. The Territory shall also include

Australia, New Zealand, and Switzerland. NCL may add additional countries to the Territory upon written notice to Licensee.

2.23 "(TM)" means trademark of NCL, whether registered or not.

3. GRANT OF LICENSE; LICENSEE RESTRICTIONS

3.1 Limited License Grant. For the Term and for the Territory, NCL grants to LICENSEE a nonexclusive, nontransferable, limited license to use the Intellectual Property Rights, for the purpose of and to the extent necessary, to develop Games for manufacture, advertising, marketing and sale as Licensed Products, subject to the terms and conditions of this Agreement. This license is royalty-free.

3.2 LICENSEE Acknowledgement. LICENSEE's use of the Intellectual Property Rights shall not create any right, title or interest of LICENSEE therein. In the event that LICENSEE challenges NCL's ownership or the validity of the Intellectual Property Rights, NCL may terminate this Agreement without any notice or procedure.

3.3 Restrictions on License Grant: The present limited license to LICENSEE does not extend to the use of the Intellectual Property Rights for the following purposes:

(a) granting access to, distributing, transmitting or broadcasting a Game by electronic means or by any other means known or hereafter devised including without

limitation, by wireless, cable, fiber optic, telephone lines, microwave, radiowave, computer or other device network; provided, however, that limited transmissions may be made for the sole purpose of facilitating development under the terms of this Agreement, but no right of retransmission shall attach to any such authorized transmission and, reasonable security measures, customary within the high technology industry, shall be utilized to reduce the risk of unauthorized interception or retransmission of any such authorized transmission,

(b) authorizing or permitting any online activities involving a Game, including, without limitation, multiplayer, peer-to-peer or online play,

(c) modifying, installing or operating a Game on any server or computing device for the purpose of or resulting in the rental, lease, loan or other grant of remote access to the Game,

(d) emulating, interoperating, interfacing or linking a Game for operation or use with any hardware or software platform, accessory, computer language, computer environment, chip instruction set, consumer electronics device or device other than the GAME BOY ADVANCE system or the Development Tools,

(e) embedding, incorporating, or storing a Game in any media or format except the cartridge format utilized by the GAME BOY ADVANCE system, except as may be necessary as a part of the Game development process under this Agreement,

(f) designing, implementing or undertaking any process, procedure, program or act designed to circumvent the Security Technology,

(g) utilizing the Intellectual Property Rights to design or develop any interactive video or computer game program, except as authorized under this Agreement,

(h) manufacturing or reproducing a Game developed under this Agreement, except through NCL, or

(i) Reverse Engineering or assisting in the Reverse Engineering of all or any part of the GAME BOY ADVANCE system, including the hardware or software (whether embedded or otherwise), or the Security Technology, except as specifically permitted under the laws and regulations applicable in the Territory.

3.4 Development Tools. NCL may lease, loan or sell Development Tools, including any improvements made by NCL or NOA from time to time, to LICENSEE to assist in the development of Games under this Agreement on such terms as may be agreed between the parties. Ownership and use of such Development Tools shall be subject to the

terms of this Agreement, whether provided by NCL or NOA, prior to or during the Term hereof. LICENSEE acknowledges the exclusive interest of NCL in and to the Proprietary Rights associated with the Development Tools. LICENSEE's use of the

Development Tools shall not create any right, title or interest of LICENSEE therein. Any license to LICENSEE to use the Development Tools does not extend to: (a) use of the Development Tools for any purpose except the design and development of Games under this Agreement; (b) reproduction or creation of derivatives of the Development Tools, except in association with the development of Games under this Agreement; (c) Reverse Engineering of the Development Tools (except as specifically permitted under the laws and/or regulations applicable in the Territory); or (d) selling, leasing, assigning, lending, licensing, encumbering or otherwise transferring the Development Tools. Any tools developed or derived by LICENSEE as a result of a study of the performance, design or operation of the Development Tools shall be considered derivative works of the Intellectual Property Rights, but may be retained and utilized by LICENSEE in connection with this Agreement. Unless LICENSEE can demonstrate that such derivative work has one or more applications that are independent of and separate from the Intellectual Property Rights ("Independent Applications"), it shall be deemed to have granted NOA and NCL an indefinite, worldwide, royalty-free, transferable and exclusive license (including the right to sub-license) to such derivative work. To the extent that LICENSEE can demonstrate one or more Independent Applications, LICENSEE shall be deemed to have granted to NOA and NCL a royalty-free and transferable nonexclusive license (including the right to sub-license) in relation to such Independent Applications for the Term and an indefinite, worldwide, royalty-free, transferable and exclusive license (including the right to sub-license) in relation to all other applications.

4. SUBMISSION OF GAME AND ARTWORK FOR APPROVAL

4.1 Development and Sale of the Games. LICENSEE may develop Games and have manufactured, advertise, market and sell Licensed Products for play on the GAME BOY ADVANCE system only in accordance with this Agreement.

4.2 Delivery of Completed Game. Upon completion of a Game, LICENSEE shall deliver a prototype of the Game to NCL in a format specified in the Guidelines, together with written user instructions, a complete description of any security holes, backdoors, time bombs, cheats, "Easter eggs" or other hidden features or characters in the Game ***. NCL shall promptly evaluate the Game with regard to: (a) its technical compatibility with and error-free operation on the GAME BOY ADVANCE system, and (b) its compliance with the game content guidelines of the European Leisure Software Publishers Association (ELSPA), the Syndicate des Editeurs de Logiciels de Loisir (SELL) or other independent European body. LICENSEE shall provide NCL with a

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

certificate of a rating for the Game from the ELSPA, SELL, or other independent European body other than "AO" or "ADULTS ONLY".

4.3 Approval of Completed Game. NCL shall, within a reasonable period of time after receipt, approve or disapprove each submitted Game. If a Game is disapproved, NCL shall specify in writing the reasons for such disapproval and state what corrections or improvements are necessary. After making the necessary corrections or improvements, LICENSEE shall submit a revised Game to NCL for approval. NCL shall not unreasonably withhold or delay its approval of any Game. The approval of a Game by NCL shall not relieve LICENSEE of its sole responsibility for the development, quality and operation of the Game or in any way create any warranty for a Game or a Licensed Product by NCL.

4.4 Submission of Artwork. Upon submission of a completed Game to NCL, LICENSEE shall prepare and submit to NCL the Artwork for the proposed Licensed Product. Within ten (10) business days of receipt, NCL shall approve or disapprove the Artwork. If any Artwork is disapproved, NCL shall specify in writing the reasons for such disapproval and state what corrections or improvements are necessary. After making the necessary corrections or improvements, LICENSEE shall submit revised Artwork to NCL for approval. NCL shall not unreasonably withhold or delay its approval of any Artwork. The approval of the Artwork by NCL shall not relieve LICENSEE of its sole responsibility for the development and quality of the Artwork or in any way create any warranty for the Artwork or the Licensed product by NCL.

4.5 Artwork for Stripped Product. If LICENSEE submits an order for Stripped Product, all Artwork shall be submitted to NCL in advance of NCL's acceptance of the order and no production of Printed Materials shall occur until such Artwork has been approved by NCL under Section 4.4 herein.

5. ORDER PROCESS, PURCHASE PRICE, PAYMENT AND DELIVERY

5.1 Submission of Orders by LICENSEE. LICENSEE may at any time submit written purchase orders to NCL for any approved Licensed Product title. The

purchase order shall specify whether it is for Finished Product or Stripped Product. The terms and conditions of this Agreement shall control over any contrary terms of such purchase order or any other written documents submitted by LICENSEE. All orders are subject to acceptance by NCL or its designee.

5.2 Purchase Price and Minimum Order Quantities. The purchase price and minimum order quantities for the Licensed Products shall be set forth in NCL's then-current Price Schedule. The purchase price includes the cost of manufacturing the Licensed

Products. A current Price Schedule has been provided to LICENSEE independent of this Agreement. No taxes, duties, import fees or other tariffs related to the development, manufacture, import, marketing or sale of the Licensed Products (except for taxes imposed on NCL's income) are included in the purchase price and all such taxes are the responsibility of LICENSEE. The Price Schedule is subject to change by NCL at any time without Notice.

5.3 Payment. Upon placement of an order, LICENSEE shall pay the full purchase price to NCL either (a) by placement of an irrevocable letter of credit in favor of NCL and payable at sight, issued by a bank acceptable to NCL and confirmed, if requested by NCL, at LICENSEE's expense, or (b) in cash, by wire transfer to NCL's designated account. All associated banking charges shall be for LICENSEE's account.

5.4 Shipment and Delivery. NCL shall deliver the Finished Products or Stripped Products ordered by Licensee to Licensee F.O.B. Japan with shipment at Licensee's direction and expense. Upon mutual consent of NCL and Licensee, orders may be delivered in partial shipments ***. Such orders shall be delivered to countries within the Territory.

6. MANUFACTURE OF THE LICENSED PRODUCT

6.1 Designation of NCL. NCL (including through its subcontractors and licensees) shall be the exclusive source for the manufacture of the Game Cartridges, including all aspects of the manufacturing process, selection of the locations and specifications for any manufacturing facilities, determination of materials and processes, appointment of suppliers and subcontractors and management of all work-in-progress.

6.2 Manufacture of the Licensed Products. Upon acceptance of a purchase order for an approved Licensed Product title and payment as provided for under Section 5.3 herein, NCL (including through its subcontractors and licensees) will arrange for the manufacture of Finished Product or Stripped Product, as specified in LICENSEE's purchase order. In this regard, LICENSEE shall submit to NCL certain technical information as set forth in a questionnaire entitled "Software Submission Requirements" which has been provided to LICENSEE by NCL.

6.3 Security Features. The final release version of the Game, Game Cartridges and Printed Materials shall include such Security Technology as NCL, in its sole discretion, may deem necessary or appropriate.

6.4 Production of Stripped Product Printed Materials. For Stripped Product, LICENSEE shall arrange and pay for the production of the Printed Materials using the Artwork. Upon receipt of an order Stripped Product, LICENSEE shall assemble the Game

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission

Cartridges and Printed Materials into the Licensed Products. Licensed Products may be sold or otherwise distributed by LICENSEE only in fully assembled condition.

6.5 Sample Printed Materials and Stripped Product. Within a reasonable period of time after LICENSEE's assembly of the initial order for a Stripped Product title, LICENSEE shall provide NCL with: (a) one (1) sample of the fully assembled Licensed Product; and (b) *** of LICENSEE-produced Printed Materials for such Licensed Product.

6.6 Retention of Sample Licensed Products by NCL. NCL may, at its own expense, manufacture reasonable quantities of the Game Cartridges or the Licensed Products, not to exceed fifty (50) units, to be used for archival purposes, legal proceedings against infringers of the Intellectual Property Rights or for other lawful purposes, not to include sales of the units.

7. MARKETING AND ADVERTISING

7.1 Approval of Marketing Materials. LICENSEE represents and warrants that the Marketing Materials shall (a) be of high quality and comply with the Guidelines, and (b) comply ***. Prior to actual use or distribution, LICENSEE shall submit to NCL for review samples of all proposed Marketing Materials. NCL shall, within ten (10) business days of receipt, approve or disapprove such samples. If any of the samples are disapproved, NCL shall specify the reasons for such disapproval and state what corrections and/or improvements are necessary. After making the necessary corrections and/or improvements, LICENSEE shall submit revised samples for approval by NCL. No Marketing Materials shall be used or distributed by LICENSEE without NCL's prior written approval. NCL shall not unreasonably withhold or delay its approval of any proposed Marketing Materials.

7.2 Bundling. In order to avoid use of the licensed Intellectual Property Rights giving rise to any implication of NCL's sponsorship, association, approval or endorsement where this is not the case, LICENSEE shall not, without NCL's prior written approval, market or distribute any Finished Product or Stripped Product that has been bundled with: (a) any peripheral designed for use with the GAME BOY ADVANCE system which has not been licensed or approved in writing by NCL; or (b) any other product or service where NCL's sponsorship, association, approval or endorsement might be suggested by the bundling of the products or services.

7.3 Warranty and Repair. LICENSEE shall provide the original consumer with a minimum ninety (90) day (or such longer minimum period as may be required by applicable

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law) limited warranty on all Licensed Products. LICENSEE shall also provide reasonable product service, including out-of-warranty service, for all Licensed Products.

7.4 Business Facilities. LICENSEE agrees to develop and maintain sufficient customer service, either directly or through a third party, to adequately support the Licensed Products.

7.5 No Sales Outside the Territory. LICENSEE represents and warrants that it shall not market, sell, offer to sell, import or distribute the Licensed Products outside the Territory, or within the Territory when with actual or constructive knowledge that a subsequent destination of the Licensed Product is outside the Territory.

7.6 Defects and Recall. In the event of a material programming defect in a Licensed Product that would, in NCL's reasonable judgment, significantly impair the ability of a consumer to play the Game, NCL may, after consultation with LICENSEE, require the LICENSEE to recall the Licensed Product and undertake suitable repairs or replacements.

7.7 NCL Promotional Materials, Publications and Events. NCL acknowledges that Licensee has not granted a license to NCL with respect to any trademarks or copyrights of Licensee associated with the Game, provided, however, Licensee agrees that, with a view to improving the competitiveness of the video game products consisting of Nintendo video game systems and services and compatible software published by LICENSEE, at its option, NCL may: (a) insert in the Printed Materials for the Licensed Products promotional materials concerning publications and promotions for such video game products; (b) utilize screen shots, Artwork and information regarding the Licensed Products in Nintendo-published magazines or other advertising, promotional or marketing media which promote such video game products; and (c) exercise public performance rights in the Games and use related trademarks and Artwork in connection with NCL sponsored contests, tours, conventions, trade shows, press briefings and similar events which promote such video game products. Nintendo shall submit to Licensee for review printed materials and related art for the Game that Nintendo intends to use in publications or media or marketing programs.

7.8 Nintendo Gateway System. To promote and increase demand for games on Nintendo video game systems, NCL licenses a system (the "Nintendo Gateway System") in various non-coin activated commercial settings such as commercial airlines, cruise ships, rail systems and hotels, where customers play games on specially adapted Nintendo video game systems. If NCL identifies a Game for possible license on the Nintendo Gateway System, the parties agree to conduct good-faith negotiations toward including the Game in the Nintendo Gateway System.

8. CONFIDENTIAL INFORMATION

8.1 Definition. "Confidential Information" means information provided to LICENSEE by NCL or any third party working with NCL or NOA relating to the hardware and software for the GAME BOY ADVANCE system or the Development Tools, including, but not limited to: (a) all current or future information, know-how, techniques, methods, information, tools, emulator hardware or software, software development specifications, and/or trade secrets, (b) any inventions, patents or patent applications, (c) any business, marketing or sales data or information, and (d) any other information or data relating to development, design, operation, manufacturing, marketing or sales. Confidential Information shall include all confidential information disclosed, whether in writing, orally, visually, or in the form of drawings, technical specifications, software, samples, pictures, models, recordings, or other tangible items which contain or manifest, in any form, the above listed information. Confidential Information shall not include: (i) data and information which was in the public domain prior to LICENSEE's receipt of the same hereunder, or which subsequently becomes part of the public domain by publication or otherwise, except by LICENSEE's wrongful act or omission, (ii) data and information which LICENSEE can demonstrate, through written records kept in the ordinary course of business, was in its possession without restriction on use or disclosure, prior to its receipt of the same hereunder and was not acquired directly or indirectly from NCL or NOA under an obligation of confidentiality which is still in force, and (iii) data and information which LICENSEE can show was received by it from a third party who did not acquire the same directly or indirectly from NCL or NOA and to whom LICENSEE has no obligation of confidentiality.

8.2 Disclosures Required by Law. LICENSEE shall be permitted to disclose Confidential Information if such disclosure is required by an authorized governmental or judicial entity, provided that NCL is given Notice thereof at least thirty (30) days prior to such disclosure. LICENSEE shall use its best efforts to limit the disclosure to the greatest extent possible consistent with LICENSEE's legal obligations, and if required by NCL, shall cooperate in the preparation and entry of appropriate court orders limiting the persons to whom Confidential Information may be disclosed and the extent of disclosure of such Confidential Information.

8.3 Disclosure and Use. NCL may provide LICENSEE with highly confidential development information, Guidelines, Development Tools, systems, specifications and related resources and information constituting and incorporating the Confidential Information to assist LICENSEE in the development of Games. LICENSEE agrees to maintain all Confidential Information as strictly confidential and to use such Confidential Information only in accordance with this Agreement. LICENSEE shall limit access to the Confidential

Information to LICENSEE's employees having a strict need to know and shall advise such employees of their obligation of confidentiality as provided herein. LICENSEE shall require each such employee to retain in confidence the Confidential Information pursuant to a written non-disclosure agreement between LICENSEE and such employee. LICENSEE shall use its best efforts to ensure that its employees working with or otherwise having access to Confidential Information shall not disclose or make any unauthorized use of the Confidential Information.

8.4 No Disclosure to Independent Contractors. LICENSEE shall not disclose the Confidential Information, including without limitation the Guidelines and Intellectual Property Rights, to any Independent Contractor, nor permit any Independent Contractor to perform or assist in development work for a Game, without the prior written consent of NCL. Any Independent Contractor seeking access to Confidential Information shall be required to enter into a written non-disclosure agreement with NCL or NOA prior to receiving any access to or disclosure of the Confidential Information from either LICENSEE or NCL.

At LICENSEE's option, the written non-disclosure agreement may be with LICENSEE rather than NCL or NOA, in which case the form and substance of the non-disclosure agreement must be acceptable to NCL. Also, in such case LICENSEE shall provide to NCL on a continuing basis a listing of all Independent Contractors who have received or been granted access to Confidential Information along with copies of the applicable written non-disclosure agreements. In addition, LICENSEE shall take all reasonable measures to ensure that its Independent Contractors fulfill the requirements of the applicable written non-disclosure agreements.

LICENSEE shall use its best efforts to ensure that its employees and Independent Contractors working with or otherwise having access to Confidential Information shall not disclose or make unauthorized use of the Confidential Information. LICENSEE agrees to indemnify NCL against all loss or damage, including consequential economic loss, for breach of these obligations by the LICENSEE, its employees and Independent Contractors.

8.5 Agreement Confidentiality. LICENSEE agrees that the terms, conditions and contents of this Agreement shall be treated as Confidential Information. Any public announcement or press release regarding this Agreement or the release dates for Games developed by LICENSEE under this Agreement shall be subject to NCL's prior written approval. The parties may disclose this Agreement: (a) to accountants, banks, financing sources, lawyers, parent companies and related parties under substantially equivalent confidentiality obligations, (b) in connection with any formal legal proceeding for the enforcement of this Agreement, (c) as required by the regulations of the government agencies in the Territory that regulate publicly-traded securities, provided that all Confidential

Information regarding NCL shall be redacted from such disclosures to the maximum extent allowed by such government agencies, and (d) in response to lawful process, subject to a written protective order approved in advance by NCL.

8.6 Notification Obligations. LICENSEE shall promptly notify NCL of the unauthorized use or disclosure of any Confidential Information and shall promptly act to recover any such information and prevent further breach of the obligations herein. The obligations of LICENSEE set forth herein are in addition to and not in lieu of any other legal remedy that may be available to NCL under this Agreement or applicable law.

8.7 Continuing Effect of the NDA. The terms of this Section 8 supplement the terms of the NDA, which shall remain in effect. In the event of a conflict between the terms of the NDA and this Agreement, the terms of this Agreement shall control.

9. REPRESENTATIONS AND WARRANTIES

9.1 LICENSEE's Representations and Warranties. LICENSEE represents and warrants that:

(a) it is a duly organized and validly existing corporation and has full authority to enter into this Agreement and to carry out the provisions hereof,

(b) the execution, delivery and performance of this Agreement by LICENSEE does not conflict with any agreement or understanding to which LICENSEE may be bound, and

(c) excluding the Intellectual Property Rights, LICENSEE is either (i) the sole owner of all right, title and interest in and to the trademarks, copyrights and other Proprietary Rights used on or in association with the development, advertising, marketing and sale of the Licensed Products and the Marketing Materials, or (ii) the holder of such rights to the trademarks, copyrights and other Proprietary Rights which have been licensed from a third party as are necessary for the development, advertising, marketing and sale of the Licensed Products and the Marketing Materials under this Agreement.

9.2 NCL's Representations and Warranties. NCL represents and warrants that:

(a) it is a duly organized and validly existing corporation and has full authority to enter into this Agreement and to carry out the provisions hereof, and

(b) the execution, delivery and performance of this Agreement by NCL does not conflict with any agreement or understanding to which NCL may be bound.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission

9.3 ***

9.4 ***

9.5 LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER NCL NOR ANY OF ITS SUBSIDIARIES, AFFILIATES, LICENSORS OR SUPPLIERS SHALL BE LIABLE FOR LOSS OF PROFITS, OR FOR ANY SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF LICENSEE OR ITS CUSTOMERS ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE BREACH OF THIS AGREEMENT BY NCL, THE MANUFACTURE OF THE LICENSED PRODUCTS OR THE USE OF THE LICENSED PRODUCTS ON ANY NINTENDO VIDEO GAME SYSTEM BY LICENSEE OR ANY END USER.

10. INDEMNIFICATION

10.1 LICENSEE's Indemnification of NCL. LICENSEE shall indemnify and hold harmless NCL (and any of its respective affiliates, subsidiaries, licensors, suppliers, officers, directors, employees or agents) from any claims, losses, liabilities, damages, expenses and costs, including, without limitation, reasonable attorneys' fees and costs and any expenses incurred in the settlement or avoidance of any such claim, which result from or are in connection with:

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission

(a) a breach of any of the provisions, representations or warranties undertaken by LICENSEE in this Agreement,

(b) any infringement of a third party's Proprietary Rights as a result of the design, development, advertising, marketing, sale or use of the Licensed Products or the Marketing Materials,

(c) any claims alleging a defect, failure to warn, bodily injury (including death) or other personal or property damage arising out of, or in connection with, the design, development, advertising, marketing, sale or use of any of the Licensed Products, and

(d) any federal, state or foreign civil or criminal actions relating to the design, development, advertising, marketing, sale or use of the Licensed Products or the Marketing Materials.

NCL and LICENSEE shall give prompt Notice to the other of any indemnified claim under this Section 10.1. With respect to any third party claim subject to this indemnity clause, LICENSEE, as indemnitor, shall have the right to select counsel and to control the defense and/or settlement thereof. NCL may, at its own expense, participate in such action or proceeding with counsel of its own choice. LICENSEE shall not enter into any settlement of any such claim in which (i) NCL has been named as a party, or (ii) claims relating to the Intellectual Property Rights have been asserted, without NCL's prior written consent. NCL shall provide reasonable assistance to LICENSEE in its defense of any such claim.

10.2 LICENSEE's Insurance. LICENSEE shall, at its own expense, obtain a comprehensive policy of general liability insurance (including coverage for advertising injury and product liability claims) from a recognized insurance company. Such policy of insurance shall be in an amount of not less than the equivalent of *** and shall provide for adequate protection against any suits, claims, loss or damage by the Licensed Products. Such policy shall name NCL as an additional insured and shall specify that it may not be canceled without thirty (30) days' prior written Notice to NCL. A Certificate of Insurance shall be provided to NCL not later than the date of the initial order of Licensed Products under this Agreement or within 60 days of the effective date of this Agreement, whatever date occurs later. If LICENSEE fails to maintain such insurance at any time during the Term and for a period of two (2) years thereafter, NCL may secure such insurance at LICENSEE's expense.

10.3 Suspension of Production. In the event NCL deems itself at risk with respect to any claim, action or proceeding under this Section 10, NCL may, at its sole option,

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission

suspend production, delivery or order acceptance for any Licensed Products, in whole or in part, pending resolution of such claim, action or proceeding.

11. PROTECTION OF PROPRIETARY RIGHTS

11.1 Joint Actions Against Infringers. LICENSEE and NCL may agree to jointly pursue cases of infringement involving of the Licensed Products, as such Licensed Products will contain Proprietary Rights owned by each of them. Unless the parties otherwise agree, or unless the recovery is expressly allocated between them by the court, in the event of such an action, any recovery shall be used first to reimburse LICENSEE and NCL for their respective reasonable attorneys' fees and costs incurred in bringing such action, pro rata, and any remaining recovery shall be distributed to LICENSEE and NCL, pro rata, based upon the fees and costs incurred in bringing such action.

11.2 Actions by LICENSEE. LICENSEE, without the consent of NCL, may bring any action or proceeding relating to an infringement or potential infringement of LICENSEE's Proprietary Rights in the Licensed Products. LICENSEE shall make reasonable efforts to inform NCL of such actions in a timely manner. LICENSEE

will have the right to retain all proceeds it may derive from any recovery in connection with such actions.

11.3 Actions by NCL. NCL, without the consent of LICENSEE, may bring any action or proceeding relating to an infringement or potential infringement of NCL's Intellectual Property Rights in the Licensed Products. NCL shall make reasonable efforts to inform LICENSEE of such actions in a timely manner. NCL will have the right to retain all proceeds it may derive from any recovery in connection with such actions.

12. ASSIGNMENT

12.1 No Assignment by LICENSEE. This Agreement is personal to LICENSEE and may not be sold, assigned, delegated, sublicensed or otherwise transferred or encumbered, in whole or in part, without NCL's prior written consent, ***. In the event of an assignment or other transfer in violation of this Agreement, NCL shall have the unqualified right to immediately terminate this Agreement without further obligation to LICENSEE.

12.2 Assignment by Operation of Law. In the event of an assignment of this Agreement by operation of law, LICENSEE shall, not later than thirty (30) days thereafter, give Notice and seek consent thereto from NCL. Such Notice shall disclose the name of the assignee, the effective date and the nature and extent of the assignment. An assignment by operation of law includes, but is not limited to: (a) a merger of LICENSEE into another business entity or a merger of another business entity into LICENSEE (b) the sale

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission

assignment or transfer of all or substantially all of the assets of LICENSEE to a third party, (c) the sale, assignment or transfer to a third party of any of LICENSEE's Proprietary Rights which are used in the development of or are otherwise incorporated into any Licensed Products, or (d) the sale, assignment or transfer of any of LICENSEE's stock resulting in the acquirer having management power over or voting control of LICENSEE. Following the later of: (i) such an assignment by operation of law, or (ii) receipt of Notice therefor, NCL shall have the unqualified right for a period of ninety (90) days to immediately terminate this Agreement without further obligation to LICENSEE.

12.3 Non-Disclosure Obligation. In no event shall LICENSEE disclose or allow access to NCL's Confidential Information prior to or upon the occurrence of an assignment, whether by operation of law or otherwise, unless and until NCL gives its written consent to such disclosure.

13. TERM AND TERMINATION

13.1 Term. This Agreement shall commence on the Effective Date and continue for the Term, unless earlier terminated as provided for herein.

13.2 Default or Breach. In the event that either party is in default or commits a material breach of this Agreement, which is not cured within thirty (30) days after Notice thereof, then this Agreement shall automatically terminate on the date specified in such Notice.

13.3 Bankruptcy. At NCL's option, this Agreement may be terminated immediately and without Notice in the event that LICENSEE: (a) makes an assignment for the benefit of creditors, (b) becomes insolvent, (c) files a voluntary petition for bankruptcy, (d) acquiesces to any involuntary bankruptcy petition, (e) is adjudicated as a bankrupt, or (f) ceases to do business.

13.4 Termination Other Than by Breach. Upon the expiration of this Agreement or its termination other than by LICENSEE's breach, LICENSEE shall have a period of *** to sell any unsold Licensed Products. All Licensed Products in LICENSEE's control following the expiration of such sell-off period shall be destroyed by LICENSEE within ten (10) days and proof of such destruction (certified by an officer of LICENSEE) shall be provided to NCL.

13.5 Termination by LICENSEE's Breach. If this Agreement is terminated by NCL as a result of a breach of its terms and conditions by LICENSEE, LICENSEE shall immediately cease all distribution, advertising, marketing or sale of any Licensed Products. All Licensed Products in LICENSEE's control as of the date of such termination shall be

destroyed by LICENSEE within ten (10) days and proof of such destruction (certified by an officer of LICENSEE) shall be provided to NCL.

13.6 Breach of NDA or Other NCL License Agreements. At NCL's option, any breach by LICENSEE of: (a) the NDA, or (b) any other license agreement between NCL and LICENSEE relating to the development of games for any of NCL's video game systems which is not cured within the time period for cure allowed under the applicable agreement, shall be considered a material breach of this Agreement entitling NCL to terminate this Agreement in accordance with Section 13.5 herein.

13.7 No Further Use of the Intellectual Property Rights. Upon expiration and/or termination of this Agreement, LICENSEE shall cease all use of the Intellectual Property Rights for any purpose, except as may be required in connection with the sale of Licensed Products authorized under Section 13.4 herein. LICENSEE shall, within thirty (30) days thereafter, return or destroy all Guidelines, writings, drawings, models, data, tools and other materials and things in LICENSEE's possession or in the possession of any past or present employee, agent or contractor receiving the information through LICENSEE, which constitute or relate to or disclose any Confidential Information, without making copies or otherwise retaining any such information. Proof of any destruction shall be certified by an officer of LICENSEE and promptly provided to NCL.

13.8 Termination by NCL's Breach. If this Agreement is terminated by LICENSEE as a result of a material breach of its terms or conditions by NCL, LICENSEE may continue to sell the Licensed Products in the Territory until the expiration of the Term, at which time the provisions of Section 13.4 shall apply.

14. GENERAL PROVISIONS

14.1 Compliance with Applicable Laws and Regulations. LICENSEE shall at all times comply with applicable laws, regulations and orders in the countries of the Territory relating to or in any way affecting this Agreement and LICENSEE's performance under this Agreement, including, without limitation, the export laws and regulations of any country with jurisdiction over the Licensed Products and/or either party. LICENSEE shall not market, distribute, or sell the Game and/or Game Cartridges in any country in the Territory in which such marketing, distribution or sale would violate any applicable laws, regulations or orders of such country.

14.2 Force Majeure. Neither party shall be liable for any breach of this Agreement occasioned by any cause beyond the reasonable control of such party, including governmental, action, war, riot or civil commotion, fire, natural disaster, labor disputes,

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission

restraints affecting shipping or credit, delay of carriers, inadequate supply of suitable materials or any other cause which could not with reasonable diligence be controlled or prevented by the parties. In the event of material shortages, including shortages of materials or production facilities necessary for production of the Licensed Products, NCL reserves the right to allocate such resources among itself and its licensees.

14.3 Records and Audit. During the Term and for a period of *** thereafter, LICENSEE agrees to keep accurate, complete and detailed records related to the development and sale of the Licensed Products and the Marketing Materials. Upon *** Notice to LICENSEE, NCL may, at its expense, arrange for a third party to audit LICENSEE's records, reports and other information related to LICENSEE's compliance with this Agreement.

14.4 Waiver, Severability, Integration, and Amendment. The failure of a party to enforce any provision of this Agreement shall not be construed to be a waiver of such provision or of the right of such party to thereafter enforce such provision. In the event that any term, clause or provision of this Agreement shall be construed to be or adjudged invalid, void or unenforceable, such term, clause or provision shall be construed as severed from this Agreement, and the remaining terms, clauses and provisions shall remain in effect. Together with the NDA, this Agreement constitutes the entire agreement between the parties relating to the subject matter hereof. All prior negotiations, representations, agreements and understandings are merged into, extinguished by and completely expressed by this Agreement and the NDA. Any amendment to this Agreement shall be in writing, signed by both parties.

14.5 Survival. In addition to those rights specified elsewhere in this Agreement, the rights and obligations set forth in Sections 3, 8, 9, 10 and 13 shall survive any expiration or termination of this Agreement to the degree necessary to permit their complete fulfilment or discharge.

14.6 Governing Law and Venue. This Agreement shall be governed by the laws

of Japan. Any legal action (including judicial and administrative proceedings) with respect to any matter arising under or growing out of this Agreement, shall be brought only in the Kyoto District Court. Each party hereby consents to the jurisdiction and venue of such court for such purposes.

14.7 Equitable Relief. LICENSEE acknowledges that in the event of its breach of this Agreement, no adequate remedy at law may be available to NCL and that NCL shall be entitled to seek injunctive or other equitable relief in addition to any relief available at law.

14.8 Attorneys' Fees. In the event it is necessary for either party to this Agreement to undertake legal action to enforce or defend any action arising out of or relating to this Agreement, the prevailing party in such action shall be entitled to recover from the other party all reasonable attorneys' fees, costs and expenses relating to such legal action or any appeal therefrom.

14.9 Expansion of Rights. NCL may expand the rights granted to LICENSEE under this Agreement by providing written notice of such expansion of rights to LICENSEE and without having to enter into a written addendum to the present Agreement with LICENSEE.

14.10 Delegation of Duties. NCL, at its option, may delegate its duties under the present Agreement to a wholly owned subsidiary. To the extent necessary for the parties to carry out their duties under this Agreement, NCL shall provide notice to LICENSEE of any such delegation, including to whom at NCL's wholly owned subsidiary communications from LICENSEE under this Agreement may be directed. Also in the event of a delegation by NCL, the provisions of this Agreement shall continue to govern the relationship between NCL and LICENSEE and shall govern the relationship between NCL's subsidiary and LICENSEE, subject to any amendments or modifications to this Agreement which such subsidiary and LICENSEE may agree to in their relationship. NCL shall remain obligated under the present Agreement for the performance of NCL's duties by NCL's subsidiary.

14.11 Counterparts and Signature by Facsimile. This Agreement may be signed in counterparts, which shall together constitute a complete Agreement. A signature transmitted by facsimile shall be considered an original for purposes of this Agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the dates set forth below.

NCL

Nintendo Co., Ltd.

By: /s/ Name[?]

Its: President

Date: Sep. 14, 2001

LICENSEE:

Activision, Inc.

By: /s/ George Rose

George Rose
General Counsel + Senior Vice President

Date: 8/16/01

LICENSEE:
Activision UK, Ltd.

By: /s/ George Rose

George Rose
Office: Director

Date: 8/16/01

LICENSEE:
ATVI France, S.A.R.L.

By: /s/ Patrick Chachuat

Patrick Chachuat
Office: Director

Date: 8/22/01

LICENSEE:
Activision GmbH

By: /s/ George Rose

George Rose
Office: Managing Director

Date: 8/16/01

LICENSEE:
Activision Pty, Ltd.

By: /s/ George Rose

George Rose
Office: Director

Date: 8/16/01

Attachments:
- Annex A - Guidelines on Ethical Content
- Annex B - Trademark samples

Annex A

Guidelines on Ethical Content

The following Guidelines on Ethical Content are presented for assistance in the development of Games by defining the types of the theme inconsistent with NCL's corporate philosophy. Exceptions may be made when necessary to maintain the integrity of the Game or the Game's theme. Games shall not:

(a) contain sexually explicit content including but not limited to nudity, rape, sexual intercourse and sexual touching; for instance, NCL does not allow bare-breasted women in Games, however, mild displays of affection such as kissing or hugging are acceptable;
(b) contain language or depictions which specifically denigrate members of any race, gender, ethnicity, religion or political group;
(c) depict gratuitous or excessive blood or violence. NCL does not permit depictions of animal cruelty or torture;
(d) depict verbal or physical spousal or child abuse;
(e) permit racial, gender, ethnic, religious or political stereotypes; for example, religious symbols such as crosses will be acceptable when fitting into the theme of the Game and not promoting a specific religious denomination;
(f) use profanity, obscenity or incorporate language or gestures that are offensive by prevailing public standards and tastes; and
(g) promote the use of illegal drugs, smoking materials, tobacco and/or alcohol; for example NCL does not allow an unnecessary beer or cigarette advertisement anywhere in a Game; however, Sherlock Holmes smoking a pipe would be acceptable as it fits the theme of the Game.

Annex B

Trademark Samples

[GAME BOY ADVANCE(TM) LOGOS]

[GBA LINK CABLE LOGO]

[NINTENDO LOGO]

[NINTENDO SEAL OF QUALITY (ENGLISH)]

[NINTENDO SEAL OF QUALITY (GERMAN)]

MICROSOFT CORPORATION
XBOX(TM) PUBLISHER LICENSE AGREEMENT

This License Agreement (the "Agreement") is entered into and effective as of July 18, 2001 (the "Effective Date") by and between MICROSOFT CORPORATION, a Washington corporation ("Microsoft"), and Activision Publishing, Inc., a Delaware corporation with offices at 3100 Ocean Park Blvd., Santa Monica, CA 90405 ("Licensee").

A. Whereas, Microsoft develops and licenses a computer game system, known as the Xbox(TM) game system; and

B. Whereas, Licensee is an experienced publisher of software products that wishes to develop and/or publish one or more software products running on the Xbox game system, and to license proprietary materials from Microsoft, on the terms and conditions set forth herein.

Accordingly, for and in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, receipt of which each party hereby acknowledges, Microsoft and Licensee agree as follows:

1. DEFINITIONS. For the purposes of this Agreement, the following terms will have the respective indicated meanings.

1.1 "Art & Marketing Materials" shall mean art and mechanical formats for a Software Title including the retail packaging, end user instruction manual with end user license agreement and warranties, Finished Product Unit media label, and any promotional inserts and other materials that are to be included in the retail packaging, as well as all press releases, marketing, advertising or promotional materials related to the Software Title and/or Finished Product Units (including without limitation web advertising and Licensee's web pages to the extent they refer to the Software Title(s) or the Finished Product Units).

1.2 "Authorized Replicator" shall mean a software replicator certified and approved by Microsoft for replication of games that run on Xbox. Upon Licensee's written request, Microsoft will provide Licensee with a copy of the then-current list of Authorized Replicators, but the status of a particular replicator and such list may change from time to time in Microsoft's sole and absolute discretion.

1.3 "Branding Specifications" shall mean the specifications in Exhibit C, and such other design specifications as Microsoft may hereafter provide from time to time, for using the Licensed Trademarks on a Software Title and/or on related product packaging, documentation, and other materials.

1.4 "Commercial Release" shall mean (a) with respect to Xbox, the first distribution of an Xbox to the public for payment, and (b) with respect to a Software Title, the earlier of the first distribution of the Software Title for payment or distribution of Finished Product Units that are not designated as beta or prerelease versions.

1.5 "Finished Product Unit" shall mean a DVD-9 copy, in software object code only, of a Software Title, in whole or in part.

1.6 "Licensed Trademarks" shall mean the Microsoft trademarks depicted in Exhibit B (which Microsoft unilaterally may modify from time to time during the term of this Agreement upon written notice to Licensee).

1.7 "Software Title" shall mean the single software product as described in the applicable Exhibit A (i.e., Exhibit A-1, Exhibit A-2, or Exhibit A-n, as the case may be), developed by Licensee, and running on Xbox. A Software Title shall include the improvements and patches thereto (if and to the extent approved by Microsoft), but shall not include any "prequel" or "sequel." If Microsoft approves one or more additional concept(s) for another single software product proposed by Licensee to run on Xbox, pursuant to the procedure set forth in Section 2.1.1 below and the Xbox Guide (as defined in Section 2.1), then upon Microsoft's written approval of such concept, this Agreement, and the term "Software Title," shall be broadened automatically to cover the respective new software product and the parties will prepare, initial and append to this Agreement a new Exhibit A-n for each such additional new software product.

1.8 "Certification Requirements" shall mean the requirements specified in this Agreement (including without limitation the Xbox Guide) for quality,

compatibility, and/or performance of a Software Title, and, to the extent not inconsistent with the foregoing standards, the standards of quality and performance generally accepted in the console game industry.

1.9 "Territory" shall be determined on a Software Title-by-Software Title basis, and shall mean such countries as may be specified in writing by Microsoft when the concept of the applicable Software Title is approved pursuant to Section 2.1.1 below.

1.10 "Xbox" shall mean the first version (as of the Commercial Release) of Microsoft's Xbox game system, including operating system software and hardware design specifications.

2. DEVELOPMENT; DELIVERY; APPROVAL

2.1 Software Title Development. Licensee's development activities with respect to each Software Title shall be in accordance with the development schedule set forth in the applicable Exhibit A-n. Furthermore, Licensee agrees to be bound by all provisions contained in the then-applicable version of the "Xbox Guide", the current version of which Microsoft or its affiliate will deliver to Licensee when it is completed, after the execution of this Agreement. Licensee understands and agrees that Microsoft may, in its discretion, supplement, revise and update the Xbox Guide from time to time and that upon Licensee's receipt of the applicable supplement, revision or updated version, Licensee automatically shall be bound by all provisions of the then-current Xbox Guide; Microsoft will specify in each such supplement, revision or updated version a reasonable effective date of each change if such change or revision is not required to be effective immediately. If Licensee proceeds with the development of a Software Title, Licensee shall deliver each milestone (as described in this Section 2.1) to Microsoft for approval in writing. All certification and playtesting (and applicable fees therefor, if any) will be in accordance with the then-applicable version of the Xbox Guide. If Microsoft does not approve Licensee's submission for a given milestone then Licensee shall either correct the problems that contributed to the lack of approval or, if Microsoft gives Licensee written notice to cease development, Licensee shall immediately cease all development activities for the applicable Software Title's subsequent milestones. Each successive milestone shall comply in all material respects with the characteristics of previously approved milestones. Each software milestone shall be delivered in compiled object code form.

2.1.1 Concept. Licensee shall deliver to Microsoft a written and completed concept submission form (in the form provided by Microsoft to Licensee), including without limitation: (a) a detailed description of the Software Title, including but not limited to (to the extent applicable) title, theme, plot, characters, play elements, and technical specifications; (b) the identities of any proposed subcontractors, and general information about the principal team of individual developers, and (c) an explanation of the design, technical and marketing suitability of the Software Title. Evaluation of the proposed design will be based on criteria including, but not necessarily limited to, the following: (i) originality; (ii) play breadth and depth; (iii) playability; (iv) replayability and long-term interest; and (v) theme, characters and storyline. Technical evaluation of the concept will be based on criteria including, but not necessarily limited to, feasibility of execution and usage of system capabilities (such as graphics, audio, hard drive, play control, online capabilities and peripherals). Marketing suitability will be evaluated based on criteria including, but not necessarily limited to, the following: (i) market viability; (ii) Licensee's

marketing commitment (if any); (iii) suitability to the target demographic; and (iv) overall fit with the Xbox certified software products portfolio.

2.1.2 Preliminary Versions. Licensee may, but will not be required to, deliver to Microsoft certain preliminary versions of the Software Title, as addressed in the Xbox Guide.

2.1.3 Feature-Complete Version. Licensee shall deliver to Microsoft a feature-complete version of the Software Title (the "Beta Version"), which includes all features of the Software Title and such other content as may be required under the Xbox Guide. Concurrently with delivery of the Beta Version, Licensee will disclose in writing to Microsoft the details about any and all so-called "hidden characters," "cheats," "easter eggs," "bonus video and/or audio," and similar elements included in the Beta Version and/or intended to be included in the final release version of the Software Title.

2.1.4 Final Release Version. Licensee shall deliver to Microsoft, Licensee's proposed final release version of the applicable Software Title that is complete and ready for manufacture and commercial distribution, with the

final content rating certification, with identified program errors corrected, and with any and all changes previously requested by Microsoft implemented. However, nothing herein will be deemed to relieve Licensee of its obligation to correct program bugs and errors, whenever discovered (including without limitation after Commercial Release), and Licensee agrees to correct such bugs and errors as soon as possible after discovery (provided that, with respect to bugs or errors discovered after Commercial Release of the applicable Software Title, Licensee will use commercially reasonable efforts to correct the bug/error in all Finished Product Units manufactured after discovery). In addition, Licensee will comply with all certification procedures, guidelines and standards set forth in the then-applicable version of the Xbox Guide. Licensee shall not distribute the Software Title, nor manufacture any Finished Product Units intended for distribution, unless and until Microsoft shall have given its final certification and approval of the final release version of the Software Title, and Microsoft shall have provided the code for the final release version to the applicable Authorized Replicator(s).

2.1.5 Playtesting. Microsoft will playtest the Beta Version and proposed final release version of each Software Title; if Licensee delivers preliminary versions of a Software Title, Microsoft may (but will not be obligated to) playtest such versions. Microsoft will provide written comments to Licensee regarding the results of its playtest results, and Licensee shall comply with any requests made by Microsoft to improve the applicable Software Title based on such playtest results. Licensee acknowledges that, notwithstanding its receipt of approvals from Microsoft for prior milestones or versions during the development process, Licensee's proposed final release version of each Software Title must be approved by Microsoft, as set forth in the Xbox Guide. In addition to conforming with the approved concept, with all technical specifications, and with all other requirements set by Microsoft during the development and approval process, each Software Title must achieve a satisfactory rating in final playtesting. Notwithstanding anything to the contrary contained herein, Licensee acknowledges and understands that, in part, the results of playtesting will be subjective, that Microsoft will have the right to deny final approval based on its determination, and that Licensee has and will have no expectation of final approval of any Software Title regardless of any approvals or assessments given or made by Microsoft, informally or formally, at any time.

2.1.6 Art & Marketing Materials. Licensee shall deliver to Microsoft for approval all Art & Marketing Materials as and when developed, whether during development activities or thereafter. Licensee shall not distribute any specific Art & Marketing Materials unless and until Microsoft shall have given its final certification and approval of the specific item.

2.2 Content Rating. Licensee understands and agrees that, without limitation, Microsoft will not give final certification and approval of a Software Title unless and until Licensee shall have obtained, at Licensee's sole cost, a rating of no higher than "Mature (17+)" or its equivalent from the appropriate rating bodies for the applicable Territory (such as, ESRB, ELSPA, etc.) and/or any and all other independent content rating authority/authorities reasonably designated by Microsoft. Licensee shall make any changes to the Software Title required to obtain a rating of no higher than "Mature (17+)" (or its equivalent). In no

event shall Licensee distribute any Software Title under an "Adults Only" or higher rating (or equivalent rating). Licensee shall include the applicable rating(s) prominently on Finished Product Units, in accordance with the applicable rating body guidelines.

2.3 Development Kit License. Microsoft or its affiliate will offer to Licensee the opportunity to enter into one or more development kit license(s) (each an "XDK License") pursuant to which Microsoft would license to Licensee software development tools and hardware to assist Licensee in the development of Software Titles, including without limitation certain sample code and other redistributable code which Licensee could incorporate into Software Titles, on such terms and conditions as are contained in the XDK License.

2.4 Subcontractors. Licensee shall not use any subcontractors or any other third parties to perform software development work in connection with a Software Title unless and until (i) the proposed subcontractor or other third party and (ii) Microsoft shall have executed an XDK license; provided that nothing contained herein will be deemed to require Microsoft or its affiliate to execute an XDK License with any particular person or entity if Microsoft or its affiliate determines that it is not appropriate to execute such an XDK License.

2.5 Changes of Requirements by Microsoft. Unless otherwise reasonably specified by Microsoft at the respective time: (a) after approval by Microsoft of the Beta Version of a Software Title, Licensee will not be obligated to

comply, with respect to such Software Title only, with any subsequent changes made by Microsoft to the technical or content requirements for Software Titles generally in the Xbox Guide; and (b) subject to the immediately preceding clause (a), any changes made by Microsoft in Branding Specifications or other requirements after final certification of a Software Title by Microsoft will be effective as to such Software Title only on a "going forward" basis (i.e., only to such Art & Marketing Materials and/or Finished Product Units as are manufactured after Microsoft notifies Licensee of the change), unless (i) the change can be accommodated by Licensee with insignificant added expense, or (ii) Microsoft pays for Licensee's direct, out-of-pocket expenses necessarily incurred as a result of its retrospective compliance with the change.

3. RIGHTS AND RESTRICTIONS

3.1 Trademarks.

3.1.1 License. In each Software Title, and on each Finished Product Unit (and the packaging therefor), Licensee shall incorporate the Licensed Trademarks and include credit and acknowledgement to Microsoft as set forth in the Branding Specifications and the Xbox Guide. Microsoft grants to Licensee a non-exclusive, non-transferable, personal license to use the Licensed Trademarks, according to the Branding Specifications and other conditions herein, and solely in connection with marketing, sale, and distribution in the Territory of Finished Product Units that meet the Certification Requirements.

3.1.2 Limitations. Licensee is granted no right, and shall not purport, to permit any third party to use the Licensed Trademarks in any manner without Microsoft's prior written consent. Licensee's license to use Licensed Trademarks in connection with the Software Title and Finished Product Units shall not extend to the merchandising or sale of related or promotional products under the Licensed Trademarks.

3.1.3 Branding Specifications. Licensee's use of the Licensed Trademarks (including without limitation in Finished Product Unit and Art & Marketing Materials) shall comply with the Branding Specifications in Exhibit C. Licensee shall not use Licensed Trademarks in association with any third party trademarks in a manner that might suggest co-branding or otherwise create potential confusion as to source or sponsorship of the Software Title or Finished Product Units or ownership of the Licensed Trademarks. Upon notice or other discovery of any non-conformance with the requirements or

prohibitions of this section, Licensee shall promptly remedy such non-conformance and notify Microsoft of the non-conformance and remedial steps taken.

3.1.4 Certification Requirements. Licensee may use the Licensed Trademarks only in connection with the copies of the Software Title that meet the Certification Requirements. Licensee shall test the Software Title and Finished Product Units for conformance with the Certification Requirements according to generally accepted and best industry practices, and shall keep written or electronic records of such testing during the term of this Agreement and for no less than ***("Test Records"). Upon Microsoft's request, Licensee shall provide Microsoft with copies of or reasonable access to inspect the Test Records, Finished Product Units and Software Title (either in pre-release or commercial release versions, as Microsoft may request). Upon notice or other discovery of any non-conformance with the Certification Requirements, Licensee shall promptly remedy such non-conformance in all Finished Product Units wherever in the chain of distribution (subject to Sections 2.1.4 and 2.5 above), and shall notify Microsoft of the non-conformance and remedial steps taken.

3.1.5 Protection of Licensed Trademarks. Licensee shall assist Microsoft in protecting and maintaining Microsoft's rights in the Licensed Trademarks, including preparation and execution of documents necessary to register the Licensed Trademarks or record this Agreement, and giving immediate notice to Microsoft of potential infringement of the Licensed Trademarks. Microsoft shall have the sole right to and in its sole discretion may commence, prosecute or defend, and control any action concerning the Licensed Trademarks, either in its own name or by joining Licensee as a party thereto. Licensee shall not during the Term of this Agreement contest the validity of, by act or omission jeopardize, or take any action inconsistent with, Microsoft's rights or goodwill in the Licensed Trademarks in any country, including attempted registration of any Licensed Trademark, or use or attempted registration of any mark confusingly similar thereto.

3.1.6 Ownership. Licensee acknowledges Microsoft's ownership of all Licensed Trademarks, and all goodwill associated with the Licensed Trademarks. Use of the Licensed Trademarks shall not create any right, title or interest

therein in Licensee's favor. Licensee's use of the Licensed Trademarks shall inure solely to the benefit of Microsoft.

3.1.7 No Bundling with Unapproved Peripherals, Products or Software. Licensee shall not market or distribute any Finished Product Unit bundled with a peripheral product software or other products, nor shall Licensee knowingly permit or assist any third party in such bundling, without Microsoft's prior written consent.

3.2 ***

3.3 No Electronic Transmission; No Online Activities. Licensee shall distribute the Software Title only as embodied in Finished Product Units; specifically, but without limitation, Licensee shall not distribute the Software Title by any means of electronic transmission without the prior written approval of Microsoft, which Microsoft may grant or withhold in its discretion. Furthermore, Licensee will not authorize or permit any online activities involving the Software Title, including without limitation multiplayer, peer-to-peer and/or online play, without the prior written approval of Microsoft, which Microsoft may grant or withhold in its discretion. Notwithstanding the foregoing, Licensee shall be authorized to offer for sale and distribute Finished Product Units through its online store and website.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

3.4 No Distribution Outside the Territory. Licensee shall distribute Finished Product Units only in the Territory. Licensee shall not directly or indirectly export any Finished Product Units from the Territory nor shall Licensee knowingly permit or assist any third party in doing so, nor shall Licensee distribute Finished Product Units to any person or entity that it has reason to believe may re-distribute or sell such Finished Product Units outside the Territory.

3.5 No Reproduction of Finished Product Units Except by Microsoft or Authorized Replicators. Licensee acknowledges that this Agreement does not grant Licensee the right to reproduce or otherwise manufacture Finished Product Units itself, or on its behalf, other than with Microsoft or an Authorized Replicator. Licensee must use Microsoft or an Authorized Replicator to produce Finished Product Units, pursuant to Section 4.

3.6 No Reverse Engineering. Licensee may utilize and study the design, performance and operation of Xbox solely for the purposes of developing the Software Title. Notwithstanding the foregoing, Licensee shall not, directly or indirectly, reverse engineer or aid or assist in the reverse engineering of all or any part of Xbox except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. Reverse engineering includes, without limitation, decompiling, disassembly, sniffing, peeling semiconductor components, or otherwise deriving source code. In addition to any other rights and remedies that Microsoft may have under the circumstances, Licensee shall be required in all cases to pay royalties to Microsoft in accordance with Section 6 below with respect to any games or other products that are developed, marketed or distributed by Licensee, and derived in whole or in part from the reverse engineering of Xbox or any Microsoft data, code or other material.

3.7 Reservation of Rights. Microsoft reserves all rights not explicitly granted herein.

3.8 Ownership of the Software Titles. Except for the intellectual property supplied by Microsoft to Licensee (including without limitation the licenses in the Licensed Trademarks hereunder and the licenses in certain software and hardware granted by an XDK License), ownership of which is retained by Microsoft, insofar as Microsoft is concerned, Licensee will own all rights in and to the Software Titles.

