

# General Terms & Conditions for gamefabrik GmbH

## 1 Scope of Application

gamefabrik GmbH operates an online gaming portal at [www.gamefab.de](http://www.gamefab.de) (hereinafter Portal). A range of online games as well as other services is offered on the Portal. These services include, for example, the possibility of creating a profile page, participating in blogs and forums, uploading media such as photographs, texts and games and purchasing virtual items or other services. The players of gamefabrik GmbH games and services, as well as the users of the Portal, are hereinafter referred to as Users. In the following general terms and conditions (hereinafter referred to as Terms & Conditions), references made to “Games” or “Services” will pertain to the games and/or services offered by gamefabrik GmbH. The business relationship between gamefabrik GmbH and Users shall be exclusively based upon these Terms and Conditions, as well as the Data Protection Policy and the Imprint, which both constitute an integral part of the Terms and Conditions.

The contractual partner is gamefabrik GmbH. User Terms & Conditions are not considered part of the general contract unless gamefabrik GmbH approves these in writing