4. MANUFACTURING

4.1 Approved Replicators. Licensee shall retain only an Authorized Replicator to manufacture all Finished Product Units.

4.2 Terms of Use of Authorized Replicator. Licensee will notify Microsoft in writing of the identity of the applicable Authorized Replicator and unless Microsoft agrees otherwise, the agreement for such manufacturing/replication services shall be as negotiated by Licensee and the applicable Authorized Replicator, subject to the following requirements:

4.2.1 Microsoft, and not Licensee, will provide to the single applicable Authorized Replicator the final release version of the Software Title and all specifications required by Microsoft for the manufacture of the Finished Product Units (including without limitation the Security Technology (as defined in Section 4.4 below); Licensee will be responsible for preparing and delivering to the Authorized Replicator all other items required for manufacturing Finished Product Units; and Licensee agrees that all Finished Product Units must be replicated in conformity with all of the quality standards and manufacturing specifications, policies and procedures that Microsoft requires of its Authorized Replicators, and that all so-called "adders" must be approved by Microsoft prior to packaging (in accordance with Section 2.1.6 above);

4.2.2 Microsoft will have the right, but not the obligation, to be supplied with up to *** Finished Product Units (including pre-production samples and random units manufactured during production runs) at Licensee's cost but without royalties, for quality assurance and archival purposes;

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

4.2.3 the initial manufacturing order for Finished Product Units of each Software Title may not be less than a number specified by Microsoft in the Xbox Guide; although such number may change from time to time during the term of this Agreement, initially it will be ***;

4.2.4 as between Licensee and Microsoft, Licensee shall be responsible for ensuring that all Finished Product Units are free of all defects;

4.2.5 Licensee will use commercially reasonable efforts to cause the Authorized Replicator to deliver to Microsoft true and accurate monthly statements of Finished Product Units manufactured in each calendar month, on a Software Title-by-Software Title basis and in sufficient detail to satisfy Microsoft, within fifteen (15) days after the end of the applicable month, and Microsoft will have reasonable audit rights to examine the records of the Authorized Replicator regarding the number of Finished Product Units manufactured;

4.2.6 Microsoft will have the right to have included in the packaging of Finished Product Units such marketing materials for Xbox and/or other Xbox products or services as Microsoft may determine in its reasonable discretion. Microsoft will be responsible for delivering to the Authorized Replicator all such marketing materials as it desires to include with Finished Product Units, and any incremental insertion costs relating to such marketing materials will be borne by Microsoft;

4.2.7 Microsoft does not guarantee any level of performance by its Authorized Replicators, and Microsoft will have no liability to Licensee for any Authorized Replicator's failure to perform its obligations under any applicable agreement between Microsoft and such Authorized Replicator and/or between Licensee and such Authorized Replicator;

4.2.8 Prior to placing an order with a replicator/manufacturer for Finished Product Units, Licensee shall confirm with Microsoft that such entity is an Authorized Replicator; Microsoft will endeavor to keep an up-to-date list of Authorized Replicators in the Xbox Guide. Licensee will not place any order for Finished Product Units with any entity that is not at such time an Authorized Replicator.

4.3 Approval of New Authorized Replicator. If Licensee requests that Microsoft certify and approve a third party replicator that is not then an Authorized Replicator, Microsoft will consider such request in good faith. Licensee acknowledges and agrees that Microsoft may condition certification and approval of such third party on the execution of an agreement in a form satisfactory to Microsoft pursuant to which such third party agrees to strict quality standards, non-disclosure requirements, license fees for use of Microsoft intellectual property and trade secrets, and procedures to protect Microsoft's intellectual property and trade secrets. Notwithstanding anything contained herein, Licensee acknowledges that Microsoft is not required to certify or approve any particular third party as an Authorized Replicator, and that the certification and approval process may be time-consuming.

4.4 Security. Microsoft will have the right to add to the final release version of the Software Title delivered by Licensee to Microsoft, and to all Finished Product Units, such digital signature technology and other security technology and copyright management information (collectively, "Security Technology") as Microsoft may determine to be necessary, and/or Microsoft may modify the signature included in any Security Technology included in the

Software Title by Licensee at Microsoft's direction. Additionally, Microsoft may add Security Technology that prohibits the play of Software Titles on Xbox units manufactured in a region or country different from the location of manufacture of the respective Finished Product Units.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

5. MARKETING, SALES AND SUPPORT

5.1 Licensee Responsible. As between Microsoft and Licensee, Licensee shall be solely responsible for marketing and sales of the Software Title, and for providing technical and all other support to the end users of the Finished Product Units. Licensee will provide all end users of Software Titles contact information (including without limitation Licensee's street address and telephone number, and the applicable individual/group responsible for customer support). Such end user support will be consistent with the then-applicable console game industry standards. Licensee acknowledges and agrees that Microsoft will have no support responsibilities whatsoever to end users of the Software Title or with respect to Finished Product Units.

5.2 Art & Marketing Materials. In accordance with Section 2.1.6 above, Licensee shall submit all Art & Marketing Materials to Microsoft, and Licensee shall not distribute such Art & Marketing Materials unless and until Microsoft has approved them in writing. Prior to publication of any Art & Marketing Materials, Licensee agrees to incorporate all changes relating to use of the Licensed Trademarks that Microsoft may request, and will use its commercially reasonable efforts to incorporate other changes reasonably suggested by Microsoft (provided, however, that Licensee shall at all times comply with the requirements set forth in the Branding Specifications and/or the Xbox Guide).

5.3 Warranty. Licensee shall provide the original end user of any Finished Product Unit a minimum ninety (90) day limited warranty that the Finished Product Unit will perform in accordance with its user documentation or Licensee will provide a replacement Finished Product Unit at no charge.

5.4 Recall. Notwithstanding anything to the contrary contained in this Agreement (including without limitation Section 2.1.4), in the event of a material defect in a Software Title and/or any Finished Product Units, which defect in the reasonable judgement of Microsoft would significantly impair the ability of an end user to play such Software Title or Finished Product Unit, Microsoft may require Licensee to recall Finished Product Units and undertake prompt repair or replacement of such Software Title and/or Finished Product Units.

5.5 Software Title License. Subject to third party rights of which Licensee shall have informed Microsoft in writing at the time of delivery of the feature-complete version of the applicable Software Title, Licensee hereby grants to Microsoft a fully-paid, royalty-free, non-exclusive license (i) to publicly perform the Software Titles at conventions, events, trade shows, press briefings, and the like; and (ii) to use the title of the Software Title, and screen shots from the Software Title, in advertising and promotional material relating to Xbox and related Microsoft products and services, as Microsoft may reasonably deem appropriate.

6. PAYMENTS

6.1 Royalties. Licensee shall pay Microsoft royalties, on a Software Title-by-Software Title basis, for each Finished Product Unit manufactured, in accordance with the following table:

Finished Product Units Manufactured	Royalty Per Applicable Finished Product Unit
	US Dollars
	Yen
	Euros
Units ***	***

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

Finished Product Units Manufactured	Royalty Per Applicable Finished Product Unit (US Dollars / Yen / Euros)
Units ***	***
Units ***	***
Units ***	***

Notwithstanding the foregoing, no royalties will be payable hereunder with respect to any Demo Finished Product Units. For the purposes hereof, a "Demo Finished Product Unit" will mean a Finished Product Unit that (i) contains only a small portion of the applicable Software Title, (ii) is provided to end users only to advertise or promote the applicable Software Title (although it may include demonstration versions of other games for Xbox published by Licensee), (iii) is manufactured in a number of units that has been approved in advance by Microsoft, which approval Microsoft agrees not to unreasonably withhold, and (iv) is distributed free or with a suggested retail price of not more than US$***.

6.2 Royalty Payments. Licensee shall have the option of paying the above royalties in US Dollars, Japanese Yen or Euros, according to the terms of this Section. By designating the appropriate box below, Licensee may choose to pay royalties on either a "Worldwide" or "Regional" basis. Such designation shall be binding throughout the term of this Agreement for all of Licensee's Software Titles. If Licensee elects to pay on a Worldwide basis, it shall pay royalties in US Dollars regardless of where the Finished Product Units are distributed or manufactured. If Licensee elects to pay on a Regional basis, it shall pay royalties in US Dollars, Japanese Yen or Euros in accordance with the table set forth in Section 6.1 but subject to the rest of this Section 6.2:

(i) If the Authorized Replicator manufacturing the Finished Product Units is located in Japan, Singapore, Malaysia or Taiwan, Licensee shall pay its royalty denominated in Japanese Yen for such Finished Product Units.

(ii) If the Authorized Replicator manufacturing the Finished Product Units is located in a member country of the European Union, Licensee shall pay its royalty denominated in Euros for such Finished Product Units.

(iii) If the Authorized Replicator manufacturing the Finished Product Units is located in any other country or region of the world, Licensee shall pay its royalty denominated in US Dollars for such Finished Product Units.

Notwithstanding the foregoing, in the event the conversion ratio for either Yen or Euros to Dollars, as described in the US edition of the Wall Street Journal, falls outside the foreign exchange trading range as set forth in the chart below, for a period of time greater than 30 consecutive days, Microsoft may then readjust the royalty amounts set forth in Section 6.1 for that currency. Such readjustments shall be made in Microsoft's good faith discretion according to its normal practices.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

Yen/Euro to US Dollar Trading Range

	Minimum	Maximum
Yen	***	***
Euros	***	***

XX Worldwide RD (initials)

Regional (initials)

6.3 Payment Process. After its receipt from the applicable Authorized Replicator(s) of each monthly statement of Finished Product Units manufactured for Licensee, Microsoft will invoice Licensee for the amount owed to Microsoft pursuant to Section 6.1 above based upon the applicable statement. Licensee shall pay to Microsoft the full amount invoiced within thirty (30) calendar days after the date of the respective invoice. Payment will be made by wire transfer, in immediately available funds, to an account, and in accordance with a reasonable procedure, to be specified in writing by Microsoft.

6.4 Audit. Licensee shall keep all usual and proper records related to its performance (and any subcontractor's performance) under this Agreement, including support for any cost borne by or income due to Microsoft, for a minimum period of *** from the date they are created. Such records, books of account, and entries shall be kept in accordance with generally accepted accounting principles. Microsoft reserves the right, upon *** notice, to audit Licensee's records and consult with Licensee's accountants for the purpose of verifying Licensee's compliance with the terms of this Agreement and for a period of ***. Any such audit shall be made by Microsoft's internal audit team or any Microsoft designee, and shall be conducted during regular business hours at the Licensee's (or any applicable subcontractor's) offices. Any such audit shall be paid for by Microsoft unless material discrepancies are disclosed. "Material" shall mean *** of the royalties due to J Microsoft within the audit period. If material discrepancies are disclosed, Licensee agrees to pay Microsoft for the costs associated with the audit, as well as reimburse Microsoft for all over-charged amounts, plus interest at a rate of *** per annum.

6.5 Taxes.

6.5.1 The royalties to be paid by Licensee to Microsoft herein do not include any foreign, U.S. federal, state, local, municipal or other governmental taxes, customs and other duties, levies, fees, excises or tariffs, arising as a result of or in connection with the transactions contemplated under this Agreement including, without limitation, any state or local sales or use taxes or consumption tax or any value added tax or business transfer tax now or hereafter imposed on the provision of goods and services to Licensee by Microsoft under this Agreement, regardless of whether the same are separately stated by Microsoft (all such taxes and other charges being referred to herein as "Taxes"). All Taxes (and any penalties, interest, or other additions to any Taxes), with the exception of taxes imposed on Microsoft's net income or with respect to Microsoft's property ownership, shall be the financial responsibility of Licensee. Licensee agrees to indemnify, defend and hold Microsoft harmless from any such Taxes or claims, causes of action, costs (including, without limitation, reasonable attorneys' fees) and any other liabilities of any nature whatsoever related to such Taxes.

6.5.2 Licensee will pay all applicable value added, sales and use taxes and other taxes levied on it by a duly constituted and authorized taxing authority on the XDKs or any transaction related thereto in each country in which the services and/or property are being provided or in which the transactions contemplated hereunder are otherwise subject to tax, regardless of the method of delivery. Any taxes that are owed by Licensee, (i) as a result of entering into this Agreement and the payment of the fees hereunder, (ii) are required or permitted to be collected from Licensee by Microsoft under applicable law, and (iii) are based upon the amounts payable under this Agreement (such taxes described in (i), (ii), and (iii) above the "Collected Taxes"), shall be remitted by Licensee to Microsoft, whereupon, upon request, Microsoft shall

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

provide to Licensee tax receipts or other evidence indicating that such Collected Taxes have been collected by Microsoft and remitted to the appropriate taxing authority. Licensee may provide to Microsoft an exemption certificate acceptable to Microsoft and to the relevant taxing authority (including without limitation a resale certificate) in which case, after the date upon which such certificate is received in proper form, Microsoft shall not collect the taxes covered by such certificate.

6.5.3 If, after a determination by foreign tax authorities, any taxes are required to be withheld, on payments made by Licensee to Microsoft, Licensee may deduct such taxes from the amount owed Microsoft and pay them to the appropriate taxing authority; provided however, that Licensee shall promptly secure and deliver to Microsoft an official receipt for any such taxes withheld or other documents necessary to enable Microsoft to claim a U.S. Foreign Tax Credit. Licensee will make certain that any taxes withheld are minimized to the extent possible under applicable law.

6.5.4 This tax Section 6.5 shall govern the treatment of all taxes arising as a result of or in connection with this Agreement notwithstanding any other section of this Agreement.

7. NON-DISCLOSURE; ANNOUNCEMENTS

7.1 Non-Disclosure Agreement. The information, materials and software exchanged by the parties hereunder or under an XDK License, including the terms and conditions hereof and of the XDK License, shall be subject to the Non-Disclosure Agreement between the parties attached hereto and incorporated herein by reference as Exhibit D.

7.2 Public Announcements. The parties contemplate that they will coordinate the issuance of initial press releases, or a joint press release, announcing the relationship established by the execution of this Agreement. However, neither party shall issue any such press release or make any such public announcement(s) without the express prior consent of the other party, which consent will not be unreasonably withheld or delayed. Furthermore, the parties agree to use their commercially reasonable efforts to coordinate in the same manner any subsequent press releases and public announcements relating to their relationship hereunder prior to the issuance of the same. Nothing contained in this Section 7.2 will relieve Licensee of any other obligations it may have under this Agreement, including without limitation its obligations to seek and obtain Microsoft approval of Art & Marketing Materials.

7.3 Required Public Filings. Notwithstanding Sections 7.1 and 7.2, the parties acknowledge that this Agreement, or portions thereof, may be required under applicable law to be disclosed, as part of or an exhibit to a party's required public disclosure documents. If either party is advised by its legal counsel that such disclosure is required, it will notify the other in writing and the parties will jointly seek confidential treatment of this Agreement to the maximum extent reasonably possible, in documents approved by both parties and filed with the applicable governmental or regulatory authorities, and/or Microsoft will prepare a redacted version of this Agreement for filing.

8. TERM AND TERMINATION

8.1 Term. The term of this Agreement shall commence on the Effective Date and unless terminated earlier as provided herein, shall continue until three (3) years after Commercial Release of Xbox.

8.2 Termination for Breach. In the event either party shall materially fail to perform or comply with this Agreement or any provision thereof, and fail to remedy the default within fifteen (15) days after the receipt of notice to that effect, then the other party shall have the right, at its sole option and upon written notice to the defaulting party, to terminate this Agreement upon written notice. Any notice of default hereunder shall be prominently labeled "NOTICE OF DEFAULT"; provided, however, that if the default is of Section 3 or 7.1 above, or an XDK License, then the non-defaulting party may terminate this Agreement immediately upon written notice, without being obligated to provide a fifteen-day cure period. The rights and remedies provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement. If the uncured default is related to a particular

Software Title, then the party not in default will have the right, in its discretion, to terminate this Agreement in its entirety or with respect to the applicable Software Title.

8.3 Compliance with Xbox Guide. In the event that Microsoft determines, at any time prior to the Commercial Release of a Software Title, that such Software Title does not reasonably comply with the requirements set forth in the Xbox Guide, and Microsoft has provided Licensee with a reasonable opportunity to correct such noncompliance, then Microsoft will have the right to terminate this Agreement, without cost or penalty, upon written notice to Licensee solely with respect to such Software Title, in Microsoft's reasonable discretion and notwithstanding any prior approvals given by Microsoft pursuant to Section 2 above.

8.4 Effect of Termination; Sell-off Rights. Upon termination or expiration of this Agreement, Licensee shall have no further right to exercise the rights licensed hereunder or otherwise acquired in relation to this Agreement and shall promptly return any and all copies of the Licensed Trademarks. Licensee shall have a period of *** following expiration of this Agreement, or termination for a reason other than Licensee's breach, to sell-off its inventory of Finished Product Units existing as of the date of termination or expiration, after which sell-off period Licensee immediately shall destroy all Finished Product Units

then in its possession or under its control. All of Licensee's obligations under this Agreement shall continue to apply during such *** sell-off period. If this Agreement is terminated due to Licensee's breach, Licensee shall immediately destroy all Finished Product Units not yet distributed to Licensee's distributors, dealers and/or end users. If requested by Microsoft in writing, Licensee will deliver to Microsoft the written certification by an officer of Licensee confirming the destruction of Finished Product Units required hereunder.

8.5 Survival. The following provisions shall survive termination of this Agreement: 1, 3.6, 5.1, 5.3, 5.4, 6, 7, 8.4, 8.5, 9, 10, 11 and 12.

9. WARRANTIES

9.1 Licensee. Licensee warrants and represents that:

9.1.1 It has the full power to enter into this Agreement;

9.1.2 It has not previously and will not grant any rights to any third party that are inconsistent with the rights granted to Microsoft herein; and

9.1.3 The Software Title, Finished Product Units, Art & Marketing Materials (excluding those portions that consist of the Licensed Material, Licensed Trademarks, and redistributable components of the so-called "XDK" in the form as delivered to Licensee by Microsoft pursuant to an XDK License) do not and will not infringe upon or misappropriate any third party trade secrets, copyrights, trademarks, patents, publicity, privacy or other proprietary rights.

9.2 Microsoft. Microsoft warrants and represents that:

9.2.1 It has the full power to enter into this Agreement; and

9.2.2 It has not previously and will not grant any rights to any third party that are inconsistent with the rights granted to Licensee herein.

9.3 ***

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

***. WITHOUT LIMITATION, MICROSOFT PROVIDES NO WARRANTY OF NON-INFRINGEMENT.

9.4 LIMITATION OF LIABILITY. THE MAXIMUM LIABILTY OF MICROSOFT TO LICENSEE OR ANY THIRD PARTY ARISING OUT OF THIS AGREEMENT SHALL BE THE TOTAL AMOUNTS RECEIVED BY MICROSOFT HEREUNDER. FURTHERMORE, UNDER NO CIRCUMSTANCES SHALL MICROSOFT BE LIABLE TO LICENSEE FOR ANY DAMAGES WHATSOEVER WITH RESPECT TO ANY CLAIMS RELATING TO THE SECURITY TECHNOLOGY AND/OR ITS AFFECT ON ANY SOFTWARE TITLE.

10. INDEMNITY

10.1 Indemnification. A claim for which indemnity may be sought hereunder shall be referred to as a "Claim."

10.1.1 Mutual Indemnification. Each party hereby agrees to indemnify, defend, and hold the other party harmless from any and all claims, demands, costs, liabilities, losses, expenses and damages (including reasonable attorneys' fees, costs, and expert witnesses' fees) arising out of or in connection with any claim that, taking the claimant's allegations to be true, would result in a breach by the indemnifying party of any of its warranties and covenants set forth in Section 9.

10.1.2 Additional Licensee Indemnification Obligation. Licensee further agrees to indemnify, defend, and hold Microsoft harmless from any and all claims, demands, costs, liabilities, losses, expenses and damages (including reasonable attorneys' fees, costs, and expert witnesses' fees) arising out of or in connection with any claim regarding any Software Title or Finished Product Unit, including without limitation any claim relating to quality, performance, safety or conformance with the Certification Requirements, or arising out of Licensee's use of the Licensed Trademarks in breach of this Agreement.

10.2 Notice and, Assistance. The indemnified party shall: (i) provide the indemnifying party reasonably prompt notice in writing of any Claim and permit the indemnifying party to answer and defend such Claim through counsel chosen and paid by the indemnifying party; and (ii) provide information, assistance and authority to help the indemnifying party defend such Claim. The indemnified party may participate in the defense of any Claim at its own expense. The

indemnifying party will not be responsible for any settlement made by the indemnified party without the indemnifying party's written permission, which will not be unreasonably withheld or delayed. In the event the indemnifying party and the indemnified party agree to settle a Claim, the indemnified party agrees not to publicize the settlement without first obtaining the indemnifying party's written permission.

10.3 Insurance. Prior to distribution of any Software Title, Licensee at its sole cost and expense shall have endorsed Microsoft as an additional insured on Licensee's media perils errors and omissions liability policy for claims arising in connection with production, development and distribution of each Software Title in an amount no less than ***. Coverage provided to Microsoft under the policy shall be primary to and not contributory with any insurance maintained by Microsoft. Upon request, Licensee agrees to furnish copies of the additional insured endorsement and/or a certificate of insurance evidencing compliance with this requirement.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

11. PROTECTION OF PROPRIETARY RIGHTS

11.1 Microsoft Intellectual Property. In the event Licensee learns of any infringement or imitation of the Licensed Trademarks, the Software Title or the Finished Product Units, or the proprietary rights in or related to any of them, it will promptly notify Microsoft thereof. Microsoft may take such action as it deems advisable for the protection of its rights in and to such proprietary rights, and Licensee shall, if requested by Microsoft, cooperate in all reasonable respects therein at Microsoft's expense. In no event, however, shall Microsoft be required to take any action if it deems it inadvisable to do so. Microsoft will have the right to retain all proceeds it may derive from any recovery in connection with such actions.

11.2 Licensee Intellectual Property. Licensee, without the express written permission of Microsoft, may bring any action or proceeding relating to this infringement or potential infringement, to the extent such infringement involves any proprietary rights of Licensee (provided that Licensee will not have the right to bring any such action or proceeding involving Microsoft's intellectual property). Licensee shall make reasonable efforts to inform Microsoft regarding such actions in a timely manner. Licensee will have the right to retain all proceeds it may derive from any recovery in connection with such actions. Licensee agrees to use all commercially reasonable efforts to protect and enforce its proprietary rights in the Software Title.

11.3 Joint Actions. Licensee and Microsoft may agree to jointly pursue cases of infringement involving the Software Titles (since such products will contain intellectual property owned by each of them). Unless the parties otherwise agree, or unless the recovery is expressly allocated between them by the court (in which case the terms of Sections 11.1 and 11.2 will apply), in the event Licensee and Microsoft jointly prosecute an infringement lawsuit under this provision, any recovery shall be used first to reimburse Licensee and Microsoft for their respective reasonable attorneys' fees and expenses, pro rata, and any remaining recovery shall also be given to Licensee and Microsoft pro rata based upon the fees and expenses incurred in bringing such action.

12. GENERAL

12.1 Governing Law; Venue; Attorneys Fees. This Agreement shall be construed and controlled by the laws of the State of Washington, U.S.A., and Licensee consents to exclusive jurisdiction and venue in the federal courts sitting in King County, Washington, U.S.A., unless no federal jurisdiction exists, in which case Licensee consents to exclusive jurisdiction and venue in the Superior Court of King County, Washington, U.S.A. Licensee waives all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on either party in the manner authorized by applicable law or court rule. If either party employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and other expenses. This choice of jurisdiction provision does not prevent Microsoft from seeking injunctive relief with respect to a violation of intellectual property rights or confidentiality obligations in any appropriate jurisdiction.

12.2 Notices; Requests. All notices and requests in connection with this Agreement shall be deemed given as of the day they are (i) deposited in the U.S. mails, postage prepaid, certified or registered, return receipt requested; or (ii) sent by overnight courier, charges prepaid, with a confirming fax; and addressed as follows:

Licensee:	Activision Publishing, Inc. 3100 Ocean Park Blvd. Santa Monica, CA 90405 _____
Attention:	General Counsel_____
Fax:	(310)255-2152_____
Phone:	(310) 255-2603_____
Microsoft:	MICROSOFT CORPORATION One Microsoft Way Redmond, WA 98052-6399
Attention:	_____
with a cc to:	MICROSOFT CORPORATION One Microsoft Way Redmond, WA 98052-6399
Attention:	Law & Corporate Affairs Department Product Development & Marketing
Fax:	(425) 936-7329

or to such other address as the party to receive the notice or request so designates by written notice to the other.

12.3 Assignment. Licensee may not assign this Agreement or any portion thereof, to any third party unless Microsoft expressly consents to such assignment in writing. Microsoft will have the right to assign this Agreement and/or any portion thereof as Microsoft may deem appropriate. For the purposes of this Agreement, a merger, consolidation, or other corporate reorganization, or a transfer or sale of a controlling interest in a party's stock, or of all or substantially all of its assets shall be deemed to be an assignment. This Agreement will inure to the benefit of and be binding upon the parties, their successors, administrators, heirs, and permitted assigns.

12.4 No Partnership. Microsoft and Licensee are entering into a license pursuant to this Agreement and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, or a joint venture between the parties.

12.5 Severability. In the event that any provision of this Agreement is found invalid or unenforceable pursuant to judicial decree or decision, the remainder of this Agreement shall remain valid and enforceable according to its terms. The parties intend that the provisions of this Agreement be enforced to the fullest extent permitted by applicable law. Accordingly, the parties agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.

12.6 Injunctive Relief. The parties agree that Licensee's threatened or actual unauthorized use of the Licensed Trademarks whether in whole or in part, may result in immediate and irreparable damage to Microsoft for which there is no adequate remedy at law, and that either party's threatened or actual breach of the confidentiality provisions may cause like damage to the nonbreaching party, and in such event the nonbreaching party shall be entitled to appropriate injunctive relief, without the necessity of posting bond or other security.

12.7 Entire Agreement; Modification; No Offer. The parties hereto agree that this Agreement (including all Exhibits hereto, and the Microsoft Non-Disclosure Agreement to the extent incorporated herein) and the Xbox Guide (as applicable from time to time) constitute the entire agreement between the parties with respect to the subject matter hereof and merges all prior and contemporaneous communications. It shall not be modified except by a written agreement dated subsequent hereto signed on behalf of Licensee and Microsoft by their duly authorized representatives. Neither this Agreement nor any written or oral statements related hereto constitute an offer, and this Agreement shall not be legally binding until executed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date on the dates indicated below.

MICROSOFT CORPORATION ACTIVISION PUBLISHING, INC.

/s/ J. Allard	/s/ Ronald Doornink
By (sign)	By (sign)
J. Allard	Ronald Doornink
Name (Print)	Name (Print)
Gen. Mgr.	President
Title	Title
7-26-01	7/20/01
Date	Date

Xbox PLA No. 20109

EXHIBIT A-1
DESCRIPTION OF SOFTWARE TITLE

EXHIBIT B
LICENSED TRADEMARKS

[insert Xbox design here]

EXHIBIT C
BRANDING SPECIFICATIONS

The following guidelines apply whenever Licensee places a copy of any Licensed Trademark on the Software Title, or related collateral materials.

- Licensee may use the Licensed Trademarks solely on the retail box, documentation, and Art & Marketing Materials for the Software Title, and in no other manner.

- Licensee's name, logo, or trademark must appear on any materials where the Licensed Trademarks are used, and must be larger and more prominent than the Licensed Trademarks.

- The Licensed Trademarks may not be used in any manner that expresses or might imply Microsoft's affiliation, sponsorship, endorsement, certification, or approval, other than as contemplated by this Agreement.

- The Licensed Trademarks may not be included in any non-Microsoft trade name, business name, domain name, product or service name, logo, trade dress, design, slogan, or other trademark.

- Licensee may use the Licensed Trademarks only as provided by Microsoft electronically or in hard copy form. Except for size subject to the restrictions herein, the Licensed Trademarks may not be altered in any manner, including proportions, colors, elements, etc., or animated, morphed, or otherwise distorted in perspective or dimensional appearance.

- The Licensed Trademarks may not be combined with any other symbols, including words, logos, icons, graphics, photos, slogans, numbers, or other design elements.

- The Licensed Trademarks (including but not limited to Microsoft's logos, logotypes, trade dress, and other elements of product packaging and web sites) may not be imitated.

- The Licensed Trademarks may not be used as a design feature in any materials.

- The Licensed Trademarks must stand alone. A minimum amount of empty space must surround the Licensed Trademarks separating it from any other object, such as type, photography, borders, edges, and so on. The required area of empty space around the Licensed Trademarks must be 1/2x, where x equals the height of the Licensed Trademarks.

- Each use of the Licensed Trademarks must include the notice: "Xbox is a trademark of Microsoft Corporation in the United States and/or other countries and is used under license from Microsoft".

Additional guidelines for proper use of the "Xbox" word mark:

- Use The trademark symbol ("(TM)") at the upper right corner or baseline immediately following the name "Xbox". This symbol should be used at the first or most prominent mention. Please be sure to spell Xbox as one word, with no hyphen and with no space between "X" and "box".

- Include the following notice on materials referencing Xbox:

  "Xbox is a trademark of Microsoft Corporation."

- Trademarks identify a company's goods or services. Xbox is not a generic thing, but rather a brand of game system from Microsoft. A trademark is a proper adjective that modifies the generic name or descriptor of a product or service. The descriptor for Xbox is "game system," i.e., "Xbox(TM) game system." Use the descriptor immediately after mention of "Xbox". You should not combine the Xbox trademark with an improper generic name or descriptor. For example, game programs designed to run on the Xbox game system are not "Xbox games," but rather "games for the Xbox system" or "Xbox certified games."

- The Xbox trademark may never be abbreviated. Do not use "X" by itself to represent "Xbox."

EXHIBIT D
NON-DISCLOSURE AGREEMENT

Exhibit 10.6

Microsoft Corporation Tel 425 882 8080
One Microsoft Way Fax 425 936 7329
Redmond, WA 98052-6399 http://www.microsoft.com/

[MICROSOFT LOGO]

March 15, 2002

Michael Hand
Activision
3100 Ocean Park Boulevard
Santa Monica, CA 90405

Re: Amendment to Microsoft Corporation Xbox(TM) Publisher License Agreement

Dear Michael,

I am writing to inform you of several changes to the Xbox publisher licensing program. First, as you are already aware, Microsoft Licensing, Inc. ("Microsoft" for purposes of this letter) has taken over responsibility for the Xbox publisher licensing program. In conjunction therewith, this letter shall serve as your notice that your Xbox Publisher License Agreement ("PLA") has been assigned to MSLI, pursuant to Section 12.3 of the PLA. I will remain your Account Manager and primary contact for Xbox-related issues.

Several additional changes have been made to the Xbox publisher licensing program. This letter outlines those changes and upon full execution shall also serve as an amendment to your PLA as of the latter of the two signature dates below. Capitalized terms used in this letter shall have the same meanings ascribed to them in the PLA. In the event of any inconsistency between this letter and the PLA, the terms of this letter shall control.

1. Submissions and Approvals. By now, you should have received information about the updated game submission and approval process. The following updated approval requirements shall replace Sections 2.1.3 - 2.1.5 of the PLA:

The approval process is divided into four phases comprised of concept approval, "pre-certification", "certification", and Art & Marketing Materials approval. A Software Title must be submitted to Microsoft for evaluation at each of the four phases.

Pre-certification replaces the "Beta Version" and playtesting requirement of the PLA. "Pre-Certification" is the first required stage of the approval process wherein Microsoft conducts, among other things, technical screen tests to provide feedback and/or identify any issues that may prevent the Software Title from being approved during the Certification phase. Pre-Certification is further defined in the Xbox Guide. At the Pre-Certification submission, Licensee shall deliver to Microsoft a version of the Software Title that includes all current features of the Software Title and such other content as may be required under the Xbox Guide. Upon receipt, Microsoft shall conduct technical screen testing and/or other testing consistent with the Xbox Guide and will subsequently provide Licensee with feedback regarding such testing. Pre-Certification and Certification submissions evaluate different aspects of the Software Title and therefore satisfactory feedback regarding Pre-Certification is not necessarily an indication that the Software Title will be approved following the Certification submission.

Certification is the final stage of the approval process following Pre-Certification wherein Licensee delivers its proposed final version of the Software Title, and Microsoft shall approve or disapprove of such Software Title for distribution. Certification is further defined in the Xbox Guide. Licensee shall deliver to Microsoft Licensee's proposed final release version of the applicable Software Title that is complete and ready for manufacture and commercial distribution. Such version shall provide the final content rating certification (e.g. ESRB, ELSPA) with identified program errors corrected, and with any and all changes previously requested by

Microsoft implemented. Microsoft shall conduct compliance, compatibility, functional and other testing consistent with the Xbox Guide ("Certification Testing") and shall subsequently provide Licensee with the results of such testing.

Certification for a Software Title may be granted based upon (1) successful completion of the Certification Testing; (2) conformance with the approved Concept as identified in the Concept Summary; (3) consistency with the goals and objectives of the X box console platform; and (4)

compliance with other requirements as set forth in this Agreement.

If warranted on the basis of its tests, Microsoft shall make reasonable efforts to provide Licensee with feedback regarding the Software Title and modifications that must be made prior to approval of the Certification submission. Provided that Licensee has made good faith efforts to address issues raised by Microsoft, Licensee shall be given the opportunity to resubmit Software Titles that fail the Certification approval process. In Microsoft's discretion, Licensee may be charged a reasonable fee designed to offset the costs associated with the testing of Software Titles upon resubmission. In the event of a second submission, Microsoft reserves the right to assign a new release date for the Software Title.

Licensee shall not distribute the Software Title, nor manufacture any Finished Product Unit intended for distribution, unless and until Microsoft shall have given its approval of the Certification version of the Software Title and both parties have approved of the Finished Product Units as set forth in section 7 of this letter.

2. Distribution License [new section].

Upon Certification of the Software Title, approval of the Marketing Materials and the Finished Product Unit test version of the Software Title by Microsoft and subject to the terms and conditions contained within this Agreement and the XDK License, Microsoft grants Licensee a non-exclusive, non-transferable, license to distribute Software Titles containing Redistributable and Sample Code (as defined in the XDK License) and Security Technology (as defined in the PLA) within the Territory in Finished Product Unit form to third parties for distribution to end users and/or directly to end users.

The license to manufacture and distribute the Software Product is personal to Licensee and except for transfers of Finished Product U nit through normal channels o f distribution (e.g. wholesalers, retailers) who will in turn transfer such product to end users, absent the written approval of Microsoft or as otherwise permitted herein, Licensee may not sublicense or assign its rights under this license to other parties. For the avoidance of doubt, Licensee may not sublicense, transfer or assign its right to manufacture and distribute Software Titles or Finished Product Unit to another entity (a "Sub-publisher") that will brand, co-brand or otherwise assume control over such products as a "publisher" as that concept is typically understood in the console game industry, except under the following conditions: (1) the Sub-publisher has signed a PLA and both Licensee and Sub-publisher are and remain at all times in good standing under each of their respective PLAs; (2) each Software Title over which Sub-publisher acquires publishing rights shall be deemed a "Software Title" for purposes of both Licensee's and Sub-publisher's PLAs, and Microsoft shall have full right and authority to enforce its rights with respect to the Software Title(s) against either or both Licensee and Sub-publisher; (3) Licensee shall be responsible for making applicable royalty payments for the FPUs for which it places manufacturing orders, and Sub-publisher shall be responsible for making royalty payments for the FPUs for which it places manufacturing orders; provided that Licensee shall be liable to Microsoft for any failure by Sub-publisher to make royalty payments or otherwise comply with the duties and obligations under the PLA; (4) the royalty table set forth in Section 6.1 of the PLA shall apply to FPUs on an aggregate basis, regardless of whether Licensee or Sub-publisher is responsible for the manufacturing and royalty payments therefore, and Microsoft shall be entitled to share manufacturing information relating to the Software Title(s) among both Licensee and Sub-publisher in furtherance of this

subsection (4); and (5) Microsoft's receipt, upon the earlier of (i) the effective date of the sub-publication agreement between Licensee and Sub-publisher, or (ii) sixty (60) days prior to Sub-publisher's commencement of manufacturing of any Software Title(s), of written notice of the sub-publishing relationship, which notice shall also include confirmation by Licensee that the foregoing conditions have been met, along with a summary of the scope and nature of the sub-publishing relationship with Sub-publisher including, without limitation, as between Licensee and Sub-publisher, which party will be responsible for Certification of the Software Title(s), a list of the Software Title(s) for which Sub-publisher has acquired publishing rights, the Territory(ies) for which such rights were granted, and the term of Licensee's agreement with Sub-publisher.

3. Changes to the Xbox Guide. The following shall replace Section 2.5 of the PLA:

Licensee acknowledges that the Xbox Guide is an evolving document and subject to change during the Term of this Agreement. Notwithstanding the prospect of such change, Microsoft agrees that except in circumstances where (a) such change is deemed vitally important to the success of the Xbox platform (e.g. changes due to piracy, technical failure) or (b) such change will not add significant expense to the Software Title's development, then (i) after completion of the Pre-Certification by Microsoft, Licensee will not be obligated to comply, with respect to such Software Title only, with any subsequent changes made by Microsoft to the technical or content requirements for Software Titles in the Xbox Guide; and (ii) subject to the immediately preceding clause any changes made by Microsoft in Branding Specifications or other Marketing Materials requirements after final Certification of a Software Title by Microsoft will be effective as to such Software Title only on a "going forward" basis (i.e., only to such Marketing Materials and/or Finished Product Units as are manufactured after Microsoft notifies Licensee of the change). Notwithstanding the foregoing (i) and (ii), Licensee shall comply with such changes to the Xbox Guide in the event Microsoft agrees to pay for Licensee's direct, out-of-pocket expenses necessarily incurred as a result of its retrospective compliance with the change.

4. Game Demos. We would also like to take this opportunity to clarify submission and approval processes for demos. This section 4 shall replace the definition of "Demo Finished Product Unit" in Section 6.1 of the PLA:

For purposes of the PLA, "Demo Versions" means a small portion of an applicable Software Title that is provided to end users to advertise or promote a Software Title. Subject to the terms of the Xbox Guide, a Demo Version(s) may be distributed on Finished Product Units for other Software Titles. Additionally a Demo Version may be placed on a single Finished Product Unit either as a stand-alone or with other Demo Versions for distribution to end users, provided that Microsoft shall have prior approval over the number of units manufactured and the price of such units shall be free or at a suggested retail price not to exceed ***. Unless separately addressed in the Xbox Guide, all rights, obligations and approvals set forth in this Agreement as applying to Software Titles shall separately apply to its Demo Version. Demo Versions may not be distributed by Licensee until granted Certification approval by Microsoft.

5. Content Rating. There has been some confusion about content rating requirements in Territories lacking a content rating body or authority. To be clear, for Territories that do not utilize a content rating system (e.g. Japan), Microsoft shall not approve any Software Title that, in its opinion, contains excessive sexual content or violence, inappropriate language or other elements deemed unsuitable for the Xbox console platform. This section 5 shall supplement Section 2.2 of the PLA.

6. EULA and End User Rights. There have been questions about whether there will be a EULA requirement for Software Titles. There is no such requirement at this time; accordingly, this section 6 shall replace Section 3.2 of the PLA:

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

***

7. Manufacturing Processes. By now you should have received detailed instructions about the manufacturing process and requirements for working with Authorized Replicators in the Operations section of the Xbox Guide. Upon review, you may have noted several additional requirements that had not been originally specified in your PLA. These new requirements, which shall supplement Section 4 of the PLA are as follows:

- Licensee shall cause the Authorized Replicator to create several test versions of Finished Product Units ("Verification Version(s)") that shall be provided to both Microsoft and Licensee for evaluation. Prior to full manufacture of Finished Product Units by the Authorized Replicator, both parties shall have approved of the Verification Version. Microsoft's approval shall be a condition precedent to manufacture, however Licensee shall grant the final approval and shall work directly with the Authorized Replicator regarding the production run. Licensee agrees that all Finished Product Units must be replicated in conformity with all of the quality standards and manufacturing specifications, policies and procedures that Microsoft requires of its Authorized Replicators, and that all so-called "adders" must be approved by Microsoft prior to packaging (in accordance with Section 2.3.4 of the PLA).

- Throughout the manufacturing process and upon the request of Microsoft, Licensee shall cause the Authorized Replicator to provide additional Verification Versions of the Finished Product Units for

evaluation by Microsoft. o A so-called break-the-seal or "BTS" label will be issued to the Authorized Replicator for placement on Finished Product Unit packaging materials as further specified in the Xbox Guide. A BTS label shall be assigned to each Finished Product Unit that has been manufactured by the Authorized Replicator.

- Licensee is required to use an Authorized Replicator for manufacture of Finished Product Units but may, solely with respect to Finished Product Units manufactured for publication in the Territory comprising Europe, utilize a different process or company for the combination of Finished Product Units with Packaging Materials provided that such packaging process incorporates the BTS label and otherwise complies with the Xbox Guide. Licensee shall notify Microsoft regarding its use of such process or company so that the parties may properly coordinate their activities and approvals. To the extent that Microsoft is unable to accommodate such processes or company, Licensee shall modify its operations to comply with Microsoft's requirements.

- For purposes of assisting in the scheduling of manufacturing resources, monthly, or as otherwise requested by Microsoft in its reasonable discretion, Licensee shall provide Microsoft with monthly sales forecasts showing sales projections twelve to eighteen months out for Finished Product Units.

[*] Confidential Portion omitted and filed separately with the Securities and Exchange Commission.

- Licensee acknowledges that Microsoft may charge the Authorized Replicator fees for rights, services or products associated with the manufacture of Finished Product Units and that the agreement with the Authorized Replicator grants Microsoft the right to instruct the Authorized Replicator to cease the manufacture of Finished Product Units and/or prohibit the release of Finished Product Units to Licensee or its agents in the event Licensee is in breach of this Agreement or any credit agreement (the "Credit Agreement") entered into by the parties.

8. Currency Conversion Ratio. For purposes of Section 6.2 of the PLA, the currency conversion ratios set forth on Reuters.com (as of 4:00 p.m. London, England time) shall replace the ratios set forth in the US edition of the Wall Street Journal.

9. Royalty Payment Process. Microsoft has implemented a change in the royalty payment process of which you should all be aware by now. Accordingly, the following shall replace Section 6.3 of the PLA:

Licensee shall be required to pre-pay all royalties owed to Microsoft for the planned manufacture of Finished Product Units by its Authorized Replicator. Licensee shall not authorize its Authorized Replicators to begin production until such time as Microsoft has verified with the Authorized Replicator and Licensee that such funds have been received and deposited. Depending upon Licensee's credit worthiness, Microsoft may, but shall not be obligated to, offer Licensee net thirty (30) credit terms for the payment of royalties due under this Agreement. All payments shall be made by wire transfer only, in accordance with the payment instructions set forth in the Xbox Guide.

10. Confidentiality. The following shall replace Section 7.1 of the PLA:

The information, materials and software exchanged by the parties hereunder or under an XDK License, including the terms and conditions hereof and of the XDK License, shall be subject to the Non-Disclosure Agreement between the parties attached hereto and incorporated herein by reference as Exhibit D; provided, however, that for purposes of the foregoing Section 2(a)(i) of the Non-Disclosure Agreement shall hereinafter read, "[The Receiving Party shall; (i)] Refrain from disclosing Confidential Information of the Disclosing Party to any third parties for as long as such remains undisclosed under 1(b) above except as expressly provided in Sections 2(b) and 2(c) of this [Non-Disclosure] Agreement." In this way, all Confidential Information provided hereunder or by way of the XDK License in whatever form (e.g. information, materials, tools and/or software exchanged by the parties hereunder or under an XDK License), including the terms and conditions hereof and of the XDK License, unless otherwise specifically stated, shall be protected from disclosure for as long as it remains Confidential.

11. Open Source Software [new section]. We have been fielding questions, primarily at the developer level, about the use of open source software in connection with the development of Xbox games. As you are surely aware, some open source licenses, the GNU General Public License i n particular, purport t o grant all third parties a license to any larger work that uses code covered by

that open source license. This puts the protection of not only Microsoft code, but also your game code, at risk. As such, the PLA shall be amended as follows:

Licensee's rights set forth in the PLA are conditioned upon Licensee (a) not incorporating Identified Open Source Software (as defined below) into or combining Identified Open Source Software with the Software Title; (b) not distributing Identified Open Source Software in conjunction with the Software Title; and (c) not using Identified Open Source Software in the development of the Software Title. "Identified Open Source Software" means software which is licensed pursuant to terms that (i) create, or purport to create, obligations for

Microsoft with respect to the Software Title or (ii) grant, or purport to grant, to any third party any rights or immunities under Microsoft's intellectual property or proprietary rights in the Software Title. Identified Open Source Software includes, without limitation, any software that requires as a condition of use, modification and/or distribution of such software that other software incorporated into, derived from or distributed with such software be (a) disclosed or distributed in source code form; (b) be licensed for the purpose of making derivative works; or (c) be redistributable at no charge. Licensee warrants and represents that it shall not (a) incorporate Identified Open Source Software into or combine Identified Open Source Software with the Software Title; (b) distribute Identified Open Source Software in conjunction with the Software Title; and (c) use Identified Open Source Software in the development of the Software Title.

12. European Publication [new section]. As we understand that you may desire to develop Xbox games for the European market, the two European approval options described below will apply to you, and the PLA shall be amended as set forth below. Note that given the necessity of Microsoft's granting approval over Concept, Pre-Certification and Marketing Materials during the initial launch phase of Xbox to ensure the success of the platform, the "EU Approval Option" shall not be available until one year following the initial launch of Xbox in Europe (the "Anniversary Date").

As of the first day following the Anniversary Date and solely in connection with the distribution of European Finished Product Units, Licensee may choose either of the following options for the treatment of the European Finished Product Unit. For purposes of this letter, "European Finished Product Units" are Finished Product Units that Licensee intends to distribute and/or distributes in the Territory comprising Europe. For the avoidance of doubt, Finished Product Units that are identical to European Finished Products but distributed in Territories other than Europe, are not European Finished Product Units.

Option 1: Standard Approval. Licensee shall comply with all terms, obligations and requirements of the PLA. Licensee shall notify Microsoft in advance of development regarding its intent to comply with this option which shall hereafter be referred to as the Standard Approval process.

Option 2: EU Approval. At any time during a Software Title's development prior to manufacture by an Authorized Replicator, Licensee may choose to not submit its Software Title to Microsoft for Concept approval (Section 2.1 of the PLA), Pre-Certification (described above in section 1 (one) of this letter) and Art & Marketing Materials approval (Sections 2.1.6 and 5.2 of the PLA). Notwithstanding the foregoing, Licensee shall be required to submit the Software Title to Microsoft for Certification approval (described above in section 1 of this letter) and shall comply with the Content Rating requirements (Section 2.2 of the PLA and amended by section 5 of this letter). Collectively, this option shall be referred to herein as the EU Approval Option. Additional information regarding this option shall be set forth shortly in the Xbox Guide.

In the event Licensee chooses the EU Approval Option, Licensee shall not use the Licensed Trademarks on the European FPU and therefore the license grant set forth in Section 3.1 of the PLA is withdrawn as to such European Finished Product Units. In addition, Licensee shall make no statements in advertising, marketing materials, packaging, websites or otherwise that the European FPU is approved or otherwise sanctioned by Microsoft or is an official Xbox Software Title.

In the event the European Finished Product Units fail Certification approval, Licensee may resubmit such titles consistent with the terms of the PLA or the Xbox Guide, but under no circumstances shall Licensee manufacture or Commercially Release the European FPU until such time as they have passed Certification approval.

In the event Licensee chooses the EU Approval Option but subsequently

chooses the Standard Approval Option, Licensee shall be required to comply with all terms of the Agreement

concerning approvals and the release of the European Finished Product Units as deemed relevant by Microsoft.

In the event Licensee requests distribution of the European Finished Product Units in Territories other than Europe, Licensee shall be required to comply with all terms of the PLA concerning approvals and the release of the Finished Product Units as deemed relevant by Microsoft.

Notwithstanding Licensee's choice of the EU Approval Option, all other portions of the Agreement other than those specifically identified above as no longer governing Licensee's distribution of the European Finished Product Units shall remain in effect, including, but not limited to, Licensee's obligation to pay royalties, use a Microsoft approved Authorized Replicator, warranty and indemnity obligations and Term.

An additional copy of this letter amendment is enclosed. Please arrange for an authorized representative of your company to sign and date both copies of this letter in the space provided below, and return to Microsoft Licensing, Inc., attention Xbox Publisher Accounting Services, 6100 Neil Road, Suite 100, Reno, Nevada 89511-1137. Upon receipt, MSLI will countersign this letter and return one fully-executed letter to you for your files. Thank you for your attention to this matter.

Sincerely,

/s/ John Smith

Xbox Account Manager

Accepted and agreed:

Activision Publishing, Inc.	Microsoft Licensing, Inc.
- --- Publisher Name	
/s/ George L. Rose	/s/ Brian Russell
- --- By (sign)	--- By (sign)
GEORGE L. ROSE	BRIAN RUSSELL
- --- Name (Print)	--- Name (Print)
Sr. Vice President & General Counsel	OEM Accounting Manager
- --- Title	--- Title
4/16/02	4/19/02
- --- Date	--- Date

XBOX(TM) LIVE DISTRIBUTION AMENDMENT TO THE XBOX(TM) PUBLISHER LICENSING AGREEMENT

This Xbox(TM) Live Distribution Amendment (the "Amendment") is entered into and effective as of the latter of the two signature dates below (the "Effective Date") by and between MICROSOFT LICENSING, INC. a Nevada corporation ("Microsoft"), and ACTIVISION PUBLISHING, INC., as successor in interest to ACTIVISION, INC. ("Licensee"), and supplements the Xbox(TM) Publisher License Agreement between the parties dated as of July 18, 2001 ("PLA").

RECITALS

A. Whereas, Microsoft and its affiliated companies develop and license a computer game system, known as the Xbox(TM) game system; and

B. Whereas, Microsoft and its affiliated companies intend to develop and maintain a proprietary online service accessible via the Xbox(TM) game system; and

C. Whereas, Licensee is an experienced publisher of software products and is developing and publishing one or more software products to run on the Xbox(TM) game system pursuant the parties' PLA; and

D. Whereas, Licensee wishes to participate in the Xbox Live service by making such software products available to subscribers of such service.

Accordingly, for and in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, receipt of which each party hereby acknowledges, Microsoft and Licensee agree as follows:

1. DEFINITIONS; INTERPRETATION

1.1 Except as expressly provided otherwise in this Amendment, capitalized terms shall have the same meanings ascribed to them in the PLA.

1.2 The terms of the PLA are incorporated by reference, and except and to the extent expressly modified by this Amendment, the PLA shall remain in full force and effect and is hereby ratified and confirmed.

1.3 "Xbox Live" shall mean the proprietary online service offered by Microsoft to End Users. The Xbox Live service may change from time to time, and may include, without limitation, the Base Service and Premium Service(s).

1.4 "Online Features" shall mean a Software Title's content, features and services that will be available to End Users via Xbox Live. Online Features may be Base Online Features and/or Premium Online Features.

1.5 "Base Service" shall mean a base level of Xbox Live services available to End Users for a fee payable to Microsoft or its affiliates. The Base Service, and the terms and conditions for Licensee's Base Online Features, is further defined in this Amendment and the Xbox Guide.

1.6 "Base Online Features" shall mean a Software Title's Online Features that are available to End Users as part of the Base Service.

1.7 "Premium Service(s)" shall mean Xbox Live services (other than the Base Service) available to End Users for additional fee(s) above and beyond the Base Service fee. The Premium Service, and the terms and conditions for Licensee's Premium Online Features, is further defined in this Amendment and the Xbox Guide.

1.8 "Premium Online Features" shall mean a Software Title's Online Features that are available to End Users as part of the Premium Service.

1.9 "End User" shall mean any individual or entity that accesses and uses Xbox Live, whether as a guest of a Subscriber, via a user account established by a Subscriber, or otherwise.

1.10 "Subscriber" shall mean an end user that establishes a subscription billing account to Xbox Live.

1.11 "Commercial Release" shall mean (a) with respect to Xbox, the first commercial availability of Xbox Live in the United States to the general public, and (b) with respect to a the Online Features of a Software Title, the first availability of such features via Xbox Live to the general public.

1.12 "Trial Version" shall mean a time-limited or feature-limited version of a Software Title's Online Features that is available End Users only to advertise or promote the applicable Software Title, and is further defined in this Amendment and the Xbox Guide.

1.13 "Online Territory" shall be determined on an Online Feature-by-Online Feature basis, and shall mean such geographic regions or countries as may specified in writing when the Concept of the applicable Online Feature is approved. The Online Territories for Online Features of a Software Title may differ in scope from the Territories for the Software Title's Finished Product Units.

2. DEVELOPMENT; DELIVERY; APPROVAL

2.1 Development Support. Microsoft shall provide Licensee a reasonable level of support in connection with the development and testing of Licensee's Online Features in a manner consistent with the guidelines and requirements set forth in the Xbox Guide.

2.2 Approval Process. The approval process for Online Features is as set forth in the PLA (i.e., the stages for Concept approval, pre-Certification, Certification and Marketing Materials shall apply to all aspects of the Software Title, including without limitation, its Online Features). Additional approval criteria specific to Online Features are as set forth below and in the Xbox Guide.

2.2.1 Concept. Licensee's Concept submission form shall include a description of the Online Features, including, without limitation, a description of any incremental content (i.e., to be made available following the Commercial Release of the Finished Product Units of the Software Title) and proposed distribution schedule. Licensee shall designate, in its sole discretion, which Online Features shall be included in the Base Service and in the Premium Service. Subject to the foregoing, Microsoft may require that all Online Feature Concept submissions include, at a minimum, certain basic functionality necessary to achieve certification (e.g., all features must support user authentication), and any such requirements shall be set forth in the Xbox Guide. Licensee may additionally propose Online Features at any time after a Software Title Concept has been approved, in which case Licensee shall deliver to Microsoft a separate Concept submission addendum form for each Online Feature proposal. Evaluation of the proposed Online Features will be based on criteria including, but not limited to, the criteria set forth in the Xbox Guide. To the extent Licensee desires that Online Features be available in the Territory comprising European Union countries, the EU Approval Option shall not apply.

2.2.2 Client-Server Games. The Online Features of certain Software Titles may require that all or part of the Online Features be hosted on game server(s) ("Game Servers"). Such Game Servers shall be maintained and operated by Microsoft unless Licensee desires to maintain and operate its own game server(s) for Premium Online Services ("Licensee Game Servers"), in which case Licensee Game Servers must be Certified in accordance with Section 2.2.5 below. Notwithstanding the foregoing, given the necessity of creating a secure and reliable online service to ensure the success of the Xbox Live platform, the option for Licensee to maintain and operate its own Licensee Game Servers may not be available until at least one year following the Online Commercial Release of Xbox Live. All maintenance and operation of Game Servers, if any, for Base Online Features shall be conducted solely by Microsoft.

2.2.3 Pre-Certification. At the Pre-Certification submission, Licensee shall deliver to Microsoft a version of the Online Features, and such other content as may be required by the Xbox Guide. Microsoft shall also conduct certain testing of the Online Features, which may vary depending on the nature of the Online Features. If applicable, Licensee shall also provide access to Licensee Game Servers and/or the Game Server software for Pre-Certification testing in

accordance with the Xbox Guide. Online Features must receive satisfactory Pre-Certification testing results prior to the Software Title proceeding to Beta Trials.

As set forth in the PLA, all feedback provided by Microsoft to Licensee as a result of Microsoft's Pre-Certification testing shall be advisory in nature. However, Licensee acknowledges that the Pre-Certification and Certification submissions evaluate different aspects of the Online Features and at different stages in Licensee's development schedule and therefore satisfactory feedback regarding Pre-Certification is not an indication that the Online Features will be approved following the Certification submission. Licensee shall be given the opportunity to resubmit Online Features that fail the Pre-Certification approval process. In Microsoft's discretion, Licensee may be charged a reasonable fee designed to offset the costs associated with the Pre-Certification testing of

Software Titles in the event of resubmission(s).

2.2.4 Beta Trials. If the Pre-Certification submission receives satisfactory results, Microsoft may require that internal and public beta testing be conducted by or on behalf of Microsoft (the "Beta Trials"). All feedback provided by Microsoft to Licensee as a result of the Beta Trials shall be advisory in nature, and satisfactory feedback from the Beta Trials is not an indication that the Online Features will be approved following the Certification submission. Likewise, Beta Trial feedback may include information regarding violations of Technical Certification Requirements that could, if not addressed by Licensee, result in Certification failure. The Beta Trial process shall be as further described in the Xbox Guide.

2.2.5 Certification. In addition to the deliverables set forth in the PLA, Licensee shall deliver to Microsoft a proposed final release version of the Software Title with Online Features that is complete and ready for access via Xbox Live, in addition to such other content as may be required by the Xbox Guide. Such version shall provide the final content rating certification and with all identified program errors corrected. If applicable, Licensee shall also provide Microsoft access to Licensee's Game Servers and Game Server software. Microsoft shall conduct compliance, compatibility, functional and other testing consistent with the Xbox Guide ("Certification Testing") and shall subsequently provide Licensee with the results of such testing. As set forth in the Xbox Guide, Certification Testing may vary depending on the nature of the Online Features (e.g., a series of episodic downloads for a client-to-client game may have different Certification criteria and testing times than the features of a multiplayer client-server game).

2.2.5.1 Certification for Online Features may be conditioned upon (1) successful completion of the Certification Testing; (2) conformance with the approved Online Feature Concept as identified in the Concept Summary; (3) demonstration of conformance with the Technical Certification Requirements as described in the Xbox Guide; (4) consistency with the goals and objectives of the Xbox Live service; and (5) continuing and ongoing compliance with all Certification requirements and other requirements as set forth in the Xbox Guide and this Amendment.

2.2.5.2 Certification for Licensee Game Servers may be conditioned upon: (1) successful completion of the Certification Testing, (2) demonstration of conformance with the Service Level Requirements as described in the Xbox Guide, and (3) continuing and ongoing compliance with all Certification requirements, Service Level Requirements, and other requirements as set forth in the Xbox Guide and this Amendment.

2.2.5.3 If warranted on the basis of its tests, Microsoft shall make reasonable efforts to provide Licensee with feedback regarding the Online Features and Licensee Game Servers and modifications that must be made prior to approval of the Certification submission. Provided that Licensee has made good faith efforts to address issues raised by Microsoft, Licensee shall be given the opportunity to resubmit Online Features and Licensee Game Servers that fail the Certification approval process. In Microsoft's discretion, Licensee may be charged a reasonable fee designed to offset the costs associated with the testing of Online Features and Licensee Game Servers upon resubmission.

2.2.6 Post-Release Compliance. As set forth in Section 2.2.5 above, Online Features (and Licensee Game Servers, as applicable) must remain in compliance with all Certification requirements on a continuing and ongoing basis. If, following Certification and Commercial Release, the Online Features thereafter fail at any time to comply with any of the Certification criteria set forth herein, Microsoft reserves the right, at its option, to terminate this Amendment with respect to such Online Features, or to revoke Certification and suspend the availability of such Online Features in whole or in part until such time that such Online Features are re-Certified in accordance with Section 2.2.5. Re-Certification may be conditioned upon Licensee's delivery to Microsoft of Auto-Updates (as defined in Section 2.3.4) in accordance with and within the time frames set forth in the Xbox Guide. If Licensee Game Servers fail at any time to comply with any of the Certification criteria set forth herein, Microsoft reserves the right, at its option, to suspend Licensee's maintenance and operation of such Licensee Game Servers until such time that such Licensee Game Servers achieve Certification again and/or terminate Licensee's right to maintain and operate Licensee Game Servers; and during such period of noncompliance

Microsoft further reserves the right to host, at Licensee's cost and expense, the Online Features on its own Game Servers, and Licensee shall cooperate as requested by Microsoft in effecting a smooth and prompt transition of the Online Features from Licensee Game Servers to Microsoft's Game Servers.

2.3 Other Approval Considerations.

2.3.1 Other Versions. The parties may mutually agree that Licensee submit versions of the Online Features or Licensee Game Servers at stages of development other than as identified above for review and feedback by Microsoft. Such review shall be within the discretion of Microsoft and may require the payment of processing fees by Licensee to offset the costs associated with the review of such Software Titles.

2.3.2 Content Rating. The content rating requirements set forth in the PLA shall apply to all Online Features. Additionally, Microsoft may require that Licensee obtain, at Licensee's sole cost, an ESRBi rating (or comparable online content rating, if any, for the applicable Territory) consistent with and no higher than the Software Title's ESRB rating (or other applicable rating). Licensee shall immediately notify Microsoft in writing if at any time after final Certification Licensee's Online Features fall out of compliance with this Section and/or the applicable rating body guidelines for online content.

2.3.3 Changes of Requirements by Microsoft. Licensee acknowledges that the Xbox Live service is a new and evolving network environment, and as a result, it and the Xbox Guide are subject to change during the Term of this Amendment. Notwithstanding Microsoft's Certification of Online Features and/or Licensee Game Servers, nothing herein shall be deemed to relieve Licensee of its obligation to correct material program bugs and errors in conformance with the Xbox Guide, whenever discovered (including without limitation after Commercial Release of the Online Features), and Licensee agrees to correct such material bugs and errors as soon as possible after discovery, regardless of whether the bug or error necessitates a correction to Finished Product Units or Licensee Game Servers. Microsoft will make commercially reasonable efforts to promptly notify Licensee of any changes to the Xbox Guide, and the time frames for implementing changes to its Online Features and/or Licensee Game Servers to comply with the updated requirements of the Xbox Guide.

2.3.4 Post-Release Updates. Licensee understands that certain changes to the Xbox Guide, or the revocation of Certification with respect to Online Features or Licensee Game Servers, may require that Licensee develop and make available for download to End Users or to Microsoft various updates, upgrades, or fixes thereto (collectively, "Auto-Updates"). Microsoft reserves the right to charge Licensee a reasonable fee to offset the costs associated with the Certification, hosting and distribution of Auto-Updates to End Users; however, no fees shall be charged for the first two Auto Updates (if any) per Software Title. In addition, Licensee may desire, from time to time, to make available additional Online Features in the form of software downloads (such as new characters or game levels) or data (such as league statistics), as part of the Base Service or Premium Service ("Content Downloads"). Auto Updates and Content Downloads shall be referred to collectively herein as "Updates." Updates of any nature must be approved by Microsoft in advance and must achieve Certification; however, the Certification process and requirements may vary depending on the nature of and necessity for the Update, as further described in the Xbox Guide.

2.3.5 Event-Based Premium Online Features. Certain event-based Premium Online Features (e.g., pay-for-play tournaments and contests) may require additional approvals and be subject to additional requirements, which will be set forth in the Xbox Guide.

3. OTHER RIGHTS AND RESPONSIBILITIES

3.1 Licensee.

3.1.1 Archive Copies. Licensee agrees to maintain, and to possess the ability to support, copies in object code, source code and symbol format, of all Online Features and Updates available to End Users during the Term of this Amendment ***.

3.1.2 Customer Support. As set forth in the PLA and the Xbox Guide, as between Microsoft and Licensee, Licensee shall be solely responsible for providing customer support to End Users of Online Features. Licensee will provide all End Users appropriate contact information (including without limitation Licensee's street address and telephone number, and the applicable individual/group responsible for customer support), and will also provide all such information to Microsoft for posting on http://www.xbox.com. Customer support shall at all times conform to the Customer Service Requirements set forth in the Xbox Guide. Microsoft shall be responsible for providing technical support to End Users relating to the Xbox Live service platform, and unless the parties agree otherwise, shall be responsible for all community

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

management functions. Except as expressly set forth herein, Licensee

acknowledges and agrees that Microsoft will have no support responsibilities whatsoever to End Users of the Online Features, regardless of whether Microsoft hosts Game Servers, Updates, or otherwise.

3.1.3 No Reverse Engineering. Licensee shall not, directly or indirectly, reverse engineer or aid or assist in the reverse engineering of all or any part of Xbox Live or any associated hardware and software except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. In the event applicable law grants Licensee the right to reverse engineer the Xbox notwithstanding this limitation, Licensee shall provide Microsoft with written notice prior to such reverse engineering activity, information sufficient regarding Licensee's intended method of reverse engineering, its purpose and the legal authority for such activity and shall afford Microsoft a reasonable period of time before initiating such activity in order to evaluate the activity and/or challenge the reverse engineering activity with the appropriate legal authorities. Licensee shall refrain from such reverse engineering activity until such time as any legal challenge is resolved in Licensee's favor. Reverse engineering includes, without limitation, decompiling, disassembly, sniffing, peeling semiconductor components, or otherwise deriving source code.

3.1.4 End User Rights. Use of Xbox Live by End Users shall be subject to a Terms of Use, which may be amended from time to time. Licensee may impose additional terms and restrictions on End Users with respect to Licensee's Online Features to the extent such additional terms and restrictions are not inconsistent with the Terms of Use and are in a form to be approved by Microsoft.

3.1.5 Availability of Online Features.

3.1.5.1 Minimum Commitment. Subject to the commercial availability of Xbox Live, Licensee agrees that each Online Feature of a Software Title shall be made available for inclusion in Xbox Live for a minimum of *** following the respective Commercial Release of the Finished Product Units of such Software Title in each Online Territory of (the "Minimum Commitment"), and Licensee shall be obligated to provide all necessary support (including, without limitation, the obligations set forth in Sections 2.3.3, 2.3.4, 3.1.2) for such Online Feature during the Minimum Commitment. Subject to the foregoing, the parties may mutually agree on a case-by-case basis to a shorter Minimum Commitment as appropriate. Following the Minimum Commitment, Licensee may terminate Microsoft's license (as defined in Section 4 below) associated with such Online Features upon *** prior written notice to Microsoft; and/or Microsoft may discontinue the availability of any or all such Online Features via Xbox Live upon *** prior written notice to Licensee. Licensee shall be responsible for communicating the duration of Online Feature availability to End Users, and for providing reasonable advance notice to End Users of any discontinuation of Online Features.

3.1.5.2 Reclassification of Base and Premium Online Features. If, following the Minimum Commitment for a Base Online Feature, Licensee desires that the Base Online Feature continue to be made available via Xbox Live, then Licensee may, at its option and upon written notice to Microsoft at least *** prior to the end of the Minimum Commitment, elect to ***.

3.1.5.3 Microsoft shall have no responsibility, and shall not be liable in any way, for any statements or claims made by Licensee, whether in Licensee's Marketing Materials or otherwise, regarding the availability of any Online Features.

3.1.6 As soon as possible following its request, Licensee shall provide Microsoft with up to *** Finished Product Units and accompanying Marketing Materials at Licensee's cost. Such units may be used in marketing, as product samples and for support and archival purposes, and shall be in addition to the Finished Product Units provided for these purposes pursuant to the PLA.

3.1.7 Trademarks. To the extent a Software Title's Online Features consist solely of Content Download(s) and such Software Title does not support online multiplayer gameplay via Xbox Live (a "Download-Only Software Title"), such Download-Only Software Title and associated Marketing Materials may not use the Licensed Trademarks or packaging templates associated with Xbox Live, and Licensee may not refer to such Download-Only Software Title as an "Xbox Live-enabled" Software Title. Notwithstanding the foregoing, Section 4.1 of the PLA shall apply to all other Software Titles which support online multiplayer gameplay via Xbox Live, and Licensed Trademarks and packaging templates specific to Xbox Live-enabled Software Titles shall be available for use in connection therewith.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

3.2 Microsoft.

3.2.1 sUage Data. Licensee acknowledges that the operation of the Xbox Live service requires that Microsoft collect and store End User usage data, including, without limitation, End User statistics, scores, ratings, and rankings (collectively, "Aggregate Usage Data"), as well as personally-identifiable End User data (e.g., name, email address) ("Personal Data"). Microsoft reserves the right, in its discretion, to use such Aggregate Usage Data for any purpose, including without limitation, posting the Aggregate Usage Data on Xbox.com or other Microsoft websites. Microsoft agrees to use commercially reasonable efforts to periodically make certain Aggregate Usage Data and Personal Data available to Licensee; provided that Licensee's use of such data shall be in accordance with the then-current Xbox Live Privacy Statement and such other reasonable restrictions as Microsoft may require. Without limiting the foregoing, Licensee agrees that any disclosure of Personal Data to Licensee shall only be used by Licensee and may not be shared with any other third parties, and any permitted email communications with End Users shall include instructions for opting out of receiving any further communications from Licensee.

3.2.2 Billing and Collection. Microsoft shall be responsible for customer billing and collecting all subscription fees associated with Xbox Live, including without limitation Base Service and Premium Service fees. Microsoft shall have sole discretion to determine the fees charged for the Base and Premium Services.

4. GRANT OF LICENSE

4.1 In consideration of the royalty payments as described in Section 5.1.2 below, Licensee grants to Microsoft an worldwide, transferable, sublicensable license to broadcast, transmit, distribute, host, publicly display, reproduce, and license (solely to End Users) Online Features solely to the extent necessary to enable End Users to use the Online Features via Xbox Live, and additionally, a worldwide, transferable license solely to distribute to End Users and permit End Users to download and store Updates, solely in conjunction with such End User's use of the Online Features via Xbox Live.

4.2 Licensee agrees that the license grant set forth in this Section 4 is exclusive, meaning that Licensee shall not directly or indirectly permit or enable access to Online Features by any means, methods, platforms or services other than Xbox and Xbox Live. Notwithstanding the foregoing, and absent any separate agreement between the parties to the contrary, this Section 4 shall not prevent Licensee from making other platform versions of its Software Titles available via other platform-specific online services. For illustration purposes, Licensee may make both Xbox and Playstation2 versions of a Software Title that supports online gameplay, but the Xbox version may only be played via the Xbox Live service and no other online service operated by any entity other than Microsoft.

4.3 This Section 4 shall survive expiration or termination of this Amendment solely to the extent and for the duration necessary to effectuate Section 6.3 below.

5. PAYMENTS

5.1 Premium Online Features.

5.1.1 Set-Up, Hosting and Bandwidth Fees. If Microsoft hosts Game Servers for a Software Title's Premium Online Features, Licensee shall pay the applicable Set-Up Fees, Hosting Fees, and Bandwidth Fees as such terms are defined and detailed in the Xbox Guide.

5.1.2 Royalty. Microsoft shall pay Licensee a *** royalty for Premium Online Features (the "Royalty Fee"). The Royalty Fee shall be calculated on Net Receipts received from Premium Online Features, where "Net Receipts" is defined as all revenues generated by Licensee's Premium Online Features at the greater of the Licensee's suggested Premium Online Feature price or the actual Premium Online Feature price. The actual price does not include any pass-through taxes such as sale, use, and/or VAT/GST which are ordinarily collected from End Users whether or not those taxes are displayed to End Users.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

5.2 Base Online Features. ***

5.3 Payment Process. All payments due by either party shall be remitted in

US dollars, and in accordance with the processes set forth herein.

5.3.1 Hosting and Bandwidth Fees. Microsoft will invoice Licensee on a calendar quarterly basis for any Set-Up Fees, Hosting Fees, and/or Bandwidth Fees owed to Microsoft. Licensee shall pay to Microsoft the full amount invoiced within thirty (30) calendar days after the date of the respective invoice. Payment will be made by wire transfer, in immediately available funds, to an account, and in accordance with a reasonable procedure, to be specified in writing by Microsoft.

5.3.2 Royalty Fees. Within thirty (30) days after the end of each calendar quarter with respect to which Microsoft owes Licensee any Royalty Fees, Microsoft shall furnish Licensee with a statement, together with payment for any amount shown thereby to be due to Licensee. The statement shall be based upon Net Receipts for the quarter then ended, and shall contain information sufficient to discern how the Royalty Fees were computed.

5.3.3 Offset. Upon written notice, Microsoft reserves the right to offset Hosting and Bandwidth Fees and Royalty Fees each quarter, and generate an invoice or render payment of the balance, as appropriate.

5.4 Audit. During the Term of this Amendment *** Microsoft shall keep all usual and proper records relating to the distribution of Licensee's Online Features via Xbox Live, and the Net Receipts therefrom. Such records, books of account, and entries shall be kept in accordance with generally accepted accounting principles. Licensee may audit and/or inspect Microsoft's records in order to verify Microsoft's compliance with the terms of this Amendment. Licensee reserves the right, upon reasonable advance notice, to audit Microsoft's records and consult with Microsoft's accountants for the purpose of verifying Microsoft's compliance with the terms of this Amendment ***. Any such audit shall be conducted during regular business hours at a single Microsoft location in the United States with reasonable advance notice. Any such audit shall be paid for by Licensee unless material discrepancies are disclosed. "Material" shall mean the greater of *** or *** of the royalties due to Licensee within the audit period. If material discrepancies are disclosed, Microsoft agrees to pay Licensee for the costs associated with the audit, as well as reimburse Licensee for all under-reported amounts.

5.5 Taxes.

5.5.1 The amounts to be paid by either party to the other do not include any foreign, U.S. federal, state, local, municipal or other governmental taxes, duties, levies, fees, excises or tariffs, arising as a result of or in connection with the transactions contemplated under this Amendment including, without limitation, (i) any state or local sales or use taxes or any value added tax or business transfer tax now or hereafter imposed on the provision of any services to the other party under this Amendment, (ii) taxes imposed or based on or with respect to or measured by any net or gross income or receipts of either party, (iii) any franchise taxes, taxes on doing business, gross receipts taxes or capital stock taxes (including any minimum taxes and taxes measured by any item of tax preference), (iv) any taxes imposed or assessed after the date upon which this Amendment is terminated, (v) taxes based upon or imposed with reference to either parties' real and/or personal property ownership and (vi) any taxes similar to or in the nature of those taxes described in (i), (ii), (iii), (iv) or (v) above, now or hereafter imposed on either party (or any third parties with which either party is permitted to enter into agreements relating to its undertakings hereunder) (all such amounts, together with any penalties, interest or any additions thereto, collectively "Taxes"). Neither party is liable for any of the other party's Taxes incurred in connection with or related to the sale of goods and services under this Amendment, and all such Taxes shall be the financial responsibility of the party obligated to pay such taxes as determined by the applicable law, provided that both parties shall pay to the other the appropriate Collected 'Taxes in accordance with subsection 5.5.2 below. Each party agrees to indemnify, defend and hold the other party harmless from any Taxes (other than Collected Taxes) or claims, causes of action, costs (including, without limitation, reasonable attorneys' fees) and any other liabilities of any nature whatsoever related to such Taxes to the extent such Taxes relate to amounts paid under this Amendment.

5.5.2 Any sales or use taxes described in 5.5.1 above that (i) are owed by either party solely as a result of entering into this Amendment and the payment of the fees hereunder, (ii) are required to be collected from that party under applicable law, and (iii) are based solely upon the amounts payable under this Amendment (such taxes the "Collected Taxes"), shall be stated separately as applicable on payee's invoices and shall be remitted by the other party to the payee upon request payee shall remit to the other party official tax receipts indicating that such Collected Taxes have been collected and

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

paid by the payee. Either party may provide the other party an exemption certificate acceptable to the relevant taxing authority (including 'without limitation a resale certificate) in which case payee shall not collect the taxes covered by such certificate. Each party agrees to take such commercially reasonable steps as are requested by the other party to minimize such Collected Taxes in accordance with all relevant laws and to cooperate with and assist the other party, in challenging the validity of any Collected Taxes or taxes otherwise paid by the payor party. Each party shall indemnify and hold the other party harmless from any Collected Taxes, penalties, interest, or additions to tax arising from amounts paid by one party to the other under this Amendment, that are asserted or assessed against one party to the extent such amounts relate to amounts that are paid to or collected by one party from the other under this section. If any taxing authority refunds any tax to a party which the other party originally paid, or a party otherwise becomes aware that any tax was incorrectly and/or erroneously collected from the other party, then that party shall promptly remit to the other party an amount equal to such refund, or incorrect collection as the case may be plus any interest thereon.

5.5.3 If taxes are required to be withheld on any amounts otherwise to be paid by one party to the other, the paying party will deduct such taxes from the amount otherwise owed and pay them to the appropriate taxing authority. At a party's written request and expense, the parties will use reasonable efforts to cooperate with and assist each other in obtaining tax certificates or other appropriate documentation evidencing such payment, provided, however, that the responsibility for such documentation shall remain with the payee party.

5.5.4 This Section 5.5 shall govern the treatment of all taxes arising as a result of or in connection with this Amendment notwithstanding any other section of this Amendment.

6. TERM AND TERMINATION

6.1 Term. The Term of this Amendment shall be as set forth in the PLA, provided that Microsoft reserves the right to change the Fees and Royalty rates set forth in Section 5 herein upon written notice to Licensee, but no more frequently than once per 12 month period.

6.2 Termination for Breach. In the event either party shall materially fail to perform or comply with this Amendment or any provision thereof, and fail to remedy the default within *** after the receipt of notice to that effect, then the other party shall have the right, at its sole option and upon written notice to the defaulting party, to terminate this Amendment upon written notice; provided that if Licensee is the party that has materially failed to perform or comply with this Amendment, then Microsoft shall have the right, but not the obligation, to suspend availability of the Online Features during such fifteen-day period. Any notice of default hereunder shall be prominently labeled "NOTICE OF DEFAULT"; provided, however, that if the default is of Sections 3.1.3 or 4.2 above, then the non-defaulting party may terminate this Amendment immediately upon written notice, without being obligated to provide a *** cure period. The rights and remedies provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Amendment or PLA. If the uncured default is related to a particular Software Title or particular Online Features or Licensee Game Server, then the party not in default will have the right, in its discretion, to terminate this Amendment and/or the PLA in its entirety or with respect to the applicable Software Title or the particular Online Features or Licensee Game Server.

6.3 Effect of Termination. Upon termination or expiration of the PLA and/or this Amendment, Licensee shall continue to support existing Online Features until the earlier of (1) the end of the Finished Product Unit sell-off period as set forth in the PLA, or (2) the end of the Minimum Commitment term. Additionally, Licensee shall continue to support any event-based Premium Online Features which commenced prior to termination or expiration. To the extent Licensee has support obligations pursuant to this Section 6.3 following termination or expiration, all of Licensee's obligations under this Amendment shall continue to apply. If this Amendment is terminated due to Licensee's breach, then Microsoft shall have the right to immediately terminate the availability of the Online Features and require that the operation of Licensee Game Servers immediately cease, and all Microsoft software or materials be immediately returned to Microsoft.

6.4 Survival. The following Sections shall survive expiration or termination of this Amendment: 1, 3.1.2, 3.1.3, 3.2.1, 4.3, 5, 6.3, 6.4, and 7. Other sections shall survive in accordance with their terms.

7. WARRANTIES. In addition to the warranties set forth in the PLA, Licensee additionally warrants and represents that:

[*] Confidential portion omitted and filed separately with the Securities and

Exchange Commission.

7.1 Any and all information, data, logos, software or other materials provided to Microsoft and/or made available to End Users via Xbox Live do not and will not infringe upon or misappropriate any third party trade secrets, copyrights, trademarks, patents, publicity, privacy or other proprietary rights;

7.2 The Online Features do not and will not contain any messages, data, images or programs which are, by law, defamatory, obscene or pornographic, or in any way violate any applicable laws of the Online Territory; and

7.3 Licensee shall at all times meet or exceed the Technical Certification Requirements, Service Level Requirements, and Customer Service Requirements set forth in the Xbox Guide.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the Effective Date on the dates indicated below.

MICROSOFT LICENSING, INC.	ACTIVISION PUBLISHING, INC.
By: /s/Brian Russel	By: /s/ George Rose
Name: BRIAN RUSSEL	Name: George Rose
Title: OEM ACCOUNTING MANAGER	Title: Sr. VP & Gen. Counsel
Date: 10/28/02	Date: 10-23-02

Exhibit 10.8

LICENSED PUBLISHER AGREEMENT

LICENSED PUBLISHER AGREEMENT, entered into July 13, 2002 (the "Agreement" or "LPA"), by and between Sony Computer Entertainment America Inc., with offices at 919 E. Hillsdale Boulevard, Foster City, CA 94404 (hereinafter "SCEA"), and Activision, Inc., with offices at 3100 Ocean Park Blvd., Santa Monica, CA 90405 (hereinafter "Publisher").

WHEREAS, SCEA and/or affiliated companies have developed a CD-based interactive console for playing video games and for other entertainment purposes known as the PlayStation(R) game console (hereinafter referred to as the "Player") and also own or have the right to grant licenses to certain intellectual property rights used in connection with the Player.

WHEREAS, Publisher has previously entered into a License Agreement, dated July 13, 1998 ("Original License Agreement") with SCEA, which granted Publisher a non-exclusive license to develop and distribute Licensed Products (as defined below) pursuant to the terms and conditions set forth in such Original License Agreement, and such Original License Agreement will expire four (4) years after the date of such Original License Agreement.

WHEREAS, Publisher desires to replace its non-exclusive license to publish, have manufactured, market, distribute and sell Licensed Products as set forth in the Original License Agreement with the licenses set forth in this Agreement.

WHEREAS, SCEA is willing, on the terms and subject to the conditions of this Agreement, to renew Publisher's non-exclusive license to publish, have manufactured, market, distribute and sell Licensed Products in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the representations, warranties and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Publisher and SCEA hereby agree as follows:

1. Definition of Terms.

1.1 "Advertising Materials" means any advertising, marketing, merchandising, promotional, public relations (including press releases) and display materials relating to or concerning the Licensed Products, or any other advertising, merchandising, promotional, public relations (including press releases) and display materials depicting any of the Licensed Trademarks.

1.2 "Affiliate of SCEA" means, as applicable, either Sony Computer Entertainment Inc. in Japan, Sony Computer Entertainment Europe in the United Kingdom or such other Sony Computer Entertainment entity as may be established by Sony Computer Entertainment Inc. from time to time.

1.3 "CD Magazine" means a magazine in PlayStation Disc format to be produced by SCEA, which incorporates first and third party Product Information, in addition to hints and tips, interviews and other SCEA and Player-related information, and which will be sold to subscribers and other consumers or used for other promotional purposes of SCEA.

1.4 "Consumer Promotional Disc Program" shall have the meaning set forth in Section 1.36 hereto.

1.5 "Designated Manufacturing Facility" means a manufacturing facility which is designated by SCEA in its sole discretion to manufacture Licensed Products and/or component parts for the Player, which may include manufacturing facilities owned and operated by affiliated companies of SCEA.

1.6 "Development Tools" means the development tools leased and licensed by SCEA to a Licensed Developer pursuant to a Licensed Developer Agreement for use in the development of Executable Software.

1.7 "Executable Software" means Publisher's object code software which includes Licensed Developer Software and any software (whether in object code or source code form) provided directly or indirectly by SCEA or an Affiliate of SCEA which is intended to be combined with Licensed Developer Software for execution on the Player and has the ability to communicate with the software resident in the Player.

1.8 "Generic Line" shall have the meaning set forth in Section 8.3 hereto.

1.9 "Guidelines" shall mean SCEA's Guidelines with respect to its Intellectual Property Rights, which may be set forth in the SourceBook or in other documentation provided by SCEA to Publisher.

1.10 "Hit Title Rebate" shall have the meaning set forth in Exhibit A, Section C hereto.

1.11 "Intellectual Property Rights" means, by way of example but not by way of limitation, all current and future worldwide patents and other patent rights, copyrights, trademarks, service marks, trade names, trade dress, mask work rights, trade secret rights, technical information, know-how, and the equivalents of the foregoing under the laws of any jurisdiction, and all other proprietary or intellectual property rights throughout the universe, including without limitation all applications and registrations with respect thereto, and all renewals and extensions thereof.

1.12 "Legal Copy" means any legal or contractual information required to be used in connection with a Licensed Product or Product Information, including but not limited to copyright and trademark attributions, contractual credits and developer or distribution credits.

1.13 "Licensed Developer" means any developer which is licensed by SCEA or an Affiliate of SCEA to develop Licensed Products pursuant to a valid and then current Licensed Developer Agreement.

1.14 "Licensed Developer Agreement" or "LDA" means a valid and current agreement or renewal thereof between a Licensed Developer and SCEA, or an equivalent such agreement between a Licensed Developer and an Affiliate of SCEA (e.g., the LDA with SCEE).

1.15 "Licensed Developer Software" means Licensed Developer's application source code and data (including audio and video material) developed by a Licensed Developer in accordance with its LDA, which, either by itself or combined with other Licensed Developer Software, when integrated with any software (whether in object code or source code form) provided by SCEA or an Affiliate of SCEA, creates Executable Software.

1.16 "Licensed Products" means the Executable Software (which may be combined with Executable Software of two or more Licensed Developers), which shall consist of one product developed for the Player per Unit, in final form developed exclusively for the Player. Publisher shall have no right to package or bundle more than one product developed for the Player in a single Unit unless separately agreed with SCEA.

1.17 "Licensed Publisher" means any publisher which is licensed by SCEA to publish, have manufactured, market, distribute and sell Licensed Products pursuant to a valid and then current Licensed Publisher Agreement.

1.18 "Licensed Publisher Agreement" or "LPA" means a valid and current agreement or renewal thereof between a Licensed Publisher and SCEA.

1.19 "Licensed Territory" means the United States (including its possessions and territories), Canada, Mexico and Latin America, as may be modified and/or supplemented by SCEA from time to time pursuant to Section 4.4 below.

1.20 "Licensed Trademarks" means the trademarks, service marks, trade dress and logos designated by SCEA in the SourceBook or other documentation provided by SCEA to Publisher as being licensed to Publisher. Nothing contained in this Agreement shall in any way grant Publisher the right to use the trademark "Sony" in any manner as a trademark, trade name, service mark or logo. SCEA may amend such Licensed Trademarks from time to time in the SourceBook or other documentation provided by SCEA to Publisher or upon written notice to Publisher.

1.21 "Manufacturing Specifications" means specifications setting forth terms relating to the manufacturing and assembly of Licensed Products, Packaging, Printed Materials and their component parts, which shall be set forth in the SourceBook or other documentation provided by SCEA to Publisher.

1.22 "Master Disc" means a gold CD-ROM disc in the form requested by SCEA containing the final pre-production Executable Software for a Licensed Product, which has been approved by SCEA pursuant to Section 5.4 and meets the Manufacturing Specifications.

1.23 "Official Magazine Demo" means a demo disc in PlayStation Disc format, to be produced by SCEA, containing first and third party Product Information, which will be "packed-in" to any official PlayStation magazine of SCEA or used for other promotional purposes of SCEA.

1.24 "Packaging" means, with respect to each Licensed Product, the carton, containers, packaging, edge labels and other proprietary labels, trade dress and wrapping materials, including any jewel case (or other container) or parts

thereof (including any portion of the jewel case containing Licensed Trademarks), but excluding Printed Materials and PlayStation Discs.

1.25 "Pack-in Sampler Disc" means a demo disc in PlayStation Disc format to be produced by SCEA, containing first and third party Product Information, which will be "packed-in" to the Player hardware box or used for other promotional purposes of SCEA.

1.26 "PlayStation Discs" means the distinctive black PlayStation interactive software CD-ROM discs compatible with the Player which are manufactured on behalf of Publisher which contain the Licensed Product or SCEA Demo Discs.

1.27 "Printed Materials" means all artwork and mechanicals set forth on the CD label of the PlayStation Disc relating to the Licensed Product and on or inside the jewel case (or other container) and/or if applicable, on or inside the box (or other) Packaging for the Licensed Product, and all instructional manuals, liners, inserts, trade dress and other user information and/or materials to be inserted into the jewel case and/or other Packaging.

1.28 "Product Information" means either (i) object code of a Licensed Product representing a playable portion of such Licensed Product ("Demo"); or (ii) a representative video sample of the Licensed Product; or (iii) other Licensed Product related information, including but not limited to hints and tips, artwork, depictions of Licensed Product cover art, videotaped interviews, etc. With respect to Product Information provided in Demo form, the Demo delivered shall not consist of a complete game and shall be, at a minimum, an amount sufficient to demonstrate the game's core features and value, without providing too much game play so as to give the consumer a disincentive

to purchase the complete Licensed Product, and such Demo shall also include any required Legal Copy on the title screen.

1.29 "Purchase Order" means a written purchase order processed in accordance with SCEA's instructions provided in this Agreement or provided separately by SCEA to Publisher.

1.30 "Retail Sampler Disc" means a demo disc in PlayStation Disc format to be produced by SCEA, which contains first and third party Product Information, which will be sold at retail or used for other promotional purposes of SCEA.

1.31 "SCEA Demo Disc" means the SCEA developed and marketed demo discs, including the CD Magazine, Official Magazine Demo, Pack-in Sampler Disc, Retail Sampler Disc, and any other first party demo disc created by SCEA subsequent to the date of this Agreement in which SCEA invites Licensed Publishers to participate. Unless otherwise agreed in a separate agreement with Publisher, SCEA shall not charge any fees or royalties to Publisher for inclusion in SCEA Demo Discs.

1.32 "SCEA Established Third Party Demo Disc Programs" shall have the meaning set forth in Section 1.36 hereto.

1.33 "SCEA Product Code" shall mean the product identification number assigned to each Licensed Product, which shall consist of separate product identification numbers for multiple disc sets (i.e., SLUS-xxxxx). This SCEA Product Code is used on the Packaging and PlayStation Disc relating to each Licensed Product, as well as on most communications between SCEA and Publisher as a mode of identifying the Licensed Product other than by title.

1.34 "Sony Materials" means any hardware, data, object code, source code, documentation (or any part(s) of any of the foregoing), including without limitation any portion or portions of the Development Tools, which are provided or supplied by SCEA or an Affiliate of SCEA to Publisher or any Licensed Developer and/or other Licensed Publisher.

1.35 "SourceBook" means the SourceBook (or any other reference guide containing information similar to the SourceBook but designated with a different name) prepared by SCEA, which is provided separately to Publisher. The SourceBook is designed to serve as the first point of reference by Publisher in every phase of the development, approval, manufacture and marketing of Licensed Products.

1.36 "Third Party Demo Disc" means any demo disc in PlayStation Disc format which contains Product Information and which SCEA has granted Publisher permission to produce or which complies with the terms of an SCEA Established Third Party Demo Disc Program. For purposes of this Agreement, "SCEA Established Third Party Demo Disc Programs" shall include (i) the Consumer Promotional Disc Program, whereby Publisher produces a sample disc, for promotional use only and

not for resale, to promote Licensed Products to consumers by creating a sampler containing Product Information from multiple Licensed Products or Product Information from a single Licensed Product; (ii) the Trade Promotional Disc Program, whereby Publisher produces a sample disc incorporating a beta version of Publisher's Licensed Products which have been concept approved by SCEA, for promotional use only and not for resale, to promote its Licensed Products to retailers, journalists and/or trade partners prior to release of such Licensed Products and (iii) any other third party demo disc program established by SCEA for Licensed Publishers in the future.

1.37 "Trade Promotional Disc Program" shall have the meaning set forth in Section 1.36 hereto.

1.38 "Unit" means a copy of each individual Licensed Product game title regardless of the number of PlayStation Discs constituting such Licensed Product game title.

1.39 "Wholesale Price" or "WSP" shall mean the greater of (i) the published price of the Licensed Product offered to retailers by Publisher as evidenced by a sell sheet or price list issued by Publisher no later than thirty (30) days before first commercial shipment of the Licensed Product, or (ii) the actual price paid by retailers upon the first commercial shipment of a Licensed Product without offsets, rebates or deductions from invoices of any kind.

2. License Grant.

SCEA hereby grants to Publisher, and Publisher hereby accepts, for the term of this Agreement, within the Licensed Territory, under Intellectual Property Rights owned or licensed by SCEA, a non-exclusive, non-transferable license, without the right to sublicense (except as specifically provided herein), to publish Licensed Products, which right to publish shall be limited to the following rights and other rights set forth in this LPA: (i) to enter into agreements with Licensed Developers and other third parties pursuant to Sections 3 and 17.5 hereto to develop Licensed Products which have been approved by SCEA in accordance with the terms of this LPA; (ii) to have such Licensed Products manufactured in accordance with the terms of this LPA; (iii) to market, distribute and sell such Licensed Products and to authorize others to do so in accordance with the terms of this LPA; (iv) to use the Licensed Trademarks strictly and only in connection with the marketing, packaging, advertising and promotion of the Licensed Products, and subject to SCEA's right of approval as provided herein; (v) to sublicense to end users the right to use the Licensed Products for noncommercial purposes only and not for public performance; and (vi) from time to time to participate by invitation of SCEA in the "Third Party Greatest Hits" program on terms and conditions to be

determined and published by SCEA and separately agreed with Publisher.

3. Development of Licensed Products.

This LPA grants Publisher the right to publish, have manufactured, market, distribute and sell Licensed Products, and does not authorize Publisher to develop Licensed Products or to lease or license Development Tools from SCEA to assist in such development. In order for Publisher to have Licensed Products developed for the Player or to lease or license Development Tools from SCEA to assist in such development, it must either (i) enter into a Licensed Developer Agreement directly with SCEA or with an Affiliate of SCEA; or (ii) enter into an agreement with a Licensed Developer for the development of Licensed Products. Publisher may also publish, have manufactured, market, distribute and/or sell Licensed Products for a Licensed Developer or another Licensed Publisher pursuant to the terms of this Agreement. Publisher shall notify SCEA in writing of the identity of any third party or Licensed Developer with whom it has contracted to develop, publish, have manufactured, market, distribute and/or sell Licensed Products within thirty (30) days of entering into an agreement or other arrangement with the third party. Publisher shall have the responsibility for determining that any developers or other third parties meet the criteria set forth herein. It shall be considered a material breach of this LPA for Publisher to provide Development Tools or other Sony Materials to an unlicensed developer or other third party.

4. Limitations on Licenses; Reservation of Rights.

4.1 Reverse Engineering Prohibited. Publisher hereby agrees not to directly or indirectly disassemble, decrypt, electronically scan, peel semiconductor components, decompile, or otherwise reverse engineer in any manner or attempt to reverse engineer or derive source code from, all or any portion of the Sony Materials (whether or not all or any portion of the Sony Materials are integrated with Licensed Developer Software), or permit or encourage any third party to do so. Publisher shall not use, modify, reproduce, sublicense,

distribute, create derivative works from, or otherwise provide to third parties, the Sony Materials, in whole or in part, other than as expressly permitted by this Agreement. Publisher shall be required in all cases to pay royalties in accordance with Section 9 hereto to SCEA on any of Publisher's products utilizing Sony Materials. The burden of proof under this Section shall be on Publisher, and SCEA reserves the right to require Publisher to furnish evidence satisfactory to SCEA that this Section has been complied with.

4.2 Reservation of SCEA's Rights. The licenses granted in this Agreement from SCEA to Publisher extend only to publishing, manufacturing, marketing, distribution and sale of Licensed Products for use on the Player, in such format as may be designated by SCEA. Without limiting the generality of the foregoing and except as otherwise provided herein, Publisher shall not have the right to distribute or transmit the Executable Software or the Licensed Products (to the extent each includes Sony Materials) via electronic means or any other means now known or hereafter devised, including without limitation, via wireless, cable, fiber optic means, telephone lines, microwave and/or radio waves, or over a network of interconnected computers or other devices. Notwithstanding this limitation, Publisher may electronically transmit Executable Software from site to site, or from machine to machine over a computer network, for the sole purpose of facilitating development; provided that no right of retransmission shall attach to any such transmission, and provided further that Publisher shall use reasonable security measures customary within the high technology industry to reduce the risk of unauthorized interception or retransmission of such transmissions. This Agreement does not grant any right or license, under any Intellectual Property Rights of SCEA or otherwise, except as expressly provided herein, and no other right or license is to be implied by or inferred from any provision of this Agreement or the conduct of the parties hereunder. Publisher shall not make use of any of the Sony Materials and/or any Intellectual Property Rights or Licensed Trademarks related to the Sony Materials and/or Player (or any portion thereof) except as authorized by and in compliance with the provisions of this Agreement or as may be otherwise expressly authorized in writing by SCEA. No right, license or privilege has been granted to Publisher hereunder concerning the development of any collateral product or other use or purpose of any kind whatsoever which displays or depicts any of the Licensed Trademarks. The rights set forth in Section 2(v) hereto are limited to the right to sublicense such rights to end users for non-commercial use; any public performance relating to the Licensed Product or the Player is prohibited unless expressly authorized in writing by SCEA.

4.3 Reservation of Publisher's Rights. Separate and apart from Sony Materials licensed to Publisher hereunder, Publisher (or a Licensed Developer, as determined between Publisher and such Licensed Developer) retains all rights, title and interest in and to the Licensed Developer Software, including without limitation, Publisher's (or Licensed Developer's) Intellectual Property Rights therein, as well as all of Publisher's (or Licensed Developer's) rights in any source code and other underlying material such as artwork and music related thereto, created by Publisher (or Licensed Developer) and contained therein, and nothing in this Agreement shall be construed to restrict the right of Publisher to develop, distribute or transmit products incorporating the Licensed Developer Software and such underlying material (separate and apart from the Sony Materials) for any hardware platform or service other than the Player or from using the Printed Materials or any Advertising Materials approved by SCEA as provided herein (provided that such Printed Materials and/or Advertising Materials do not contain any Licensed Trademarks) as Publisher determines for such other platforms. Notwithstanding the foregoing, Publisher shall not distribute or transmit Product Software which is

intended to be used with the Player via electronic means or any other means now known or hereafter devised, including without limitation, via wireless, cable, fiber optic means, telephone lines, microwave and/or radio waves, or over a network of computers or other devices, except as otherwise permitted in Section 4.2 hereto.

4.4 Additions to and Deletions From Licensed Territory. SCEA may, from time to time, add one or more countries to the Licensed Territory by providing written notice of such addition to Publisher. SCEA shall also have the right to delete, and intends to delete any country or countries from the Licensed Territory if, in SCEA's reasonable judgment, the laws or enforcement of such laws in such country or countries do not protect SCEA's Intellectual Property Rights. In the event a country is deleted from the Licensed Territory, SCEA shall deliver to Publisher a notice stating the number of days within which Publisher shall cease exercising such licenses in the deleted country or countries. Publisher agrees to cease exercising such licenses, directly or through subcontractors, in such deleted country or countries, by the end of the period stated in such notice.

5. Quality Standards for the Licensed Products.

5.1 Quality Assurance Generally. The Licensed Products, including, without limitation, the contents and title of each of the Licensed Products, and/or Publisher's use of any of the Licensed Trademarks, shall be subject to SCEA's prior written approval, which shall not be unreasonably withheld or delayed and which shall be within SCEA's sole discretion as to acceptable standards of quality. SCEA shall have the right at any stage of the development of the Licensed Product to review such Licensed Product to ensure that it meets SCEA's quality assurance standards. Publisher agrees that all Licensed Products will be designed (if an original title for the Player) or modified (if a pre-existing title) to substantially utilize the particular capabilities of the Sony Materials and the Player, including but not limited to utilizing the software libraries and graphics capabilities of the Player.

5.2 Product Proposals.

5.2.1 Submission of Product Proposal. Before Publisher contracts with a Licensed Developer for the creation of Licensed Developer Software (or, if Publisher is also a Licensed Developer, before Publisher commences programming of the Licensed Developer Software) for each of the Licensed Products, Publisher shall submit to SCEA, for SCEA's written approval or disapproval (which shall not be unreasonably withheld or delayed), a written proposal (the "Product Proposal") in accordance with the procedures specified in the SourceBook. Such Product Proposal must consist of a complete description of the proposed Licensed Product and such other information specified in the SourceBook, including but not limited to the scheduled and/or anticipated delivery date of final Executable Software, as well as any additional information that SCEA may deem to be useful in evaluating the proposed Licensed Product, which may include samples of past work.

5.2.2 Approval of Product Proposal. After SCEA's review of Publisher's Product Proposal, Publisher will receive written notice of the following possible statuses: (i) Approved; (ii) Conditional Approval; (iii) Resubmission Requested; or (iv) Not Approved. Such statuses shall have the meaning ascribed to them in the SourceBook, and may be changed from time to time by SCEA in subsequent versions of the SourceBook. Any requested re-submissions shall be made at Publisher's cost. If a Product Proposal is "Not Approved", then Publisher cannot re-submit such Product Proposal without significant, substantive revisions. In addition, if a Product Proposal as submitted by any Licensed Publisher or Licensed Developer is "Not Approved" by SCEA, it cannot be re-submitted by another Licensed Publisher or Licensed Developer without significant, substantive revisions. Publisher shall notify SCEA promptly in writing in the event of any material proposed change in any portion of the Product Proposal. SCEA's approval of a Product Proposal shall not obligate Publisher to continue with development or production of the proposed Licensed Product, provided that Publisher must immediately notify SCEA in writing if it discontinues, cancels or otherwise delays past the original scheduled delivery date the development of any proposed Licensed Product. If Publisher licenses a Licensed Product from a Licensed Developer, it shall immediately notify SCEA of such license, and SCEA will inform Publisher as to the status of the Product Proposal and Review Process for such Licensed Product and this Agreement shall govern the approval process of such Licensed Product after any such notification. SCEA shall have no obligation to approve any Product Proposal submitted by Publisher, and any development conducted by or at the direction of Publisher shall be at Publisher's own risk. Nothing herein shall restrict SCEA from commercially exploiting any coincidentally similar concept(s) and/or product(s) which have been independently developed by SCEA, an Affiliate of SCEA or any third party without reference to or reliance upon Publisher's work.

5.3 Review of Work-in-Progress. SCEA has the right pursuant to this Agreement to require Publisher to submit to SCEA work-in-progress on the Licensed Product at certain intervals throughout the development of such Licensed Product and, upon written notice to Publisher, at any time during the development process. Upon receipt by Publisher of "Approved" or "Conditional Approval" status of the Licensed Product, Publisher must, within the time frame indicated in the approval letter, communicate with SCEA and mutually agree on a framework for the review of such Licensed Product throughout the development process ("Review Process"). Once the Review Process has begun, Publisher shall be responsible for submitting work-in-progress to SCEA in accordance with such Review Process. Failure to submit work-in-progress in accordance with any stage of the Review Process may at SCEA's

discretion, result in revocation of approval of such Licensed Product. SCEA shall have the right to approve, reject or require additional information with respect to each stage of the Review Process, which shall not be unreasonably

withheld or delayed by SCEA. SCEA shall specify in writing the reasons for any such rejection or request for additional information and shall state what corrections and/or improvements are necessary. If any stage of the Review Process is not provided to SCEA or, after a reasonable cure period agreed to between SCEA and Publisher, is not successfully met, SCEA shall have the right to revoke the approval of Publisher's Product Proposal. No approval by SCEA of any particular stage of the Review Process shall be deemed an approval of any other stage, nor shall any such approval be deemed to constitute a waiver of any approval requirement with respect to any other stage or any of SCEA's rights under this Agreement. Licensed Products which are canceled by Publisher or are late in meeting the Final Executable Software stage of the Review Process by more than three (3) months (without agreeing with SCEA on a modified Final Executable Software delivery date) are subject to re-submission of Product Proposal, in which event SCEA may re-approve or disapprove such Product Proposal. The "Approved" or "Conditional Approval" status of the Product Proposal shall not be construed by Publisher as full approval of all elements of such Licensed Product, or as a commitment by SCEA to grant final approval to the Licensed Product. Failure to make changes required by SCEA to the Licensed Product at any stage of the Review Process, or making material changes to the Licensed Product without SCEA's approval may, in addition to the provisions set forth in this Section, subject Publisher to the termination provisions set forth in Section 15.3 hereto.

5.4 Approval of Executable Software. Publisher shall, on or before the date specified in the Product Proposal or as determined by SCEA pursuant to the Review Process, deliver to SCEA for its inspection and evaluation, a final version of the Executable Software for the proposed Licensed Product. SCEA will evaluate such final version of the Executable Software and notify Publisher in writing of its approval or disapproval of such Executable Software, which shall not be unreasonably withheld or delayed. If such Executable Software is disapproved, SCEA shall specify in writing the reasons for such disapproval and state what corrections and/or improvements are necessary. After making the necessary corrections and/or improvements, Publisher may submit a new version of such Executable Software for approval or disapproval by SCEA. No approval by SCEA of any element of the Executable Software shall be deemed an approval of any other element of the Licensed Product, nor shall any such approval be deemed to constitute a waiver of any of SCEA's rights under this Agreement. SCEA shall have the right to disapprove Executable Software if it fails to comply with one or more conditions as set forth in the SourceBook with no obligation to review all elements of such version of Executable Software. All final versions of Executable Software shall be submitted in the format prescribed by SCEA and shall include such number of gold master copies as SCEA may require from time to time. Publisher warrants that all final versions of Executable Software are fully tested and shall use its best efforts to ensure that final versions of Executable Software are fully debugged prior to submission to SCEA. In addition, prior to manufacture of Executable Software, Publisher shall be required to sign an affidavit (in the form of attached Exhibit B) stating that the Executable Software complies or will comply with standards set forth in the SourceBook or other documentation provided by SCEA to Publisher, Publisher approves the release of such Executable Software for manufacture in its current form and Publisher shall be fully responsible for any problems related to such Executable Software.

5.5 Publisher's Additional Ouality Assurance Oblications. If at any time or times subsequent to the approval of the Executable Software pursuant to Section 5.4, SCEA identifies any material bugs. (such materiality to be determined by SCEA in its sole discretion) with respect to the Licensed Product or any material bugs are brought to the attention of SCEA or in the event that SCEA identifies any improper use of its Licensed Trademarks or other Sony Materials with respect to the Licensed Product or any such improper use is brought to the attention of SCEA, Publisher shall, at no cost to SCEA, promptly correct any such material bugs, or improper Licensed Trademark or Sony Material use, to SCEA's commercially reasonable satisfaction, which may include, if necessary in SCEA's judgment, the recall and re-release of such Licensed Product. In the event any Units of any of the Licensed Products create any reasonable risk of loss or damage to any property or injury to any person, Publisher shall immediately take effective steps, at Publisher's sole liability and expense, to recall and/or to remove such defective Licensed Product from any affected channels of distribution, provided, however, that if Publisher is not acting as the distributor and/or seller for the Licensed Products, its obligation hereunder shall be to use its best efforts to arrange removal of such Licensed Product from channels of distribution. Publisher shall provide all end-user support for the Licensed Products and SCEA expressly disclaims any obligation to provide end-user support on Publisher's Licensed Products.

5.6 Approval of Printed Materials. For each proposed Licensed Product, Publisher shall be responsible, at Publisher's expense, for creating and developing all Printed Materials. All Printed Materials shall comply with the Guidelines, which may be amended from time to time, provided that Publisher shall, except as otherwise provided herein, only be required to implement any such amended Guidelines in subsequent orders of Printed Materials and shall not

be required to recall or destroy previously manufactured Printed Materials unless such Printed Materials do not comply with the original requirements in the Guidelines or unless explicitly required in writing by SCEA pursuant to a legal requirement involving SCEA's Intellectual Property Rights. Failure to follow the Guidelines and/or to submit or resubmit Printed Materials

to SCEA as set forth herein, and in Section 7.1.3.1 hereto shall be a material breach of this Agreement and the provisions of Section 15.3 shall apply. No later than the time final Executable Software for a proposed Licensed Product is submitted to SCEA for inspection and evaluation, Publisher shall also deliver to SCEA, for review and evaluation, the proposed final Printed Materials for such proposed Licensed Product and a form of limited warranty for the proposed Licensed Product. Publisher acknowledges that failure to meet any scheduled release dates for a Licensed Product are solely the risk and responsibility of Publisher, and SCEA assumes no responsibility for Publisher failing to meet such scheduled release dates due to disapproval of Printed Materials relating to such Licensed Product. Publisher agrees that the quality of such Printed Materials shall be of the same quality as that associated with other commercially available high quality consumer products. If any of the Printed Materials are disapproved, SCEA shall specify the reasons for such disapproval and state what corrections are necessary. SCEA shall have no liability to Publisher for costs incurred or irrevocably committed to by Publisher for production of Packaging or Printed Materials that is disapproved by SCEA. After making the necessary corrections to the disapproved Printed Materials, Publisher must submit new proposed Printed Materials for approval by SCEA. SCEA shall not unreasonably withhold or delay its review of the proposed Printed Materials. No approval by SCEA of any element of the Printed Materials shall be deemed an approval of any other element of the Licensed Product, nor shall any such approval be deemed to constitute a waiver of any of SCEA's rights under this Agreement. In addition, SCEA's approval of any element of Printed Materials shall not release Publisher from any of its representations and warranties in Section 10.2 hereunder.

5.7 Approval of Advertising Materials. Pre-production samples of all Advertising Materials relating to Licensed Products shall be submitted by Publisher to SCEA, free of cost, for SCEA's evaluation and approval, which shall not be unreasonably withheld or delayed, as to the quality, style, appearance and usage of any of the Licensed Trademarks, appropriate references of any required notices and compliance with the Guidelines, prior to any actual production, use or distribution of any such items by Publisher or on its behalf. No such proposed Advertising Materials shall be produced, used or distributed directly or indirectly by Publisher without first obtaining the written approval of SCEA. If any of the Advertising Materials are disapproved, SCEA shall specify the reasons for such disapproval and state what corrections are necessary. SCEA may require Publisher to immediately withdraw and reprint any Advertising Materials which have been published but have not received the written approval of SCEA. SCEA shall have no liability to Publisher for costs incurred or irrevocably committed to by Publisher for production of Advertising Materials that are disapproved by SCEA. For each Licensed Product, Publisher shall be required to deliver to SCEA an affidavit (in the form of attached Exhibit C) stating that all advertising and promotional materials for the Licensed Product complies or will comply with the Guidelines for use of the Licensed Trademarks. After making the necessary corrections to the disapproved Advertising Materials, Publisher must submit new proposed Advertising Materials for approval by SCEA. SCEA shall not unreasonably withhold or delay its review of the proposed Advertising Materials. Failure to follow the Guidelines and/or to submit or resubmit Advertising Materials to SCEA for review shall be a material breach of this Agreement. Publishers who fail to submit Advertising Materials to SCEA for review or otherwise broadcast or publish Advertising Materials without the approval of SCEA shall be subject to the provisions of the "Three Strikes" program as outlined in the SourceBook which could result in termination of this LPA; termination of the Licensed Product; or could subject Publisher to the provisions of Section 15.4 hereto. Subject in each instance to the prior written approval of SCEA (not to be unreasonably withheld), Publisher may use such textual and/or pictorial advertising matter (if any) as may be created by SCEA or in its behalf pertaining to the Sony Materials and/or to the Licensed Trademarks on such promotional and advertising materials as may, in Publisher's judgment, promote the sale of the Licensed Products within the Licensed Territory. Publisher shall include, at Publisher's cost and expense, the required consumer advisory rating code(s) on any and all Advertising Materials used in connection with the Licensed Product, which shall be procured in accordance with the provisions of Section 6 below. Publisher acknowledges that failure to meet any scheduled release dates for Advertising Materials is solely the risk and responsibility of Publisher, and SCEA assumes no responsibility for Publisher failing to meet such scheduled release dates due to approval requirements as set forth in this Section. No approval by SCEA of any element of the Advertising Materials shall be deemed an approval of any other element of the Licensed Product, nor shall any such approval be deemed to constitute a waiver of any of SCEA's rights under this Agreement. In addition, SCEA's

approval of any element of Advertising Materials shall not release Publisher from any of its representations and warranties in Section 10.2 hereunder.

6. Labeling Requirements.

All Printed Materials for each Unit of the Licensed Products shall have conspicuously, legibly and irremovably affixed thereto the notices specified in a template provided in the SourceBook or other documentation provided by SCEA to Publisher, which template may be amended from time to time by SCEA during the term of this Agreement, following which Publisher will incorporate such Agreement into its next print run for the Licensed Products. Publisher agrees that, if required by SCEA or any governmental entity, it shall submit each Licensed Product to a consumer advisory ratings system designated by SCEA and/or such governmental entity for the purpose of

obtaining rating code(s) for each Licensed Product. Any and all costs and expenses incurred in connection with obtaining such rating code(s) shall be borne solely by Publisher. Any required consumer advisory rating code(s) procured hereby shall be displayed on the Licensed Product and in the associated Printed Materials and Advertising Materials in accordance with the SourceBook or other documentation provided by SCEA to Publisher, at Publisher's cost and expense.

7. Manufacture of the Licensed Products.

7.1 Manufacture by SCEA.

7.1.1 Appointment of SCEA as Manufacturer. Publisher hereby appoints SCEA, and SCEA hereby accepts such appointment, as the manufacturer of PlayStation Discs and, subject to Section 7.1.3 below, the manufacturer and assembler of such PlayStation Discs with Printed Materials and Packaging. Publisher acknowledges and agrees that it shall purchase from SCEA or a Designated Manufacturing Facility all of its requirements for PlayStation Discs, during the term of the Agreement. SCEA shall provide to Publisher written Manufacturing Specifications, which may be amended from time to time upon reasonable notice to Publisher. SCEA shall have the right, but no obligation, to contract or subcontract any phase of production or manufacture of any or all of the Licensed Products, the Packaging, the Printed Materials or any part thereof, subject to Section 14 below. Any Designated Manufacturing Facility shall be a third party beneficiary of this Agreement.

7.1.2 Creation of Master CD-ROM. Following approval by SCEA of each Licensed Product pursuant to Section 5.4, Publisher shall provide SCEA with the number of Master Discs specified in the SourceBook or in any other documentation separately provided by SCEA to Publisher. SCEA or a Designated Manufacturing Facility shall create from one of the Master Discs provided by Publisher the original master CD-ROM, from which all other copies of the Licensed Product are to be replicated. Publisher shall be responsible for the costs, as set forth in the Manufacturing Specifications, of creating such original master CD-ROM. In order to insure against loss or damage to the copies of the Executable Software furnished to SCEA, Publisher will retain duplicates of all such Master Discs. Neither SCEA nor a Designated Manufacturing Facility shall be liable for loss of or damage to any copies of the Master Discs or Executable Software.

7.1.3 Printed Materials, Packaging and Assembly Services.

7.1.3.1 Printed Materials. If Publisher elects to obtain Printed Materials from SCEA, Publisher shall deliver the film for all SCEA approved Printed Materials to SCEA or, if appropriate, at SCEA's option, to a Designated Manufacturing Facility in accordance with the Manufacturing Specifications, at Publisher's sole risk and expense. Publisher may elect, subject to SCEA's approval as provided in Section 5.6 hereto and in this section, to be responsible for manufacturing its own Printed Materials. In the event that Publisher elects to be responsible for manufacturing the Printed Materials (other than any Artwork which may be placed directly upon the PlayStation Disc, which will be supplied to SCEA for placement on the PlayStation Disc), Publisher shall deliver *** of such Printed Materials to SCEA or at SCEA's option to a Designated Manufacturing Facility, within the time frame specified in the Manufacturing Specifications, in the minimum order quantities set forth in Section 7.2.2 below, at Publisher's sole risk and expense. Publisher shall be required to supply SCEA with *** of any Printed Materials not produced or supplied by SCEA or a Designated Manufacturing Facility prior to production, at no charge to SCEA or such Designated Manufacturing Facility, for SCEA's approval with respect to the quality thereof. *** of such sample Printed

Materials shall be supplied to SCEA and *** shall be supplied to a Designated Manufacturing Facility. In the event that such Printed Materials for a Licensed Product are revised by Publisher prior to a reorder of Units of Licensed Products, then Publisher must submit an additional *** to SCEA and a Designated Manufacturing Facility for approval prior to production. Such Printed Materials shall be required to comply with any Manufacturing Specifications established by SCEA for Printed Materials for Licensed Products, and SCEA shall have the right to disapprove any Printed Materials that do not comply with such Manufacturing Specifications. Such Manufacturing Specifications for Printed Materials shall be comparable to the manufacturing specifications applied by SCEA to its own software products for the Player. If Publisher elects to supply its own Printed Materials, neither SCEA nor a Designated Manufacturing Facility shall bear any responsibility for any delays.

7.1.3.2 Packaging. Publisher may either obtain Packaging from SCEA or from an alternate source. If Publisher elects to be responsible for manufacturing its own Packaging (other than any edge labels or other proprietary labels and any portion of the jewel case containing Licensed Trademarks, which Publisher will be required to purchase from SCEA or a Designated Manufacturing Facility), Publisher shall assume all responsibility for the creation of such Packaging, at Publisher's sole risk and expense. Publisher shall be responsible for encoding and printing edge labels provided by SCEA or a Designated Manufacturing Facility with information reasonably specified by SCEA from time to time and will apply such labels to each Unit of the Licensed Product as reasonably specified by SCEA. Publisher shall be required to supply SCEA with, *** samples of any Packaging not produced or supplied by SCEA or a Designated Manufacturing Facility, at no charge to SCEA or Designated Manufacturing Facility, prior to production for SCEA's approval with respect to the quality thereof . *** copies of such sample Packaging shall be

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

supplied to SCEA and *** shall be supplied to a Designated Manufacturing Facility. In the event that Packaging for any Licensed Product is changed in any way after SCEA and a Designated Manufacturing Facility have already approved such Packaging, then Publisher must resubmit an additional *** samples to SCEA and such Designated Manufacturing Facility for approval. Failure to submit or resubmit Packaging to SCEA and a Designated Manufacturing Facility shall constitute a material breach of this Agreement, and the provisions of Section 15.3 shall apply. Such Packaging shall be required to comply with any Manufacturing Specifications established by SCEA for Packaging for Licensed Products, and SCEA shall have the right to disapprove any Packaging that does not comply with such Manufacturing Specifications. Such Manufacturing Specifications for Packaging shall be comparable to the manufacturing specifications applied by SCEA to its own software products for the Player. If Publisher procures Packaging from an alternate source, then it must also procure assembly services from an alternate source; neither SCEA nor a Designated Manufacturing Facility shall be required to assemble such Licensed Product if Packaging is obtained from an alternate source. If Publisher elects to supply its own Packaging and assembly services, neither SCEA nor a Designated Manufacturing Facility shall bear any responsibility for any delays.

7.1.3.3 Assembly Services. Publisher may either procure assembly services from SCEA or from an alternate source. If Publisher elects to be responsible for assembling the Licensed Products, then SCEA shall ship the component parts of the Licensed Product to a destination provided by Publisher, at Publisher's sole risk and expense. Assembly of Licensed Products shall be required to comply with any Manufacturing Specifications established by SCEA for such assembly services, and SCEA shall have the right to inspect any assembly facilities utilized by Publisher in order to determine if the component parts of the Licensed Products are being assembled in accordance with the Manufacturing Specifications. SCEA shall have the right to require that Publisher recall any Licensed Products that do not contain proprietary labels or other material component parts or that otherwise fail to comply with the Manufacturing Specifications. If Publisher elects to assemble its own Licensed Products, neither SCEA nor a Designated Manufacturing Facility shall bear any responsibility for any delays or missing component parts. Failure to comply with Manufacturing Specifications regarding assembly services

shall constitute a material breach of this Agreement, and the provisions of Section 15.3 shall apply.

7.1.4 Manufacture of Units. Upon approval, pursuant to Section 5 and subject to Section 7.1.3, of such pre-production samples of the Executable Software and the associated Printed Materials, Packaging and assembly services, SCEA or a Designated Manufacturing Facility will, in accordance with the terms and conditions set forth in this Section 7, and at Publisher's expense (a) manufacture PlayStation Discs for Publisher; (b) manufacture Publisher's Packaging and/or Printed Materials; and/or (c) assemble the PlayStation Discs with the Printed Materials and the Packaging. SCEA reserves the right to insert, or to require Publisher to insert, certain Printed Materials relating to the Player or Licensed Trademarks into each Unit of Licensed Products.

7.2 Price, Payment and Terms.

7.2.1 Price. The applicable price for manufacture of any Units of the Licensed Products ordered hereunder shall be provided to Publisher in the Manufacturing Specifications prior to manufacture of the Licensed Products. Purchase price(s) shall be stated in United States dollars and are subject to change by SCEA at any time upon reasonable notice to Publisher; provided, however, that the applicable price shall not be changed with respect to any Units of Licensed Products which are the subject of an effective Purchase Order but which have not yet been delivered by SCEA to Publisher at the designated F.O.B. point. Prices for finished Units of Licensed Products are exclusive of any foreign or U.S. federal, state, or local sales or value-added tax, use, excise, customs duties or other similar taxes or duties, which SCEA may be required to collect or pay as a consequence of the sale or delivery of any Units of the Licensed Products to Publisher. Publisher shall be solely responsible for the payment or reimbursement of any such taxes, fees and other such charges or assessments applicable to the sale and/or purchase of any finished Units of any of the Licensed Products.

7.2.2 Orders. Publisher shall issue to SCEA written Purchase Order(s) in accordance with the Manufacturing Specifications. All Purchase Orders to SCEA shall reference this Agreement, give a Publisher authorization number, specify quantities by Licensed Product, state requested delivery date and all packaging information and be submitted on or with an order form to be provided in the Manufacturing Specifications. All Purchase Orders to SCEA shall be subject to acceptance by SCEA which shall not be unreasonably withheld or delayed. Purchase Orders issued by Publisher to SCEA for each of the Licensed Products approved by SCEA shall be non-cancelable and be for at least *** Units of such Licensed Product. In the event that SCEA or a Designated Manufacturing Facility manufactures the Printed Materials for the Publisher pursuant to Section 7.1.3 above, Publisher may, at Publisher's option, allow SCEA or such Designated Manufacturing Facility to manufacture an additional *** of such Printed Materials at Publisher's expense in anticipation of reorders. Publisher agrees that such Printed Materials will be stored by a Designated Manufacturing Facility for a period of no more than one hundred and eighty (180) days, after which time such Printed Materials will, at Publisher's option, either be returned to Publisher at Publisher's cost and expense or be destroyed. Such Designated Manufacturing Facility may also store a reasonable quantity of Printed Materials procured from an

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alternate source for up to one hundred and eighty (180) days, subject to a reasonable storage fee, after which time such Printed Materials will, at Publisher's option, either be returned to Publisher at Publisher's cost and expense or be destroyed. Publisher shall have no right to cancel or reschedule any Purchase Order (or any portion thereof) for any of the Licensed Products unless the parties shall first have determined the status of such Purchase Order in the manufacturing process and reached mutual agreement as to Publisher's financial liability with respect to any desired cancellation or rescheduling of any such Purchase Order (or any portion thereof).

7.2.3 Payment Terms. Purchase Orders will be invoiced on a pro forma basis (a pro forma invoice is issued in advance of the official invoice) as soon as reasonably practical after receipt of Purchase

Order and will include both manufacturing price and royalties payable pursuant to Section 9 hereto for each Unit of Licensed Products ordered. Each invoice will be payable either on a cash-in-advance basis or pursuant to a letter of credit. If the cash in advance option is selected, then upon issuance of a pro forma invoice to Publisher by SCEA, Publisher shall immediately forward to a Designated Manufacturing Facility the invoice amount. Such amount shall be payable in United States dollars and remitted by wire transfer to such bank account as shall be designated by SCEA or a Designated Manufacturing Facility for such purpose. Upon receipt of such amount by a Designated Manufacturing Facility, SCEA shall release the Publisher's Purchase Order to a Designated Manufacturing Facility for production. If the letter of credit option is selected, then at the time a Purchase Order is placed with SCEA, Publisher shall provide to SCEA an irrevocable letter of credit in favor of SCEA and payable at sight. The letter of credit must either be issued by a bank acceptable to SCEA or confirmed, at Publisher's expense, if so requested by SCEA. The letter of credit shall be in United States dollars in an amount equal to the manufacturing price determined pursuant to Section 7.2.1 and the royalty determined pursuant to Section 9 for each Unit of the Licensed Product ordered. All associated banking charges with respect to payments of manufacturing costs and royalties (including but not limited to the. costs of obtaining a letter of credit) shall be borne solely by Publisher. If permitted by SCEA, SCEA may at its sole discretion extend credit terms and limits to Publisher. SCEA may also at any time revoke such credit terms and limits as extended. If Publisher qualifies for such credit terms, then orders will be invoiced upon shipment and each invoice will be paid within thirty (30) days of the date of the invoice. ***. Publisher shall be additionally liable for all of SCEA's costs and expenses of collection, including, without limitation, reasonable fees for attorneys and court costs. No deduction may be made from remittances unless an approved credit memo has been issued by SCEA. No claim for credit due to shortage or breakage will be allowed unless it is made within seven (7) days after Publisher receives the Licensed Product, and SCEA assumes no responsibility for shortage or breakage if Packaging and assembly services are obtained from alternate sources. Each shipment of Licensed Products to Publisher shall constitute a separate sale to Publisher, whether said shipment be whole or partial fulfillment of any order. Notwithstanding the foregoing, nothing in this Section shall excuse or be construed as a waiver of Publisher's obligation to timely provide any and all payments owed to SCEA hereunder.

7.3 Delivery of Licensed Products. Neither SCEA nor any Designated Manufacturing Facility shall have an obligation to store completed Units of Licensed Products. Delivery of Licensed Products shall be in accordance with the Manufacturing Specifications, provided that Publisher may either specify the carrier to be used or allow SCEA or a Designated Manufacturing Facility to use the best way of getting the Licensed Products delivered. ***.

7.4 Technology Exchange and Quality Assurance. There will be no technology exchange between SCEA or any Designated Manufacturing Facility and Publisher under this Agreement. Due to the proprietary nature of the mastering process, SCEA or a Designated Manufacturing Facility will not under any circumstances release any original master CD-ROM, Master Discs or other in-process materials to the Publisher. All such physical master discs, stampers, etc. shall be and remain the sole property of SCEA or a Designated Manufacturing Facility. SCEA recognizes that the Intellectual Property Rights contained in Licensed Developer Software (separate and apart from any Sony Materials licensed to Publisher by SCEA hereunder) which is contained in physical master discs, stampers and other in-process materials is, as between SCEA and Publisher, the sole and exclusive property of Publisher or its licensors.

8. Marketing and Distribution.

8.1 Marketing Generally. In accordance with the provisions of this Agreement, at no expense to SCEA, Publisher shall, and shall direct its distributors to, diligently market, sell and distribute the Licensed Products, and shall use its commercially reasonable best efforts to stimulate demand for such Licensed Products in the Licensed Territory and to supply any resulting demand. Publisher shall use its reasonable best efforts to protect the Licensed Products from and against illegal reproduction and/or copying by end users or by any other persons or entities. Such methods of protection may include, without

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limitation, markings or insignia providing identification of authenticity and packaging seals.

8.2 Samples. Subject to availability, Publisher shall sell to SCEA quantities of the Licensed Products at as low a price and on terns as favorable as Publisher sells similar quantities of the Licensed Products to the general trade. In addition, Publisher shall provide to SCEA at no additional cost, for SCEA's internal use and general marketing purposes, sample copies of each Licensed Product, which shall not exceed *** Units of each Licensed Product. Publisher shall be obligated to pay the manufacturing costs to the Designated Manufacturing Facility in accordance with Section 7.2.1, but not the royalty charges in accordance with Section 9, in connection with such sample Units of Licensed Products. In the event that Publisher assembles any Licensed Product using an alternate source, Publisher shall be responsible for shipping such sample Units to SCEA at Publisher's cost and expense. SCEA shall not directly or indirectly resell any such sample Units of the Licensed Products without Publisher's prior written consent.

8.3 Marketing Programs of SCEA. From time to time, SCEA may invite Publisher to participate in promotional or advertising opportunities which may feature one or more Licensed Products from one or more Publishers. Participation shall be voluntary and subject to terms to be determined at the time of the opportunity. In the event Publisher elects to participate, all materials submitted by Publisher to SCEA shall be submitted subject to Section 11.2 hereunder and delivery to SCEA shall constitute acceptance by Publisher of the terms of the offer. Moreover, all materials, if featured with one or more software products of SCEA or Licensed Products of other Publishers, may be used by SCEA, unless otherwise agreed in writing, with the following generic Legal Copy line: "Game copyright and trademarks are the property of the respective publisher or their licensors" ("Generic Line").

8.4 Demonstration Disc Programs. SCEA may, from time to time, provide opportunities for Publisher to participate in SCEA Demo Disc programs by providing Product Information to SCEA. In addition, SCEA may, from time to time, grant to Publisher the right to create Third Party Demo Discs pursuant to SCEA Established Third Party Demo Disc Programs. The specifications with respect to the approval, creation, manufacture, marketing, distribution and sale of any such demo disc programs shall be set forth in the SourceBook or in other documentation to be provided by SCEA to Publisher when published. Except as otherwise specifically set forth herein, in the SourceBook or in other documentation provided by SCEA to Publisher, Third Party Demo Discs shall be considered "Licensed Products" and shall be subject in all respects to the terms and conditions of this Agreement. In addition, the following procedures shall also apply to SCEA Demo Discs and Third Party Demo Discs:

8.4.1 SCEA Demo Discs.

8.4.1.1 License. If Publisher wishes to participate in an SCEA Demo Disc program and provides Product Information to SCEA in connection thereto, Publisher shall thereby grant to SCEA a royalty-free license during the term of this Agreement in the Licensed Territory to manufacture, use, sell, distribute, market, advertise and otherwise promote Publisher's Product Information as part of such SCEA Demo Disc program. In addition, Publisher shall grant SCEA the right to feature Publisher and Licensed Product names in advertisements and promotional materials (including but not limited to in-store displays) and to make, copy, and distribute in packaging, advertising and promotional materials, copies of screen displays generated by the code, representative video samples or other Product Information provided to SCEA for use in such SCEA Demo Disc. Publisher agrees that all decisions relating to the selection of first and third party Product Information, marketing, advertisement, promotion, distribution or sale of the SCEA Demo Discs as a whole, including but not limited to SCEA Demo Discs title, trade name, logo and/or other identification, sales presentation, or retail and wholesale prices, shall be in the sole discretion of SCEA.

8.4.1.2 Submission and Approval of Product Information. Upon receipt of a letter or other correspondence, the form of which is attached hereto as Exhibit D, notifying Publisher that SCEA has tentatively chosen Publisher's Product Information for inclusion in an SCEA Demo Disc, Publisher shall deliver to SCEA such requested Product Information no later than the deadline set forth in such letter or other correspondence. A separate letter will be sent for each SCEA Demo Disc, and Publisher must sign each letter prior to inclusion in such SCEA Demo Disc. Any Product Information provided by Publisher shall include Legal Copy on the title screen or elsewhere in the Product Information submitted to SCEA. The only Legal Copy provided by SCEA shall be the Generic Line as provided in Section 8.3 above, which shall appear on the SCEA Demo Disc title screen and packaging. Publisher acknowledges that SCEA shall have no responsibility to

provide any Legal Copy beyond the Generic Line. Such Product Information shall comply with technical specifications provided to Publisher by SCEA. SCEA reserves the right to review and test the Product Information provided and request revisions prior to inclusion on the SCEA Demo Disc. In the event that SCEA requests changes to the Product Information and Publisher elects to continue to participate in such Demo Disc, Publisher shall make such changes as soon as possible after receipt of written notice of such requested changes from SCEA, but not later than the deadline for receipt of Product Information. Failure to make such changes and provide the modified Product Information to SCEA in accordance with such deadline shall result in the Product Information being removed from consideration for the SCEA Demo Disc. Costs associated with preparation of Product Information for inclusion in the SCEA Demo Disc shall be borne by Publisher. Except as otherwise provided in this Section, SCEA shall not edit or modify Product Information provided to SCEA by Publisher without Publisher's

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consent, not to be unreasonably withheld. SCEA shall have the right to use subcontractors to assist in the creation or development of any SCEA Demo Disc.

8.4.1.3 No Obligation to Publish. Acceptance of Product Information for test and review shall not be deemed confirmation that SCEA shall include the Product Information on an SCEA Demo Disc. SCEA reserves the right to choose from products submitted from other Licensed Publishers and first party products to determine the products to be included in SCEA Demo Discs, and will not guarantee to Publisher Licensed Product prominence with regards to screen shots or title treatment on the packaging or in SCEA Demo Discs. Nothing herein shall be construed as creating an obligation of SCEA to publish Product Information submitted by Publisher in any SCEA Demo Disc, nor shall SCEA be obligated to publish, advertise or promote any SCEA Demo Disc.

8.4.1.4 Retail Sampler Discs. Publisher is aware and acknowledges that the Retail Sampler Disc will be distributed and sold by SCEA in the retail market. If Publisher elects to participate in any Retail Sampler Disc program, Publisher acknowledges that it is aware of no limitations regarding any Licensed Product or any portion thereof provided to SCEA pursuant to the terms of this Agreement which would in any way restrict SCEA's ability to distribute or sell the Retail Sampler Disc at retail, nor does Publisher or its licensors have any anticipation of receiving any compensation from such retail sales. In the event that SCEA institutes a SCEA Demo Disc in which a fee and/or royalty is charged to Publisher, SCEA and Publisher will enter into a separate agreement for such SCEA Demo Disc.

8.4.2 Third Party Demo Discs.

8.4.2.1 License. If Publisher wishes to participate in a Third Party Demo Disc program by notifying SCEA of its intention thereto, SCEA shall grant to Publisher the right and license to use Licensed Products in Third Party Demo Discs and to use, distribute, market, advertise and otherwise promote (and, if permitted in accordance with the terms of any SCEA Established Third Party Program or otherwise permitted by SCEA, to sell) such Third Party Demo Discs in accordance with the specifications provided separately to Publisher by SCEA, which may be modified from time to time by SCEA. In addition, SCEA hereby consents to the use of the Licensed Trademarks in connection with Third Party Demo Discs, provided that SCEA's approval must be obtained prior to any use in accordance with the terms of Section 8.4.2.2 hereto. If any SCEA Established Third Party Demo Disc Program is specified by SCEA to be for promotional use only and not for resale, and such Third Party Demo Disc is subsequently discovered to be for sale, the right to produce Third Party Demo Discs under such SCEA Established Third Party Demo Disc Program shall thereupon be revoked, and SCEA shall have the right to terminate any related Third Party Demo Discs in accordance with the terms of Section 15.3 hereto.

8.4.2.2 Submission and Approval of Third Party Demo Discs. Publisher shall deliver to SCEA, for SCEA's prior approval, a final version of each Third Party Demo Disc in a format prescribed by SCEA. Such Third Party Demo Disc shall comply with technical specifications and any other requirements provided to Publisher by SCEA in the SourceBook or otherwise. In addition, SCEA shall evaluate the Third

Party Demo Disc in accordance with the approval provisions for Executable Software and Printed Materials set forth in Sections 5.4 and 5.6, respectively. Furthermore, Publisher shall obtain the approval of SCEA in connection with any Advertising Materials relating to the Third Party Demo Discs in accordance with the approval provisions set forth in Section 5.7. Costs associated with preparation of product code for inclusion on Third Party Demo Discs shall be borne by Publisher. With respect to the Trade Promotional Disc Program, Publisher acknowledges that Product Information provided in connection with such program is in beta form and is not final approved code, nor should Publisher assume that final approval for mass production has been given at the time of manufacture. Publisher agrees to use the generic packaging and printed materials pursuant to the Trade Promotional Disc Program and the Consumer Promotional Disc Program to clearly and conspicuously state that the Trade Promotional Disc Program and the Consumer Promotional Disc Program are for promotional purposes only and not for resale.

8.4.2.3 Manufacture and Royalty of Third Party Demo Discs. Publisher shall comply with any Manufacturing Specifications provided separately by SCEA to Publisher with respect to the manufacture and payment for the costs of manufacture of Third Party Demo Discs, and Publisher shall also comply with all terms and conditions of Section 7 hereto. No costs incurred in the development, manufacture, licensing, production, marketing and/or distribution (and if permitted by SCEA, sale) of the Third Party Demo Disc shall be deducted from any amounts payable to SCEA hereunder. Royalties on Third Party Demo Discs shall be as provided in Exhibit A.

8.5 Contests and Sweepstakes of Publisher. SCEA acknowledges that, from time to time, Publisher may conduct contests and sweepstakes to promote Licensed Products. SCEA agrees to permit Publisher to include contest and sweepstakes materials in Printed Materials and Advertising Materials, subject to compliance with the approval provisions of Section 5.6 and 5.7 hereunder, compliance with the provisions of Section 10.2 and 11.2 hereunder, and subject to the following additional terms and conditions: (i) Publisher represents that it has retained the services of a fulfillment house to administer the contest or sweepstakes and if it has not retained the services of a fulfillment house, Publisher represents and warrants that it has the expertise to conduct such contests or sweepstakes, and in any event, Publisher assumes full responsibility for

such contest or sweepstakes; (ii) Publisher represents and warrants that it has obtained the consent of all holders of intellectual property rights required to be obtained in connection with the contest or sweepstakes including, but not limited to, the consent of any holder of copyrights or trademarks relating to any advertisement or any promotional materials publicizing the contest or sweepstakes, or the prizes being awarded to winners of the contest or sweepstakes; and (iii) Publisher shall make available to SCEA all contest and sweepstakes material prior to publication in accordance with the approval process set forth in Section 5.6 or 5.7. Approval by SCEA of contest or sweepstakes materials for use in the Printed Materials or Advertising Materials (or any use of the Player or Licensed Products as prizes in such contest or sweepstakes) shall not constitute an endorsement by SCEA of such contest or sweepstakes, nor shall such acceptance be construed as SCEA having reviewed and approved such materials for compliance with any federal or state law, statute, regulations, order or the like, which shall be Publisher's sole responsibility.

8.6 Distribution Channels. Publisher may use such distribution channels as Publisher deems appropriate, including the use of third party distributors, resellers, dealers and sales representatives. In the event that Publisher elects to have one of its Licensed Products distributed and sold by another Licensed Publisher, Publisher must provide SCEA with written notice of such election, the name of the Licensed Publisher and any additional information requested by SCEA regarding the nature of the distribution services provided by such Licensed Publisher prior to manufacture of any Units of such Licensed Product.

8.7 Limitations on Distribution. Notwithstanding any other provisions in this Agreement, Publisher shall not, directly or indirectly, solicit orders from and/or sell any Units of the Licensed Products to any person or entity outside of the Licensed Territory, and Publisher further agrees that it shall not directly or indirectly solicit orders for and/or sell any Units of the Licensed Products in any situation where Publisher knows or reasonably should know that such Licensed Products may be exported or resold outside of the Licensed Territory.

8.8 PlayStation Website. All Licensed Publishers shall be required to provide Product Information for a web page for each of its Licensed Products for display on the PlayStation promotional website, or other website or websites as

may be operated by SCEA from time to time in connection with the promotion of the PlayStation brand. Specifications for Product Information for such web pages shall be as provided in the SourceBook. Publisher shall provide SCEA with such Product Information for each Licensed Product upon submission of Printed Materials to SCEA for approval in accordance with Section 5.6 hereto. Publisher shall also provide updates to such web page in a timely manner as required by SCEA in updates to the SourceBook. In addition, Publisher shall use its best efforts to provide Product Information for web pages for Publisher's Licensed Products released from the launch of the Player to the date of execution hereof within sixty (60) days of either execution of this Agreement or receipt of specifications provided separately by SCEA for the integration of such web page, whichever occurs later. In the event that Publisher is unable to provide Product Information for previously released Licensed Products within the time frame set forth above, then SCEA may create Product Information relating to such previously released Licensed Products and provide it to Publisher for approval. Failure of Publisher to approve such web pages within ten (10) days after receipt thereof will be deemed approval.

9. Royalties.

Publisher shall pay SCEA a per Unit royalty in United States dollars, as set forth on Exhibit A hereto, for each Unit of the Licensed Products manufactured. Royalties may be subject to change in SCEA's discretion upon sixty (60) days notice to Publisher. Upon receipt of such notice, Publisher shall have the option to terminate this Agreement upon written notice to SCEA rather than having such revised royalty structure go into effect. Payment of such royalties shall be made to SCEA in conjunction with the payment to SCEA's Designated Manufacturing Facility of the manufacturing costs for each Unit and pursuant to the payment terms of Section 7.2.3 hereto. No costs incurred in the development, manufacture, marketing, sale and/or distribution of the Licensed Products shall be deducted from any royalties payable to SCEA hereunder. Similarly, there shall be no deduction from the royalties otherwise owed to SCEA hereunder as a result of any uncollectible accounts owed to Publisher, or for any credits, discounts, allowances or returns which Publisher may credit or otherwise grant to any third party customer of any Units of the Licensed Products, or for any taxes, fees, assessments or expenses of any kind which may be incurred by Publisher in connection with its sale and/or distribution of any Units of the Licensed Products and/or arising with respect to the payment of royalties hereunder. In addition to the royalty payments provided to SCEA hereunder, Publisher shall be solely responsible for and bear any cost relating to any withholding taxes and/or other such assessments which may be imposed by any governmental authority with respect to the royalties paid to SCEA hereunder; provided, however, that SCEA shall not manufacture Licensed Products outside of the United States without the prior consent of Publisher. Publisher shall provide SCEA with official tax receipts or other such documentary evidence issued by the applicable tax authorities sufficient to substantiate that any such taxes and/or assessments have in fact been paid.

10. Representations and Warranties.

10.1 Representations and Warranties of SCEA. SCEA represents and warrants solely for the benefit of Publisher that SCEA has the right, power and authority to

enter into this Agreement and to fully perform its obligations hereunder.

10.2 Representations and Warranties of Publisher. Publisher represents and warrants that:

(i) There is no threatened or pending action, suit, claim or proceeding alleging that the use by Publisher of all or any part of the Licensed Developer Software, Product Proposals, Product Information, Printed Materials, Advertising Materials or any underlying work or content embodied therein, or any name, designation or trademark used in conjunction with the Licensed Products infringes or otherwise violates any Intellectual Property Right or other right or interest of any kind whatsoever of any third party, or otherwise contesting any right, title or interest of Publisher in or to the Licensed Developer Software or any underlying work or content embodied therein, or any name, designation or trademark used in conjunction with the Licensed Products;

(ii) The Licensed Developer Software, Product Proposals, Product Information, Printed Materials and Advertising Materials and their contemplated use under this Agreement does not and shall not infringe any person's or entity's rights including without limitation, patents, copyrights including rights in a joint work, trademarks, trade dress, trade secret, rights of publicity, privacy, performance, moral. rights, literary rights and any other third party right;

(iii) Publisher has the right, power and authority to enter into this Agreement, to grant SCEA the rights granted hereunder and to fully perform its obligations hereunder;

(iv) The making of this Agreement by Publisher does not violate any separate agreement, rights or obligations existing between Publisher and any other person or entity, and, throughout the term of this Agreement, Publisher shall not make any separate agreement with any person or entity that is inconsistent with any of the provisions of this Agreement;

(v) Publisher has not sold, assigned, leased, licensed or in any other way disposed of or encumbered the rights granted to Publisher hereunder, and Publisher will not sell, assign, lease, license or in any other way dispose of or encumber any of such rights;

(vi) Publisher has obtained the consent of all holders of intellectual property rights required to be obtained in connection with use of any Product Information by SCEA as licensed hereunder, and Product Information provided to SCEA may be published, marketed, distributed and sold by SCEA in accordance with the terms and conditions of this Agreement and without SCEA incurring any royalty, residual, union, guild or other fees;

(vii) Publisher shall not make any representation or give any warranty to any person or entity expressly or implicitly on SCEA's behalf, or to the effect that the Licensed Products are connected in any way with SCEA (other than that the Licensed Products have been developed, marketed, sold and/or distributed under license from SCEA);

(viii) The Executable Software shall be distributed by Publisher solely in object code form;

(ix) The Executable Software and any Product Information delivered to SCEA shall be in a commercially acceptable form, free of significant bugs, defects, time bombs or viruses, such that use of the software or Player would be disrupted, delayed, destroyed or rendered less than fully useful, and shall be fully compatible with the Player and any peripherals listed on the Printed Materials as compatible with the Licensed Product;

(x) Each of the Licensed Products, Executable Software, Printed Materials and Advertising Materials shall be developed, marketed, sold and distributed by or at the direction of Publisher in an ethical manner and in full compliance with all applicable federal, state, provincial, local and foreign laws and any regulations and standards promulgated thereunder (including but not limited to federal and state lottery laws as currently interpreted and enforced) and will not contain any obscene or defamatory matter,

(xi) Publisher's policies and practices with respect to the marketing, sale, and/or distribution of the Licensed Products shall in no manner reflect adversely upon the name, reputation or goodwill of SCEA; and

(xii) Publisher shall make no false, misleading or inconsistent representations or claims with respect to any Licensed Products, the Player or SCEA.

11. Indemnities; Limited Liability.

11.1 Indemnification by SCEA. SCEA shall indemnify and hold Publisher harmless from and against any and all third party claims, losses, liabilities, damages, expenses and costs, including, without limitation, reasonable fees for attorneys, expert witnesses and litigation costs, and including costs incurred in the settlement or avoidance of any such claim which result from or are in connection with a breach of any of the representations or warranties provided by SCEA herein; provided, however, that Publisher shall give prompt written notice to SCEA of the assertion of any such claim, and provided, further, that SCEA shall have the right to select counsel and control the defense and/or settlement thereof, subject to the right of Publisher to participate in any such action or proceeding at its own expense with counsel of its own choosing. SCEA shall have the exclusive right, at its discretion, to commence and prosecute at its own expense any lawsuit or to take such other action with respect to such matters as shall be deemed appropriate by SCEA. Publisher agrees to provide SCEA, at no expense to

Publisher, reasonable assistance and cooperation concerning any such matter; and Publisher shall not agree to the settlement of any such claim, action or proceeding without SCEA's prior written consent.

11.2 Indemnification by Publisher. Publisher shall indemnify and hold SCEA harmless from and against any and all third party claims, losses, liabilities,

damages, expenses and costs, including, without limitation, reasonable fees for attorneys, expert witnesses and litigation costs, and including costs incurred in the settlement or avoidance of any such claim, which result from or are in connection with (i) a breach of any of the representations or warranties provided by Publisher herein, including without limitation claims resulting from Publisher's failure to timely pay any withholding taxes or other assessments as set forth in Section 9 hereto, any breach of Publisher's confidentiality obligations as set forth in Section 14 hereto or any breach of any representations, warranties or covenants relating to contests or sweepstakes as set forth in Sections 8.5 and 10.2 hereto; or (ii) any claim of infringement or alleged infringement of any third party's Intellectual Property Rights with respect to the Licensed Developer Software or any Product Information of Publisher; or (iii) any claims of or in connection with any personal or bodily injury (including death) or property damage, by whomsoever such claim is made, arising out of, in whole or in part, the marketing, sale, distribution and/or use of any of the Licensed Products (including but not limited to any damages or personal injury resulting from the awarding or failure to award contest or sweepstakes prizes), unless due directly to the breach of SCEA in performing any of the specific duties and/or providing any of the specific services required of it hereunder, or (iv) any federal, state or foreign civil or criminal actions relating to the marketing, sale and/or distribution of Licensed Products; provided, however, that SCEA shall give prompt written notice to Publisher of the assertion of any such claim, and provided, further, that Publisher shall have the right to select counsel and control the defense and/or settlement thereof, subject to the right of SCEA to participate in any such action or proceeding at its own expense with counsel of its own choosing. Publisher shall have the exclusive right, at its discretion, to commence and/or prosecute at its own expense any lawsuit or to take such other action with respect to such matter as shall be deemed appropriate by Publisher. SCEA shall retain the right to approve any settlement. SCEA shall provide Publisher, at no expense to SCEA, reasonable assistance and cooperation concerning any such matter; and SCEA shall not agree to the settlement of any such claim, action or proceeding without Publisher's prior written consent.

11.3 Limitation of Liability.

11.3.1 Limitation of SCEA's Liability. IN NO EVENT SHALL SCEA OR ITS AFFILIATES OR OTHER COMPANIES AFFILIATED WITH SCEA AND ITS AFFILIATES, SUPPLIERS, OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE FOR PROSPECTIVE PROFITS, OR ANY SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE BREACH OF THIS AGREEMENT BY SCEA, THE MANUFACTURE OF THE LICENSED PRODUCTS AND THE USE OF THE LICENSED PRODUCTS, EXECUTABLE SOFTWARE AND/OR THE PLAYER BY PUBLISHER OR ANY END-USER, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, PRODUCT LIABILITY OR OTHERWISE. IT IS THE RESPONSIBILITY OF PUBLISHER TO REVIEW THE ACCURACY OF THE DATA ON THE UNITS MANUFACTURED BY SCEA FOR PUBLISHER. IN NO EVENT SHALL SCEA'S LIABILITY ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR DIRECT DAMAGES, AND INCLUDING WITHOUT LIMITATION ANY LIABILITY UNDER SECTION 11.1 AND ANY WARRANTY IN SECTION 11.4 HERETO, EXCEED ***. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER SCEA NOR ANY AFFILIATE, NOR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, SHALL BEAR ANY RISK, OR HAVE ANY RESPONSIBILITY OR LIABILITY, OF ANY KIND TO PUBLISHER OR TO ANY THIRD PARTIES WITH RESPECT TO THE QUALITY, OPERATION AND/OR PERFORMANCE OF ANY PORTION OF THE SONY MATERIALS, THE PLAYER OR ANY LICENSED PRODUCT.

11.3.2 Limitation of Publisher's Liability. IN NO EVENT SHALL PUBLISHER OR COMPANIES AFFILIATED WITH PUBLISHER, SUPPLIERS, OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO SCEA FOR ANY PROSPECTIVE PROFITS, OR SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH (i) THIS AGREEMENT OR (ii) THE USE OR DISTRIBUTION IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT OF ANY CODE PROVIDED BY SCEA, IN WHOLE OR IN PART, OR ANY LICENSED DEVELOPER SOFTWARE BY PUBLISHER OR ANY THIRD PARTY, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, PRODUCT LIABILITY OR OTHERWISE, PROVIDED THAT PUBLISHER EXPRESSLY AGREES THAT SUCH LIMITATIONS SHALL NOT APPLY TO DAMAGES RESULTING FROM PUBLISHER'S BREACH OF SECTIONS 2, 4, 11.2, 12.2 OR 14 OF THIS AGREEMENT, AND PROVIDED FURTHER THAT SUCH LIMITATIONS SHALL NOT APPLY TO AMOUNTS WHICH PUBLISHER MAY BE REQUIRED TO PAY TO THIRD PARTIES UNDER SECTIONS 11.2 OR 17.9.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

11.4 Warranties; Disclaimer of Warranties.

11.4.1 Manufacturing Warranty. SCEA warrants that the Units or any

component parts thereto that are manufactured by SCEA or a Designated Manufacturing Facility for Publisher shall, at time of delivery to Publisher, be free from defects in material and workmanship. The sole obligation of SCEA and a Designated Manufacturing Facility under this warranty shall be, for a period of one year from the date of shipment of Units of Licensed Products or component parts thereto to Publisher, at SCEA's election, either to replace the defective Units or component parts or to issue credit to Publisher for the purchase price and any royalties paid to SCEA and/or a Designated Manufacturing Facility for any such defective Units or component parts. Such warranty is the only warranty applicable to the Licensed Product manufactured by a Designated Manufacturing Facility for Publisher pursuant to Section 7 of this Agreement. This warranty shall not apply to damage resulting from accident, alteration, negligence, normal wear and tear, willful damage, abnormal conditions of use, failure to follow directions for use (whether given in instruction manuals or otherwise) or misuse of the Licensed Products, or to damage to or defects in any materials provided by Publisher to SCEA or a Designated Manufacturing Facility. If, during the aforesaid period, a defective Unit is received by Publisher, Publisher shall notify SCEA within the warranty period set forth above and, upon request by SCEA, provide SCEA with the returned Unit(s) or component part(s) and a written description of the defect claimed or, if requested by SCEA in its sole discretion, Publisher shall destroy any such defective discs. SCEA and any Designated Manufacturing Facility shall not accept the return of any Unit(s) or component part(s) except factory defective Unit(s) or component part(s) (i.e., those Units or component parts that are not free from defects in material and/or workmanship), and all such returns must be authorized by SCEA in writing and in advance. All Units or component parts which are returned in accordance with this Section 11.4.1 will be sent to a place designated by SCEA at SCEA's expense. If the defect did not arise from causes placing liability on SCEA or a Designated Manufacturing Facility under the above warranty, Publisher shall reimburse SCEA and any Designated Manufacturing Facility for expenses incurred in shipping, processing and analyzing the Units or component parts. SCEA's and any Designated Manufacturing Facility's reasonable judgment as to the origin of the defect shall be final and binding. Notwithstanding the foregoing, nothing herein shall be construed by Publisher to extend or create any stated limited warranty to consumers beyond the terms of such warranty. NOTWITHSTANDING THE FOREGOING, ANY COMPONENT PARTS OF LICENSED PRODUCTS NOT MANUFACTURED BY SCEA OR A DESIGNATED MANUFACTURING FACILITY ARE NOT UNDER WARRANTY HEREUNDER.

11.4.2 Disclaimer of Warranty. ***

12. Copyright, Trademark and Trade Secret Rights.

2.1 Publisher Rights. The Licensed Developer Software and all Product Information, Product Proposals, Printed Materials and Advertising Materials related thereto (exclusive of the rights licensed from SCEA hereunder) and the Intellectual Property Rights therein and any names or other designations used as titles for the Licensed Products and any other trademarks used by Publisher and/or its affiliates are and shall be the exclusive property of Publisher or of any third party from which Publisher has been granted, or to whom Publisher has granted, the license and related rights to develop and otherwise exploit any such Licensed Developer Software and related materials or any such names or other designations. SCEA shall not do or cause to be done any act or thing in any way impairing or tending to impair or dilute any of Publisher's rights, title and/or interests in or to Publisher's Intellectual Property Rights.

12.2 SCEA Rights.

12.2.1 Licensed Trademarks. The Licensed Trademarks and the goodwill associated therewith are and shall be the exclusive property of SCEA or Affiliates of SCEA. Nothing herein shall give Publisher any right, title or interest in or to any of the Licensed Trademarks, other than the non-exclusive license and privilege during the term hereof to display and use the Licensed Trademarks solely in accordance with the provisions of this Agreement. Publisher shall not do or

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

cause to be done any act or thing in any way impairing or tending to impair or dilute any of SCEA's rights, title and/or interests in or to any of the Licensed Trademarks, nor shall Publisher register any trademark in its own name or in the name of any other person or entity, or obtain rights to employ Internet domain names or addresses, which are similar to or are likely to be confused with any of the Licensed Trademarks.

12.2.2 License of Sony Materials and Player. All rights with respect to the Sony Materials and Player, including, without limitation, all of SCEA's Intellectual Property Rights therein, are and shall be the exclusive property of SCEA or Affiliates of SCEA. Nothing herein shall give Publisher any right, title or interest in or to the Sony Materials or the Player (or any portion thereof), other than the non-exclusive license during the term hereof to use the Sony Materials and Player for the manufacturing, marketing, distribution and sale of the Licensed Products solely in accordance with the provisions of this Agreement. Publisher shall not do or cause to be done any act or thing in any way impairing or tending to impair any of SCEA's rights, title and/or interests in or to the Sony Materials or the Player (or any portion thereof).

13. Infringement of Intellectual Property Rights By Third Parties.

In the event that either Publisher or SCEA discovers or otherwise becomes aware that any of the Intellectual Property Rights of the other have been or are being infringed upon by any third party, then the party with knowledge of such infringement or apparent infringement shall promptly notify the other party. SCEA shall have the sole right, in its discretion, to institute and prosecute lawsuits against Third Parties for such infringement of SCEA's Intellectual Property Rights. Publisher shall have the right, in its discretion, to institute and prosecute lawsuits against third persons for such infringement of Publisher's Intellectual Property Rights which are distinct from SCEA's Intellectual Property Rights. If Publisher does not institute an infringement suit within thirty (30) days after SCEA's written request that it do so, SCEA may institute and prosecute such lawsuit. Any lawsuit shall be prosecuted solely at the cost and expense of the party bringing suit and all sums recovered in any such lawsuits, whether by judgment, settlement or otherwise, in excess of the amount of reasonable attorneys' fees and other out of pocket expenses of such suit, shall belong solely to the' party bringing the suit. Upon request of the party bringing the lawsuit, the other party shall execute all papers, testify on all matters and otherwise cooperate in every way necessary and desirable for the prosecution of any such lawsuit. The party bringing suit shall reimburse the other party for the reasonable expenses incurred as a result of such cooperation, but unless authorized by other provisions of this Agreement, not costs and expenses attributable to the conduct of a cross-claim or third party action.

14. Confidentiality.

14.1 Prior Nondisclosure Agreement. Publisher hereby reaffirms and ratifies the Nondisclosure Agreement dated February 11, 1994 between SCEA and Publisher ("Nondisclosure Agreement") which, as amended by Section 14.2 below, will remain in full force and effect with respect to the Confidential Information of SCEA throughout the term of this Agreement.

14.2 Additional Requirements Regarding Confidential Information of SCEA.

14.2.1 Confidential Information of SCEA. "Confidential Information" of SCEA (as defined in the Nondisclosure Agreement and amended hereby) shall also include (i) the Sony Materials and information regarding SCEA's finances, business, marketing and technical plans, (ii) all documentation and information relating to the foregoing (other than documentation and information expressly intended for use by and released to end users or the general public), (iii) any and all other information, of whatever type and in whatever medium (including without limitation all data, ideas, discoveries, developments, know-how, trade secrets, inventions, creations and improvements), that is disclosed in writing or in any other form by SCEA to Publisher, and (iv) this Agreement and the terms and conditions thereof. If at any time Publisher becomes aware of any unauthorized duplication, access, use, possession or knowledge of any Confidential Information of SCEA, it shall notify SCEA as soon as reasonably practicable, and shall promptly act to recover any such information and/or prevent further breach of the confidentiality obligations herein. Publisher shall take all reasonable steps requested by SCEA to prevent the recurrence of any unauthorized duplication, access, use, possession or knowledge of the Confidential Information of SCEA.

14.2.2 Confidentiality of Agreement. As provided above, the terms and conditions of this Agreement shall be treated as Confidential Information of SCEA; provided that each party may disclose the terms and conditions of this Agreement: (i) to legal counsel; (ii) in confidence, to accountants, banks and financing sources and their advisors; and (iii) in confidence, in connection with the enforcement of this Agreement or rights under this Agreement; and (iv) if Publisher shall be required, in the opinion of counsel, to file publicly or otherwise disclose the terms of this Agreement under applicable federal and/or state securities laws, Publisher shall be required to promptly notify SCEA such that SCEA has a reasonable opportunity to contest or limit the scope of such required disclosure, and

Publisher shall request, and shall use its best efforts to obtain, confidential treatment for such sections of this Agreement as SCEA may designate. Any failure to notify SCEA under clause (iv) of this Section 14.2.2 shall be deemed a material breach of this Agreement. Unless otherwise permitted by SCEA, both parties shall treat the fact that they have entered into this

Agreement as Confidential Information of the other party until a public announcement regarding the execution of this Agreement is released by SCEA, at its sole discretion, announcing that Publisher has become a licensee of SCEA.

14.3 Requirements Regarding Confidential Information of Publisher.

14.3.1 Confidential Information of Publisher. "Confidential Information of Publisher" shall mean (i) the Licensed Developer Software as provided to SCEA pursuant to this Agreement and all documentation and information relating thereto, including Product Proposals, Printed Materials and Advertising Materials (other than documentation and information expressly intended for use by and release to end users, the general public or the trade), and (ii) information relating to Publishers' or its affiliates' or licensors' finances, business, marketing and technical plans, that is disclosed in writing or in any other form by Publisher to SCEA.

14.3.2 Preservation of Confidential Information of Publisher. SCEA shall hold all Confidential Information of Publisher in confidence, and shall take all reasonable steps necessary to preserve the confidentiality of the Confidential Information of Publisher, and to prevent it from falling into the public domain or into the possession of persons other than those persons to whom disclosure is authorized hereunder, including but not limited to those steps that SCEA takes to protect the confidentiality of its own most highly confidential information. Except as may be expressly authorized by Publisher in writing, SCEA shall not at any time, either before or after any termination of this Agreement, directly or indirectly: (i) disclose any Confidential Information to any person other than an SCEA employee or subcontractor who needs to know or have access to such Confidential Information for the purposes of this Agreement, and only to the extent necessary for such purposes; (ii) except as otherwise provided in this Agreement, duplicate the Confidential Information of Publisher for any purpose whatsoever; (iii) use the Confidential Information for any reason or purpose other than as expressly permitted in this Agreement; or (iv) except as otherwise provided in Section 8.3, remove any copyright notice, trademark notice and/or other proprietary legend set forth on or contained within any of the Confidential Information of Publisher.

14.3.3 Obligations Upon Unauthorized Disclosure. If at any time SCEA becomes aware of any unauthorized duplication, access, use, possession or knowledge of any Confidential Information of Publisher, it shall notify the Publisher as soon as is reasonably practicable. SCEA shall provide any and all reasonable assistance to Publisher to protect Publisher's proprietary rights in any Confidential Information of Publisher that it or its employees or permitted subcontractors may have directly or indirectly disclosed or made available and that may be duplicated, accessed, used, possessed or known in a manner or for a purpose not expressly authorized by this Agreement including but not limited to enforcement of confidentiality agreements, commencement and prosecution in good faith (alone or with the disclosing party) of legal action, and reimbursement for all reasonable attorneys' fees, costs and expenses incurred by Publisher to protect its proprietary rights in the Confidential Information of Publisher. SCEA shall take all reasonable steps requested by Publisher to prevent the recurrence of any unauthorized duplication, access, use, possession or knowledge of the Confidential Information of Publisher.

14.3.4 Exceptions. The foregoing restrictions will not apply to information that could be deemed to be Confidential Information of Publisher to the extent that such information: (i) was known to SCEA at the time of disclosure to it; (ii) becomes part of information in the public domain through no fault of SCEA; (iii) has been rightfully received from a third party authorized by Publisher to make such disclosure without restriction; (iv) has been approved for release by prior written authorization of Publisher; or (v) has been disclosed by court order or as otherwise required by law (including without limitation to the extent that disclosure may be required under Federal or state securities laws), provided that SCEA has notified the disclosing party immediately upon learning of the possibility of any such court order or legal requirement and has given Publisher a reasonable opportunity to contest or limit the scope of such required disclosure.

15. Term and Termination.

15.1 Effective Date; Term. This Agreement shall not be binding upon the parties until it has been signed by or on behalf of each party, in which event it shall be effective as of the date first written above (the "Effective Date"). Unless sooner terminated in accordance with the provisions hereof, the term of this Agreement shall be for four (4) years from the Effective Date. Any Licensed Products approved by SCEA or otherwise qualified to proceed with development under the Original License Agreement shall, upon full execution of this LPA by Publisher and SCEA, be considered Licensed Products under this LPA, and the terms and conditions of this LPA shall apply to such Licensed Products as if they were licensed hereunder.

15.2 Termination by SCEA. SCEA shall have the right to terminate this Agreement immediately, by providing written notice of such election to Publisher, upon the occurrence of any of the following events or circumstances:

(i) If Publisher breaches (A) any of its material obligations provided for in this Agreement (including but not limited to Publisher's failure to pay any amounts due hereunder), which materiality shall be determined by SCEA in its sole discretion; (B) some of its obligations provided for in this Agreement, the combined effect of which has a material effect hereunder or (C) any other agreement

entered into between SCEA or Affiliates of SCEA and Publisher. In the event of each such breach, Publisher shall have an opportunity to correct or cure such breach within thirty (30) days after receipt of written notice of such breach by SCEA, provided that, if after such thirty (30) day period, such breach is not corrected or cured to SCEA's satisfaction, this Agreement shall be terminated.

(ii) Publisher's statement that it is unable to pay any amount due hereunder, or is unable to pay its debts generally as they shall become due.

(iii) Publisher's filing of an application for, or consenting to, or directing the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of all or substantially all of Publisher's property, whether tangible or intangible, wherever located.

(iv) The making by Publisher of a general assignment for the benefit of creditors.

(v) The commencing by Publisher or Publisher's intention to commence a voluntary case under any applicable bankruptcy laws (as now or hereafter may be in effect).

(vi) Publisher is bankrupt or insolvent.

(vii) The filing by Publisher or the intent to file by Publisher of a petition seeking to take advantage of any other law providing for the relief of debtors.

(viii) Publisher's acquiescence to, intention to acquiesce to, or failure to have dismissed within ninety (90) days, any petition filed against it in any involuntary case under any such bankruptcy law.

(ix) The liquidation or dissolution of Publisher, or a statement of intent by Publisher to no longer exercise any of the rights granted by SCEA to Publisher hereunder.

(x) If during the term of this Agreement a controlling interest in Publisher or a controlling interest in an entity which has, directly or indirectly, a controlling interest in Publisher is transferred to a party that (A) is in breach of any agreement with SCEA or an Affiliate of SCEA, and such agreement has been terminated as a result of such breach; (B) directly or indirectly holds or acquires an interest in a third party which develops any interactive hardware device or product which is directly or indirectly competitive with the Player (C) is in litigation with SCEA or Affiliates of SCEA concerning any proprietary technology, trade secrets or other Intellectual Property Rights or Confidential Information of SCEA. As used in this Section 15.2, "controlling interest" means, with respect to any form of entity, sufficient power, whether by holding shares of stock, management power, voting power or power conferred on such person by the Certificate of Incorporation, Bylaws, Partnership Agreement or other documents regulating the form and powers of such entity, to control the decisions of such entity.

(xi) If during the term of this Agreement Publisher, or an entity that has, directly or indirectly, a controlling interest in Publisher, enters into a

business relationship with a third party with whom Publisher materially contributes to develop core components to an interactive hardware device or product which is directly or indirectly competitive with the Player.

Publisher shall be obligated to immediately notify SCEA in the event that any of the events or circumstances specified in subsections (ii) - (xi) occur, and any failure to so notify SCEA shall constitute a material breach with no opportunity to cure such breach.

15.3 Product-by-Product Termination by SCEA. In addition to the events of termination described in Section 15.2, above, SCEA, at its option, shall be entitled to terminate, on a product-by-product basis, the licenses and related rights herein granted to Publisher in the event that (a) Publisher fails to notify SCEA promptly in writing of any material change to any materials previously approved by SCEA in accordance with Section 5 or Section 7.1.3 hereto, and such breach is not corrected or cured prior to the earlier of (i) thirty (30) days after receipt of written notice of such breach or (ii) commercial release of the product; or (b) any third party with whom Publisher has contracted for the development of Executable Software breaches any of its material obligations to SCEA pursuant to such third party's agreement with SCEA with respect to such Executable Software; or (c) Publisher cancels a Licensed Product or fails to provide SCEA in accordance with the provisions of Section 5.4 above, with the final version of the Executable Software for any Licensed Product within three (3) months of the scheduled release date according to the Product Proposal, or fails to provide work in progress to SCEA in accordance with the Review Process in Section 5.3.

15.4 Options of SCEA in Lieu of Termination. As alternatives to terminating this Agreement or a particular Licensed Product as set forth in Sections 15.2 and 15.3 above, SCEA may, at its option and upon written notice to Publisher, take the following actions in lieu of terminating this Agreement. In the event that SCEA elects either of these options, Publisher may terminate this Agreement upon written notice to SCEA rather than allowing SCEA to exercise these options. Election of these options by SCEA shall not constitute a waiver of or compromise with respect to any of SCEA's rights under this Agreement and SCEA may elect to terminate this Agreement with respect to any breach.

15.4.1 Suspension of Agreement. SCEA may suspend this Agreement, entirely or with respect to a particular Licensed Product or program, for a set period of time which shall be specified in writing to Publisher upon the occurrence of any breach of this Agreement.

15.4.2 Liquidated Damages. Whereas a minor breach of any of the events set out below may not warrant termination of this Agreement, but will cause SCEA damages in amounts difficult to quantify, SCEA may require Publisher to pay liquidated damages of *** per event, as follows:

(i) Failure to submit Advertising Materials to SCEA for approval (including any required resubmissions);

(ii) Broadcasting or publishing Advertising Materials without receiving the final approval or consent of SCEA;

(iii) Failure to make SCEA's requested revisions to Advertising Materials; or

(iv) Failure to comply with the SourceBook, Manufacturing Specifications or Guidelines which relates in any way to use of Licensed Trademarks.

Liquidated damages shall be invoiced separately or on Publisher's next invoice for Licensed Products. SCEA reserves the right to terminate this Agreement for breach in lieu of seeking liquidated damages or in the event that liquidated damages are unpaid.

15.5 No Refunds. In the event of the termination of this Agreement in accordance with any of the provisions of Sections 15.2 through 15.4 above, no portion of any payments of any kind whatsoever previously provided to SCEA hereunder shall be owed or be repayable to Publisher.

16. Effect of Expiration or Termination.

16.1 Inventory Statement. Within thirty (30) days of the date of expiration or the effective date of termination with respect to any and/or all Licensed Products, Publisher shall provide SCEA with an itemized statement, certified to be accurate by an officer of Publisher, specifying the number of unsold Units of the Licensed Products as to which such termination applies, on a title-by-title basis, which remain in its inventory and/or under its control at the time of

expiration or the effective date of termination. SCEA shall be entitled to conduct at its expense a physical inspection of Publisher's inventory and work in process upon reasonable written notice during normal business hours in order to ascertain or verify such inventory and/or statement.

16.2 Reversion of Rights. Upon expiration or termination and subject to Section 16.3 below, the licenses and related rights herein granted to Publisher shall immediately revert to SCEA, and Publisher shall cease and desist from any further use of Confidential Information of SCEA, the Licensed Trademarks and the Sony Materials and any Intellectual Property Rights therein, and, subject to the provisions of Section 16.3 below, Publisher shall have no further right to continue the publication, manufacture, marketing, sale and/or distribution of any Units of the Licensed Products, nor to continue to use the Licensed Trademarks; provided, however, that for a period of one year after termination, and subject to all the terms of Section 14, and provided this Agreement is not terminated due to a breach or default of Publisher, Publisher may retain such portions of Sony Materials as SCEA in its sole discretion agrees are required to support end users of Licensed Products but must return these materials at the end of such one year period.

16.3 Disposal of Unsold Units. Provided that this Agreement is not terminated due to a breach or default of Publisher, Publisher may, upon expiration or termination of this Agreement, sell off existing inventories of Licensed Products, on a non-exclusive basis, for a period of *** days from the date of expiration or termination of this Agreement, and provided such inventories have not been manufactured solely or principally for sale during such period. Subsequent to the expiration of such *** period, or in the event this Agreement is terminated as a result of any breach or default of Publisher, any and all Units of the Licensed Products remaining in Publisher's inventory shall be destroyed by Publisher within *** of such expiration or termination. Within *** after such destruction, Publisher shall provide SCEA with an itemized statement, certified to be accurate by an officer of Publisher, indicating the number of Units of the Licensed Products which have been destroyed (on a title-by-title basis), the location and date of such destruction and the disposition of the remains of such destroyed materials.

16.4 Return of Sony Materials and Confidential Information. Upon the expiration or earlier termination of this Agreement, Publisher shall immediately deliver to SCEA, or if and to the extent requested by SCEA destroy, all Sony Materials and any and all copies thereof, and Publisher and SCEA shall immediately deliver to the other party, or if and to the extent requested by such party destroy, all Confidential Information of the other party, including any and all copies thereof, which the other party previously furnished to it in furtherance of this Agreement, including, without limitation, any such information, knowledge or know-how of which either party, as the receiving party, was apprised and which was reduced to tangible or written form by such party or in its behalf at any time during the term of this Agreement. Within five (5) working days after any such destruction, Publisher shall provide SCEA with an itemized statement certified to be accurate by an officer of Publisher, indicating the number of copies and/or units of the Sony Materials and/or Confidential Information which have been destroyed, the location and date of such destruction and the disposition of the remains of such destroyed materials.

16.5 Renewal or Extension of this Agreement; Termination Without Prejudice. SCEA shall be under no obligation to renew or extend this Agreement

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

notwithstanding any actions taken by either of the parties prior to the expiration of this Agreement. Upon the expiration of this Agreement, neither party shall be liable to the other for any damages (whether direct, consequential or incidental, and including, without limitation, any expenditures, loss of profits or prospective profits) sustained or arising out of or alleged to have been sustained or to have arisen out of such expiration. However, the expiration of this Agreement shall not excuse either party from its previous breach of any of the provisions of this Agreement or from any obligations surviving the expiration of this Agreement, and full legal and equitable remedies shall remain available for any breach or threatened breach of this Agreement or any obligations arising therefrom. The expiration or termination of this Agreement shall be without prejudice to any rights or remedies which one party may otherwise have against the other party.

17. Miscellaneous Provisions.

17.1 Notices. All notices or other communications required or desired to be sent to either of the parties shall be in writing and shall be sent by registered or certified mail, postage prepaid, return receipt requested, or sent

by recognized international courier service (e.g., Federal Express, DHL, etc.), telex, telegram or facsimile, with charges prepaid. The address for all notices or other communications required to be sent to SCEA or Publisher, respectively, shall be the mailing address stated in the preamble hereof, or such other address as may be provided by written notice from one party to the other on at least ten (10) days' prior written notice. Any such notice shall be effective upon the date of receipt, as confirmed by the sending party.

17.2 Force Majeure. Neither SCEA nor Publisher shall be liable for any loss or damage or be deemed to be in breach of this Agreement if its failure to perform or failure to cure any of its obligations under this. Agreement results from any event or circumstance beyond its reasonable control, including, without limitation, any natural disaster, fire, flood, earthquake or other Act of God; shortage of equipment, materials, supplies or transportation facilities; strike or other industrial dispute; war or rebellion; shutdown or delay in power, telephone or other essential service due to the failure of computer or communications equipment or otherwise; or compliance with any law, regulation or order (whether valid or invalid) of any governmental body, other than an order, requirement or instruction arising out of Publisher's violation of any applicable law or regulation; provided, however, that the party interfered with gives the other party written notice thereof promptly, and, in any event, within fifteen (15) business days of discovery of any such Force Majeure condition. If notice of the existence of any Force Majeure condition is provided within such period, the time for performance or cure shall be extended for a period equal to the duration of the Force Majeure event or circumstance described in such notice, except that any such cause shall not excuse the payment of any sums owed to SCEA prior to, during or after any such Force Majeure condition. In the event that the Force Majeure condition continues for more than one hundred and twenty (120) days, SCEA may terminate this Agreement for cause by providing written notice to Publisher to such effect.

17.3 No Partnership or Joint Venture. The relationship between SCEA and Publisher, respectively, is that of licensor and licensee. Both parties are independent contractors and are not the legal representative, agent, joint venturer, partner or employee of the other party for any purpose whatsoever. Neither party has any right or authority to assume or create any obligations of any kind or to make any representation or warranty on behalf of the other party, whether express or implied, or to bind the other party in any respect whatsoever.

17.4 Assignment. SCEA has entered into this Agreement based upon the particular reputation, capabilities and experience of Publisher and its officers, directors and employees. Accordingly, Publisher may not assign this Agreement or any of its rights hereunder, nor delegate or otherwise transfer any of its obligations hereunder, to any third party unless the prior written consent of SCEA shall first be obtained. This Agreement shall not be assigned in contravention of Section 15.2 (x). Any attempted or purported assignment, delegation or other such transfer, directly or indirectly, without the required consent of SCEA shall be void and a material breach of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of the parties and their respective successors (other than under the conditions set forth in Section 15.2 (x)) and permitted assigns. SCEA shall have the right to assign any and all of its rights and obligations hereunder to any affiliate(s), including, without limitation, its obligations under Section 7 hereof.

17.5 Subcontractors. Publisher shall not sell, assign, delegate, subcontract, sublicense or otherwise transfer or encumber all or any portion of the licenses herein granted; provided, however, that Publisher may retain those subcontractor(s) to assist with the development of Licensed Products which: (i) have signed a Nondisclosure Agreement and a Developer Agreement with SCEA (the "PlayStation Agreements") in full force and effect throughout the term of such development; or (ii) have signed an SCEA-approved subcontractor agreement between Publisher and subcontractor, which subcontractor agreement shall contain substantially identical terms to the Nondisclosure Agreement and the confidentiality provisions of this Agreement ("Subcontractor Agreement"). If a subcontractor will use Development Tools provided by Publisher, it must also comply with the requirements set forth in Section 16.5 of an LDA with respect to usage of such Development Tools. Such Subcontractor Agreement shall provide that SCEA is a third party beneficiary of such Subcontractor Agreement, and has the full right to bring any actions against such subcontractors to comply in all respects with the terms and conditions of this Agreement. Publisher agrees to provide a copy of any such

Subcontractor Agreement to SCEA prior to and following execution thereof. Publisher shall not disclose to any subcontractor any Confidential Information of SCEA (as defined herein and in the Nondisclosure Agreement), including, without limitation, any Sony Materials, unless and until either the PlayStation Agreements or a Subcontractor Agreement have been executed. Notwithstanding any

consent which may be granted by SCEA for Publisher to employ any such permitted subcontractor(s), or any such separate agreement(s) that may be entered into by Publisher with any such permitted subcontractor, Publisher shall remain fully liable for its compliance with all of the provisions of this Agreement and for the compliance of any and all permitted subcontractors with the provisions of any agreements entered into by such subcontractors in accordance with this Section 17.5. Publisher shall use its best efforts to cause its subcontractors employed hereby to comply in all respects with the terms and conditions of this Agreement, and hereby unconditionally guarantees all obligations of its subcontractors.

17.6 Compliance with Applicable Laws. The parties shall at all times comply with all applicable regulations and orders of their respective countries and all conventions and treaties to which their countries are a party or relating to or in any way affecting this Agreement and the performance by the parties of this Agreement. Each party, at its own expense, shall negotiate and obtain any approval, license or permit required in the performance of its obligations, and shall declare, record or take such steps to render this Agreement binding, including, without limitation, the recording of this Agreement with any appropriate governmental authorities (if required).

17.7 Governing Law; Consent to Jurisdiction. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, excluding that body of law related to choice of laws, and of the United States of America. Any action or proceeding brought to enforce the terms of this Agreement or to adjudicate any dispute arising hereunder shall be brought in the courts of the County of San Mateo, State of California (if under State law) or the Northern District of California (if under Federal law or pursuant to diversity jurisdiction). Each of the parties hereby submits itself to the exclusive jurisdiction and venue of such courts for purposes of any such action and agrees that any service of process may be effected by delivery of the summons in the manner provided in the delivery of notices set forth in Section 17.1 above. In addition, each party hereby waives the right to a jury trial in any action or proceeding brought to enforce the terms of this Agreement or to adjudicate any dispute arising hereunder.

17.8 Legal Costs and Expenses. In the event it is necessary for either party to retain the services of an attorney or attorneys to enforce the terms of this Agreement or to file or defend any action arising out of this Agreement, then the prevailing party in any such action shall be entitled, in addition to any other rights and remedies available to it at law or in equity to recover from the other party its reasonable fees for attorneys and expert witnesses, plus such court costs and expenses as may be fixed by any court of competent jurisdiction. The term "prevailing party" for the purposes of this Section shall include a defendant who has by motion, judgment, verdict or dismissal by the court, successfully defended against any claim that has been asserted against it.

17.9 Remedies. Unless expressly set forth to the contrary, either party's election of any remedies provided for in this Agreement shall not be exclusive of any other remedies available hereunder or otherwise at law or in equity, and all such remedies shall be deemed to be cumulative. Any breach of Sections 2, 3, 4, 5, 6, 7.1, 12 and 14 of this Agreement would cause irreparable harm to SCEA, the extent of which would be difficult to ascertain. Accordingly, Publisher agrees that, in addition to any other remedies to which SCEA may be entitled, in the event of a breach by Publisher or any of its employees or permitted subcontractors of any such Sections of this Agreement, SCEA shall be entitled to the immediate issuance without bond of ex parte injunctive relief enjoining any breach or threatened breach of any or all of such provisions. In addition, Publisher shall indemnify SCEA for all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and all reasonable related costs) which SCEA may sustain or incur as a result of such breach.

17.10 Severability. In the event that any provision of this Agreement (or portion thereof) is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, such provision (or part thereof) shall be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, while the remainder of this Agreement shall continue in full force and remain in effect according to its stated terms and conditions.

17.11 Sections Surviving Expiration or Termination. The following sections shall survive the expiration or earlier termination of this Agreement for any reason: 4, 5.5, 6, 7.2, 7.4, 9, 10, 11, 12, 14, 15.5, 16, 17.4, 17.5, 17.6,17.7, 17.8, 17.9 and 17.10.

17.12 Waiver. No failure or delay by either party in exercising any right, power or remedy under this Agreement shall operate as a waiver of any such right, power or remedy. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. Any waiver by either party of any provision of this

Agreement shall not be construed as a waiver of any other provision of this Agreement, nor shall such waiver operate as or be construed as a waiver of such provision respecting any future event or circumstance.

17.13 Modification. No modification of any provision of this Agreement shall be effective unless in writing and signed by both of the parties.

17.14 Headings. The section headings used in this Agreement are intended primarily for reference and shall not by themselves determine the construction or interpretation of this Agreement or any portion hereof.

17.15 Integration. This Agreement (together with the Exhibits attached hereto) constitutes the entire agreement between SCEA and Publisher and supersedes all prior or contemporaneous agreements, proposals, understandings and communications between SCEA and Publisher, whether oral or written, with respect to the subject matter hereof; provided, however, that notwithstanding anything to the contrary in the foregoing, the Nondisclosure Agreement referred to in Section 14 hereto shall remain in full force and effect.

17.16 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an. original, and together shall constitute one and the same instrument.

17.17 Construction. This Agreement shall be fairly interpreted in accordance with its terms and without any strict construction in favor of or against either of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the day and year first written above.

Sony Computer Entertainment America Inc.	Activision, Inc.
By: /s/ Andrew House	By: /s/ George L. Rose
Print Name: Andrew House	Print Name: George L. Rose
Title: SVP SCEA	Title: Sr. Vice President & General Counsel
Date: 6/28/02	Date: 6/24/02

NOT AN AGREEMENT UNTIL
EXECUTED BY BOTH PARTIES

Exhibit A

ROYALTIES

Licensed Product Per Unit Royalty.

A. Applicable Royalties on Licensed Products.

1. Initial Orders. Publisher shall pay SCEA, either directly or through its designee, a per title royalty in United States dollars for each Unit of the Licensed Products initially released after execution of this Agreement based on the initial Wholesale Price of the Licensed Product, as follows:

Wholesale Price	Per Title Royalty
***	***
***	***
***	***
***	***
***	***

In the absence of satisfactory evidence to support the WSP, the royalty rate that shall apply will be *** per Unit. For purposes of this Agreement,

Units of Licensed Products shall be considered "released" when Units first begin to ship from a Designated Manufacturing Facility.

2. Reorders and Other Programs. Royalties on Licensed Products initially released prior to execution of this Agreement shall be the royalty in effect as the time such Licensed Product was released. Royalties on additional orders to manufacture a specific Licensed Product shall be the royalty determined by the initial Wholesale Price as reported by Publisher for that Licensed Product regardless of the wholesale price of the Licensed Product at the time of reorder, except in the event that the Wholesale Price increases for such Licensed Product, in which case the royalty shall be adjusted upwards to reflect the higher Wholesale Price. Licensed Products qualifying for SCEA's "Greatest Hits" programs or other programs offered by SCEA shall be subject to the royalties applicable for such programs.

3. Payment. At the time of placing an order to manufacture a Licensed Product, Publisher shall submit to SCEA an accurate accounting statement setting out the number of Units of Licensed Product to be manufactured, projected initial wholesale price, applicable royalty, and total amount due SCEA. In addition, Publisher shall submit to SCEA prior to placing the initial order for each Licensed Product a separate certification, in the form provided by SCEA in the SourceBook, signed by officers of Publisher that certifies that the Wholesale Price provided to SCEA is accurate and attaching such documentation supporting the WSP as requested by SCEA. The accounting statement due hereunder shall be subject to the audit and accounting provisions set forth below.

4. Audit Provisions. Publisher shall keep full, complete, and accurate books of account and records covering all transactions relating to this Agreement. Publisher shall preserve such books of account, records, documents, and material for a period of *** after the expiration or earlier termination of this Agreement. Acceptance by SCEA of an accounting statement, purchase order, or payment hereunder will not preclude SCEA from challenging or questioning the accuracy thereof at a later time. In the event that SCEA reasonably believes that the Wholesale Price provided by Publisher with respect to any Licensed Product is not accurate, SCEA shall be entitled to request additional documentation from Publisher to support the listed Wholesale Price for such Licensed Product. In addition, during the Term and for a period of *** thereafter upon the giving of reasonable written notice to Publisher, representatives of SCEA shall have access to, and the right to make copies and summaries of, such portions of all of Publisher's books and records as pertain to the Licensed Products and any payments due or credits received hereunder. In the event that such inspection reveals an under-reporting of any payment due to SCEA, Publisher shall immediately pay SCEA such amount. In the event that any audit conducted by SCEA reveals that Publisher has under-reported any payment due to SCEA hereunder by *** or more for that audit period, then in

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

addition to the payment of the appropriate amount due to SCEA, Publisher shall reimburse SCEA for all reasonable audit costs for that audit and any and all collection costs to recover the unpaid amount.

B. SCEA Established Third Party Demo Disc Program Royalties: Publisher shall pay SCEA a per Unit royalty in United States dollars of *** for each Unit of the Consumer Promotional Disc Program and the Trade Promotional Disc Program manufactured. The quantity of Units ordered shall comply with the terms of such SCEA Established Third Party Demo Disc Program. Payment of such royalties shall be made to SCEA in conjunction with the payment to SCEA of the manufacturing costs for each Unit and pursuant to the terms and conditions set forth in Sections 7.2.3 and 9 hereto and in such SCEA Established Third Party Demo Disc Program.

C. Adjustments to Licensed Product Royalty - Hit Title Rebate

l. In the event that the total purchases by Publisher from SCEA with respect to any Licensed Product exceed the following numbers of Units during the first three (3) years after first commercial shipment of such Licensed Product, Publisher shall be entitled to a rebate with respect to royalties paid by Publisher to SCEA pursuant to Section 9 of the Agreement ("Hit Title Rebate") which shall be credited to Publisher's account as provided below, as follows:

	Volume	Royalty Rebate
a.	***	***
b.	***	***

c. *** ***

d. *** ***

e. *** ***

2. SCEA shall credit Publisher's account for the Hit Title Rebates as follows: (i) if Publisher's initial order for a Licensed Product is less than the Hit Title Rebate threshold provided in C. La above, then SCEA shall credit Publisher's account sixty (60) days following the date that Publisher notifies SCEA that sales of a Licensed Product exceed the Hit Title Rebate threshold, subject to SCEA's right to confirm such information; (ii) if Publisher's initial order for a Licensed Product reaches or exceeds the Hit Title Rebate threshold provided in C.1.a above, then Publisher may credit the Hit Title Rebate amount set forth above as a separate line item on the Purchase Order with respect to such Licensed Product. It is Publisher's responsibility to inform SCEA when it reaches a Hit Title Rebate threshold, and Publisher shall not take a Hit Title Rebate as a separate line item on a Purchase Order without discussing first with SCEA.

3. The Hit Title Rebate may not be used in conjunction with any royalty reduction program of SCEA in effect from time to time, including but not limited to any "Greatest Hits" program, nor shall a Hit Title Rebate be taken on a Third Party Demo Disc program or any promotional program of SCEA or on Licensed Products that qualify for the Band 1 royalty.

4. Each Licensed Product shall be considered independently for purposes of calculating the Hit Title Rebate and the rebates shall be cumulative. By way of example:

a. If Publisher's aggregate shipments for a single Licensed Product are less than ***, no rebate is available.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

b. If Publisher's aggregate shipments for a single Licensed Product exceed *** but are less than ***, Publisher will be entitled to receive *** of the Royalty paid as a rebate with respect to the first *** Units, at the time Publisher is invoiced for such excess order, and shall thereafter be charged a per Unit royalty of *** less ***, until Units of the Licensed Product shipped exceed *** Units.

c. If Publisher's aggregate orders for a single Licensed Product exceed *** Units, but are less than *** Units, Publisher will receive *** of the Royalty paid as a rebate with respect to the first *** Units, at the time Publisher is invoiced for such excess order, and shall thereafter be charged a per Unit royalty of *** less ***, until Units of the Licensed Product shipped exceed *** Units. Please note that in this case Publisher will only receive a *** additional rebate with respect to the first *** Units because it has already received a *** rebate on such Units.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

Exhibit B

Exhibit C

[FORM OF LETTER REGARDING SCEA DEMO DISCS]

VIA FAX

[Date]

[Name]
[Third Party Name]
[Address]

Re: [Specify SCEA Demo Disc Program]

Dear _____:

This letter confirms that Sony Computer Entertainment America ("SCEA") would like to include the Product Information (listed below) of your PlayStation game (listed below) in the following Demo Disc:

Game Title:
Type of Product Information Required:
Demo Disc program:
Deadline:
Date of Licensed Publisher Agreement:

Please return a signed copy of this letter to _____ by fax at _____ and submit the Product Information directly to SCEA's consultant, _____, no later than the Deadline set forth above. Failure to provide this acknowledged letter and the code, by this date, will result in removal of your Product Information from the Demo Disc.

The inclusion of your Product Information is subject to the terms and conditions of the Licensed Publisher Agreement between SCEA and you.

Very truly yours,

AGREED AND ACKNOWLEDGED BY:

[PUBLISHER]

By:

Title:

Date:
---

cc: Legal Department

Exhibit 10.9

SONY COMPUTER ENTERTAINMENT AMERICA INC.

AND

ACTIVISION, INC.

[PLAYSTATION LOGO]

PLAYSTATION(R)2

CD-ROM/DVD-ROM

LICENSED PUBLISHER AGREEMENT

TABLE OF CONTENTS

SECTION: PAGE:

PLAYSTATION(R)2
CD-ROM/DVD-ROM
LICENSED PUBLISHER AGREEMENT

This LICENSED PUBLISHER AGREEMENT (the "Agreement" or "LPA"), entered into as of the 1st day of April, 2000 (the "Effective Date"), by and between SONY COMPUTER ENTERTAINMENT AMERICA INC., with offices at 919 E. Hillsdale Boulevard, Foster City, CA 94404 (hereinafter "SCEA"), and ACTIVISION, INC., with offices at 3100 Ocean Park Blvd. Santa Monica, CA 90405 (hereinafter "Publisher").

WHEREAS, SCEA, its parent company, Sony Computer Entertainment Inc., and/or certain of their affiliates and companies within the group of companies of which any of them form a part (collectively referred to herein as: "Sony") are designing and developing, and licensing core components of, a computer entertainment system known as the PlayStation(R)2 computer entertainment system (hereinafter referred to as the "System").

WHEREAS, SCEA has the right to grant licenses to certain SCEA Intellectual Property Rights (as defined below) in connection with the System.

WHEREAS, Publisher desires to be granted a non-exclusive license to publish, develop, have manufactured, market, distribute and sell Licensed Products (as defined below) pursuant to the terms and conditions set forth in this Agreement; and SCEA is willing, on the terms and subject to the conditions of this Agreement, to grant Publisher such a license.

NOW, THEREFORE, in consideration of the representations, warranties and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Publisher and SCEA hereby agree as follows:

1. Definition of Terms.

1.1 "Advertising Materials" means any advertising, marketing, merchandising, promotional, public relations (including press releases) and display materials relating to, or concerning Licensed Products or proposed Licensed Products, or any other advertising, merchandising, promotional, public relations (including press releases) and display materials depicting any of the Licensed Trademarks. For purposes of this Agreement, Advertising Materials include any advertisements in which the System is referred to or used in any way, including but not limited to giving the System away as prizes in contests or sweepstakes and the public display of the System in product placement opportunities.

1.2 "Affiliate of SCEA" means, as applicable, either Sony Computer Entertainment Inc. in Japan, Sony Computer Entertainment Ltd. in the United Kingdom or such other Sony Computer Entertainment entity as may be established from time to time.

1.3 "Designated Manufacturing Facility" means a manufacturing facility or facilities which is designated by SCEA in its sole discretion to manufacture Licensed Products and/or their component parts, which may include manufacturing facilities owned and operated by affiliated companies of SCEA.

1.4 "Development System Agreement" means an agreement entered into between SCEA and a Licensed Publisher, Licensed Developer or other licensee for the sale or license of Development Tools.

1.5 "Development Tools" means the PlayStation 2 development tools sold or licensed by SCEA to a Licensed Publisher or Licensed Developer for use in the development of Executable Software for the System.

1.6 "Executable Software" means software which includes Product Software and any software provided directly or indirectly by SCEA or an Affiliate of SCEA designed for execution exclusively on the System and which has the ability to communicate with the software resident in the System.

1.7 "Fiscal Year" means a year measured from April 1 to March 31.

1.8 "Generic Line" means the generic legal attribution line used on SCEA marketing or other materials, which shall be or be substantially similar to the following: "Product copyright and trademarks are the property of the respective publisher or their licensors".

1.9 "Guidelines" shall mean any guidelines of SCEA or an Affiliate of SCEA with respect to SCEA Intellectual Property Rights, which may be set forth in the SourceBook 2 or in other documentation provided by SCEA or an Affiliate of SCEA to Publisher.

1.10 "Legal Copy" means any legal or contractual information required to be used in connection with a Licensed Product or Product Information, including but not limited to copyright and trademark attributions, contractual credits and developer or distribution credits.

1.11 "Level 1 Rebate" shall have the meaning set forth in Section 8.4 hereto.

1.12 "Level 2 Rebate" shall have the meaning set forth in Section 8.4 hereto.

1.13 "Licensed Developer" means any developer that has signed a valid and then current Licensed Developer Agreement.

1.14 "Licensed Developer Agreement" or "LDA" means a valid and current license agreement for the development of Licensed Products for the System, fully executed between a Licensed Developer and SCEA or an Affiliate of SCEA.

1.15 "Licensed Products" means the Executable Software (which may be combined with Executable Software of other Licensed Publishers or Licensed Developers), which shall consist of one product developed for that System or for the original PlayStation game console per Unit, in final form developed exclusively for the System. Publisher shall have no right to package or bundle more than one product developed for the System or for the original PlayStation game console in a single Unit unless separately agreed with SCEA.

1.16 "Licensed Publisher" means any publisher that has signed a valid and then current Licensed Publisher Agreement.

1.17 "Licensed Publisher Agreement" or "LPA" means a valid and current license agreement for the publication, development, manufacture, marketing, distribution and sale of Licensed Products for the System, fully executed between a Licensed Publisher and SCEA or an Affiliate of SCEA.

1.18 "Licensed Territory" means the United States (including its possessions and territories) and Canada. The Licensed Territory may be modified and/or supplemented by SCEA from time to time pursuant to Section 4.4 below.

1.19 "Licensed Trademarks" means trademarks, service marks, trade dress, logos and other icons or indicia designated by SCEA in the SourceBook 2 or other Guidelines for use on or in connection with Licensed Products. Nothing contained in this Agreement shall in any way grant Publisher the right to use the trademark "Sony" in any manner. SCEA may amend such Licensed Trademarks from time to time in the SourceBook 2 or other Guidelines or upon written notice to Publisher.

1.20 Manufacturing Specifications" means specifications setting forth terms relating to the manufacture and assembly of PlayStation 2 Format Discs, Packaging, Printed Materials and each of their component parts, which shall be set forth in the SourceBook 2 or other documentation provided by SCEA or a Designated Manufacturing Facility to Publisher and which may be amended from time to time upon reasonable notice to Publisher.

1.21 "Master Disc" means a recordable CD-ROM or DVD-ROM disc in the form requested by SCEA containing final pre-production Executable Software for a Licensed Product.

1.22 "Packaging" means, with respect, to each Licensed Product, the carton, containers, packaging, edge labels, and other proprietary labels, trade dress and wrapping materials, including any jewel case (or other CD-ROM or DVD-ROM container) or parts thereof, but excluding Printed Materials and PlayStation 2 Format Discs.

1.23 "PlayStation 2 Format Discs" means the uniquely marked or colored CD-ROM or DVD-ROM discs formatted for use with the System which, for purposes of this Agreement, are manufactured on behalf of Publisher and contain Licensed Products or SCEA Demo Discs.

1.24 "Printed Materials" means all artwork and mechanicals set forth on the disc label of the PlayStation Disc relating to any of the Licensed Products and on or inside any Packaging for the Licensed Product, and all instructional manuals, liners, inserts, trade dress and other user information to be inserted into the Packaging.

1.25 "Product Information" means any information owned or licensed by Publisher relating in any way to Licensed Products, including but not limited to demos, videos, hints and tips, artwork, depictions of Licensed Product cover art and videotaped interviews.

1.26 "Product Proposal" shall have the meaning set forth in Section 5.2.1 hereto.

1.27 "Product Software" means any software including audio and video material developed by a Licensed Publisher or Licensed Developer, which, either by itself or combined with Product Software of other licensees, when integrated with software provided by SCEA or an Affiliate of SCEA, creates Executable Software. It is understood that Product Software contains no proprietary information of Sony or any other rights of SCEA.

1.28 "Publisher Intellectual Property Rights" means those intellectual property rights, including but not limited to patents and other patent rights, copyrights, trademarks, service marks, trade names, trade dress, mask work rights, utility model rights, trade secret rights, technical information, know-how, and the equivalents of the foregoing under the laws of any jurisdiction, and all other proprietary or intellectual property rights throughout the universe, which pertain to Product Software, Product Information, Printed Materials, Advertising Materials or other rights of Publisher required or necessary under this Agreement.

1.29 "Purchase Order" means a written purchase order processed in accordance with the terms of Section 6.2.2 hereto, the Manufacturing Specifications or other terms provided separately by SCEA or a Designated Manufacturing Facility to Publisher.

1.30 "SCEA Demo Disc" means any demonstration disc developed and distributed by SCEA.

1.31 "SCEA Established Third Party Demo Disc Programs" means (i) any consumer or trade demonstration disc program specified in the SourceBook 2, and (ii) any other third party demo disc program established by SCEA for Licensed Publishers.

1.32 "SCEA Intellectual Property Rights" means those intellectual property rights, including but not limited to patents and other patent rights, copyrights, trademarks, service marks, trade names, trade dress, mask work rights, utility model rights, trade secret rights, technical information, know-how, and the equivalents of the foregoing under the laws of any jurisdiction, and all other proprietary or intellectual property rights throughout the universe, which are required to ensure compatibility with the System which pertain to the Licensed Trademarks.

1.33 "SCEA Product Code" means the product identification number assigned to each Licensed Product, which shall consist of separate product identification numbers for multiple disc sets (i.e., SLUS-xxxxx). This SCEA Product Code is used on the Packaging and PlayStation Disc relating to each Licensed Product, as well as on most communications between SCEA and Publisher as a mode of identifying the Licensed Product other than by title.

1.34 "Sony Materials" means any data object code, source code, firmware, documentation (or any part(s) of any of the foregoing), related to they System, selected in the sole judgment of SCEA, which are provided or supplied by SCEA, or an Affiliate of SCEA to Publisher or any Licensed Developer and/or other Licensed Publisher. For purposes of this Agreement, Sony Materials shall not include any hardware portions of the Development Tools, but shall include firmware in such hardware.

1.35 "SourceBook 2" means the PlayStation 2 SourceBook (or any other reference guide containing information similar to the SourceBook 2 but designated with a different name) prepared by SCEA, which is provided separately to Publisher. The SourceBook 2 is designed to serve as the first point of reference by Publisher in every phase of the development, approval, manufacture and marketing of Licensed Products.

1.36 "Standard Rebate" shall mean the rebate offered by SCEA on titles of Licensed Products that achieve specified sales volumes as set forth in Section 8.4 of this Agreement.

1.37 "Third Party Demo Disc" means any demo disc developed and marketed by a Licensed Publisher, which complies with the terms of an SCEA Established Third Party Demo Disc Program.

1.38 "Unit" means an individual copy of a Licensed Product title regardless of the number of PlayStation 2 Format Discs constituting such Licensed Product title.

1.39 "Wholesale Prices" or "WSP" shall mean the greater of (i) the first published price of the Licensed Product offered to retailers by Publisher as evidenced by a sell sheet or price list issued by Publisher, or (ii) the actual

price paid by retailers upon the first commercial shipment of a Licensed Product without offsets, rebates or deductions from invoices of any kind.

2. License.

2.1 License Grant. SCEA grants to Publisher, and Publisher by accepts, for the term of this Agreement, within the Licensed Territory, under SCEA Intellectual Property Rights owned, controlled or licensed by SCEA, a non-exclusive, non-transferable license, without the right to sublicense (except as specifically provided herein), to publish Licensed Products using Sony Materials, which right shall be limited to the following rights and other rights set forth in, and in accordance with the terms of, this LPA: (i) to produce or develop Licensed Products and to enter into agreements with Licensed Developers and other third parties to develop Licensed Products; (ii) to have such Licensed Products manufactured; (iii) to market, distribute and sell such Licensed Products and to authorize others to do so; (iv) to use the Licensed Trademarks strictly and only in connection with the development, manufacturing, marketing, packaging, advertising and promotion of the Licensed Products, and subject to SCEA's right of approval as provided herein; and (v) to sublicense to end users the right to use the Licensed Products for noncommercial purposes in conjunction with the System only, and not with other devices or for public performance.

2.2 Separate PlayStation Agreements. Unless specifically set forth in this Agreement, all terms used herein are specific to the System and the third party licensing program related thereto and not to the original PlayStation game console or third party program related thereto. Licenses relating to the original PlayStation game console are subject to separate agreements with SCEA, and any license of rights to Publisher under such separate agreements shall not confer on Publisher any rights under the System and vice versa.

3. Development of Licensed Products.

3.1 Right to Develop. This LPA grants Publisher the right to develop Licensed Products. It also gives Publisher the right to purchase and/or license Development

Tools, as is appropriate, from SCEA or its designated agent, pursuant to a separate Development System Agreement with SCEA, to assist in such development. If developing Executable Software (or portions thereof) Publisher and its agents shall fully comply in all respects with any and all technical specifications which may from time to time be issued by SCEA. In the event that Publisher uses third party tools to develop Executable Software, Publisher shall be responsible for ensuring that it has obtained appropriate licenses for such use.

3.2 Development by Third Parties. Except as otherwise set forth herein, Publisher shall not provide Sony Materials or SCEA's Confidential Information to any third party. Publisher shall be responsible for determining that third parties meet the criteria set forth herein. Publisher may contract with a third party for development of Licensed Products, provided that such third, party is (i) a Licensed Publisher, (ii) a Licensed Developer, or (iii) an SCEA-authorized subcontractor in compliance with the provisions of Section 16.6. Publisher shall notify SCEA in writing of the identity of any such third party within thirty (30) days of entering into an agreement or other arrangement with the third party.

4. Limitations on Licenses; Reservation of Rights.

4.1 Reverse Engineering Prohibited. Other than as expressly permitted by SCEA in writing Publisher, shall not directly or indirectly disassemble, decrypt, electronically scan, peel semiconductor components, decompile, or otherwise reverse engineer in any manner or attempt to reverse engineer or derive source code from, all or any portion of the Sony Materials, or permit, assist or encourage any third party to do so. Other than as expressly permitted by SCEA in writing, Publisher shall not use, modify, reproduce, sublicense, distribute, create derivative works from, or otherwise provide to third parties, the Sony Materials, in whole or in part, other than as expressly permitted by SCEA. SCEA shall permit Publisher to study the performance, design and operation of the Development Tools solely for the limited purposes of developing and testing Publisher's software applications, or to build tools to assist Publisher with the development and testing of software applications for Licensed Products. Any tools developed or derived by Publisher resulting from the study of the performance, design or operation of the Development Tools shall be considered as derivative products of the Sony Materials for copyright purposes, but may be treated as trade secrets of Publisher. In no event shall Publisher patent any tools created, developed or derived from Sony Materials. Publisher shall not make available to any third party any tools developed or derived from the study of the Development Tools without the express written permission of SCEA. Use of such tools shall be strictly limited to the creation or testing of Licensed Products and any other use, direct or indirect of such tools is strictly

prohibited. Publisher shall be required in all cases to pay royalties in accordance with Section 8 hereto to SCEA on any of Publisher's products utilizing any Sony Materials or derivative works made therefrom. Moreover, Publisher shall bear all risks arising from incompatibility of its Licensed Product and the System resulting from use of Publisher-created tools. The burden of proof under this Section shall be on Publisher, and SCEA reserves the right to require Publisher to furnish evidence satisfactory to SCEA that Publisher has complied with this Section.

4.2 Reservation of SCEA's Rights.

4.2.1 Limitation of Rights to Licenses Granted. The licenses granted in this Agreement extend only to the publication, development, manufacture, marketing, distribution and sale of Licensed Products for use on the System, in such formats as may be designated by SCEA. Without limiting the generality of the foregoing and except as otherwise provided herein, Publisher shall not distribute or transmit the Executable Software or the Licensed Products via electronic means or any other means now known or hereafter devised, including without limitation, via wireless, cable, fiber optic means, telephone lines, microwave and/or radio waves, or over a network of computers or other devices. Notwithstanding this limitation, Publisher may electronically transmit Executable Software from site to site, or from machine to machine over a computer network, for the sole purpose of facilitating development; provided that no right of retransmission shall attach to any such transmission, and provided further that Publisher shall use reasonable security measures customary within the high technology industry to reduce the risk of unauthorized interception or retransmission of such transmissions. This Agreement does not grant any right or license, under any SCEA Intellectual Property Rights or otherwise, except as expressly provided herein, and no other right or license is to be implied by or inferred from any provision of this Agreement or the conduct of the parties hereunder.

4.2.2 Other Use of Sony Materials and SCEA Intellectual Property Rights. Publisher shall not make use of any Sony Materials or any SCEA Intellectual Property Rights (or any portion thereof) except as authorized by and in compliance with the provisions of this Agreement. Publisher shall not use the Executable Software, Sony Materials or SCEA's Confidential Information in connection with the development of any software for any emulator or other computer hardware or software system. No right, license or privilege has been granted to Publisher hereunder concerning the development of any collateral product or other use or purpose of any kind whatsoever which displays or depicts any of the Licensed Trademarks. The rights set forth in Section 2.1(v) hereto are limited to the right to sublicense such rights to end users for non-commercial use; any public performance relating to the Licensed Product or the System is prohibited unless expressly authorized in writing by SCEA.

4.3 Reservation of Publisher's Rights. Separate and apart from Sony Materials and other rights licensed to Publisher by SCEA hereunder, as between Publisher and SCEA, Publisher retains all rights, title and interest in and to the Product Software, and the Product Proposals and Product Information related thereto, including without limitation Publisher Intellectual Property Rights therein, as well as Publisher's rights in any source code and other underlying material such as artwork and music related thereto and any names used as titles for Licensed Products and other trademarks used by Publisher. Nothing in this Agreement shall be construed to restrict the right of Publisher to develop, distribute or transmit products incorporating the Product Software and such underlying material (separate and apart from the Sony Materials) for any hardware platform or service other than the System, or to use Printed Materials or Advertising Materials approved by SCEA as provided herein (provided that such Printed Materials and/or Advertising Materials do not contain any Licensed Trademarks) as Publisher determines for such other platforms. SCEA shall not do or cause to be done any act or thing in any way impairing or tending to impair or dilute any of Publisher's rights, title or interests hereunder. Notwithstanding the foregoing, Publisher shall not distribute or transmit Product Software which is intended to be used with the System via electronic means or any other means now known or hereafter devised, including without limitation, via wireless, cable, fiber optic means, telephone lines, microwave and/or radio waves, or other a network of computers or other devices, except as otherwise permitted in Section 4.2.1 hereto.

4.4 Additions to and Deletions from Licensed Territory. SCEA may, from time to time, add one or more countries to the Licensed Territory by providing written notice of such addition to Publisher. SCEA shall also have the right to delete, and intends to delete any countries from the Licensed Territory if, in SCEA's reasonable judgment, the laws or enforcement of such laws in such countries do not protect SCEA Intellectual Property Rights. In the event a country is deleted from the Licensed Territory, SCEA shall deliver to Publisher a notice stating the number of days within which Publisher shall cease distributing Licensed Products, and retrieve any Development Tools, directly or

through subcontractors, by the end of the period stated in such notice.

4.5 SourceBook 2 Requirement. Publisher shall be required to comply with all the provisions of the SourceBook 2, including without limitation the Technical Requirements Checklist therein, when published, or within a commercially reasonable time following its publication to incorporate such provisions, as if such provisions were set forth in this Agreement.

5. Quality Standards for the Licensed Products.

5.1 Quality Assurance Generally. The Licensed Products (and all portions thereof) and Publisher's use of any Licensed Trademarks shall be subject to SCEA's prior written approval, which shall not be unreasonably withheld or delayed and which shall be within SCEA's sole discretion as to acceptable standards of quality. SCEA shall have the right at any stage of the development of a Licensed Product to review such Licensed Product to ensure that it meets SCEA's quality assurance standards. All Licensed Products will be developed to substantially utilize the particular capabilities of the System's proprietary hardware, software and graphics. No approval by SCEA of any element or stage of development of any Licensed Product shall be deemed an approval of any other element or stage of such Licensed Product, nor shall any such approval be deemed to constitute a waiver of any of SCEA's rights under this Agreement. In addition, SCEA's approval of any element or any stage of development of any Licensed Product shall not release Publisher from any of its representations and warranties in Section 9.2 hereunder.

5.2 Product Proposals.

5.2.1 Submission of Product Proposal. Publisher shall submit to SCEA for SCEA's written approval or disapproval, which shall not be unreasonably withheld or delayed, a written proposal (the "Product Proposal"). Such Product Proposal must contain all information specified in the SourceBook 2, as well as any additional information that SCEA may deem to be useful in evaluating the proposed Licensed Product.

5.2.2 Approval of Product Proposal. After SCEA's review of Publisher's Product Proposal, Publisher will receive written notice from SCEA of the status of the Product Proposal, which may range from "Approved" to "Not Approved." Such conditions shall have the meanings ascribed to them in the SourceBook 2, and may be changed from time to time by SCEA. If a Product Proposal is "Not Approved", then neither Publisher nor any other Licensed Developer or Licensed Publisher may re-submit such Product Proposal without significant, substantive revisions. SCEA shall have no obligation to approve any Product Proposal submitted by Publisher. Any development conducted by or at the direction of Publisher and any legal commitment relating to development work shall be at Publisher's own financial and commercial risk. Publisher shall not construe approval of a Product Proposal as a commitment by SCEA, to grant final approval to such Licensed Product. Nothing herein shall restrict SCEA from commercially exploiting any coincidentally similar concept(s) and/or product(s), which have been independently developed by SCEA, an Affiliate of SCEA or any third party.

5.2.3 Changes to Product Proposal. Publisher shall notify SCEA promptly in writing in the event of any material proposed change in any portion of

the Product Proposal. SCEA's approval of a Product Proposal shall not obligate Publisher to continue with development or production of the proposed Licensed Product, provided that Publisher must immediately notify SCEA in writing if it discontinues, cancels or otherwise delays past the original scheduled delivery date development of any proposed Licensed Product. In the event that Publisher licenses a proposed Licensed Product from another Licensed Publisher or a Licensed Developer, it shall immediately notify SCEA of such change and must re-submit such Licensed Product to SCEA for approval in accordance with the provisions of Section 5.2.1 above.

5.3 Work-in-Progress.

5.3.1 Submission and Review of Work in Progress. SCEA shall require Publisher to submit to SCEA work-in-progress on Licensed Products at certain intervals throughout their development and, upon written notice to Publisher, at any time during the development process. Upon approval of the Product Proposal, Publisher must within the time frame indicated in the approval letter communicate with SCEA and mutually agree on a framework for the review of such Licensed Product throughout the development process ("Review Process"). Once the Review Process has begun, Publisher shall responsible for submitting work-in-progress to SCEA in accordance with such Review Process. Failure to submit work-in-progress in accordance with any stage of the Review Process may, at SCEA's discretion, result in revocation of approval of such Product Proposal.

5.3.2 Approval of Work in Progress. SCEA shall have the right to approve,

reject or require additional information with respect to each stage of the Review Process. SCEA shall specify in writing the reasons for any such rejection or request for additional information and shall state what corrections and/or improvements are necessary. If any stage of the Review Process is not provided to SCEA or is not successfully met after a reasonable cure period agreed to between SCEA and Publisher, SCEA shall have the right to revoke the approval of Publisher's Product Proposal.

5.3.3 Cancellation or Delay; Conditions of Approval. Licensed Products which are canceled by Publisher or are late in meeting the final Executable Software delivery date by more than three (3) months (without agreeing with SCEA on a modified final delivery date) shall be subject to termination provisions set forth in Section 14.3 hereto. In addition, failure to make changes required by SCEA to the Licensed Product at any stage of the Review Process, or making material changes to the Licensed Product without SCEA's approval, may subject Publisher to the termination provisions set forth in Section 14.3 hereto:

5.4 Approval of Executable Software. On or before the date specified in the Product Proposal or as determined by SCEA pursuant to the Review Process, Publisher shall deliver to SCEA for its inspection and evaluation, a final version of the Executable Software for the proposed Licensed Product. SCEA will evaluate such Executable Software and notify Publisher in writing of its approval or disapproval, which shall not be unreasonably withheld or delayed. If such Executable Software is disapproved, SCEA shall specify in writing the reasons for such disapproval and state what corrections and improvements are necessary. After making the necessary corrections and improvements, Publisher shall submit a new version of such Executable Software for SCEA's approval. SCEA shall have the right to disapprove Executable Software if it fails to comply with SCEA's corrections or improvements or one or more conditions as set forth in the SourceBook 2 with no obligation to review all elements of any version of Executable Software. All final versions of Executable Software shall be submitted in the format prescribed by SCEA and shall include such number of Master Discs as SCEA may require from time to time. Publisher hereby (i) warrants that all final versions of Executable Software are fully tested; (ii) shall use its best efforts to ensure such Executable Software is fully to submission to SCEA; and (iii) warrants that all versions of Executable Software comply or will comply with standards set forth in the SourceBook 2 or other documentation provided by SCEA to Publisher. In addition, prior to manufacture of Executable Software, Publisher must sign an accountability form stating that (x) Publisher approves the release of such Executable Software for manufacture in its current form and (y) Publisher shall be fully responsible for any problems related to such Executable Software.

5.5 Printed Materials.

5.5.1 Compliance with Guidelines. For each proposed Licensed Product, Publisher shall be responsible, at Publisher's expense, for creating and developing Printed Materials. All Printed Materials shall comply with the Guidelines, which may be amended from time to time, provided that Publisher shall, except as otherwise provided herein, only be required to implement amended Guidelines in subsequent orders of Printed Materials and shall not be required to recall or destroy previously manufactured Printed Materials, unless such Printed Materials do not comply with the original requirements in the Guidelines or unless explicitly required to do so in writing by SCEA.

5.5.2 Submission and Approval of Printed Materials. No later than submission of final Executable Software for a proposed Licensed Product, Publisher shall also deliver to SCEA, for review and evaluation, the proposed final Printed Materials and a form of limited warranty for the proposed Licensed Product. Failure to meet any scheduled release dates for a Licensed Product is solely the risk and responsibility of Publisher, and SCEA assumes no responsibility for Publisher failing to meet such scheduled release dates due to this submission process. The

quality of such Printed Materials shall be of the same quality as that associated with other commercially available high quality software products. If any of the Printed Materials are disapproved, SCEA shall specify the reasons for such disapproval and state what corrections are necessary. SCEA shall have no liability to Publisher for costs incurred or irrevocably committed to by Publisher for production of Printed Materials that are disapproved by SCEA. After making the necessary corrections to any disapproved Printed Materials, Publisher must submit new Printed Materials for approval by SCEA. SCEA shall not unreasonably withhold or delay its review of Printed Materials.

5.6 Advertising Materials.

5.6.1 Submission and Approval of Advertising Materials. Pre-production samples of all Advertising Materials shall be submitted by Publisher to SCEA, at Publisher's expense, prior to any actual production, use or distribution of any

such items by Publisher or on its behalf. SCEA shall evaluate and approve such Advertising Materials, which approval shall not be unreasonably withheld or delayed, as to the following standards: (i) the content, quality, and style of the overall advertisement; (ii) the quality, style, appearance and usage of any of the Licensed Trademarks; (iii) appropriate references of any required notices; and (iv) compliance with the Guidelines. If any of the Advertising Materials are disapproved, SCEA shall specify the real means for such disapproval and state what corrections are necessary. SCEA may require Publisher to immediately withdraw and reprint any Advertising Materials that have been published but have not received the written approval of SCEA. SCEA shall have no liability to Publisher for costs incurred or irrevocably committed to by Publisher for production of Advertising Materials that are disapproved by SCEA. For each Licensed Product, Publisher shall be required to deliver to SCEA an accountability form stating that all Advertising Materials for such Licensed Product comply or will comply with the Guidelines for use of the Licensed Trademarks. After making the necessary corrections to any disapproved Advertising Materials, Publisher must submit new proposed Advertising Materials for approval by SCEA.

5.6.2 Failure to Comply; Three Strikes Program. Publishers who fail to obtain SCEA's approval of Advertising Materials prior to broadcast or publication shall be subject to the provisions of the "Three Strikes" program outlined in the SourceBook 2. Failure to obtain SCEA's approval of Advertising Materials could result in termination of this LPA or termination of approval of the Licensed Product, or could subject Publisher to the provisions of Section 14.4 hereto. Failure to meet any scheduled release dates for Advertising Materials is solely the risk and responsibility of Publisher, and SCEA assumes no responsibility for Publisher failing to meet such scheduled release dates due to approval requirement as set forth in this Section.

5.6.3 SCEA Materials. Subject in each instance to the prior written approval of SCEA, Publisher may use advertising materials owned by SCEA pertaining to the System or to the Licensed Trademarks on such Advertising Materials as may, in Publisher's judgment, promote the sale of Licensed Products.

5.7 Rating Requirements. If required by SCEA or any governmental entity, Publisher shall submit each Licensed Product to a consumer advisory ratings system designated by SCEA and/or such governmental entity for the purpose of obtaining rating code(s) for each Licensed Product. Any and all costs and expenses incurred in connection with obtaining such rating code(s) shall be borne solely by Publisher. Any required consumer advisory rating code(s) procured hereby shall be displayed on the Licensed Product and in the associated Printed materials and Advertising Materials, at Publisher's cost and expense, in accordance with the SourceBook 2 or other documentation provided by SCEA to Publisher.

5.8 Publisher's Additional Quality Assurance Obligations. If at any time or times subsequent to the approval of Executable Software and Printed Materials, SCEA identifies any material defects (such materiality to be determined by SCEA in its sole discretion) with respect to the Licensed Product, or in the event that SCEA identifies any improper use of its Licensed Trademarks or Sony Materials with respect to the Licensed Product, or any such material defects or improper use are brought to the attention of SCEA, Publisher shall, at no cost to SCEA, promptly correct any such material defects, or improper use of Licensed Trademarks or Sony Materials, to SCEA's commercially reasonable satisfaction, which may include, if necessary in SCEA's judgment, the recall and re-release of such Licensed Product. In the event any Units of Licensed Products create any risk of loss or damage to any property or injury to any person, Publisher shall immediately take effective steps, at Publisher's sole liability and expense, to recall and/or to remove such defective Units from any affected channels of distribution, provided, however, that if Publisher is not acting as the distributor and/or seller for the Licensed Products, its obligation hereunder shall be to use its best efforts to arrange removal of such Licensed Product from channels of distribution. Publisher shall provide all end-user support for the Licensed Products and SCEA expressly disclaims any obligation to provide end-user support on Publisher's Licensed Products.

6. Manufacture of the Licensed Products.

6.1 Manufacture of Units. Upon approval of Executable Software and associated Printed Materials pursuant to Section 5, and subject to Sections 6.1.2, 6.1.3 and 6.1.4 below, the Designated Manufacturing Facility

will, in accordance with the terms and conditions set forth in this Section 6, and at Publisher's expense (a) manufacture PlayStation 2 Format Discs for Publisher, (b) manufacture Publisher's Packaging and/or Printed Materials; and/or (c) assemble the PlayStation 2 Forma Discs with the Printed Materials and the Packaging Publisher shall comply with all Manufacturing Specifications

related to the particular terms set forth herein. SCEA reserves the right to insert or require the Publisher to insert certain Printed Materials relating to the System or Licensed Trademarks into each Unit.

6.1.1 Manufacture of PlayStation 2 Format Discs.

6.1.1.1 Designated Manufacturing Facilities. To insure compatibility of the PlayStation 2 Format Discs with the System, consistent quality of the Licensed Product and incorporation of anti-piracy security systems, SCEA shall designate and license a Designated Manufacturing Facility to reproduce PlayStation 2 Format Discs. Publisher shall purchase all of its requirements for PlayStation 2 Format Discs from such Designated Manufacturing Facility during the term of the Agreement. Any Designated Manufacturing Facility shall be a third party beneficiary of this Agreement.

6.1.1.2 Creation of Master CD-ROM or DVD-ROM. Pursuant to Section 5.4 in connection with final testing of Executable Software, Publisher shall provide SCEA with the number of Master Discs specified in the SourceBook 2. A Designated Manufacturing facility shall create from one of the fully approved Master Discs provided by Publisher the original master CD-ROM or DVD-ROM, from which all other copies of the Licensed Product are to be replicated. Publisher shall be responsible for the costs, as determined by the Designated Manufacturing Facility, of producing such original master. In order to insure against loss or damage to the copies of the Executable Software furnished to SCEA, Publisher will retain duplicates of all Master Discs, and neither SCEA nor any Designated Manufacturing Facility shall be liable for loss of or damage to any Master Discs or Executable Software.

6.1.2 Manufacture of Printed Materials.

6.1.2.1 Manufacture by Designated Manufacturing Facility. If Publisher elects to obtain Printed Materials from a Designated Manufacturing Facility, Publisher shall deliver all SCEA-approved Printed Materials to that Designated Manufacturing Facility, at Publisher's sole risk and expense, and the Designated Manufacturing Facility will manufacture such Printed Materials in accordance with this Section 6. In order to insure against loss or damage to the copies of the Printed Materials furnished to SCEA, Publisher will retain duplicates of all Printed Materials, and neither SCEA nor any Designated Manufacturing Facility shall be liable for loss of or damage to any such Printed Materials.

6.1.2.2 Manufacture by Alternate Source. Subject to SCEA's approval as provided in Section 5.5.2 hereto and in this Section, Publisher may elect to be responsible for manufacturing its own Printed Materials (other than any Artwork which may be placed directly upon the PlayStation Disc, which Publisher will supply to the Designated Manufacturing Facility for placement), at Publisher's sole risk and expense. Prior to production of each order, Publisher shall be required to supply SCEA with samples of any Printed Materials not produced or supplied by a Designated Manufacturing Facility, at no charge to SCEA or Designated Manufacturing Facility, for SCEA's approval with respect to the quality thereof. SCEA shall have the right to disapprove any Printed Materials that do not comply with the Manufacturing Specifications. Manufacturing Specifications for Printed Materials shall be comparable to manufacturing specifications applied by SCEA to its own software products for the System. If Publisher elects to supply its own Printed Materials, neither SCEA nor any Designated, Manufacturing Facility shall be responsible for any delays arising from use of Publishers own Printed Materials.

6.1.3 Manufacture of Packaging

6.1.3.1 Manufacture by Designated Manufacturing Facility. To ensure consistent quality of the Licensed Products, SCEA may designate and license a Designated Manufacturing Facility to reproduce proprietary Packaging for the System. If SCEA creates proprietary Packaging for the System, then Publisher shall purchase *** of its requirements for such proprietary Packaging from a Designated Manufacturing Facility during the term of the Agreement, and the Designated Manufacturing Facility will manufacture such Packaging in accordance with this Section 6.

6.1.3.2 Manufacture by Alternate Source. If SCEA elects to use standard, non-proprietary Packaging for the System, then Publisher may elect to be responsible for manufacturing its own Packaging (other than any proprietary labels and any portion of a container containing Licensed Trademarks, which Publisher must purchase from a Designated Manufacturing Facility). Publisher shall assume all responsibility for the creation of such Packaging at Publisher's sole risk and expense. Publisher shall be responsible for encoding and printing proprietary edge labels provided by a Designated Manufacturing Facility with information reasonably specified by SCEA from time to time and will apply such labels to each Unit of the Licensed Product as reasonably specified by SCEA. Prior to production of each order, Publisher shall be required to supply SCEA with samples of any Packaging not produced or supplied by a Designated Manufacturing Facility, at no charge to SCEA or Designated

Manufacturing Facility, for SCEA's approval with respect to the quality thereof. SCEA

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

shall have the right to disapprove any Packaging that does not comply with the Manufacturing Specifications. Manufacturing Specifications for Packaging shall be comparable to manufacturing specifications applied by SCEA to its own software products for the System. If Publisher procures Packaging from an alternate source, then it must also procure assembly services from an alternate source. If Publisher elects to supply its own Packaging, neither SCEA nor any Designated Manufacturing Facility shall be responsible for any delay arising from use of Publisher's own Packaging.

6.1.4 Assembly Services. Publisher may either procure assembly services from a Designated Manufacturing Facility or from an alternate source. If Publisher elects to be responsible for assembling the Licensed Products, then the Designated Manufacturing Facility shall ship the component parts of the Licensed Product to a destination provided by Publisher, at Publisher's sole risk and expense. SCEA shall have the right to inspect any assembly facilities utilized by Publisher in order to determine if the component parts of the Licensed Products are being assembled in accordance with SCEA's quality standards. SCEA may require that Publisher recall any Licensed Products that do not contain proprietary labels or other material component parts or that otherwise fail to comply with the Manufacturing Specifications. If Publisher elects to use alternate assembly facilities, neither SCEA nor any Designated Manufacturing Facility shall be responsible for any delays or missing component parts arising from use of alternate assembly facilities.

6.2 Price, Payment and Terms.

6.2.1 Price. The applicable price for manufacture of any Units of Licensed Products ordered hereunder shall be provided to Publisher by the Designated Manufacturing Facility. Purchase shall be subject to the terms and conditions set out in any purchase order form supplied to Publisher by the Designated Manufacturing Facility.

6.2.2 Orders. Publisher shall issue to a Designated Manufacturing Facility a written Purchase Order(s) in the form set forth and containing the information required in the Manufacturing Specifications, with a copy to SCEA. All orders shall be subject to approval by SCEA, which shall not be unreasonably withheld or delayed. Purchase Orders issued by Publisher to a Designated Manufacturing Facility for each Licensed Product approved by SCEA shall be non-cancelable and be subject to the order requirements of the Designated Manufacturing Facility.

6.2.3 Payment Terms. Purchase Orders will be invoiced as soon as reasonably practical after receipt, and such invoice will include both manufacturing price and royalties payable pursuant to Section 8.1 or 8.2 hereto for each Unit of Licensed Products ordered. Each invoice will be payable either on a cash-in-advance basis or pursuant to a letter of credit, or, at SCEA's sole discretion, on credit terms. Terms for cash-in-advance and letter of credit payments shall be as set forth in the SourceBook 2. All amounts hereunder shall be payable in United States dollars. All associated. banking charges with respect to payments of manufacturing costs and royalties shall be borne solely by Publisher.

6.2.3.1 Credit Terms. SCEA may at its sole discretion extend credit terms and limits to Publisher. SCEA may also revoke such credit limits at its sole discretion. If Publisher qualifies for credit terms, then orders will be invoiced upon shipment of Licensed Products and each invoice will be payable within thirty (30) days of the date of the invoice. ***. Publisher shall be additionally liable for all costs and expenses of collection, including, without limitation, reasonable fees for attorneys and court costs.

6.2.3.2 General Terms. No deduction may be made from remittances unless an approved credit memo has been issued by a Designated Manufacturing Facility. Neither SCEA nor a Designated Manufacturing Facility shall be responsible for shortage or breakage with respect to any order if component parts and/or assembly services are obtained from alternate sources. Each shipment to Publisher shall constitute a separate sale, whether said shipment be whole or partial fulfillment of any order. Nothing in this Agreement shall excuse or be construed as a waiver of Publisher's obligation to timely provide any and all payments owed to SCEA and Designated Manufacturing Facility.

6.3 Delivery of Licensed Products. Neither SCEA nor any Designated Manufacturing Facility shall have an obligation to store completed Units of Licensed Products. Publisher may either specify a mode of delivery or allow Designated Manufacturing Facility to select a mode of delivery.

6.4 Ownership of Master Discs. Due to the proprietary nature of the mastering process, neither SCEA nor a Designated Manufacturing Facility shall under any circumstances release any original master CD-ROM, Master Discs or other in-process materials to Publisher. All such materials shall be and remain the sole property of SCEA or Designated Manufacturing Facility. Notwithstanding the foregoing, Publisher Intellectual Property Rights contained in Product Software that is contained in such in-process materials is, as between SCEA and Publisher, the sole and exclusive property of Publisher or its licensors (other than SCEA and/or its affiliates).

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

7. Marketing and Distribution.

7.1 Marketing Generally. In accordance with the provisions of this Agreement and at no expense to SCEA Publisher shall, and shall direct its distributors to diligently market, sell and distribute the Licensed Products, and shall use commercially reasonable efforts to stimulate demand for such Licensed Products in the Licensed Territory and to supply any resulting demand. Publisher shall use its reasonable best efforts to protect the Licensed Products from and against illegal reproduction and/or copying by end users or by any other persons or entities.

7.2 Samples. Publisher shall provide to SCEA, no additional cost, for SCEA's internal use, *** sample copies of each Licensed Product. Publisher shall pay any manufacturing costs to the Designated Manufacturing Facility in accordance with Section 6.2, but shall not be obligated to pay royalties, in connection with such sample Units. In the event the Publisher assembles any Licensed Product using an alternate source, Publisher shall be responsible for shipping such sample Units to SCEA at Publisher's cost and expense. SCEA shall not directly or indirectly resell any such sample copies of the Licensed Products without Publisher's prior written consent. SCEA may give sample copies to its employees, provided that it uses its reasonable efforts to ensure that such copies are not sold into the retail market. In addition, subject to availability, Publisher shall sell to SCEA additional quantities of Licensed Products at the Wholesale Price for such Licensed Product. Any changes to SCEA's policy regarding sample Units shall be set forth in the SourceBook 2.

7.3 Marketing Programs of SCEA. From time to time, SCEA may invite Publisher to participate in promotional or advertising opportunities that may feature one or more Licensed Products from one or more Licensed Publishers. Participation shall be voluntary and subject to terms to be determined at the time of the opportunity. In the event Publisher elects to participate, all materials submitted by Publisher to SCEA shall be submitted subject to Section 10.2 hereunder and delivery of such materials to SCEA shall constitute acceptance by Publisher of the terms of the offer. Moreover, SCEA may use the Generic Line on all multi-product marketing materials, unless otherwise agreed in writing.

7.4 Demonstration Disc Programs. SCEA may, from time to time, provide opportunities for Publisher to participate in SCEA Demo Disc programs. In addition, SCEA may, from time to time grant to Publisher the right to create Third Party Demo Discs pursuant to SCEA Established Third Party Demo Disc Programs. The specifications with respect to the approval, creation, manufacture, marketing, distribution and sale of any such demo disc programs shall be set forth in the SourceBook 2 or in other documentation to be provided by SCEA to Publisher. Except as otherwise specifically set forth herein, in the SourceBook 2 or in other documenation, Third Party Demo Discs shall be considered "Licensed Products" and shall be subject in all respects to the terms and conditions of this Agreement pertaining to Licensed Products. In addition, the following procedures shall also apply to SCEA Demo Discs and Third Party Demo Discs:

7.4.1 SCEA Demo Discs.

7.4.1.1 License. SCEA may, but shall not be obligated to, invite Licensed Publishers to participate in any SCEA Demo Disc program. Participation by Publisher in an SCEA Demo Disc program shall be optional. If Publisher elects to participate in an SCEA Demo Disc program and provides Product Information to SCEA in connection thereto, Publisher shall thereby grant to SCEA a royalty-free license during the term of this Agreement in the Licensed Territory to manufacture, use, sell, distribute, market, advertise and otherwise promote Publisher's Product Information as part of such SCEA Demo Disc program. In addition, Publisher shall grant SCEA the right to feature Publisher and Licensed Product names in SCEA Demo Disc Advertising Materials and to use copies of screen displays generated by the code, representative video samples or other Product Information in such SCEA Demo Disc Advertising Materials. All decisions

relating to the selection of first and third party Product Information and all other aspects of SCEA Demo Discs shall be in the sole discretion of SCEA.

7.4.1.2 Submission and Approval of Product Information. Upon receipt of written notice that SCEA has tentatively chosen Publisher's Product Information for inclusion in an SCEA Demo Disc, Publisher shall deliver to SCEA such requested Product Information by no later than the deadline set forth in such notice. Separate notice will be sent for each SCEA Demo Disc, and Publisher must sign each notice prior to inclusion in such SCEA Demo Disc. Publisher shall include its own Legal Copy on the title screen or elsewhere in the Product Information submitted to SCEA. SCEA shall only provide the Generic Line on the SCEA Demo Disc title screen and packaging. Publisher's Product Information shall comply with SCEA's technical specifications provided to Publisher. SCEA reserves the right to review and test the Product Information provided and request revisions prior to inclusion on the SCEA Demo Disc. If SCEA requests changes to the Product Information and Publisher elects to continue to participate in such Demo Disc, Publisher shall make such changes as soon as possible after receipt of written notice of such requested changes from SCEA, but not later than the deadline for receipt of Product Information. Failure to make such changes and provide the modified Product Information to SCEA by the deadline shall result in the Product Information being removed from the SCEA Demo Disc. Costs associated with preparation of Product Information supplied to SCEA shall be borne solely by Publisher. Except as otherwise provided in this Section, SCEA shall not edit or modify Product

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

Information provided to SCEA by Publisher without Publisher's consent not to be unreasonably withheld. SCEA shall have the right to use subcontractors to assist in the development of any SCEA Demo Disc. With respect to Product Information provided by Publisher in demo form, the demo delivered to SCEA shall not constitute the complete Licensed Product and shall be, at a minimum, an amount sufficient to demonstrate the Licensed Product's core features and value, without providing too much information so as to give consumers a disincentive to purchase the complete Licensed Product.

7.4.1.3 No Obligation to Publish. Acceptance of Product Information for test and review shall not be deemed confirmation that SCEA shall include the Product Information on an SCEA Demo Disc, nor shall it constitute approval of any other element of the Licensed Product. SCEA reserves the right to choose from products submitted from other Licensed Publishers and first party products to determine the products to be included in SCEA Demo Discs, and Publisher's Licensed Products will not be guaranteed prominence or preferential treatment on any SCEA Demo Disc. Nothing herein shall be construed as creating an obligation of SCEA to publish Product Information submitted by Publisher in any SCEA Demo Disc, nor shall SCEA be obligated to publish, advertise or promote any SCEA Demo Disc.

7.4.1.4 SCEA Demo Discs Sold at Retail. Publisher is aware and acknowledges that certain SCEA Demo Discs may be distributed and sold by SCEA in the retail market. If Publisher elects to participate in any SCEA Demo Disc program which is sold in the retail market, as notified by SCEA to Publisher, Publisher acknowledges prior to participation in any such SCEA Demo Disc that it is aware of no limitations regarding Product Information provided to SCEA pursuant to the terms of this Agreement which would in any way restrict SECA's ability to distribute or sell such SCEA Demo Disc at retail, nor does Publisher or its licensors (other than SCEA and/or its affiliates) have any anticipation of receiving any compensation from such retail sales. In the event that SCEA institutes a SCEA Demo Disc in which a fee and/or royalty is charged to Publisher, SCEA and Publisher will enter into a separate agreement regarding such SCEA Demo Disc.

7.4.2 Third Party Demo Discs.

7.4.2.1 License. Publisher may participate in any SCEA Established Third Party Demo Disc Program. Publisher shall notify SCEA of its intention to participate in any such program, and upon receipt of such notice, SCEA shall grant to Publisher the right and license to use Licensed Products in Third Party Demo Discs and to use, distribute, market, advertise and otherwise promote (and, if permitted in accordance with the terms of any SCEA Established Third Party Program or otherwise permitted by SCEA, to sell) such Third Party Demo Discs in accordance with the SourceBook 2, which may be modified from time to time at the sole discretion of SCEA. Unless separately agreed in writing with SCEA, Third Party Demo Discs shall not be used, distributed, promoted, bundled or sold in conjunction with other products. In addition, SCEA hereby consents to the use of the Licensed Trademarks in connection with Third Party Demo Discs, subject to the approval procedures set forth in this Agreement. If any SCEA Established Third Party Demo Disc Program is specified by SCEA to be for promotional use

only and not for resale, and such Third Party Demo Disc is subsequently discovered to be for sale, Publisher's right to produce Third Party Demo Discs shall thereupon be automatically revoked, and SCEA shall have the right to terminate any related Third Party Demo Discs in accordance with the terms of Section 14.3 or 14.4 thereto.

7.4.2.2 Submission and Approval of Third Party Demo Discs. Publisher shall deliver to SCEA, for SCEA's prior approval, a final version of each Third Party Demo Disc in a format prescribed by SCEA. Such Third Party Demo Disc shall comply with all requirements provided to Publisher by SCEA in the SourceBook 2 or otherwise. In addition, SCEA shall evaluate the Third Party Demo Disc in accordance with the approval provisions for Executable Software and Printed Materials set forth in Section 5.4 and 5.5, respectively. Furthermore, Publisher shall obtain the approval of SCEA in connection with any Advertising Materials relating to the Third Party Demo Discs in accordance with the approval provisions set forth in Section 5.6. Costs associated with Third Party Demo Discs shall be borne solely by Publisher. No approval by SCEA of any element of any Third Party Demo Disc shall be deemed an approval of any other element thereto, nor does any such approval constitute final approval for the related Licensed Product. Unless otherwise permitted by SCEA, Publisher shall clearly and conspicuously state on all Third Party Demo Disc Packaging and Printed Materials that the Third Party Demo Disc is for promotional purposes only and not for resale.

7.4.2.3 Manufacture and Royalty of Third Party Demo Discs. Publisher shall comply with all Manufacturing Specifications with respect to the manufacture and payment for manufacturing costs of Third Party Demo Discs, and Publisher shall also comply with all terms and conditions of Section 6 hereto. No costs incurred in the development, manufacture, licensing, production, marketing and/or distribution (and if permitted by SCEA, sale) of the Third Party Demo Disc shall be deducted from any amounts payable to SCEA hereunder. Royalties on Third Party Demo Discs shall be as provided in Section 8.2.

7.5 Contests and Sweepstakes of Publisher. SCEA acknowledges that, from time to time, Publisher may conduct contests and sweepstakes to promote Licensed Products. SCEA shall permit Publisher to include contest or sweepstakes materials in Printed

Materials and Advertising Materials, subject to compliance with the approval provisions of Section 5.5 and 5.6 hereunder, compliance with the provisions of Section 9.2 and 10.2 hereunder, and subject to the following additional terms and conditions:

(i) Publisher represents that it has retained the services of a fulfillment house to administer the contest or sweepstakes and if it has not retained the services of a fulfillment house, Publisher represents and warrants that it has the expertise to conduct such contests or sweepstakes, and in any event, Publisher shall assume full responsibility for all aspects of such contest or sweepstakes;

(ii) Publisher warrants that each contest, sweepstakes, and promotion, comply with local, state and federal laws or regulations;

(iii) Publisher represents and warrants that it has obtained the consent of all holders of intellectual property rights required to be obtained in connection with each contest or sweepstakes including, but not limited to, the consent of any holder of copyrights or trademarks relating to any Advertising Materials publicizing the contest or sweepstakes, or the prizes being awarded to winners of the contest or sweepstakes; and

(iv) Publisher shall make available to SCEA all contest and sweepstakes material prior to publication in accordance with the approval process set forth in Section 5.5 or 5.6.

Approval by SCEA of contest or sweepstakes materials for use in the Printed Materials or Advertising Materials (or any use of the System or Licensed Products as prizes in such contest or sweepstakes) shall not constitute an endorsement by SCEA of such contest or sweepstakes, nor shall such acceptance be construed as SCEA having reviewed and approved such materials for compliance with any federal or state law, statute, regulations, order or the like, which shall be Publisher's sole responsibility.

7.6 PlayStation Website. All Licensed Publishers shall be required to provide Product Information for a web page for each of its Licensed Products for display on the PlayStation promotional website, or other website or websites as may be operated by SCEA from time to time in connection with the promotion of the PlayStation brand. Specifications for Product Information for such web pages shall be as provided in the SourceBook 2. Publisher shall provide SCEA with such Product Information for each Licensed Product upon submission of Printed

Materials to SCEA for approval in accordance with Section 5.5.2 hereto. Publisher shall also provide updates to such web page in a timely manner as required by SCEA in updates to the SourceBook 2.

7.7 Distribution.

7.7.1 Distribution Channels. Publisher may use such distribution channels as Publisher deems appropriate, including the use of third party distributors, resellers, dealers and sales representatives. In the event that Publisher elects to have one of its Licensed Products distributed and sold by another Licensed Publisher, Publisher must provide SCEA with advance written notice of such election, the name of the Licensed Publisher and any additional information requested by SCEA regarding the nature of the distribution services provided by such Licensed Publisher prior to manufacture of such Licensed Product.

7.7.2 Limitations on Distribution. Notwithstanding any other provisions in this Agreement, Publisher shall not, directly or indirectly, solicit orders from or sell any Units of the Licensed Products to any person or entity outside of the Licensed Territory. In addition, Publisher shall not directly or indirectly solicit orders for or sell any Units of the Licensed Products in any situation where Publisher knows or reasonably should know that such Licensed Products may be exported or resold outside of the Licensed Territory.

8. Royalties.

8.1 Applicable Royalties on Licensed Products

8.1.1 Initial Orders. Publisher shall pay SCEA, either directly or indirectly or through its designee, a per title royalty in United States dollars for each Unit of the Licensed Products manufactured based on the initial Wholesale Price of the Licensed Product, as follows:

	Wholesale Price	Per Title Royalty
Band 1	*** to ***	***
Band 2	*** to ***	***
Band 3	*** to ***	***
Band 4	*** to ***	***
Band 5	***+	*** of WSP + $***

In the absence of satisfactory evidence to support the WSP, the royalty rate, that shall apply will be *** per Unit.

8.1.2 Reorders and. Other Programs. Royalties on additional orders to manufacture a specific Licensed Product shall be the royalty determined by the initial Wholesale Price as reported by Publisher for that licensed Product regardless of the wholesale price of the Licensed Product at the time of reorder, except in the event that the Wholesale Price increases for such Licensed Product, in which case the royalty shall be adjusted upwards to reflect the higher Wholesale Price. Licensed

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

Products qualifying for SCEA's "Greatest Hits" programs or other programs offered by SCEA shall be subject to the royalties applicable for such programs. Publisher acknowledges that as of the date of execution of this Agreement no "Greatest Hits" program exists for the PlayStation 2 Third Party licensing program.

8.2 Third Party Demo Disc Program Royalties. Publisher shall pay SCEA a per Unit royalty in United States dollars of *** for each Third Party Demo Disc Unit manufactured. The quantity of Units ordered shall comply with the terms of such. SCEA Established Third Party Demo Disc Program.

8.3 Payment. Payment of royalties under Sections 8.1 and 8.2 shall be made to SCEA through its Designated Manufacturing Facility concurrent with the placement of an order to manufacture Licensed Product and payment of manufacturing costs in accordance with the terms and conditions set forth in Sections 6.2.3, unless otherwise agreed in writing with SCEA. At the time of placing an order to manufacture a Licensed Product, Publisher shall submit to

SCEA an accurate accounting statement setting out the number of units of Licensed Product to be manufactured, projected initial wholesale price, applicable royalty, and total amount due SCEA. In addition, Publisher shall submit to SCEA prior to placing the initial order for each Licensed Product a separate certification, in the form provided by SCEA in the SourceBook 2, signed by officers of Publisher that certifies that the Wholesale Price provided to SCEA is accurate and attaching such documentation supporting the WSP as requested by SCEA. Payment shall be made prior to manufacture unless SCEA has agreed to extend credit terms to Publisher pursuant to Section 6.2.3.3. Nothing herein shall be construed as requiring SCEA to extend credit terms to Publisher. The accounting statement due hereunder shall be subject to the audit and accounting provisions set forth in paragraph 16.2 below. No costs incurred in the development, manufacture, marketing, sale and/or distribution of the Licensed Products shall be deducted from any royalties payable to SCEA hereunder. Similarly, there shall be no deduction from the royalties otherwise owed to SCEA hereunder as a result of any uncollectible accounts owed to Publisher, or for any credits, discounts, allowances or returns which Publisher may credit or otherwise grant to third party customer of any Units of the Licensed Products, or for any taxes, fees, assessments or expenses of any kind which may be incurred by Publisher in connection with its sale or distribution of any Units of the Licensed Products or arising with respect to the payment of royalties hereunder. In addition to the royalty payments provided to SCEA hereunder, Publisher shall be solely responsible for and bear any cost relating to any withholding taxes or other such assessments which may be imposed by any governmental authority with respect to the royalties paid to SCEA hereunder; provided, however, that SCEA shall not manufacture Licensed Products outside of the United States without the prior consent of Publisher. Publisher shall provide SCEA with official tax receipts or other such documentary evidence issued by the applicable tax authorities sufficient to substantiate that any such taxes or assessments have in fact been paid.

8.4 Rebate Programs. Publisher shall be eligible to participate in one of three rebate programs offered by SCEA: the Standard Rebate program, the Level 1 Rebate program, or the Level 2 Rebate program. If Publisher qualifies for such rebates as set forth herein, rebates shall be credited to Publisher's account as provided below:

Units Ordered	Standard	Level 1	Level 2
*** - ***	***	***	***
*** - ***	***	***	***
*** - ***	***	***	***
*** - ***	***	***	***
*** - ***	***	***	***
*** - ***	***	***	***
***+	***	***	***

8.4.1 Standard Rebate Program. All Publishers qualify for the Standard Rebate program. Rebates will be offered on an individual title basis. Rebates will be given to any individual Licensed Product that exceeds the above numbers of Units during the first year after first commercial shipment of such Licensed Product. The rebate in effect at the end of such year for the Licensed Product will remain in effect for as long as Publisher continues to sell such Licensed Product, but Publisher will not receive further rebates if sales of such Licensed Product hit additional thresholds as specified above after such year. The Standard Rebate may not be used in conjunction with a Third Party Demo Disc program or any promotional program of SCEA, with Licensed Products that qualify for any "Greatest Hits" program of SCEA or with Licensed Products that qualify for the ***.

8.4.2 Level 1 Rebate Program: To be eligible for the Level 1 Rebate program, Publisher must ship over *** Units of certain Licensed Products in a single Fiscal Year. Level 1 Rebates shall be credited to Publisher on an individual title basis. Other terms of the Level 1 Rebate are as follows:

(i) Only Publisher's titles (as determined below) that meet the following conditions shall count toward the *** Unit threshold: Publisher must order at least *** Units of the

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

Licensed Product both within the first year of commercial release of such Licensed Product and during the qualifying Fiscal Year.

(ii) Any Licensed Products, including "Greatest Hits" titles and products for the original PlayStation game console, but excluding all demo discs, shall count toward the *** threshold (provided they meet the conditions set forth in Section 8.4.2(i) above. For purposes of determining Level 1 Rebate thresholds and the conditions set forth in Section 8.4.2(i), full priced Licensed Products and "Greatest Hits" Licensed Products shall be considered separate Licensed Products, with separate Unit minimums and release dates.

(iii) Level 1 Rebates shall apply only to Licensed Products (not including "Greatest Hits" titles, Licensed Products qualifying for the *** and products for the original PlayStation game console) ordered in the Fiscal Year following the Fiscal Year in which the *** Unit threshold is met. Units of Licensed Products that qualified Publisher for inclusion in the Level 1 Rebate program in the previous Fiscal Year shall not be entitled to receive the Level 1 rebate.

(iv) Publisher must re-qualify for the Level 1 Rebate Program each Fiscal Year. If a Publisher fails to requalify for any Fiscal Year, then the Standard Rebate shall apply in such Fiscal Year. The first Fiscal Year for which Publisher may qualify for the Level 1 Rebate shall be the Fiscal Year ending ***, and if the Publisher qualifies for the Level 1 Rebate, it will apply to Licensed Products ordered in the Fiscal Year commencing ***.

(v) Licensed Products eligible for the Level 1 Rebate program shall not be eligible for Standard Rebates, and Level 1 Rebates shall supersede Standard Rebates with respect to any individual Licensed Product, if a Licensed Product qualifies for the Standard Rebate in one Fiscal Year, and Publisher qualifies for the Level 1 Rebate in the next Fiscal Year, Units of such Licensed Product ordered in the next Fiscal Year will receive the Level 1 Rebate commencing on April 1 of the next Fiscal Year going forward, but such Level 1 Rebate will not be credited retroactively to Units of the Licensed Product ordered in the previous Fiscal Year. For example, Publisher orders *** Units of Product X Fiscal Year 2001, receiving a Standard Rebate of ***. Publisher qualifies for the Level 1 Rebate in Fiscal Year 2002. Publisher will receive the Level 1 Rebate of *** commencing with Units ordered on ***, but will not receive a retroactive credit for Units order prior to ***. When Publisher reaches the *** Unit threshold, it will receive a retroactive credit of *** on all Level 1 Rebate Units ordered, as well as a retroactive credit of *** on Standard Rebate Units ordered in the previous Fiscal Year, and Publisher will receive the Level 1 Rebate of *** going forward.

8.4.3 Level 2 Rebate Program: To be eligible for the Level 2 Rebate program, Publisher must ship over *** Units of certain Licensed Products in any Fiscal Year. Level 2 Rebates shall be credited to Publisher on an individual title basis. Other terms of the Level 2 Rebate are as follows:

(i) Only Publisher's titles (as, determined below) that meet the following conditions shall count toward the *** threshold: Publisher must order at least *** Units of the Licensed Product both within the first year of commercial release of such Licensed Product and during the qualifying Fiscal Year.

(ii) Any Licensed Products, including "Greatest Hits" titles and products for the original PlayStation game console, but excluding all demo discs, shall count toward the *** Unit threshold (provided they meet the conditions set forth in Section 8.4.3(i) above). For purposes of determining Level 2 Rebate thresholds and the conditions set forth in Section 8.4.2(i), full priced Licensed Products and "Greatest Hits" Licensed Products shall be considered separate Licensed Products, with separate Unit minimums and release dates.

(iii) Level 2 Rebates shall apply only to Licensed Products (not including "Greatest Hits" titles, Licensed Products qualifying for the *** and products for the original PlayStation game console) ordered in the Fiscal Year following the Fiscal Year in which the *** Unit threshold is met. Units of Licensed Products that qualified Publisher for inclusion in the Level 2 Rebate program in the previous Fiscal Year shall not be entitled to receive the Level 2 Rebate.

(iv) Publisher must-re-qualify for the Level 2 Rebate Program each Fiscal Year. If Publisher fails to requalify for any Fiscal Year then the Standard Rebate or Level 1 Rebate, as the case may be, shall apply in such Fiscal Year. The first Fiscal Year for which a Publisher may qualify for the Level 2 Rebate shall be the Fiscal Year ending ***, and if the Publisher qualifies for the Level 2 Rebate, it will apply to Licensed Products ordered in the Fiscal Year commencing ***.

(v) Licensed Products eligible for the Level 2 Rebate program shall not be eligible for Standard Rebates or Level 1 Rebates, and Level 2 Rebates shall supersede Standard Rebates and Level 1 Rebates with respect to any individual Licensed Product. If a Licensed Product qualifies for the Standard Rebate or Level 1 Rebate in one Fiscal Year, and Publisher qualifies for the Level 2 Rebate in the next Fiscal Year, Units of such Licensed Product ordered in the next Fiscal Year will receive the Level 2 Rebate going forward, but such Level 2 Rebate will not be credited retroactively to Units of the Licensed Product

ordered in the previous Fiscal Year. See Section 8.4.2(v) for an example.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

8.5 Calculation and Use of Rebates. Rebate percentages for all rebate programs shall be credited against royalties owed SCEA and shall have no other monetary value. All rebates, whether under the Standard Rebate, Level 1 Rebate or Level 2 Rebate Programs shall be issued by SCEA as a credit to Publisher for use against future royalty payments. It is Publisher's responsibility to inform SCEA when it reaches any rebate threshold. In no event shall Publisher take a deduction off royalties owed SCEA or deduction off an invoice payable to SCEA on current production unless and until SCEA issues a credit to Publisher in writing or unless otherwise agreed in writing. From time to time SCEA may allow Publisher to use credits in other manners on terms and conditions to be determined by SCEA. Publisher may use rebate credits to procure Development Tools. Units of Licensed Products shall be considered "ordered" when Units first begin to ship from a Designated Manufacturing Facility.

8.6 Rebate Credits. Subject to Sections 8.4.2(v) and 8.4.3(y), all rebate programs are ***, such that Publisher receives a credit for each rebate percentage against *** Units when it reaches the Unit threshold for the next rebate percentage. SCEA shall credit Publisher's account with respect to *** rebates as follows: (A) if Publisher's initial order for a Licensed Product is less than any rebate threshold provided above, then SCEA shall *** credit Publisher's account *** following the date that Publisher notifies SCEA that orders of a Licensed Product exceed any rebate threshold, subject to SCEA's right to confirm such information; and (B) if Publisher's initial order for a Licensed Product reaches or exceeds any rebate threshold provided above, then Publisher may credit the rebate amount set forth above as a separate line item on the Purchase Order with respect to such Licensed Product, subject to SCEA's confirmation right.

9. Representations and Warranties.

9.1 Representation and Warranties of SCEA. SCEA represents and warrants solely for the benefit of Publisher that SCEA has the right, power and authority to enter into this Agreement and to fully perform its obligations hereunder.

9.2 Representations and Warranties of Publisher. Publisher. Publisher represents and warrants that:

(i) There is no threatened or pending action, suit, claim or proceeding alleging that the use by Publisher of all or any part of the Product Software, Product Proposals, Product Information, Printed Materials, Advertising Materials or any underlying work or content embodied therein, or any name, designation or trademark used in conjunction with the Licensed Products infringes or otherwise violates any Intellectual Property Right or other right or interest of any kind whatsoever of any third party, or otherwise contesting any right, title or interest of Publisher in or to the Product Software, Product Proposals, Product Information, Printed Materials, Advertising Materials or any underlying work or content embodied therein, or any name, designation or trademark used in conjunction with the Licensed Products;

(ii) The Product Software, Product Proposals, Product Information, Printed Materials and Advertising Materials and their contemplated use under this Agreement do not and shall not infringe any person's or entity's rights including without limitation, patents, copyrights (including rights in a joint work), trademarks, trade dress, trade secret, rights of publicity, privacy, performance, moral rights, literary rights and any other third party right;

(iii) Publisher has the right, power and authority to enter into this Agreement, to grant SCEA the rights granted hereunder and to fully perform its obligations hereunder;

(iv) The making of this Agreement by Publisher does not violate any separate agreement, rights or obligations existing between Publisher and any other person or entity, and, throughout the term of this Agreement, Publisher shall not make any separate agreement with any person or entity that is inconsistent with any of the provisions of this Agreement;

(v) Publisher has not sold, assigned, leased, licensed or in any other way disposed of or encumbered the rights granted to Publisher hereunder, and Publisher will not sell, assign, lease, license or in any other way dispose of or encumber any of such rights except as expressly permitted hereunder or as consented to by SCEA in writing;

(vi) Publisher has obtained the consent of all holders of intellectual property rights required to be obtained in connection with use of any Product

Information by SCEA as licensed hereunder, and Product Information when provided to SCEA in accordance with the terms of this Agreement may be published, marketed, distributed and sold by SCEA in accordance with the terms and conditions of this Agreement and without SCEA incurring any royalty, residual, union, guild or other fees;

(vii) Publisher shall not make any representation or give any warranty to any person or entity expressly or implicitly on SCEA's behalf, or to the effect that the Licensed Products are connected in any way with SCEA (other than that the Executable Software and/or Licensed Products have been developed, marketed, sold and/or distributed under license from SCEA);

(viii) In the event that Executable Software is delivered to other Licensed Publishers or Licensed Developers by Publisher in source code form, Publisher will take all precautions consistent with the protection of

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

valuable trade secrets by companies in high technology industries to ensure the confidentiality of such source code;

(ix) The Executable Software and any Product Information delivered to SCEA shall be in a commercially acceptable form, free of significant bugs, defects, time bombs or viruses which could disrupt, delay, destroy the Executable Software or System or render either of them less than fully useful and shall be fully compatible with the System and any peripherals listed on the Printed Materials as compatible with the Licensed Product;

(x) Each of the Licensed Products, Executable Software, Printed Materials and Advertising Materials shall be developed, marketed, sold and distributed by or at the direction of Publisher in an ethical manner and in full compliance with all applicable federal, state, provincial, local and foreign laws and any regulations and standards promulgated thereunder (including but not limited to federal and state lottery laws as currently interpreted and enforced) and will not contain any obscene or defamatory matter;

(xi) Publisher's policies and practices with respect to the development, marketing, sale, and/or distribution of the Licensed Products shall in no manner reflect adversely upon the name, reputation or goodwill of SCEA;

(xii) Publisher has, or will contract with a Licensed Developer for, the technical expertise and resources necessary to fulfill its obligations under this Agreement; and

(xiii) Publisher shall make no false, misleading or inconsistent representations or claims with respect to any Licensed Products, the System or SCEA.

10. Indemnities; Limited Liability.

10.1 Indemnification by SCEA. SCEA shall indemnify and hold Publisher harmless from and against any and all third party claims, losses, liabilities, damages, expenses and costs, including, without limitation, reasonable fees for attorneys, expert witnesses and litigation costs, and including costs incurred in the settlement or avoidance of any such claim which result from or are in connection with a breach of any of the representations or warranties provided by SCEA herein; provided, however, that Publisher shall give prompt written notice to SCEA of the assertion of any such claim, and provided, further, that SCEA shall have the right to select, counsel and control the defense and settlement thereof. SCEA shall have the exclusive right, at its discretion, to commence and prosecute at its own expense any lawsuit or to take such other action with respect to such matters as shall be deemed appropriate by SCEA. Publisher shall provide SCEA, at no expense to Publisher, reasonable assistance and cooperation concerning any such matter; and Publisher shall not agree to the settlement of any such claim, action or proceeding without SCEA's prior written consent.

10.2 Indemnification By Publisher. Publisher shall indemnify and hold SCEA harmless from and against any and all claims, losses, liabilities, damages, expenses and costs, including, without limitation, reasonable fees for attorneys, expert witnesses and litigation costs, and including costs incurred in the settlement or avoidance of any such claim, which result from or are in connection with (i) a breach of any of the provisions of this Agreement; or (ii) infringement of a third party's intellectual property rights by Publisher; or (iii) any claims of or in connection with any personal or bodily injury (including death) or property damage, by whomever such claim is made, arising out of, in whole or in part, the development, marketing, sale, distribution and/or use of any of the Licensed Products (or portions thereof) unless due directly to the breach of SCEA in performing any of the specific duties and/or

providing any of the specific services required of it hereunder; or (iv) any federal, state or foreign civil or criminal actions relating to the development, marketing, sale and/or distribution of Licensed Products. SCEA shall give prompt written notice to Publisher of the assertion of any such indemnified claim, and, with respect to third party claims, actions or proceedings against SCEA, SCEA shall have the right to select counsel for SCEA and reasonably control the defense and/or settlement thereof. Subject to the above, Publisher shall have the right, at its discretion, to select its own counsel, to commence and prosecute at its own expense any lawsuit, to reasonably control the defense and/or settlement thereof or to take such other action with respect to claims, actions or proceedings by or against Publisher. SCEA shall retain the right to approve any settlement. SCEA shall provide Publisher, at no expense to SCEA, reasonable assistance and cooperation concerning any such matter; and SCEA shall not agree to the settlement of any such claim, action or proceeding (other than third party claims, actions or proceedings against SCEA) without Publisher's prior written consent.

10.3 LIMITATION OF LIABILITY.

10.3.1 LIMITATION OF SCEA'S LIABILITY. IN NO EVENT SHALL SCEA OR OTHER SONY AFFILIATES AND THEIR SUPPLIERS, OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE FOR LOSS OF PROFITS, OR ANY SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF, RELATING TO OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE BREACH OF THIS AGREEMENT BY SCEA, THE MANUFACTURE OF THE LICENSED PRODUCTS AND THE USE OF THE LICENSED PRODUCTS, EXECUTABLE SOFTWARE AND/OR THE SYSTEM BY PUBLISHER OR ANY END-USER, WHETHER UNDER THEORY OF CONTRACT, TORT

(INCLUDING NEGLIGENCE), INDEMNITY, PRODUCT LIABILITY OR OTHERWISE. IN NO EVENT SHALL SCEA'S LIABILITY ARISING UNDER, RELATING TO OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR DIRECT OR INDIRECT DAMAGES, AND INCLUDING WITHOUT LIMITATION ANY LIABILITY UNDER SECTION 10.1 HERETO,***. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER SCEA NOR ANY SONY AFFILIATE, NOR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, SHALL BEAR ANY RISK, OR HAVE ANY RESPONSIBILITY OR LIABILITY, OF ANY KIND TO PUBLISHER OR TO ANY THIRD PARTIES WITH RESPECT TO THE QUALITY, OPERATION AND/OR PERFORMANCE OF ANY PORTION OF THE SONY MATERIALS, THE SYSTEM OR ANY LICENSED PRODUCT.

10.3.2 LIMITATION OF PUBLISHER'S LIABILITY. IN NO EVENT SHALL PUBLISHER OR ITS AFFILIATED COMPANIES AND THEIR SUPPLIERS, OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO SCEA FOR ANY LOSS OF PROFITS, OR ANY SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF, RELATED TO OR IN CONNECTION WITH (i) THIS AGREEMENT OR (ii) THE USE OR DISTRIBUTION IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT OF ANY CODE PROVIDED BY SCEA, IN WHOLE OR IN PART, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, PRODUCT LIABILITY OR OTHERWISE, PROVIDED THAT SUCH LIMITATIONS SHALL NOT APPLY TO DAMAGES RESULTING FROM PUBLISHER'S BREACH OF SECTIONS 4, 10.2, 11 OR 13 OF THIS AGREEMENT, AND PROVIDED FURTHER THAT SUCH LIMITATIONS SHALL NOT APPLY TO AMOUNTS WHICH PUBLISHER MAY BE REQUIRED TO PAY TO THIRD PARTIES UNDER SECTIONS 10.2 OR 16.10.

10.4 ***

11. SCEA Intellectual Property Rights.

11.1 Licensed Trademarks. The Licensed Trademarks and the goodwill associated therewith are and shall be the exclusive property of SCEA or Affiliates of SCEA. Nothing herein shall give Publisher any right, title or interest in or to any of the Licensed Trademarks or any other trademarks of SCEA, other than the non-exclusive license provided herein. Publisher shall not do or cause to be done any act or thing in any way impairing or tending to impair or dilute any of SCEA's rights, title or interests in or to any of the Licensed Trademarks or any other trademarks of SCEA, nor shall Publisher register any other trademarks in its own name or in the name of any other person or entity, or obtain rights to employ Internet domain names or addresses, which are similar to or are likely to be confused with any of the Licensed Trademarks or any other trademarks of SCEA.

11.2 License of Sony Materials and System. All rights with respect to the Sony Materials and System, including, without limitation, all of SCEA Intellectual Property Rights therein, are and shall be the exclusive property of SCEA or Affiliates of SCEA. Nothing herein shall give Publisher any right, title or interest in or to the Sony Materials or the System (or any portion thereof), other than the non-exclusive license provided herein. Publisher shall not do or cause to be done any act or thing in any way impairing or tending to impair any of SCEA's rights, title or interests in or to the Sony Materials or the System (or any portion thereof).

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

12. Infringement of SCEA Intellectual Property Rights By Third Parties.

In the event that Publisher discovers or otherwise becomes aware that any of the SCEA Intellectual Property Rights have been or are being infringed upon by any third party, then Publisher shall promptly notify SCEA. SCEA shall have the sole right, in its discretion, to institute and prosecute lawsuits against third parties for such infringement of SCEA Intellectual Property Rights. Any lawsuit shall be prosecuted solely at the cost and expense of SCEA and all sums recovered in any such lawsuits, whether by judgment, settlement or otherwise shall belong solely to SCEA. Upon request of SCEA, Publisher shall execute all papers, testify on all matters and otherwise cooperate in every way necessary and desirable for the prosecution of any such lawsuit. SCEA shall reimburse Publisher for the reasonable expenses incurred as a result of such cooperation, but unless authorized by other provisions of this Agreement, not costs and expenses attributable to the-conduct of a cross-claim or third party action.

13. Confidentiality.

13.1 SCEA's Confidential Information.

13.1.1 Definition of SCEA's Confidential Information. "SCEA's Confidential Information" shall mean:

(i) the System, Sony Materials and Development Tools;

(ii) other documents and materials developed, owned, licensed or under the control of Sony, including all processes, data, hardware, software, inventions, trade secrets, ideas, creations, improvements, designs, discoveries, developments, research and know-how, including without limitation the SourceBook 2 and SCEA Intellectual Property Rights relating to the System, Sony Materials or Development Tools; and

(iii) information and documents regarding SCEA's finances, business, marketing and technical plans, business methods and production plans.

SCEA's Confidential Information may consist of information in any medium, whether oral, printed, in machine-readable form or otherwise, including information apprised to Publisher and reduced to tangible or written form at any time during the term of this Agreement. In addition, the existence of a relationship between Publisher and SCEA for the purposes set forth herein shall be deemed to be SCEA's Confidential Information unless otherwise agreed to in writing by the parties or until publicly announced by SCEA.

13.1.2 Term of Protection of SCEA's Confidential Information. The term for the protection of SCEA's Confidential Information shall commence on the Effective Date first above written and shall continue in full force and effect as long as any of SCEA's Confidential Information continues to be maintained as confidential and proprietary by SCEA and/or Sony. During such term, Publisher shall, pursuant to Section 13.1.3 below, safeguard and hold in trust and confidence and not disclose or use (except for the purposes herein specified) any and all of SCEA's Confidential Information.

13.1.3 Preservation of SCEA's Confidential Information. Publisher shall, with respect to SCEA's Confidential Information:

(i) not disclose SCEA's Confidential Information to any person or entity other than those employees or directors of the Publisher whose duties justify a "need to know" and who have executed a confidentiality agreement in which employees or directors have agreed not to disclose and to hold confidential all confidential information and materials (inclusive of those of third parties) which may be disclosed to them or to which they may have access during the course of their duties. At SCEA's request, Publisher shall provide SCEA with a copy of such confidentiality agreement between Publisher and its employees or directors, and shall also provide SCEA with a list of employee and, director signatories. Publisher shall not disclose any of SCEA's Confidential Information to third parties, including without limitation to consultants or agents. Any employees or directors who obtain access to SCEA's Confidential Information shall be advised by Publisher of the confidential nature of SCEA's Confidential Information, and Publisher shall be responsible for any breach of this Agreement by its employees or directors.

(ii) take all measures necessary to safeguard SCEA's Confidential Information in order to avoid disclosure, publication, or dissemination, using as high a degree of care and scrutiny, but at least reasonable care, as is consistent with the protection of valuable trade secrets by companies in high

technology industries.

(iii) ensure that all written materials relating to or containing SCEA's Confidential Information be maintained in a restricted access area and plainly marked to indicate the secret and confidential nature thereof.

(iv) at SCEA's request return promptly to SCEA any and all portions of SCEA's Confidential lnformation, together with all copies thereof.

(v) not use, modify, reproduce, sublicense, copy, distribute, create derivative works from, or otherwise provide to third parties, SCEA's Confidential information, or any portion thereof, except as provided herein, nor shall Publisher remove any proprietary legend set forth on or contained within any of SCEA's Confidential Information.

13.1.4 Exceptions. The foregoing restrictions shall not apply to any portion of SCEA's Confidential Information which

(i) was previously known to Publisher without restriction on disclosure or use, as proven by written documentation of Publisher; or

(ii) is or legitimately becomes part of the public domain through no fault of Publisher or its employees; or

(iii) is independently developed by Publisher's employees who have not had access to SCEA's Confidential Information, as proven by written documentation of Publisher; or

(iv) is required to be disclosed by administrative or judicial action; provided that Publisher must attempt to maintain the confidentiality of SCEA's Confidential Information by asserting in such action the restrictions set forth in this Agreement, and, immediately after receiving notice of such action or any notice of any threatened action, Publisher must notify SCEA to give SCEA the maximum opportunity to seek any other legal remedies to maintain such SCEA's Confidential Information in confidence as herein provided; or

(v) is approved for release by written authorization of SCEA.

13.1.5 No Obligation to License. Disclosure of SCEA's Confidential Information to Publisher shall not constitute any option, grant or license from SCEA to Publisher under any patent or other SCEA Intellectual Property Rights now or hereinafter held by SCEA. The disclosure by SCEA to Publisher of SCEA Confidential Information hereunder shall not result in any obligation on the part of SCEA to approve any materials of Publisher hereunder or otherwise, nor shall such disclosure by SCEA give Publisher any right to, directly or indirectly, develop, manufacture or sell any product derived from or which uses any of SCEA's Confidential Information, other than as expressly set forth in this Agreement.

13.1.6 Publisher's Obligations Upon Unauthorized Disclosure. If at any time Publisher becomes aware of any unauthorized duplication, access, use, possession or knowledge of any SCEA's Confidential Information, it shall notify SCEA as soon as reasonably practicable, and shall promptly act to recover any such information and prevent any further breach of the confidentiality obligations herein. Publisher shall provide any and all reasonable assistance to SCEA to protect SCEA's proprietary rights in any of SCEA's Confidential Information that it or its employees or permitted subcontractors may have directly or indirectly disclosed or made available, and that may be duplicated, accessed, used, possessed or known in a manner or for a purpose not expressly authorized by this Agreement, including but not limited to enforcement of confidentiality agreements, commencement and prosecution in good faith (alone or with the disclosing party) of legal action, and reimbursement for all reasonable attorneys' fees, costs and expenses incurred by SCEA to prevent the recurrence of any unauthorized duplication, access, use, possession or knowledge of SCEA's Confidential Information. In addition, SCEA shall have the right to pursue any actions at law or in equity, including without limitation the remedies set forth in Section 16.10 hereto.

13.2 Publisher's Confidential Information.

13.2.1 Definition of Publisher's Confidential Information. "Publisher's Confidential Information" shall mean:

(i) any Product Software as provided to SCEA pursuant to this Agreement and all documentation and information relating thereto, including Product Proposals, Printed Materials and Advertising Materials (other than documentation and information intended for use by and release to end users, the general public or the Trade);

(ii) other documents and materials developed, owned, licensed or under the control of Publisher, including all processes, data, hardware, software, inventions, trade secrets, ideas, creations, improvements, designs, discoveries, developments, research and know-how; and

(iii) information and documents regarding Publisher's finances, business, marketing and technical plans, business methods and production plans.

Publisher's Confidential Information may consist of information in any medium, whether oral, printed, in machine-readable form or otherwise, including information apprised to SCEA and reduced to tangible or written form at any time during the term of this Agreement.

13.2.2 Term of Protection of Publisher's Confidential Information. The term for the protection of Publisher's Confidential Information shall commence on the Effective Date first above written and shall continue in full force and effect as long as any of Publisher's Confidential Information continues to be maintained as confidential and proprietary by Publisher.

13.2.3 Preservation of Confidential Information of Publisher. SCEA shall, with respect to Publisher's Confidential Information:

(i) hold all Publisher's Confidential Information in confidence, and shall take all reasonable steps to preserve the confidentiality of Publisher's Confidential Information, and to prevent it from falling into the public domain or into

the possession of persons other than those persons to whom disclosure is authorized hereunder.

(ii) not disclose Publisher's Confidential Information to any person other than an SCEA employee or subcontractor who needs to know or have access to such Confidential Information for the purposes of this Agreement, and only to the extent necessary for such purposes.

(iii) ensure that all written materials relating to or containing Publisher's Confidential Information be maintained in a secure area and plainly marked to indicate the secret and confidential nature thereof.

(iv) at Publisher's request, return promptly to Publisher any and all portions of Publisher's Confidential Information, together with all copies thereof.

(v) not use Publisher's Confidential Information, or any portion thereof, except as provided herein, nor shall SCEA remove any proprietary legend set forth on or contained within any of Publisher's Confidential Information.

13.2.4 Exceptions. The foregoing restrictions will not apply to any portion of Publisher's Confidential Information which:

(i) was previously known to SCEA without restriction on disclosure or use, as proven by written documentation of SCEA; or

(ii) is or legitimately becomes part of information in the public domain through no fault of SCEA, its employees or its subcontractors; or

(iii) is independently developed by SCEA's employees or affiliates who have not had access to Publisher's Confidential Information, as proven by written documentation of SCEA; or

(iv) is required to be disclosed by administrative or judicial action; provided that SCEA attempted to maintain the confidentiality of Publisher's Confidential Information by asserting in such action the restrictions set forth in this Agreement, and immediately after receiving notice of such action, notified Publisher of such action to give Publisher the opportunity to seek any other legal remedies to maintain such Publisher's Confidential Information in confidence as herein provided; or

(vi) is approved for release by written authorization of Publisher.

13.2.5 SCEA's Obligations Upon Unauthorized Disclosure. If at any time SCEA becomes aware of any unauthorized duplication, access, use, possession or knowledge of any of Publisher's Confidential Information, it shall notify Publisher as soon as is reasonably practicable. SCEA shall provide any and all reasonable assistance to Publisher to protect Publisher's proprietary rights in any of Publisher's Confidential Information that it or its employees or permitted subcontractors may have directly or indirectly disclosed or made available and that may be duplicated, accessed, used, possessed or known in any manner or for a purpose not expressly authorized by this Agreement including but

not limited to enforcement of confidentiality agreements, commencement and prosecution in good faith (alone or with the disclosing party) of legal action, and reimbursement for all reasonable attorneys' fees, costs and expenses incurred by Publisher to prevent the recurrence of any unauthorized duplication, access, use, possession or knowledge of Publisher's Confidential Information.

13.3 Confidentiality of Agreement. The terms and conditions of this Agreement shall be treated as SCEA's Confidential Information and Publisher's Confidential Information; provided that each party may disclose the terms and conditions of this Agreement:

(i) to legal counsel;

(ii) in confidence, to accountants, banks, and financing sources and their advisors;

(iii) in confidence, in connection with the enforcement of this Agreement or rights arising under or relating to this Agreement; and

(iv) if required, in the opinion of counsel, to file publicly or otherwise disclose the terms of this Agreement under applicable federal and/or state securities or other laws, the disclosing party shall be required to promptly notify the other party such that the other party has a reasonable opportunity to contest or limit the scope of such required disclosure, and the disclosing party shall request, and shall use its best efforts to obtain, confidential treatment for such sections of this Agreement as the other party may designate.

14. Term and Termination.

14.1 Effective Date; Term. This Agreement shall not be binding on the parties until it has been signed by each party, in which event it shall be effective from the Effective Date until March 31, 2003, unless earlier terminated pursuant to Section 14.2. The term shall be automatically extended for additional one-year terms thereafter, unless either party provides the other with written notice of its election not to so extend on or before January 31 of the applicable year. Notwithstanding the foregoing the term for the protection of SCEA's Confidential Information and Publisher's Confidential

Information shall be as set forth in Sections 13.1.2 and 13.2.2 respectively.

14.2 Termination by SCEA. SCEA shall have the right to terminate this Agreement immediately, by providing written notice of such election to Publisher, upon the occurrence of any of the following:

(i) If Publisher breaches (A) any of its obligations hereunder, or (B) any other agreement entered into between SCEA or Affiliates of SCEA and Publisher.

(ii) The Liquidation or dissolution of Publisher or a statement of intent by Publisher to no longer exercise any of the rights granted by SCEA to Publisher hereunder.

(iii) If during the term of this Agreement, a controlling interest in Publisher or in an entity which directly or indirectly has a controlling interest in Publisher is transferred to a party that (A) is in breach of any agreement with SCEA or an Affiliate of SCEA; (B) directly or indirectly holds or acquires a controlling interest in a third party which develops any interactive device or product which is directly or indirectly competitive with the System; or (C) is in litigation with SCEA or Affiliates of SCEA concerning any proprietary technology, trade secrets or other SCEA Intellectual Property Rights or SCEA's Confidential Information. As used in this Section 14.2, "controlling interest" means, with respect to any form of entity, sufficient power to control the decisions of such entity.

(iv) If during the term of this Agreement Publisher or an entity that directly or indirectly has a controlling interest in Publisher enters into a business relationship with a third party with whom Publisher materially contributes to develop core components to an interactive device or product which is directly or indirectly competitive with the System.

Publisher shall immediately notify SCEA in writing in the event that any of the event or circumstances specified in this Section occur.

14.3 Product-by-product Termination by SCEA. In addition to the events of termination described in Section 14.2, above, SCEA, at its option, shall be entitled to terminate, on a product-by-product basis, the licenses and related rights herein granted to Publisher in the event that (a) Publisher fails to notify SCEA promptly in writing of any material change to any materials previously approved by SCEA in accordance with Section 5 or Section 6.1 hereto, and such breach is not corrected or cured within thirty (30) days after receipt

of written notice of such breach; (b) Publisher uses a third party that fails to comply with the requirements of Section 3 in connection with the development of any Licensed Product; (c) any third party with whom Publisher has contracted for the development of Executable Software breaches any of its material obligations to SCEA pursuant to such third party's agreement with SCEA with respect to such Licensed Product; or (d) Publisher cancels a Licensed Product or fails to provide SCEA in accordance with the provisions of Section 5 above, with the final version of the Executable Software for any Licensed Product within three (3) months of the scheduled release date according to the Product Proposal (unless a modified final delivery date has been agreed to by the parties), or fails to provide work in progress to SCEA in strict accordance with the Review Process in Section 5.3.

14.4 Options of SCEA in Lieu of Termination. As alternatives to terminating Agreement or a particular Licensed Product as set forth in Sections 14.2 and 14.3 above, SCEA may, at its option and upon written notice to Publisher, take the following actions in lieu of terminating this agreement. In the event that SCEA elects either of these options, Publisher may terminate this Agreement upon written notice to SCEA rather than allowing SCEA to exercise these options. Election of these options by SCEA shall not constitute a waiver of or compromise with respect to any of SCEA's rights under this Agreement and SCEA may elect to terminate this Agreement with respect to any breach.

14.4.1 Suspension of Agreement. SCEA may suspend this Agreement, entirely or with respect to a particular Licensed Product or program, for a set period of time which shall be specified in writing to Publisher upon the occurrence of any breach of this Agreement.

14.4.2 Liquidated Damages. Whereas a minor breach of any of the events set out below may not warrant termination of this Agreement, but will cause SCEA damages in amounts difficult to quantify, SCEA may require Publisher to pay liquidated damages of *** as follows:

(i) Failure to submit Advertising Materials to SCEA for approval (including any required resubmissions);

(ii) Broadcasting or publishing Advertising Materials without receiving the final approval or consent of SCEA;

(iii) Failure to make SCEA's requested revisions to Advertising Materials; or

(iv) Failure to comply with the SourceBook 2, Manufacturing Specifications or Guidelines which relates in any way to use of Licensed Trademarks.

Liquidated damages shall be invoiced separately or on Publisher's next invoice for Licensed Products. SCEA reserves the right to terminate this Agreement for breach in lieu of seeking liquidated damages or in the event that liquidated damages are unpaid.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

14.5 No Refunds. In the event of the termination of this Agreement in accordance with any of the provisions of Sections 14.2 through 14.4 above, no portion of any payments of any kind whatsoever previously provided to SCEA hereunder shall be owed or be repayable to Publisher.

15. Effect of Expiration or Termination.

15.1 Inventory Statement. Within thirty (30) days of the date of expiration or the effective date of termination with respect to any or all Licensed Products or this Agreement, Publisher shall provide SCEA with an itemized statement, certified to be accurate by an officer of Publisher, specifying the number of unsold Units of the Licensed Products as to which such termination applies, on a title-by-title basis, which remain in its inventory and/or under its control at the time of expiration or the effective date of termination. SCEA shall be entitled to conduct at its expense a physical inspection of Publisher's inventory and work in process upon reasonable written notice during normal business hours in order to ascertain or verify such inventory and inventory statement.

15.2 Reversion of Rights. Upon expiration or, termination and subject to Section 15.3 below, the licenses and related rights herein granted to Publisher shall immediately revert to SCEA, and Publisher shall cease from any further use of SCEA's Confidential Information Licensed Trademarks and Sony Materials and any SCEA Intellectual Property Rights therein, and, subject to the provisions of Section 15.3 below, Publisher shall have no further right to continue the development, publication, manufacture, marketing, sale or distribution of any

Units of the Licensed Products, or to continue to use any Licensed Trademarks; provided, however, that for a period of one year after termination, and subject to all the terms of Section 13, and provided this Agreement is not terminated due to a breach or default of Publisher, Publisher may retain such portions of Sony Materials and SCEA's Confidential Information as SCEA in its sole discretion agrees are required to support end users of Licensed Products but must return these materials at the end of such one year period. Upon expiration or termination, the licenses and related rights herein granted to SCEA by Publisher shall immediately revert to Publisher, and SCEA shall cease from any further use of Product Information and any Publisher Intellectual Property Rights therein; provided that SCEA may continue the manufacture, marketing, sale or distribution of any SCEA Demo Discs containing Publisher's Product information which Publisher had approved prior to termination.

15.3 Disposal of Unsold Units. Provided that this Agreement is not terminated due to a breach or default of Publisher, Publisher may, upon expiration or termination of this Agreement, sell off existing inventories of Licensed Products, on a non-exclusive basis, for a period of *** from the date of expiration or termination of this Agreement, and provided such inventories have not been manufactured solely or principally for sale during such period. Subsequent to the expiration of such *** period, or in the event this Agreement is terminated as a result of any breach or default of Publisher, any and all Units of the Licensed Products remaining in Publisher's inventory shall be destroyed by Publisher within *** of such expiration or termination. Within *** after such destruction, Publisher shall provide SCEA with an itemized statement, certified to be accurate by an officer of Publisher, indicating the number of Units of the Licensed Products which have been destroyed (on a title-by-title basis), the location and date of such destruction and the disposition of the remains of such destroyed materials.

15.4 Return of Sony Materials and Confidential Information. Upon the expiration or earlier termination of this Agreement, Publisher shall immediately deliver to SCEA, or if and to the extent requested by SCEA destroy, all Sony Materials and any and all copies thereof, and Publisher and SCEA shall, upon the request of the other party, immediately deliver to the other party, or if and to the extent requested by such party destroy, all copies thereof, which the other party previously furnished to it in furtherance of this Agreement. Within five (5) working days after any such destruction, Publisher and/or SCEA, as appropriate, shall provide the other party with an affidavit of destruction and an itemized statement, each certified to be accurate by an officer of Publisher, indicating the number of copies and/or units of the Sony Materials and/or Confidential Information which have been destroyed, the location and date of such destruction and the disposition of the remains of such destroyed materials. In the event that Publisher fails to return the Sony Materials or Confidential Information and SCEA must resort to legal means (including without limitation any use of attorneys) to recover the Sony Materials or Confidential Information or the value thereof, all costs, including SCEA's reasonable attorney's fees, shall be borne by Publisher, and SCEA may, in addition to SCEA's other remedies, withhold such amounts from any payment otherwise due from SCEA to Publisher under any agreement between SCEA, and Publisher.

15.5 Extension of this Agreement; Termination Without Prejudice. SCEA shall be under no obligation to extend this Agreement notwithstanding any actions taken by either of the parties prior to the expiration of this Agreement. Upon the expiration of this Agreement, neither party shall be liable to the other for any damages (whether direct, indirect, consequential or incidental, and including, without limitation, any expenditures, loss of profits or prospective profits) sustained or arising out of or alleged to have been sustained or to have arisen out of such expiration. The expiration or termination of this Agreement shall be without prejudice to any rights or remedies which one party may otherwise have against the

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

other party, and shall not excuse either party from any such expiration or termination.

16. Miscellaneous Provisions.

16.1 Notices. All notices or other communications required or desired to be sent to either of the parties shall be in writing and shall be sent by registered or certified mail, postage prepaid, or sent by recognized international courier service, telegram or facsimile, with charges prepaid. The address for all notices or other communications required to be sent to SCEA or Publisher, respectively, shall be the mailing address stated in the preamble hereof, or such other address as may be provided by written notice from one party to the other on at least ten (10) days' prior written notice. Any such notice shall be effective upon the date of actual or tendered delivery, as

confirmed by the sending party.

16.2 Audit Provisions. Publisher shall keep full, complete, and accurate books of account and records covering all transactions relating to this Agreement. Publisher shall preserve such books of account, records, documents, and material for a period of *** after the expiration or earlier termination of this Agreement. Acceptance by SCEA of an accounting statement, purchase order, or payment hereunder will not preclude SCEA from challenging or questioning the accuracy thereof at a later time. In the event that SCEA reasonably believes that the Wholesale Price provided by Publisher with respect to any Licensed Product is not accurate, SCEA shall be entitled to request additional documentation from Publisher to support the listed Wholesale Price for such Licensed Product. In addition, during the Term and for a period of *** thereafter and upon the giving of reasonable written notice to Publisher, representatives of SCEA shall have access to, and the right to make copies and summaries of, such portions of all of Publisher's books and records as pertain to the Licensed Products and any payments due or credits received hereunder. In the event that such inspection reveals an under-reporting of any payment due or to SCEA, Publisher shall immediately pay SCEA such amount. In the event that any audit conducted by SCEA reveals that Publisher has under-reported any payment due to SCEA hereunder by*** or more for that audit period, then in addition to the payment of the appropriate amount due to SCEA Publisher shall reimburse SCEA for all reasonable audit costs for that audit and any and all collection costs to recover the unpaid amount.

16.3 Force Majeure. Neither SCEA nor Publisher shall be liable for any loss or damage or be deemed to be in breach of this Agreement if its failure to perform or failure to cure any of its obligations under this Agreement results from any event or circumstance beyond its reasonable control, including, without limitation, any natural disaster, fire, flood, earthquake or other Act of God; shortage of equipment, materials, supplies or transportation facilities; strike or other industrial dispute; war or rebellion; shutdown or delay in power, telephone or other essential service due to the failure of computer or communications equipment or otherwise; provided, however, that the party interfered with gives the other party written notice thereof promptly, and, in any event, within fifteen (15) business days of discovery of any such Force Majeure condition. If notice of the existence of any Force Majeure condition is provided within such period, the time for performance or cure shall be extended for a period equal to the duration of the Force Majeure event or circumstance described in such notice, except that any such cause shall excuse the payment of any sums owed to SCEA prior to, during or after any such Force Majeure condition. In the event that the Force Majeure condition continues for more than sixty (60) days, SCEA may terminate this Agreement for cause by providing written notice to Publisher to such effect.

16.4 No Agency, Partnership or Joint Venture. The relationship between SCEA and Publisher, respectively is that of licensor and licensee. Both parties are independent contractors and are not the legal representative agent, joint venturer, partner or employee of the other party for any purpose whatsoever. Neither party has any right or authority to assume or create any obligations of any kind or to make any representation or warranty on behalf of the other party, whether express or implied or to bind the other party in any respect whatsoever.

16.5 Assignment. SCEA has entered into this Agreement based upon the particular reputation, capabilities and experience of Publisher and its officers, directors and employees. Accordingly, Publisher may not assign this Agreement or any of its rights hereunder, nor delegate or otherwise transfer any of its obligations hereunder, to any third party unless the prior written consent of SCEA shall first be obtained. This Agreement shall not be assigned in contravention of Section 14.2 (iii). Any attempted or purported assignment, delegation or other such transfer, directly or indirectly, without the required consent of SCEA shall be void. Subject to the foregoing, this Agreement shall inure to the benefit of the parties and their respective successors and permitted assigns (other than under the conditions set forth in Section 14.2 (iii). SCEA shall have the right to assign any and all of its rights and obligations hereunder to any Sony affiliate(s).

16.6 Subcontractors. Publisher shall not sell, assign, delegate, subcontract, sublicense or otherwise transfer or encumber all or any portion of the licenses herein granted without the prior written approval of SCEA, provided, however, that Publisher may retain those subcontractors who provide services which do not require access to Sony Materials or SCEA's Confidential Information without such prior approval. Publisher may retain those subcontractor(s) to assist with the development, publication and marketing of Licensed

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

Products (or portions thereof) which have signed (i) an LPA or LDA with SCEA (the "PlayStation 2 Agreement") in full force and effect throughout the term of such development and marketing; or (ii) an SCEA approved subcontractor agreement ("Subcontractor Agreement"); and SCEA has approved such subcontractor in writing, which approval shall be in SCEA's sole discretion. Such Subcontractor Agreement shall provide that SCEA is a third-party beneficiary of such Subcontractor Agreement and has the full right to bring any actions against such subcontractors to comply in all respects with the terms and conditions of this Agreement. Publisher shall provide a copy of any such Subcontractor Agreement to SCEA prior to and following execution thereof. Publisher shall not disclose to any subcontractor any of SCEA's Confidential Information, including, without limitation, any Sony Materials, unless and until either a PlayStation 2 Agreement or a Subcontractor Agreement has been executed and approved by SCEA. Notwithstanding any consent which may be granted by SCEA for Publisher to employ any such permitted subcontractor(s), or any such separate agreement(s) that may be entered into by Publisher with any such permitted subcontractor, Publisher shall remain fully liable for its compliance with all of the provisions of this Agreement and for the compliance of any and all permitted subcontractors with the provisions of any agreements entered into by such subcontractors in accordance with this Section. Publisher shall use its best efforts to cause its subcontractors retained in furtherance of this Agreement to comply in all respects with the terms and conditions of this Agreement, and hereby unconditionally guarantees all obligations of its subcontractors. SCEA may subcontract any of its rights or obligations hereunder.

16.7 Compliance with Applicable Laws. The parties shall at all times comply with all applicable regulations and orders of their respective countries and other controlling jurisdictions and all conventions and treaties to which their countries are a party or relating to or in any way affecting this Agreement and the performance by the parties of this Agreement. Each party, at its own expense, shall negotiate and obtain any approval, license or permit required in the performance of its obligations, and shall declare, record or take such steps to render this Agreement binding, including, without limitation, the recording of this Agreement with any appropriate governmental authorities (if required).

16.8 Governing Law; Consent to Jurisdiction. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, excluding that body of law related to choice of laws, and of the United States of America. Any action or proceeding brought to enforce the terms of this Agreement or to adjudicate any dispute arising hereunder shall be brought in the Superior Court of the County of San Mateo, State of California or the United States District Court for the Northern District of California. Each of the parties hereby submits itself to the exclusive jurisdiction and venue of such courts for purposes of any such action and agrees that any service of process may be effected by delivery of the summons in the manner provided in the delivery of notices set forth in Section 16.1 above. In addition, each party hereby waives the right to a jury trial in any action or proceeding related to this Agreement.

16.9 Legal Costs and Expenses. In the event it is necessary for either party to retain the services of an attorney or attorneys to enforce the terms of this Agreement or to file or defend any action arising out of this Agreement, then the prevailing party in any such action shall be entitled, in addition to any other rights and remedies available to it at law or in equity to recover from the other party its reasonable fees for attorneys and expert witnesses, plus such court costs and expenses as may be fixed by any court of competent jurisdiction. The term "prevailing party" for the purposes of this Section shall include a defendant who has a motion, judgment, verdict or dismissal by the court, successfully defended against any claim that has been asserted against it.

16.10.Remedies. Unless expressly set forth to the contrary, either party's election of any remedies provided for in this Agreement shall not be exclusive of any other remedies, and all such remedies shall be deemed to be cumulative. Any breach of Sections 3, 4, 5, 6, 11 and 13 of this Agreement would cause significant and irreparable harm to SCEA, the extent of which would be difficult to ascertain. Accordingly, in addition to any other remedies including without limitation equitable relief to which SCEA may be entitled, in the event of a breach by Publisher or any of its employees or permitted subcontractors of any such Sections of this Agreement, SCEA shall be entitled to immediate issuance without bond of ex parte injunctive relief or, if a bond is required under applicable law, on the posting of a bond in an amount not to exceed ***, enjoining any breach or threatened breach of any or all of such provisions. In addition, if Publisher fails to comply with any of its obligations as set forth herein, SCEA shall be entitled to an accounting and repayment of all forms of compensation, commissions, remuneration or benefits which Publisher directly or indirectly realizes as a result of or arising in connection with any such failure to comply. Such remedy shall be in addition to and not in limitation of any injunctive relief or other remedies to which SCEA may be entitled under this Agreement or otherwise at law or in equity. In addition, Publisher shall indemnify SCEA for all losses, damages, liabilities, costs and expenses

(including reasonable attorneys' fees and all reasonable related costs) which SCEA may sustain or incur as a result of any breach under this Agreement.

16.11.Severability. In the event that any provision of this Agreement (or portion thereof) is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, such provision (or portion thereof) shall be enforced to the extent possible

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

consistent with the stated intention of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, while the remainder of this Agreement shall continue in full force and remain in effect according to its stated terms and conditions.

16.12.Sections Surviving Expiration or Termination. The following sections shall survive the expiration or earlier termination of this Agreement for any reason: 4, 5.8, 6.2, 6.4, 8, 9, 10, 11, 13, 14.5, 15 and 16.

16.13.Waiver. No failure or delay by either party in exercising any right, power or remedy under this Agreement shall operate as a waiver of any such right, power or remedy. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. Any waiver by either party of any provision of this Agreement shall not be construed as a waiver of any other provision of this Agreement, nor shall such waiver operate or be construed as a waiver of such provision respecting any future event or circumstance.

16.14.Modification and Amendment. No modification or amendment of any provision of this Agreement shall be effective unless in writing and signed by both of the parties. Notwithstanding the foregoing, SCEA reserves the right to modify the SouceBook 2 from time to time upon reasonable notice to Publisher.

16.15.Headings. The section headings used in this Agreement are intended primarily for reference and shall not by themselves determine the construction or interpretation of this Agreement or any portion hereof.

16.16.Integration. This Agreement, together with the SourceBook 2, constitutes the entire agreement between SCEA and Publisher and supersedes all prior or contemporaneous agreements, proposals, understandings and communications between SCEA and Publisher, whether oral or written, with respect to the subject matter hereof including any PlayStation 2 Confidentiality and Nondisclosure Agreement and Materials Loan Agreement between SCEA and Publisher.

16.17.Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and together shall constitute one and the same instrument.

16.18.Construction. This Agreement shall be fairly interpreted in accordance with its terms and without any strict construction in favor of or against either of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the day and year first written above.

SONY COMPUTER ENTERTAINMENT AMERICA INC.	ACTIVISION, INC.
By: /s/ Phil Harrison	By: /s/ Ron Doornink
Phil Harrison	
Vice President	Print Name: Ron Doornink
Third Party Relations and Research and Development	
May 15, 2000	Title: President & COO
NOT A VALID AGREEMENT UNTIL EXECUTED BY BOTH PARTIES	
	Date: 5/9/00

PLAYSTATION 2(R) LICENSED PUBLISHER AGREEMENT

THIS AGREEMENT RELATES TO THE PUBLISHING OF APPLICATION SOFTWARE FOR THE PLAYSTATION(R)2 COMPUTER ENTERTAINMENT SYSTEM. ALL TERMS USED HEREIN ARE SPECIFIC TO THE PLAYSTATION(R)2 SYSTEM AND NOT TO SONY'S PREDECESSOR "PLAYSTATION" VIDEO ENTERTAINMENT SYSTEM. PUBLISHING RIGHTS FOR SUCH PREDECESSOR SYSTEM ARE SUBJECT TO SEPARATE AGREEMENTS WITH SCEE, AND ANY LICENCE OF RIGHTS TO PUBLISHER UNDER SUCH SEPARATE AGREEMENTS SHALL NOT CONFER ON PUBLISHER ANY RIGHTS IN RELATION TO THE PLAYSTATION(R)2 SYSTEM, OR VICE VERSA.

This Agreement is entered into the 23 day of March 2001 by and between

SONY COMPUTER ENTERTAINMENT EUROPE LIMITED
of 30 Golden Square, London W1F 9LD
(hereinafter referred to as "SCEE")

- and -

ACTIVISION UK LIMITED
of Gemini House. 133 High Street, Yiewsley, West Drayton, Middlesex UB7 7QL
(hereinafter referred to as "Publisher")
PUBLISHER AUTHORISATION #: 56

Whereas

(A) SCEE, its parent company Sony Computer Entertainment Inc., and/or certain of their affiliates and companies within the group of companies of which any of them form part (hereinafter jointly and severally referred to as "Sony") have developed, and are licensing core components of, a computer entertainment system known and hereinafter referred to as "PlayStation 2", and are the owners of, or have the right to grant licences of, certain proprietary information and intellectual property rights pertaining to PlayStation 2.

(B) Publisher desires to be granted a non-exclusive licence to market, distribute and sell Licensed Products (as defined below), and for such Licensed Products and associated materials to be manufactured by an authorised manufacturing facility licensed by SCEE, on the terms and subject to the conditions set forth in this Agreement.

(C) SCEE is willing, on the terms and subject to the conditions of this Agreement, to grant Publisher the desired non-exclusive licence.

Now therefore, in consideration of the undertakings, representations and warranties given herein, and of other good and valuable consideration the receipt and sufficiency of which is acknowledged, Publisher and SCEE hereby agree as follows:

1. Definitions

1.1 "Licensed Products" means PlayStation 2 format Software product(s) in uniquely marked or coloured CD-ROM or DVD-ROM format software discs (hereinafter referred to as "PlayStation 2 Discs").

1.2 "Licensed Territory" means the countries specified in Schedule 1.

1.3 "Sony Intellectual Property Rights" means all current and future patents worldwide, pending patent applications and other patent rights (under licence or otherwise), copyrights, trademarks, service marks, trade names, semi-conductor topography rights, trade secret rights, technical information and know-how (and the equivalents of each of the foregoing under the laws of any jurisdiction) of Sony pertaining to Sony Materials and/or PlayStation2, and all other proprietary or intellectual property rights worldwide (including, without limitation, all applications and registrations with respect thereto) of Sony pertaining to Sony Materials and/or PlayStation2, and all renewals and extensions thereof.

1.4 "PlayStation 2 format Software" means Publisher's object code software, which includes Licensed Developer Software and any software (whether in object code or source code form) which is provided by SCEE and intended to be combined with Licensed Developer Software for execution on PlayStation 2 and has the ability to communicate with the software resident in PlayStation 2.

1.5 "Term" means the period from the date hereof until 31 March 2003 and continuing thereafter unless and until terminated by not less than 1 (one) month's notice on either side given to expire on such date or any subsequent 31 March.

1.6 "Affiliate of SCEE" means, as applicable, either Sony Computer Entertainment Inc in Japan, Sony Computer Entertainment America Inc in the USA or such other Sony Computer Entertainment entity as may be established by Sony from time to time.

1.7 "LDA 2" means the PlayStation 2 Licensed Developer Agreement between Licensed Developer of the applicable PlayStation 2 format Software and SCEE (or an equivalent such agreement between Licensed Developer and an Affiliate of SCEE).

1.8 "Licensed Trademarks" means the "PS" family logo and PlayStation 2 logotype and such other trademarks, service marks, trade dress, logos and othericons or indicia as shall be specified in the Specifications or otherwise designated by SCEE from time to time. SCEE may amend such Licensed Trademarks upon reasonable notice to Publisher.

Publisher is not authorised to use the PlayStation, PSone or PlayStation.com logos and/or logotypes, or the "PS2" or PlayStation Shapes devices, other than as expressly permitted by separate agreement. Nothing contained in this Agreement shall in any way grant Publisher the right to use the trademark "Sony" in any manner as (or as part of) a trademark, trade name, service mark or logo or otherwise howsoever.

1.9 "Licensed Developer" means Publisher or such other third party as shall have developed Licensed Developer Software and PlayStation 2 format Software pursuant to a then current LDA2.

1.10 "Sony Materials" means any hardware, data, object code, source code, documentation (or any part(s) of any of the foregoing) and related peripheral items provided to the Licensed Developer of any PlayStation 2 format Software pursuant to the LDA 2 applicable for such PlayStation 2 format Software.

1.11 "Licensed Developer Software" means Licensed Developer's application source code and data (including audio and visual material) developed by Licensed Developer in accordance with its LDA 2 which, when integrated with any software (whether in object code or source code form) provided by SCEE, creates PlayStation2 format Software.

1.12 "Printed Materials" means all artwork and mechanicals to be set forth on the Licensed Product itself, and on the PlayStation2 box (or other container) and, if applicable, the box (or other) packaging for the Licensed Product and all instruction manuals, inlays, inserts, stickers and other user information and/or materials to be inserted in or affixed to such PlayStation2 box and/or packaging.

1.13 "Advertising Materials" means all advertising, merchandising, promotional and display materials of or concerning the Licensed Products.

1.14 "Manufactured Materials" means all units of the Licensed Products, of the Printed Materials to be set forth on the Licensed Products themselves and of the PlayStation 2 boxes for such Licensed Products (which expression shall include any alternative form of container for Licensed Products subsequently introduced by SCEE).

1.15 "Specifications" means such specifications relating to the content and/or manufacture of Licensed Products, Printed Materials, Advertising Materials and/or related matters or materials as may be issued by Sony, which specifications (and/or procedures relating to the testing or verification of all such materials for conformity to the Specifications and/or relating to the ordering and manufacture of Licensed Products and associated materials) may be amended from time to time upon reasonable notice to Publisher.

1.16 "CNDA" means the Confidentiality & Non-Disclosure (or similar) Agreement between Publisher and SCEE or an Affiliate of SCEE relating to PlayStation 2 and to Confidential Information of Sony and/or of Publisher thereunder.

1.17 "Confidential Information of Sony" means the content of this Agreement (including the Schedules hereto and the Specifications) and all confidential and/or proprietary information, documents and related materials of whatever nature (including, without limitation all processes,

hardware, software, inventions, trade secrets, ideas, designs, research, know-how, business methods, production plans and marketing plans) concerning PlayStation 2 developed or owned by, licensed to or under the control of Sony and, without limitation, information otherwise related to Sony's technology, know-how, products, potential products, research projects, promotional advertising and marketing plans, schedules and budgets, licensing terms and pricing, customer lists and details, commercial relationships or negotiations, services, financial models and other business information, whether relating to PlayStation 2 or otherwise including, unless covered by a separate Non-Disclosure Agreement between Publisher and SCEE, relating to Sony's "PlayStation" predecessor video entertainment system disclosed by whatever means, whether directly or indirectly, by or on behalf of Sony to Publisher at any time, whether disclosed orally, in writing or in machine-readable or other form, or otherwise discovered by Publisher as a result of any information or materials provided (whether directly or indirectly) by or on behalf of Sony to Publisher.

1.18 "Confidential Information of Publisher" means any and all confidential and/or proprietary information, documents and related materials of whatever nature (including, without limitation all processes, hardware, software, inventions, trade secrets, ideas, designs, research, know-how, business methods, production plans and marketing plans) concerning PlayStation 2 format Software developed or owned by, licensed to or under the control of Publisher and, without limitation. information, otherwise related to Publisher's technology, know-how, products, potential products, research projects, promotional advertising and marketing plans, schedules and budgets, licensing terms and pricing, customer lists and details, commercial relationships or negotiations, services, financial models and other business information, whether relating to PlayStation 2 or otherwise disclosed by whatever means, whether directly or indirectly, by or on behalf of Publisher to SCEE at any time, whether disclosed orally, in writing or in machine-readable or other form, or otherwise discovered by SCEE as a result of any information or materials provided (whether directly or indirectly) by or on behalf of Publisher to SCEE, which information is designated by Publisher as, or becomes known to SCEE under circumstances indicating that such information is, confidential or proprietary.

1.19 "Third Party Intellectual Property Rights" means all current and future patents worldwide, pending patent applications and other patent rights (under licence or otherwise), copyrights, trademarks, service marks, trade names, semi-conductor topography rights, trade secret rights, technical information and know-how (and the equivalents of each of the foregoing under the laws of any jurisdiction) of any third party other than Publisher or Sony and all other proprietary or intellectual property rights worldwide (including, without limitation, all applications and registrations with respect thereto), and all renewals and extensions thereof.

1.20 "Article 6" means Article 6 of Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programmes.

2. Grant of Licence

SCEE hereby grants to Publisher, and Publisher hereby accepts, within the Licensed Territory only and under the Sony Intellectual Property Rights, a non-exclusive non-transferable licence, without the right to sub-license (except as specifically provided herein), to publish PlayStation 2 format Software in such genres or categories as SCEE shall from time to time designate in the Specifications, and the right and obligation to use the Licensed Trademarks, in the form and manner prescribed in the Specifications, strictly, only and directly in connection with such publication. For these purposes, to "publish" shall mean any or all of the following: (i) produce Advertising Materials and Printed Materials; (ii) to issue to SCEE purchase orders for Manufactured Materials as prescribed in Clause 6; (iii) to market, distribute and sell Licensed Products (and to authorise others so to do); and (iv) to sub-license to end users the right to use Licensed Products for non-commercial purposes only and not for public performance.

3. Limitations

3.1 Subject always to Article 6, Publisher shall publish PlayStation 2 format Software only if developed by a Licensed Developer strictly in accordance with all the terms and conditions of such Licensed Developer's LDA 2 and shall not publish or attempt to publish any other software whatsoever intended for or capable of execution on PlayStation 2 . The onus of evidencing that PlayStation 2 format Software satisfies the foregoing criteria shall rest on Publisher and SCEE reserves the right to require

Publisher to furnish evidence satisfactory to SCEE that the foregoing criteria are satisfied.

3.2 Publisher shall not publish outside the Licensed Territory PlayStation 2 format Software unless and until Publisher shall be authorised and licensed so to do pursuant to a current licence agreement with the applicable Affiliate of SCEE. Further, Publisher shall not sub-publish such PlayStation 2 format Software through a third party either within or outside the Licensed Territory unless and until such sub-publisher shall be authorised and licensed so to do either pursuant to a current PlayStation 2 Licensed Publisher Agreement with SCEE or a current PlayStation 2 licence agreement with the applicable Affiliate of SCEE.

3.3 The licence granted in this Agreement extends only to the publication, marketing, distribution and sale of Licensed Products in such formats as may be designated by SCEE. Without limiting the generality of the foregoing and except as otherwise provided herein, Publisher and, if applicable, its sub-publishers shall at all times and in all territories be strictly prohibited from undertaking or authorising the distribution or transmission of PlayStation 2 format Software or Licensed Products through electronic means or any other means now known or hereafter devised, including without limitation, via wireless, cable, fiber optic means, telephone lines, microwave and/or radio waves, or over a network of interconnected computers or other devices. Notwithstanding this limitation, Publisher may electronically transmit PlayStation 2 format Software from site to site, or from machine to machine over a computer network, for the sole purpose of facilitating development; provided that no right of retransmission shall attach to any such transmission, and provided further that Publisher shall use reasonable security measures customary within the high technology industry to reduce the risk of unauthorised interception or retransmission of such transmissions.

For the avoidance of doubt, the foregoing shall apply only to PlayStation 2 format Software and to Licensed Products and shall not apply to Licensed Developer Software which does not utilise Sony Materials and/or Sony Intellectual Property Rights and/or, subject to Council Directive 91/250/EEC, Confidential Information of Sony.

3.4 Subject only to Article 6, Publisher and, if applicable, its sub-publishers shall at all times be strictly prohibited from disassembling or decompiling software, peeling semiconductor components or otherwise reverse engineering or attempting to reverse engineer or derive source code or create derivative works from PlayStation 2 format Software, from permitting or encouraging any third party so to do, and from acquiring or using any

materials from any third party who does so. Publisher shall in all cases be primarily liable for the payment of Platform Charge to SCEE in accordance with Clause 7 hereof in respect of any product published by Publisher, or, if applicable, any of its sub-publishers, which utilises Sony Materials and/or Sony Intellectual Property Rights and/or, subject to Council Directive 91/250/EEC, Confidential Information of Sony. The onus of evidencing that any such product is not so published shall rest on Publisher and SCEE reserves the right to require Publisher to furnish evidence satisfactory to SCEE that the applicable of the foregoing criteria are satisfied.

3.5 Publisher shall inform all such sub-publishers of the obligations imposed by this Agreement and shall obtain their commitment to abide by the same.

3.6 Any breach of the provisions of this Clause 3 shall be a material breach of this Agreement not capable of remedy.

4. Reservations

4.1 This Agreement does not grant any right or licence, under any Sony Intellectual Property Rights or otherwise, except as expressly provided herein, and no other right or licence is to be implied by or inferred from any provision of this Agreement or the conduct of the parties hereunder. Subject only to the rights of Publisher under this Agreement, all right, title and interest in and to the Sony Materials and the Sony Intellectual Property Rights are and shall be the exclusive property of Sony, and Publisher shall not make use of, or do or cause to be done any act or thing contesting or in any way impairing or tending to impair any of Sony's right, title or interest in or to, any of the Sony Materials, Sony Intellectual Property Rights, PlayStation 2 and/or Sony's "PlayStation" predecessor video entertainment system except as authorised by and in compliance with the provisions of this Agreement or as may otherwise

expressly be authorised in writing by Sony; provided however that the foregoing shall not be taken to preclude Publisher from challenging the validity of any Sony Intellectual Property Rights. No right, licence or privilege has been granted to Publisher hereunder concerning the development of any collateral product or other use or purpose of any kind whatsoever which displays or depicts any of the Licensed Trademarks. No promotional or novelty items or premium products (including, by way of illustration but without limitation, T-shirts, posters, stickers, etc) displaying or depicting any of the Licensed Trademarks shall be developed, manufactured, marketed, sold and/or distributed by, with the authority of or on behalf of, Publisher without the prior written consent and authorisation of SCEE in each case.

4.2 The Licensed Trademarks and the goodwill associated therewith are and shall be the exclusive property of Sony. Nothing herein shall give Publisher any right, title or interest in or to any of the Licensed Trademarks, other than the non-exclusive licence and privilege to display and use the Licensed Trademarks solely in accordance with the provisions of this Agreement. Publisher shall not do or cause to be done any act or thing contesting or in any way impairing or tending to impair any of Sony's right, title or interest in or to any of the Licensed Trademarks, nor shall Publisher register or apply to register any trademark in its own name or in the name of any other person or entity, or obtain or seek to obtain rights to employ Internet domain name(s) or address(es), which is or are similar to or is or are likely to be confused with any of the Licensed Trademarks; provided however that the foregoing shall not be taken to preclude Publisher from challenging the validity of any Licensed Trademarks.

4.3 Publisher or Licensed Developer (as applicable) retains all right, title and interest in and to Licensed Developer Software, including Licensed Developer's intellectual property rights therein and any names or other designations used as titles therefor, and nothing in this Agreement shall be construed to restrict the right of Licensed Developer to develop and/or the right of Publisher to publish products incorporating Licensed Developer Software (separate and apart from Sony Materials), and/or under such names or other designations, for any hardware platform or service other than PlayStation 2 .

4.4 Subject to the proviso to Clauses 4.1 and 4.2 above, Publisher shall, at the expense of SCEE, take all such steps as SCEE may reasonably require, including the execution of licences and registrations, to assist SCEE in maintaining the validity and enforceability of Sony Intellectual Property Rights.

4.5 Without prejudice to Clause 11, Publisher or SCEE (as applicable) shall promptly and fully notify the other in writing in the event that it discovers or otherwise becomes aware of any actual, threatened or suspected infringement of any of the intellectual property or trademark rights of the other embodied in any of the Licensed Products, and of any claim of infringement or alleged infringement by the other of any Third Party Intellectual Property Rights, and shall at the request and expense of the other do all such things as may reasonably be required to assist the other in taking or resisting any proceedings in relation to any such infringement or claim.

5. Quality Standards

5.1 Publisher shall provide SCEE with a Product Planning Notification for each Licensed Product in accordance with the Specifications.

Each Licensed Product, including without limitation the title and content thereof, and/or Publisher's use of any of the Licensed Trademarks, shall be required to conform to the Specifications and shall not, except as specifically authorised in writing by SCEE in each case, incorporate (in whole or in part) more than 1 (one) game product.

TESTING OR VERIFICATION FOR CONFORMITY TO THE SPECIFICATIONS SHALL BE CONDUCTED BY SCEE OR, AT PUBLISHER'S ELECTION, BY AN INDEPENDENT EXTERNAL TESTING SERVICE (IF AND WHEN SUCH SERVICE BECOMES AVAILABLE).

5.2 Publisher shall submit for testing for conformity to the Specifications such information and materials relating to the PlayStation 2 format Software for each Licensed Product as shall be specified in the Specifications. Such Specifications shall be comparable with the specifications applied by Sony with respect to its own PlayStation 2 format Software products. SCEE acknowledges and agrees that such Specifications shall be of prospective application only and shall not be applied to any

inventory units of the Licensed Products manufactured prior to, or in the active process of manufacture at the date of, the promulgation thereof by SCEE.

5.3 For each Licensed Product, Publisher shall be responsible, at Publisher's expense, for the origination of all Printed Materials, and for the manufacture and delivery to the manufacturer of such Licensed Product of all Printed Materials other than those to be set forth on the Licensed Product itself, all of which Printed Materials shall: (i) conform in all material respects to the Specifications; and (ii) include such other materials (including by way of illustration but not limitation, consumer health warnings in relation to epilepsy) and such consumer advisory rating code(s) as may from time to time be required by any governmental entity or in compliance with any voluntary code of practice operated by members of the interactive software development and publishing community. The Specifications referred to in (i) above shall be comparable with the specifications applied by Sony with respect to its own PlayStation 2 format Software products. SCEE acknowledges and agrees that such Specifications shall be of prospective application only and shall not be applied to any inventory units of the Licensed Products manufactured prior to, or in the active process of manufacture at the date of, the promulgation thereof. All materials to be submitted pursuant to this Clause 5.3 shall be delivered by such means and in such form as shall be prescribed in the Specifications and at Publisher's sole risk and expense. Publisher undertakes that the quality of such Printed Materials shall be of the same quality as that associated with high quality consumer products.

5.4 Where applicable, SCEE (or, where applicable, an independent external testing service as aforesaid) will test or verify for conformity to the Specifications (as the case may be) all materials submitted by Publisher pursuant to Clause 5.2 and Clause 5.3. Where such testing or verification is conducted by SCEE, SCEE shall advise Publisher of the results of such testing or verification within the applicable of the timeframes specified

in the Specifications. Where such testing or verification is conducted by such independent external testing service, such service shall advise Publisher of the results of such testing or verification within timeframes agreed between such service and Publisher (and SCEE shall have no responsibility or liability whatsoever arising from a failure by such service to meet such timeframes). If any of such materials (or any element(s) thereof) fail to conform to the Specifications, SCEE (or, where applicable, such independent external testing service) shall specify the reasons for such failure and state what revisions are required. After making the required revisions, Publisher may resubmit such materials in such revised form for re-testing or re-verification by SCEE (or, where applicable, such independent external testing service). The procedures described in this Clause 5.4 shall if necessary be repeated until all such materials for each Licensed Product shall expressly have been certified as conforming to the Specifications, such certification to be validly given only if in writing and signed by the duly authorised representative(s) of SCEE as specified in the Specifications (or, where applicable, by the duly authorised representative(s) of such independent external testing service). SCEE shall have no liability to Publisher for the accuracy or content (including translations and localisations) of Printed Materials (except only items required to be included in accordance with the Specifications) or in respect of costs incurred or irrevocably committed by Publisher as a result of any failure to conform to Specifications (even where certified for conformity) or in relation to, or to the use of, Printed Materials which shall not have been given a certificate of conformity by SCEE (or, where applicable, by such independent external testing service). No production units of any Licensed Product shall be manufactured, marketed, distributed or sold by, with the authority of or on behalf of, Publisher unless and until such a certificate of conformity of such Licensed Product shall first have been given by SCEE (or, where applicable, by such independent external testing service). No certificate of conformity from SCEE (or, where applicable, from such independent external testing service) of any element of the materials so submitted or resubmitted shall be deemed a certificate of conformity of any other element of such materials, nor shall any such certificate of conformity be deemed to constitute a waiver of any of SCEE's rights under this Agreement.

The generality of the foregoing notwithstanding, in the event that Publisher wishes to contest a finding by SCEE of non-conformity to the Specifications, and as an alternate to making required revisions and resubmissions as above, Publisher may have recourse to the appeals process specified in the Specifications.

5.5 Publisher shall not change in any material respect any of the materials for which a certificate of conformity shall have been given by SCEE (or, where applicable, by an independent external testing service) pursuant to Clause 5.4 (or, if applicable, pursuant to Clause 5.6) (or, alternately, which shall have been held to conform to the Specifications following recourse by Publisher to the appeals process specified in the Specifications). If any of the Licensed Products and/or related materials published by, with the authority of or on behalf of, Publisher fail to conform to the Specifications and the materials for which SCEE (or, where applicable, such independent external testing service) shall from time to time have given a certificate of conformity, then the provisions of Clause 13.2 shall apply.

5.6 SCEE reserves the right to require that pre-production samples of all Advertising Materials shall be submitted by Publisher to SCEE or, at Publisher's election, to an independent external testing service (if and when such service becomes available), free of charge and in accordance with the procedure specified in the Specifications, for verification for conformity to the Specifications (including specifically, but without limitation, in relation to the usage of any of the Licensed Trademarks), prior to any actual production, use or distribution of any such items by, with the authority or on behalf of, Publisher. No such proposed Advertising Materials shall be produced, used or distributed directly or indirectly by Publisher without first obtaining a certificate of conformity to the Specifications. Where such verification is conducted by SCEE, SCEE shall advise Publisher of the results of such verification within the applicable of the timeframes specified in the Specifications. Where such verification is conducted by such independent external testing service, such service shall advise Publisher of the results of such verification within

timeframes agreed between such service and Publisher (and SCEE shall have no responsibility or liability whatsoever arising from a failure by such service to meet such timeframes). If any such Advertising Materials (or any element(s) thereof) fail to conform to the Specifications, SCEE (or, where applicable, such independent external testing service) shall specify the reasons for such failure and state what revisions are required. After making the required revisions, Publisher may resubmit such materials in such revised form for re-verification by SCEE (or, where applicable, by such independent external testing service). The procedures described in this Clause 5.6 shall if necessary be repeated until all such Advertising Materials for each Licensed Product shall expressly have been certified as conforming to the Specifications, such certification to be validly given only if in writing and signed by the duly authorised representative(s) of SCEE as specified in the Specifications (or, where applicable, by the duly authorised representative(s) of such independent external testing service). SCEE shall have no liability to Publisher in respect of costs. incurred or irrevocably committed by Publisher in relation to, or to the use of, Advertising Materials which shall not have been given a certificate of conformity by SCEE (or, where applicable, by such independent external testing service). No certificate of conformity from SCEE (or, where applicable, from such independent external testing service) of any element of Advertising Materials so submitted or resubmitted shall be deemed a certificate of conformity of any other element of such Advertising Materials, nor shall any such certificate of conformity be deemed to constitute a waiver of any of SCEE's rights under this Agreement.

The generality of the foregoing notwithstanding, in the event that Publisher wishes to contest a finding of non-conformity to the Specifications by SCEE, and as an alternate to making required revisions and resubmissions as above, Publisher may have recourse to the appeals process specified in the Specifications.

Subject in each instance to the prior written consent of SCEE, Publisher may use such textual and/or pictorial advertising matter (if any) as may be created by, with the authority or on behalf of, Sony pertaining to the Sony Materials and/or to the Licensed Trademarks on such Advertising Materials as may, in Publisher's judgment, promote the sale of Licensed Products within the Licensed Territory. Sony shall have the right to use Licensed Products and/or other materials relating to Publisher's PlayStation 2 format Software titles in any advertising or promotion for PlayStation 2 at Sony's expense, subject to giving Publisher reasonable prior notice of such advertisement or promotion. Sony shall confer with Publisher regarding the text of any such advertisement. If required by Sony and/or any governmental entity or in compliance with any voluntary code of practice operated by members of the interactive software development and publishing community, Publisher shall, at Publisher's cost and expense, also include consumer advisory rating code(s) and, if required, other materials (including by way of illustration but not limitation, consumer health warnings in relation to

epilepsy) on any and all Advertising Materials used in connection with Licensed Products. Such consumer advisory rating code(s) shall be procured in accordance with the provisions of Clause 5.7.

5.7 Publisher agrees that, if required by SCEE or any governmental entity, it shall submit each Licensed Product to a consumer advisory ratings system designated by SCEE and/or such governmental entity for the purpose of obtaining rating code(s) for each Licensed Product. Any and all costs and expenses incurred in connection with obtaining such rating code(s) shall be borne solely by Publisher. Any required consumer advisory rating code(s) thereby procured shall be displayed on Licensed Products and associated Printed Materials in accordance with the Specifications, at Publisher's cost and expense.

5.8 In the event Publisher fails to comply with its obligations in relation thereto as specified in Clause 5.7, SCEE reserves the right in its sole discretion, at Publisher's sole cost and expense: (i) to display, or to require the display, on Licensed Products and/or associated Printed Materials and/or associated Advertising Materials (as may be required) materials (including by way of illustration but not limitation, consumer health warnings in relation to epilepsy) and/or to procure and to display, or to require the display of, consumer advisory rating code(s); or (ii) to

require non-complying Licensed Products and/or associated Printed Materials and/or associated Advertising Materials forthwith to be withdrawn from the market.

6. Manufacture of Licensed Products & Associated Materials

6.1 Subject only to Article 6, Publisher acknowledges and agrees that it shall purchase Manufactured Materials only from an authorised manufacturing facility licensed by SCEE. SCEE shall have the right, but no obligation, to subcontract the whole or any part or phase of the production of any or all of the Manufactured Materials or any part(s) thereof.

6.2 Subject always to Article 6, promptly following the giving by SCEE (or, where applicable, by an independent external testing service as aforesaid) of a certificate of conformity to the Specifications (or, alternately, a holding of conformity to the Specifications following recourse by Publisher to the appeals process specified in the Specifications) for each Licensed Product pursuant to Clause 5.2, SCEE shall create (from one of the CD copies of the finally approved version of the PlayStation 2 format Software as submitted by Publisher pursuant to Clause 5.2) the original master PlayStation 2 Disc ("Master PlayStation 2 Disc") from which all other copies of the Licensed Product are to be replicated in compliance with the Specifications effective at the time of replication. Where such certificate of conformity shall have been given by such an independent external testing service, then the CD copy of the finally approved version of the PlayStation 2 format Software as submitted by Publisher pursuant to Clause 5.2 from which the Master PlayStation 2 Disc is to be created shall be furnished SCEE by such service. Publisher shall be responsible for the costs, as set forth in Schedule 2, of creating such Master PlayStation 2 Disc. Publisher will retain duplicates of all such PlayStation2 format Software. SCEE shall not be liable for loss of or damage to any copies of the PlayStation 2 format Software furnished SCEE hereunder. There will be no technology exchange between Sony and Publisher under this Agreement. The mastering process being of a proprietary and commercially confidential nature, neither SCEE nor any manufacturing subcontractor of SCEE will under any circumstances release any Master PlayStation 2 Discs or other in-process materials to Publisher. All such physical materials shall be and remain the sole property of Sony.

6.3 Subject always to Article 6, Publisher shall be solely responsible for the delivery, direct to an authorised manufacturing facility licensed by SCEE and in accordance with Clause 6.4, *** of the number of sets of the Printed Materials (other than those set forth on the applicable Licensed Product itself) required to fulfill Publisher's purchase order for Manufactured Materials of each PlayStation 2 format Software title, which Printed Materials shall be in strict compliance with the Specifications. SCEE shall, at Publisher's request, give Publisher all reasonable assistance in arranging the manufacture of Printed Materials to be used in conjunction with Licensed Products not manufactured in reliance on Article 6 through SCEE's authorised manufacturing facility (if a Sony company), but SCEE shall have no responsibility with respect to pricing, delivery or any other related matter whatsoever in connection with such manufacture.

6.4 Subject to the giving by SCEE of a certificate of conformity to the

Specifications (or, alternately, a holding of conformity following recourse by Publisher to the appeals process specified in the Specifications) for the applicable PlayStation 2 format Software and Printed Materials pursuant to Clause 5, and to the delivery to an authorised manufacturing facility licensed by SCEE of the materials to be delivered under Clause 6.3, SCEE will, at Publisher's expense and as applicable, manufacture, assemble, package and deliver the Manufactured Materials and the Printed Materials in accordance with the terms and conditions set forth in this Clause 6. The delivery of the materials specified in Clause 6.3 shall be made in accordance with the timetable for such delivery specified in the Specifications.

6.5 Subject always to Article 6, Publisher shall issue to SCEE purchase order(s) via SCEE's Electronic Order System (or otherwise as specified by SCEE from time to time) in accordance with, and in compliance with the timetable specified in, the Specifications. No such order shall be issued unless and until all necessary certificates of conformity shall have been given (or, alternately, there shall have been a holding of conformity

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

following recourse by Publisher to the appeals process specified in the Specifications) pursuant to Clause 5. Each such order shall reference Publisher authorisation number and purchase order reference number, specify quantities of PlayStation 2 format Software by title by pack sku (in multiples of the minimum box shipment detailed in the Specifications), state requested ex-factory delivery date and all packaging information together with such other information as SCEE shall reasonably require and shall be for not less than the applicable minimum order quantity as specified in Schedule 2 hereto. All such purchase orders shall be subject to acceptance by SCEE, which acceptance will be advised to Publisher not more than 3 (three) working days following delivery in accordance with Clause 6.4 of the materials required to be delivered under Clauses 6.2 and 6.3. SCEE shall use all reasonable endeavours, subject to available manufacturing capacity, to fulfil Publisher's purchase orders by Publisher's requested ex-factory delivery date but does not in any event guarantee so to do. Publisher shall have no right to cancel or reschedule any purchase order or reorder (or any portion thereof) for any Licensed Product unless the parties shall first have reached mutual agreement as to Publisher's financial liability with respect to any desired cancellation or rescheduling of any such purchase order or reorder (or any portion thereof).

6.6 Subject only to the provisions of Clause 6.5 in relation to Printed Materials, neither SCEE nor any manufacturing subcontractor of SCEE shall be under any obligation to store finished units of Manufactured Materials or of associated Printed Materials beyond the actual ex-factory delivery date thereof. Delivery of Manufactured Materials shall be made ex-factory the applicable authorised manufacturing facility licensed by SCEE in the Licensed Territory. All risk of loss or damage in transit to any and all Manufactured Materials manufactured by SCEE pursuant to Publisher's orders shall pass to Publisher forthwith upon first handling by Publisher's carrier.

6.7 Publisher may inspect and test any units of Manufactured Materials not manufactured in reliance on Article 6 at Publisher's receiving destination. Any finished units of such Manufactured Materials which fail to conform to the Specifications and/or any description(s) contained in this Agreement may be rejected by Publisher by providing written notice of rejection to SCEE within 30 (thirty) days of receipt of such units of such Manufactured Materials at Publisher's receiving destination. In such event, the provisions of Clause 10.2 shall apply with respect to any such rejected units of Manufactured Materials. Notwithstanding the provisions of Clause 10.2, if Publisher fails to reject any units of such Manufactured Materials in the manner and within the 30 (thirty) day period prescribed above, such units of Manufactured Materials shall irrevocably be deemed accepted by Publisher and shall not subsequently be rejected.

6.8 In no circumstances shall SCEE or its authorised manufacturing facility treat any of Publisher's Licensed Products in any way more or less favourably, in terms of production turnaround times or otherwise, than the Licensed Products of any other Licensed Publisher of SCEE or than PlayStation2 format Software products published by SCEE itself.

7. Platform Charge

7.1 The all-in Platform Charge for finished units of Manufactured Materials in respect of which SCEE accepts Publisher's purchase order in accordance with Clause 6.5 shall be as specified in Schedule 2 (but subject to adjustment as therein provided). Such Platform Charge shall be subject to change by SCEE at any time upon reasonable notice to Publisher; provided, however, that such Platform Charge shall not be changed with respect to any units of Manufactured Materials which are the subject of an effective purchase order or reorder but which have not yet been delivered by SCEE. Such Platform Charge for finished units of Manufactured Materials is exclusive of any value-added or similar sales tax, customs and excise duties and other similar taxes or duties, which SCEE may be required to collect or pay as a consequence of the sale or delivery of finished units of Manufactured Materials. Publisher shall be solely responsible for the payment or reimbursement of any such taxes or duties, and other such charges or assessments applicable to the sale and/or purchase of finished units of Manufactured Materials.

The Platform Charge for products developed utilising Sony Materials and/or Sony Intellectual Property Rights and/or, subject to Council Directive 91/250/EEC, Confidential Information of Sony, but manufactured in reliance on Article 6, shall be the otherwise applicable Platform Charge less only such sum as represents from time to time the costs of raw materials and for production services (including for utilisation of Sony's proprietary Disc Mastering technology) for the products concerned which SCEE would otherwise have been invoiced for by SCEE's authorised manufacturing facility ("the Article 6 Platform Charge"). If Publisher has products so manufactured in reliance on Article 6, then Publisher shall furnish SCEE, within 28 (twenty eight) days following the close of each calendar month: (i) a written reporting of the number of inventory units (by product title) of products so manufactured during such calendar month; (ii) an external auditor's certificate (or similar independent certificate reasonably acceptable to SCEE) confirming the completeness and accuracy of such reporting; (iii) Publisher's remittance for the Article 6 Platform Charge multiplied by the number of inventory units reflected in such reporting. Any failure fully and promptly to comply with the foregoing reporting and payment obligations shall constitute a breach of this Agreement not capable of remedy, entitling SCEE forthwith to terminate the Term pursuant to Clause 13.1(i); and upon termination by SCEE for such cause, the provisions of Clause 14.2 shall come into effect.

SCEE shall upon reasonable written request provide Publisher details of the aforementioned costs of raw materials and production services if Publisher has legitimately exercised its rights under Article 6 or genuinely intends to exercise and rely upon such rights. However, SCEE reserves the right to require Publisher to execute a separate Non-Disclosure Agreement before making such information available.

7.2 No costs incurred in the development, manufacture, marketing, sale and/or distribution of Licensed Products and/or associated materials shall be deducted from any Platform Charge payable to SCEE hereunder. Similarly, there shall be no deduction from the Platform Charge otherwise payable to SCEE hereunder as a result of any uncollectable accounts owed to Publisher, or for any credits, discounts, allowances or returns which Publisher may credit or otherwise grant to any third party customer in respect of any units of Licensed Products and/or associated materials, or for any taxes, fees, assessments, or expenses of any kind which may be incurred by Publisher in connection with its sale and/or distribution of any units of Licensed Products and/or associated materials, and/or arising with respect to the payment of Platform Charge hereunder. Publisher shall furnish SCEE official tax receipts or other such documentary evidence issued by the applicable tax authorities sufficient to substantiate the fact of the deduction of any withholding taxes and/or other such assessments which may be imposed by any governmental authority with respect to such payments of Platform Charge hereunder and the amount of each such deduction.

7.3 Publisher shall effect payment for the Platform Charge specified in Clause 7.1 for the finished units of Manufactured Materials the subject matter of each purchase order issued pursuant to Clause 6.5 in accordance with the Specifications. Each delivery of Manufactured Materials to Publisher shall constitute a separate sale obligating Publisher to pay therefor, whether said delivery be whole or partial fulfilment of any order. No claim for credit due to shortage of Manufactured Materials as delivered to carrier will be allowed unless it is made within 5 (five) working days from the date of receipt at Publisher's receiving destination. Title to Manufactured Materials the subject of each such purchase order shall pass to Publisher only upon payment in full of the Platform Charge due in respect thereof. The receipt and deposit by SCEE of any payment of Platform Charge tendered

by or on behalf of Publisher as aforesaid shall be without prejudice to any rights or remedies of SCEE and shall not restrict or prevent SCEE from thereafter successfully challenging the basis for calculation and/or the accuracy of such payment. SCEE reserves the right, upon reasonable notice to Publisher, to require that such payments of Platform Charge shall be made to such other Sony entity as SCEE may designate from time to time.

8. Marketing & Distribution

Publisher shall, at no expense to SCEE, diligently market, distribute and sell Licensed Products throughout (but only in) the Licensed Territory, and shall use all reasonable efforts consistent with its best business judgment to stimulate demand therefor in the Licensed Territory and to supply any resulting demand. Publisher shall not market, distribute or sell Licensed Products outside the Licensed Territory or to any person, firm, corporation or entity having its place of business, or to any purchasing agency located, outside the Licensed Territory. Publisher shall use all reasonable efforts consistent with its best business judgment to protect Licensed Products from and against illegal reproduction and/or copying by end users or by any other persons or entities. Such methods of protection may include, without limitation, markings or insignia providing identification of authenticity and packaging seals as may be specified in the Specifications. SCEE shall be entitled, at SCEE's sole cost and expense, to manufacture up to *** additional units of Manufactured Materials (or such greater number of additional units as shall be agreed by Publisher, such agreement not unreasonably to be withheld or delayed) for each PlayStation 2 format Software title (and to purchase from Publisher, at a price equal to the actual cost thereof to Publisher, a corresponding number of units of Printed Materials for each such PlayStation 2 format Software title), for the purposes of or in connection with the marketing and promotion of PlayStation 2; provided however that SCEE shall not directly or indirectly resell any such units of Manufactured Materials (and, if applicable, of Printed Materials) within the Licensed Territory without Publisher's prior written consent. Further, SCEE shall be entitled to utilise Publisher's name and/or logo and the audio-visual content of, and/or the Printed Materials for, PlayStation 2 format Software titles (not to exclude the likenesses of any recognisable talent) for the purposes of or in connection with such marketing and promotion.

9. Confidentiality

9.1 All the terms and provisions of the CNDA shall apply to Confidential Information of Sony and, if and to the extent applicable, Confidential Information of Publisher.

9.2 Where Confidential Information of Publisher is not protected by the CNDA, SCEE shall hold the same in confidence and shall take all reasonable steps necessary to preserve such confidentiality. Except as may expressly be authorised by Publisher, SCEE shall not at any time, directly or indirectly: (i) disclose any Confidential Information of Publisher to any person other than a Sony employee who needs to know or have access to such information for the purposes of this Agreement, and only to the extent necessary for such purposes; (ii) except for the purposes of this Agreement, duplicate or use the Confidential Information of Publisher for any other purpose whatsoever; or (iii) remove any copyright notice, trademark notice and/or other proprietary legend set forth on or contained within any of the Confidential Information of Publisher.

9.3 The provisions of Clause 9.2 hereof shall not apply to any Confidential Information of Publisher which: (i) has become part of information in the public domain through no fault of SCEE; (ii) was known to SCEE prior to the disclosure thereof by Publisher; (iii) properly comes into the possession of SCEE from a third party which is not under any obligation to maintain the confidentiality of such information. SCEE may disclose Confidential Information of Publisher pursuant to a judicial or governmental order provided that SCEE promptly advises Publisher in writing prior to any such disclosure so that Publisher may seek other legal remedies to maintain the confidentiality of such Confidential Information of Publisher, and SCEE shall comply with any applicable protective order or equivalent.

9.4 Unless and until a public announcement regarding this Agreement shall have been made by Sony (or SCEE shall otherwise have agreed in writing), the fact that the parties have entered into this Agreement shall be Confidential Information of Sony and shall be treated in all respects accordingly. The content of, and the timing and method of the making of, any such public announcement shall be determined by SCEE in its best business judgement. However, SCEE will give reasonable consideration to any

notice from Publisher requesting that no such public announcement be made, at or prior to a particular time or at all.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

10. Warranties

10.1 SCEE represents and warrants solely for the benefit of Publisher that SCEE has the right, power and authority to enter into, and fully to perform its obligations under, this Agreement.

10.2 SCEE warrants that units of PlayStation 2 Discs comprising Licensed Products manufactured by SCEE for Publisher pursuant to Clause 6 hereof shall be free from defects in materials and workmanship under normal use and service at time of delivery in accordance with Clause 6.6. The sole obligation of SCEE under this warranty shall be, for a period of 90 (ninety) days from the date of delivery of such discs in accordance with Clause 6.6, at SCEE's election, either (i) to replace such defective discs or (ii) to issue credit for, or to refund to Publisher the Platform Charge of such defective discs (excluding PlayStation 2 Disc mastering charge) and to reimburse Publisher its reasonable return shipping costs. Such warranty is the only warranty applicable to Licensed Products manufactured by SCEE for Publisher pursuant to Clause 6. This warranty shall not apply to damage resulting from accident, fair wear and tear, wilful damage, alteration, negligence, abnormal conditions of use, failure to follow directions for use (whether given in instruction manuals or otherwise howsoever) or misuse of Licensed Products, or to discs comprising less than 1% (one percent) [or, if greater, 100 (one hundred) units] in the aggregate of the total number of Licensed Products manufactured by SCEE for Publisher per purchase order of any PlayStation 2 format Software title. If, during such 90 (ninety) day period, defects appear as aforesaid, Publisher shall notify SCEE and, upon request by SCEE (but not otherwise), return such defective discs, with a written description of the defect claimed, to such location as SCEE shall designate. SCEE shall not accept for replacement, credit or refund as aforesaid any Licensed Products except factory defective discs (i.e. discs that are not free from defects in materials and workmanship under normal use and service). All returns of defective discs shall be subject to prior written authorisation by SCEE, not unreasonably to be withheld. If no defect exists or the defect is not such as to be covered under the above warranty, Publisher shall reimburse SCEE for expenses incurred in processing and analysing the discs.

10.3 Publisher represents, warrants, covenants and agrees that: (i) Publisher has the right, power and authority to enter into, and fully to perform its obligations under, this Agreement; (ii) the making of this Agreement by Publisher does not violate any separate agreement, rights or obligations existing between Publisher and any other person, firm, corporation or entity, and, throughout the Term, Publisher shall not make any separate agreement with any person or entity which is inconsistent with any of the provisions hereof; (iii) both Licensed Developer Software and PlayStation 2 format Software, and any name, designation or title used in conjunction therewith, shall be free from any valid third party claim of infringement of any Third Party Intellectual Property Rights; (iv) there is no litigation, proceeding or claim pending or threatened against Publisher or any subsidiary or affiliate of Publisher which may materially affect Publisher's rights in and to Licensed Developer Software, the names, designations or titles used in conjunction therewith, the works and performances embodied therein and/or the copyrights pertaining thereto; (v) Publisher shall have made or shall make any and all payments required to be made to any person, firm, corporation or other entity, or to any body or group representing authors or participants in the production of the works or performances embodied in Licensed Developer Software and PlayStation 2 format Software, or to publishers or other persons having legal or contractual rights of any kind to participate in any income arising in respect of the exploitation of such works or performances; (vi) neither Publisher nor any subsidiary or affiliate of Publisher shall make any representation or give any warranty to any person or entity expressly or impliedly on Sony's behalf, or to the effect that Licensed Products are connected in any way with Sony (other than that Licensed Products have been developed, marketed, manufactured, sold and/or distributed under licence from Sony); (vii) PIayStation 2 format Software shall be distributed by Publisher solely in the form of Licensed Product; (viii) each Licensed Product shall be marketed, sold and distributed in an ethical manner and in accordance with all applicable laws and regulations; and (ix) Publisher's

policies and practices with respect to the marketing, sale and/or distribution of Licensed Products shall in no manner reflect adversely upon the name, reputation or goodwill of Sony.

10.4 Further, Publisher represents, warrants, covenants and agrees that neither Publisher nor any parent company, subsidiary or affiliate of Publisher shall during the Term, whether for itself or for the benefit of any other person, firm, corporation or entity, whether by itself or by its officers, employees or agents, directly or indirectly, induce or seek to induce, on an individually targeted basis, the employment of, or the engagement of the services of, any Relevant Employee. For these purposes "Relevant Employee" shall mean and include any employee of (i) SCEE, (ii) Psygnosis Limited or (iii) PlayStation.com (Europe) Limited (or any of their subsidiaries or branch offices outside the United Kingdom), the services of which employee are (a) specifically engaged in product development (or directly related) functions or (b) otherwise reasonably deemed by his/her employer to be of material importance to the protection of its legitimate business interests, and with which employee Publisher (or any parent company, subsidiary or affiliate of Publisher) shall have had contact or dealings during the Term. The foregoing provisions shall continue to apply for a period of 12 (twelve) months following expiry or earlier termination of the Term and are hereby deemed substituted for any corresponding provisions in any agreement(s) previously entered into between the parties hereto in relation to PlayStation 2 and/or to Sony's "PlayStation" predecessor video entertainment system.

11. Indemnities

11.1 SCEE shall indemnify and hold Publisher harmless from and against any and all claims, losses, liabilities, damages, expenses and costs, including without limitation reasonable fees for lawyers, expert witnesses and litigation costs, and including costs incurred in the settlement or avoidance of any such claim, which result from or are in connection with a breach of any of the warranties provided by SCEE herein; provided however that Publisher shall give prompt written notice to SCEE of the assertion of any such claim, and provided further that SCEE shall have the right to select counsel and control the defence and/or settlement thereof, subject to the right of Publisher to participate in any such action or proceeding at its own expense with counsel of its own choosing. SCEE shall have the exclusive right, at its discretion, to commence and prosecute at its own expense any lawsuit or to take such other action with respect to such matters as shall be deemed appropriate by SCEE. Publisher shall provide SCEE, at no expense to Publisher, reasonable assistance and cooperation concerning any such matter. Publisher shall not agree to the compromise, settlement or abandonment of any such claim, action or proceeding without SCEE's prior written consent.

11.2 Publisher shall indemnify and hold SCEE harmless from and against any and all claims, losses, liabilities, damages, expenses and costs, including without limitation reasonable fees for lawyers, expert witnesses and litigation costs, and including costs incurred in the settlement or avoidance of any such claim, which result from or are in connection with (i) a breach of any of the warranties provided by Publisher herein or any breach of Publisher's confidentiality obligations as referred to in Clause 9.1 hereof, or (ii) any claim of infringement or alleged infringement of any Third Party Intellectual Property Rights with respect to Licensed Developer Software, or (iii) any claim of or in connection with any injury (including death) or property damage, by whomsoever such claim is made, arising (in whole or in part) out of the manufacture, sale and/or use of any of the Manufactured Materials unless resulting from the proven negligence of Sony; provided however that SCEE shall give prompt written notice to Publisher of the assertion of any such claim, and provided further that Publisher shall have the right to select counsel and control the defence and/or settlement therof, subject to the right of SCEE to participate in any such action or proceeding at its own expense with counsel of its own choosing. Publisher shall have the exclusive right, at its discretion, to commence and/or prosecute at its own expense any lawsuit or to take such other action with respect to such matter as shall be deemed appropriate by Publisher. SCEE shall provide Publisher, at no expense to SCEE, reasonable assistance and cooperation concerning any such matter. SCEE shall not agree to the compromise, settlement or abandonment of any such claim, action or proceeding without Publisher's prior written consent.

12. Limitations of Liability

12.1 IN NO EVENT SHALL SONY OR ITS SUPPLIERS BE LIABLE FOR PROSPECTIVE PROFITS, OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING WITHOUT LIMITATION THE BREACH OF THIS AGREEMENT BY SCEE), WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, PRODUCT LIABILITY OR OTHERWISE. IN NO EVENT SHALL SONY'S LIABILITY ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR DIRECT DAMAGES, AND INCLUDING WITHOUT LIMITATION ANY LIABILITY UNDER CLAUSE 11.1, EXCEED THE PLATFORM CHARGE PAID BY PUBLISHER TO SCEE UNDER CLAUSE 7 WITHIN THE 2 (TWO) YEARS PRIOR TO THE DATE OF THE FIRST OCCURENCE OF THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NO SONY ENTITY, NOR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, SHALL BEAR ANY RISK, OR HAVE ANY RESPONSIBILITY OR LIABILITY, OF ANY KIND TO PUBLISHER OR TO ANY THIRD PARTIES WITH RESPECT TO THE FUNCTIONALITY AND/OR PERFORMANCE OF LICENSED PRODUCTS.

12.2 IN NO EVENT SHALL PUBLISHER BE LIABLE TO SCEE FOR PROSPECTIVE PROFITS, OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING WITHOUT LIMITATION THE BREACH OF THIS AGREEMENT BY PUBLISHER), WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, PRODUCT LIABILITY OR OTHERWISE, PROVIDED THAT PUBLISHER EXPRESSLY AGREES THAT SUCH LIMITATIONS SHALL NOT APPLY TO DAMAGES RESULTING FROM PUBLISHER'S BREACH OF CLAUSES 2, 3, 4, 9 OR 11.2 OF THIS AGREEMENT.

12.3 SUBJECT AS EXPRESSLY PROVIDED IN CLAUSES 10.1 AND 10.2, NO SONY ENTITY NOR ITS SUPPLIERS MAKE, NOR DOES PUBLISHER RECEIVE, ANY WARRANTIES (EXPRESS, IMPLIED OR STATUTORY) REGARDING THE SONY MATERIALS AND/OR UNITS OF MANUFACTURED MATERIALS MANUFACTURED HEREUNDER. SONY SHALL NOT BE LIABLE FOR ANY INJURY, LOSS OR DAMAGE, DIRECT OR CONSEQUENTIAL, ARISING OUT OF THE USE OF, OR INABILITY TO USE, SUCH UNITS OF MANUFACTURED MATERIALS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY WARRANTIES, CONDITIONS OR OTHER TERMS IMPLIED BY STATUTE OR COMMON LAW (INCLUDING AS TO MERCHANTABILITY, SATISFACTORY QUALITY AND/OR FITNESS FOR A PARTICULAR PURPOSE AND THE EQUIVALENTS THEREOF UNDER THE LAWS OF ANY JURISDICTION) ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. HOWEVER, NOTHING IN THIS AGREEMENT SHALL LIMIT SONY'S LIABILITY IN RELATION TO CLAIMS ARISING FROM THE INJURY OR DEATH OF ANY PERSON RESULTING FROM THE PROVEN NEGLIGENCE OF SONY.

13. Termination by SCEE

13.1 SCEE shall have the right forthwith to terminate this Agreement by written notice to Publisher at any time after the occurrence of any of the following events or circumstances: (i) any material breach of Publisher's obligations under this Agreement (or, if Publisher shall also have executed a PlayStation Non-Disclosure Agreement and/or PlayStation 2 Confidentiality & Non-Disclosure Agreement which shall have been breached by Publisher, or a PlayStation Licensed Developer Agreement, PlayStation Licensed Publisher Agreement, PlayStation 2 Tools & Materials Loan Agreement and/or a PlayStation 2 Licensed Developer Agreement, or a PlayStation or PlayStation 2 licensed developer, development system or licensed publisher agreement (or equivalent) with an Affiliate of SCEE, which shall have been terminated for breach by SCEE or by such party) which breach, if capable of remedy, shall not have been corrected or cured in full within *** following notice from SCEE (or the applicable Affiliate of SCEE as the case may be) specifying and requiring the correction or cure of such breach, or any repetition of a prior material breach of any such obligation, whether or not capable of remedy; (ii) any refusal or failure by Publisher to effect payment of Platform Charge, promptly in accordance with Clauses 7.1 or 7.3 or at all, or a statement that Publisher is or will be unable to pay, any sum(s) due hereunder, or Publisher being unable to pay its debts generally as the same fall due; (iii) Publisher's filing of an application for, or consenting to or directing the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator (or the equivalent of any of the foregoing under the laws of any jurisdiction) of any of Publisher's property (whether tangible or intangible and wherever located), assets and/or undertaking; (iv) the making by Publisher of a general assignment for the benefit of creditors; (v) an adjudication in any jurisdiction that

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

Publisher is a bankrupt or insolvent; (vi) the commencing by Publisher of, or Publisher's intention to commence, a voluntary case under applicable bankruptcy laws of any jurisdiction; (vii) the filing by Publisher of, or

Publisher's intention to file, a petition seeking to take advantage of any other law(s) of any jurisdiction providing for the relief of debtors; (viii) Publisher's acquiescence in, intention to acquiesce in, or failure to have dismissed within 90 (ninety) days; any petition filed against it in any involuntary case brought pursuant to the bankruptcy or other law(s) of any jurisdiction referred to in (vi) and (vii) above; (ix) a controlling partnership or equity interest [or any such interest (other than an acquisition of less than an aggregate of 5% (five percent) of the issued share capital of Publisher, as quoted on a recognised investments exchange), in the case of a transfer to any party which (a) shall previously have executed a PlayStation Non-Disclosure Agreement and/or PlayStation 2 Confidentiality & NonDisclosure Agreement which shall have been breached by such party, or a PlayStation Licensed Developer Agreement, PlayStation Licensed Publisher Agreement, PlayStation 2 Tools & Materials Loan Agreement, PlayStation 2 Licensed Developer Agreement and/or a PlayStation 2 Licensed Publisher Agreement which shall have been terminated for breach by SCEE, or a PlayStation or PlayStation 2 licensed developer, development system or licensed publisher agreement (or equivalent) with an Affiliate of SCEE, which shall have been terminated for breach by such party, or (b) is, or which directly or indirectly holds or acquires a partnership or equity interest in, the developer of (or other owner of intellectual property rights in) any interactive hardware device or product which is or will be directly or indirectly competitive with PlayStation 2 , or (c) is in litigation with Sony concerning any proprietary technology, trade secrets and/or intellectual property matter(s) and/or has challenged the validity of any Sony Intellectual Property Rights] in Publisher or in all or substantially all of Publisher's property (whether tangible or intangible), assets and/or undertaking, being acquired, directly or indirectly, by any person, firm, corporation or other entity; (x) Publisher enters into any third party business relationship pursuant to which Publisher makes a material contribution to the development of the core components of any interactive hardware device or product which is or will be directly or indirectly competitive with PlayStation 2 , or if Publisher directly or indirectly holds or acquires a partnership or equity interest (other than a holding or acquisition of less than an aggregate of 5% (five percent) of the issued share capital, as quoted on a recognised investments exchange) in, or otherwise forms a strategic commercial relationship with, any third party firm, corporation or other entity which has developed or during the Term develops (or which owns or during the Term acquires ownership of intellectual property rights in) any such device or product; (xi) Publisher failing to submit materials relating to any new PlayStation 2 format Software in accordance with Clause 5.2, and/or failing to issue any purchase orders for Manufactured Materials in accordance with Clause 6.5, during any period of 12 (twelve) consecutive calendar months; or (xii) Publisher (or any parent company, subsidiary or affiliate of Publisher) being in litigation with Sony concerning any proprietary technology, trade secrets and/or intellectual property matter(s) and/or challenging the validity of any Sony Intellectual Property Rights. As used in this Clause 13.1, "controlling interest" means (i) in relation to a body corporate, the power of the holder of such interest to secure - (a) by means of the holding of shares or the possession of voting power in, or in relation to, that or any other body corporate or (b) by virtue of any powers conferred by the Articles of Association or other document regulating that or any other body corporate - that the affairs of such body corporate be conducted in accordance with the wishes of the holder of such interest, and (ii) in relation to a partnership, the right to a share of more than 50% (fifty percent) of the assets or of the income of the partnership. Forthwith upon such occurence, Publisher shall notify SCEE of the occurence of any of the events or circumstances specified in (ii) to (x) above; and Publisher's failure so to do shall be a material breach of this Agreement not capable of remedy.

13.2 Further, SCEE shall have the right by written notice to Publisher forthwith to terminate the licences and related rights herein granted to Publisher in relation to any PlayStation2 format Software at any time after the occurrence of any of the following events: (i) any failure by Publisher to submit to SCEE the materials required to be submitted under Clauses 5.2 and 5.3 (or, if applicable, under Clause 5.6) in the form and manner and in

conformity with the standards and specifications therein prescribed; and (ii) any failure by Publisher promptly to notify SCEE in writing of any material change to any of the materials approved by SCEE pursuant to Clause 5.4 (or, if applicable, pursuant to Clause 5.6); provided however that SCEE shall not be entitled to exercise such right of termination if Publisher's failure under (i) above is directly caused by SCEE's failure to comply with any of its material obligations expressly set forth herein.

14. Effect of Expiration or Termination

14.1 Notwithstanding the expiration of the Term, Publisher shall be entitled to continue to publish PlayStation2 format Software the development of which shall have been approved prior to or during the Term hereof by SCEE (or by an Affiliate of SCEE) pursuant to the applicable LDA2, and to use the Licensed Trademarks strictly, only and directly in connection with such publication, until the expiration of the Term or, if later, until the second anniversary of the 31 March next following such approval. Upon expiration of the Term or, if applicable, such extended period for publishing PlayStation 2 format Software, Publisher may sell off existing inventories of the applicable PlayStation2 format Software titles, on a non-exclusive basis, for a period of *** from the applicable expiration date; provided always that such inventory thereof shall not have been manufactured solely or principally for sale within such sell-off period.

14.2 However, upon the exercising by SCEE of its right of termination, either of this Agreement pursuant to Clause 13.1(i) to (viii) or Clause 13.1(xii) or in relation to any PlayStation 2 format Software pursuant to Clause 13.2, all rights, licences and privileges licensed or otherwise granted to Publisher hereunder, either generally or in relation to such PlayStation2 format Software (as applicable), shall forthwith and without further formality revert absolutely to SCEE and Publisher shall forthwith cease and desist from any further use of the Sony Materials, any Sony Intellectual Property Rights related thereto and the Licensed Trademarks, and, subject to Clause 14.3, shall have no further right to continue the marketing, sale and/or distribution of any units of Licensed Product or of any units of Licensed Product derived from such PlayStation2 format Software (as applicable).

14.3 In the event of termination by SCEE pursuant to Clause 13.1(ix), (x) or (xi) or by Publisher pursuant to Clause 25, Publisher may sell off then unsold units of Licensed Product(s), for a period of *** from the effective date of termination; provided always that such inventory thereof shall not have been manufactured solely or principally for sale within such sell-off period. Subsequent to the expiry of such *** day or *** day sell-off period, or in the event of termination by SCEE pursuant to Clause 13.1(i) to (viii), Clause 13.1(xii) or Clause 13.2, any and all units of Licensed Products or the applicable Licensed Products (as the case may be) remaining in Publisher's inventory and/or under its control shall be destroyed by Publisher within 5 (five) working days following such expiry or effective date of termination. Within 5 (five) working days following such destruction, Publisher shall furnish SCEE an itemised statement, certified accurate by a duly authorised officer, partner or other representative (as applicable) of Publisher, specifying the number of then unsold units of Licensed Product(s) to which such termination applies, on a PlayStation2 format Software title-by-title basis, which remain in its inventory and/or under its control at such date, confirming the number of units of Licensed Products destroyed, on a PlayStation2 format Software title-by-title basis, and indicating the location and date of such destruction and the disposition of the remains of such destroyed materials. SCEE shall be entitled to conduct a physical inspection of Publisher's inventory during normal business hours in order to ascertain or verify such inventory and/or statement.

14.4 Upon termination of the Term by SCEE pursuant to Clause 13.1, Publisher shall forthwith deliver up to SCEE (or, if so requested by SCEE in writing, destroy and promptly furnish SCEE a certificate of such destruction signed by a duly authorised officer, partner or other representative (as applicable) of Publisher) all Sony Materials, and any Confidential Information of Sony of which Publisher shall have become apprised and which has been reduced to tangible or written form, and any and all copies thereof then in the possession, custody or control of Publisher.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

14.5 SCEE shall be under no obligation to renew or extend this Agreement notwithstanding any actions taken by either of the parties prior to its expiration or earlier termination. In the event of termination pursuant to Clauses 13.1 or 13.2, no part of any payment(s) whatsoever theretofore made to SCEE hereunder (or, if Publisher shall also have executed a LDA2, thereunder) shall be owed or repayable to Publisher, and nor shall either party be liable to the other for any damages (whether direct, consequential or incidental, and including without limitation any expenditures, loss of profits or prospective profits) sustained or arising out of, or alleged to have been sustained or to have arisen out of, such expiration or earlier

termination. However, the expiration or earlier termination of this Agreement shall not excuse either party from any prior breach of any of the terms and provisions of this Agreement or from any obligations surviving such expiration or earlier termination, and full legal and equitable remedies shall remain available for any breach or threatened breach of this Agreement or of any obligations arising therefrom.

14.6 The expiration or earlier termination of this Agreement (whether by SCEE pursuant to Clause 13 or otherwise howsoever) shall be without prejudice to any and all rights and remedies which either party may then or subsequently have against the other party.

15. Notices

15.1 All notices under this Agreement shall be in writing and shall be given by courier or other personal delivery, by registered or certified mail, by recognised international courier service or by facsimile transmission (with an immediate confirmation copy by regular mail or any of the methods specified above) at the appropriate address hereinbefore specified or at a substitute address designated by notice by the party concerned (and in the case of notices to SCEE shall be directed to its Vice President, Business Affairs or such other Sony representative as shall from time to time be designated by notice by SCEE). Notices given other than by facsimile transmission shall be deemed given and effective when delivered. Notices given by facsimile transmission shall be deemed given only upon receipt of confirmation copy as aforesaid but, upon such receipt, shall be deemed effective as of the date of transmission.

15.2 Whenever Publisher is required to obtain the authorisation, consent or approval of SCEE, Publisher shall request the same by notice to SCEE as aforesaid, and with a copy under separate cover to its Director of Third Party Relations or such other Sony representative as shall from time to time be designated by notice to Publisher. Such authorisation, consent or approval shall not be deemed to be granted unless and until SCEE shall have given a written affirmative response to each request therefor and shall in no event be implied or inferred from any delay or failure of SCEE to give such or any response.

16. Force Majeure

Neither SCEE nor Publisher shall be liable for any loss or damage or be deemed to be in breach of this Agreement if its failure to perform, or failure to cure any breach of, its obligations under this Agreement results from any events or circumstances beyond its reasonable control, including without limitation any natural disaster, fire, flood, earthquake or other act of God, inevitable accidents, lockout, strike or other labour dispute, riot or civil commotion, act of public enemy, enactment, rule, order or act of any government or governmental authority, failure of technical facilities, or failure or delay of transportation facilities.

17. Relationship of the Parties

The relationship hereunder between SCEE and Publisher respectively is that of licensor and licensee. Publisher is an independent contractor and shall not in any respect act as or be deemed to be the legal representative, agent, joint venturer, partner or employee of SCEE for any purpose whatsoever. Neither party shall have any right or authority to assume or create any obligations of any kind or to make any representation or warranty (express or implied) on behalf of the other party or to bind the other party in any respect whatsoever.

18. Assignability

SCEE has entered into this Agreement based on the particular reputation, capabilities and experience of Publisher and of its officers, directors and employees. Accordingly, Publisher may not assign, pledge or otherwise dispose of this Agreement or of any of its rights hereunder, nor delegate or otherwise transfer any of its obligations hereunder, to any third party unless the prior written consent of SCEE shall first have been obtained in each case. Any attempted or purported assignment, pledge, delegation or other disposition in contravention of this Clause 18 shall be null and void and a material breach of this Agreement not capable of remedy. SCEE shall be entitled, without the consent of Publisher, to assign its rights and obligations hereunder to any corporation or other entity in which Sony Corporation (or any successor in interest thereto) holds a controlling interest, whether directly or indirectly. Subject to the foregoing, this Agreement shall enure to the benefit of the parties and their respective successors and permitted assigns.

A person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This provision does not affect any right or remedy of any person which exists or is available otherwise than pursuant to such Act.

19. Compliance with Applicable Laws

The parties shall at all times comply with all applicable regulations and orders of their respective countries and all conventions and treaties to which their countries are party or relating to or in any way affecting this Agreement and the performance by the parties of this Agreement. Each party, at its own expense, shall negotiate and obtain any approval, licence or permit required for the performance of its obligations hereunder, and shall declare, record or take such steps as may be necessary to render this Agreement binding, including without limitation any required filing of this Agreement with any appropriate governmental authorities.

20. Governing Law

This Agreement shall be governed by, construed and interpreted in accordance with English Law, without giving effect to the conflict of laws principles thereof. The parties irrevocably agree for the exclusive benefit of SCEE that the English Courts shall have jurisdiction to adjudicate any proceeding, suit or action arising out of or in connection with this Agreement. However, nothing contained in this Clause 20 shall limit the right of SCEE to take any such proceeding, suit or action against Publisher in any other court of competent jurisdiction, nor shall the taking of any such proceeding, suit or action in one or more jurisdictions preclude the taking of any other such proceeding, suit or action in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction. Publisher shall have the right to take any such proceeding, suit or action against SCEE only in the English Courts.

21. Remedies

Publisher acknowledges and agrees that any breach by Publisher of this Agreement may cause Sony irreparable harm and damage which may not be capable of remedy by damages alone and therefore that in the event of any such breach SCEE may seek equitable (including injunctive) relief against Publisher in addition to damages and/or any other remedy available to SCEE at law or in equity. Either party's election to avail itself of any of the remedies provided for in this Agreement shall not be exclusive of any other remedies available hereunder or otherwise at law or in equity, and all such remedies shall be cumulative. Publisher shall indemnify SCEE for all losses, liabilities, damages, expenses and costs, including without limitation reasonable fees for lawyers, expert witnesses and litigation costs, which SCEE may sustain or incur as a result of any breach or threatened breach by Publisher of this Agreement.

22. Severability

In the event that any provision of this Agreement (or any part(s) thereof), other than a provision in respect of which SCEE gives a notice of amendment pursuant to Clause 25, is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, such provision (or part(s) thereof) shall be enforced to the extent possible consistent with the stated intention of the parties or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, but not in any way so as to affect the validity or enforceability of any other provisions of this Agreement which shall continue in full force and effect.

23. Provisions Surviving Expiration or Termination

The following provisions of this Agreement shall survive and continue in full force and effect notwithstanding its expiration or earlier termination (whether by SCEE pursuant to Clause 13 hereof or otherwise howsoever):

Clause 3	Sub-Publishers
Clause 4	Reservations
Clause 5.7 + 5.8	Notices & Consumer Advisory Ratings
Clause 6	Manufacture of Licensed Products
Clause 7	Platform Charge
Clause 9	Confidentiality
Clause 10.2 to 10.4	Warranties
Clause 11	Indemnities
Clause 12	Limitations of Liability
Clause 14	Effect of Expiration or Termination
Clause 18	Assignability

Clause 20	Governing Law
Clause 21	Remedies
Clause 22	Severability

24. Waiver

No failure or delay by either party in exercising any right, power or remedy under this Agreement shall operate as a waiver of any such right, power or remedy. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom it is sought to enforce such waiver. Any waiver by either party of any provision of this Agreement shall not be construed as a waiver of any other provision of this Agreement, nor shall such waiver operate or be construed as a waiver of such provision in relation to any future event or circumstance.

25. Amendments

NOTHING IN THIS AGREEMENT SHALL BE READ OR APPLIED IN SUCH A WAY AS TO FRUSTRATE ARTICLE 6 AND, IF AND TO THE EXTENT ANY PROVISION OF THIS AGREEMENT (OR ANY PART THEREOF) HAS (OR IS CAPABLE OF HAVING) SUCH EFFECT, IT SHALL BE DEEMED MODIFIED ACCORDINGLY.

SCEE RESERVES THE RIGHT, AT ANY TIME UPON REASONABLE NOTICE TO PUBLISHER, TO AMEND THE RELEVANT PROVISIONS OF THIS AGREEMENT, THE SCHEDULES HERETO AND/OR THE SPECIFICATIONS HEREIN REFERRED TO, TO TAKE ACCOUNT OF OR IN RESPONSE TO ANY DECISION OR ORDER OF, OR OBJECTION RAISED BY, ANY COURT OR GOVERNMENTAL OR OTHER COMPETITION AUTHORITY OF COMPETENT JURISDICTION AND/OR ANY STATUTORY OR SIMILAR MEASURES WHICH MIGHT BE IMPLEMENTED TO GIVE EFFECT TO ANY SUCH DECISION, WHICH APPLY TO THIS AGREEMENT, THE SCHEDULES HERETO AND/OR THE SPECIFICATIONS HEREIN REFERRED TO (AND FROM WHICH THIS AGREEMENT, THE SCHEDULES HERETO AND/OR THE SPECIFICATIONS HEREIN REFERRED TO ARE NOT EXEMPT) OR TO REFLECT ANY UNDERTAKING GIVEN BY SONY TO ANY SUCH AUTHORITY IN RELATION TO ANY AND ALL SUCH MATTERS AFORESAID. ANY SUCH AMENDMENT SHALL BE OF PROSPECTIVE APPLICATION ONLY AND SHALL NOT BE APPLIED TO ANY LICENSED PRODUCT MATERIALS RELATING TO WHICH SHALL HAVE BEEN SUBMITTED TO SCEE BY PUBLISHER PURSUANT TO CLAUSE 5.2 AND/OR 5.3 PRIOR TO THE DATE OF SCEE'S NOTICE OF AMENDMENT. IN THE EVENT THAT PUBLISHER IS UNWILLING

TO ACCEPT ANY SUCH AMENDMENT, THEN PUBLISHER SHALL HAVE THE RIGHT FORTHWITH TO TERMINATE THIS AGREEMENT BY WRITTEN NOTICE TO SCEE GIVEN NOT MORE THAN 90 (NINETY) DAYS FOLLOWING THE DATE OF SCEE'S NOTICE OF AMENDMENT. THE PROVISIONS OF CLAUSE 14.3 SHALL COME INTO EFFECT UPON ANY SUCH TERMINATION BY PUBLISHER.

Subject to the foregoing and except as otherwise provided herein, this Agreement shall not be subject to amendment, change or modification other than by another written instrument duly executed by both of the parties hereto.

26. Headings

The clause and other headings contained in this Agreement are intended primarily for reference purposes only and shall not alone determine the construction or interpretation of this Agreement or any provision(s) hereof.

27. Integration

This document (including the Schedules hereto) constitutes the entire agreement between the parties with respect to the subject matter contained herein, and supersedes all prior or contemporaneous agreements, proposals, understandings and communications between Sony and Publisher, whether oral or written, with respect to the subject matter hereof. However, the generality of the foregoing notwithstanding, the CNDA and, if applicable, the LDA 2 executed by Publisher shall continue in full force and effect.

28. Counterparts

This Agreement may be executed in 2 (two) counterparts, each of which shall be deemed an original, and both of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed as of the date first above written.

SONY COMPUTER ENTERTAINMENT EUROPE LIMITED

ACTIVISION UK LIMITED

/s/ Christopher Deering	/s/ George Rose
Signature	Signature
Christopher Deering	George Rose
Name	Signatory's Name (please print)
President	Director
Title	Title

SCHEDULE I

to the PlayStation2 Licensed Publisher Agreement dated the 23 day of March, 2001 between Sony Computer Entertainment Europe Limited and Activision UK Limited

Licensed Territory (Clause 1.2)

(1)

Andorra	Ireland	Qatar
Armenia	Israel	Romania
Australia	Italy	Russian Federation
Austria	Jordan	San Marino
Azerbaijan	Kazakhstan	Saudi Arabia
Bahrain	Kenya	Serbia
Belarus	Kuwait	Slovakia
Belgium	Latvia	Slovenia
Bosnia Herzegovina	Lebanon	Somalia
Botswana	Liechtenstein	South Africa & Namibia
Bulgaria	Lithuania	Spain
Croatia	Luxembourg	Sweden
Cyprus	Macedonia	Swaziland
Czech Republic	Madagascar	Switzerland
Denmark	Malta	Syria
Djibouti	Mauritius	Tanzania
Egypt	Moldova	Tunisia
Estonia	Monaco	Turkey
Ethiopia	Morocco	Turkmenistan
Finland	Mozambique	Ukraine
France	Netherlands	United Arab Emirates
Georgia	New Zealand	United Kingdom
Germany	Nigeria	Uzbekistan
Gibraltar	Norway	Vatican
Greece	Oman	Yemen
Hungary	Poland	Zambia
Iceland	Portugal	Zimbabwe

and all other countries which from time to time are members of the European Union or have otherwise implemented the Treaty on a European Economic Area or where Articles 85 & 86 of the Treaty of Rome (or provisions similar thereto) have been implemented or are otherwise directly effective.

(2) Such countries in addition to those specified in (1) above in which the PAL television standard obtains and which SCEE, in its sole discretion as representative of Sony Computer Entertainment worldwide, determines from time to time to include within the Licensed Territory by notice to Publisher. Without limiting the generality of the foregoing, SCEE shall have the right not to include within the Licensed Territory or, having included, subsequently to exclude from the Licensed Territory by reasonable notice to Publisher (and intends so to exclude) any such country or countries in which, in SCEE's best business judgment, the laws or enforcement of such laws do not protect Sony Intellectual Property Rights. By not later than the expiry of any such notice of exclusion, Publisher shall cease and desist, in the country or countries concerned, from any further use of the Sony Materials, any Sony Intellectual Property Rights related thereto and the Licensed Trademarks and shall have no further right to continue or authorise the marketing, sale and/or distribution of any units of PlayStation 2 format Software.

SCHEDULE 2

to the PlayStation2 Licensed Publisher Agreement dated the 23 day of March, 2001 between Sony Computer Entertainment Europe Limited and Activision UK Limited

Platform Charge (Clause 7.1)

Band	Publisher's maximum price to trade	Platform Charge per unit
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***

For these purposes, "maximum price to trade" shall mean ~

Publishers (or, where applicable, Publisher's distributor's) highest price net of trade margin to any trade customer in the European Economic Area and Australia for Publisher's (or, where applicable, Publisher's distributor's) minimum order quantity of the relevant inventory, net of year end (or similar) volume rebates (if any) properly attributable to sales of PlayStation software, but prior to any credit, deduction or rebate for co-op advertising or other marketing support, returns or otherwise howsoever.

Where Publisher's business (with the trade or through distributors) is conducted in local currencies other than EE, the local currency/EE exchange rates to be applied for purposes of conforming to maximum price to trade for any given Band will be the closing mid-point spot rate as quoted in the London "Financial Times" on the first business day of each 6 month period, commencing 1 April 2000. Such exchange rate will then reset for each successive 6 month period thereafter

The local currency maximum price to trade for any given title will then be that derived by applying the exchange rate obtaining for the 6 month period (as above) in which Publisher places its first Purchase Order ("PO") for the title concerned and will continue to apply for that title unless and until, on migration (see below), Publisher places its first PO in a different Band in a subsequent 6 month period.

SCEE reserves the right to review local currency maximum prices to trade per Band applicable for any given *** period (as above) in the event of a material exchange rate fluctuation, deemed for these purposes to be ***

The foregoing assumes a standard 1-Disc PlayStation 2 CD-ROM product and covers mastering, Disc, standard 2-colour Disc Label, PlayStation 2 box (or other packaging) and automated assembly of all components, but excludes the cost of Printed Materials other than Disc Label.

For multi-disc PlayStation 2 CD-ROM products and PlayStation 2 products in DVD5 format, the applicable Platform Charge specified above shall be increased by ***

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

For the following optional non-standard Manufactured Materials, the following incremental charges (in addition to the otherwise applicable Platform Charge specified above) will apply

"o" Multi-Colour Disc Label ~

***	***
***	***
***	***
***	***

"o" White Base Underlay ***

"o" Picture Disc

	***	***
	***	
"o"	Picture Disc - High Definition	***
"o"	Shrink Wrap	
	***	***
	***	***

The Platform Charge and minimum order and reorder quantities for other "non-standard" Manufactured Materials and/or production processes shall be as detailed in the Specifications or, where not so detailed, and subject to availability, as individually quoted in each case.

PlayStation2 titles may "migrate" between Bands at any time from and after *** (but not more than ***) following initial PO (or first PO upon prior migration, as the case may be). Migration by more than one Band at a time, and repeat migrations, are permitted.

For migrated PlayStation 2 re-issues (but not new PlayStation 2 titles), the applicable Platform Charge specified above, will be increased by *** for orders placed September - December below ***.

Minimum production order quantities (Clause 6.5) shall be *** units per pack sku for initial orders, *** units for re-orders, in ***. Minimum production order quantities shall be *** units per pack sku for all orders in ***.

SCEE offers free delivery to EEA countries (only) by regular road (and/or, where applicable, sea) services, with air freight or other expedited delivery available but the incremental costs thereof for Publisher's account. The minimum quantity per title per drop is *** units for inventory in ***, *** for inventory in ***.

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

PIayStation2 Hit Title Rebate program.

Publisher's software orders in each qualifying financial year (April - March) will determine the level of Hit Title Rebate ("HTR") in the following financial year. The first qualifying year runs 1 April 1999 31 March 2000.

Titles with total bona fide orders below *** units will not be taken into account. Otherwise, all orders for software for Sony's "PlayStation" predecessor video entertainment system (in one Band only per title) and all orders for PlayStation2 format Software in each qualifying financial year will be taken into account in calculating the Level of HTR for the following financial year.

Once qualified for (as above), HTR for each financial year will be at one of the following levels

Level I (up to *** in qualifying financial year, ie immediately preceding April ~ March), Level 2 (over *** in qualifying financial year), Level 3 (over *** in qualifying financial year).

HTR will be redeemable in the applicable financial year, against orders for PlayStation2 format Software only, as follows ~

units per PlayStation2 title *	Level I	Level 2	Level 3
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***

* NB: per title, not per SKU and not cume across all PlayStation2 titles

The HTR for each PlayStation2 title shall continue to escalate (as above) for orders in the same Band notwithstanding that such orders may be placed in a following financial year. Subsequent orders for the same title but in a different Band will be counted for these purposes as orders for a new "title".

In order to verify conformity with the Band structure for PlayStation2 format Software described above, SCEE will require from time to time at its own expense to inspect and audit the relevant of Publisher's financial records (and, where applicable, those of Publisher's associated companies, subsidiaries and/or branch offices in the Licensed Territory). Any such inspection and audit shall take place during normal business hours at Publisher's principal place of business (or such other location as the relevant books and records are maintained) upon reasonable prior notice and shall, at SCEE's sole election, be conducted either by an independent chartered or certified accountant or by an appropriately professionally qualified member of SCEE's staff.

Initialled by	Initialed by
[ ]	[ ]
Sony Computer Entertainment Europe	Activision UK

[*] Confidential portion omitted and filed separately with the Securities and Exchange Commission.

Exhibit 23.2

INDEPENDENT AUDITORS' CONSENT

We consent to the use of our report dated May 5, 2000, except as to Note 6 which is as of April 1, 2001, and the first paragraph of Note 14, which is as of November 6, 2001, relating to the consolidated statements of operations, changes in shareholders' equity, and cash flows of Activision, Inc. for the year ended March 31, 2000, and the related financial statement schedule for the year ended March 31, 2000, incorporated herein by reference and to the reference to our firm under the heading "Experts" in the Prospectus.

KPMG LLP

Los Angeles, California
January 13, 2003

Exhibit 23.3

CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the incorporation by reference in this Amendment No. 1 to the Registration Statement on Form S-3 of our report dated May 6, 2002 relating to the consolidated financial statements and financial statement schedule of Activision, Inc., as of March 31, 2002 and 2001 and for each of the two years in the period ended March 31, 2002, which appears in the Annual Report on Form 10-K for the year ended March 31, 2002. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

PricewaterhouseCoopers LLP

Los Angeles, California
January 13, 2003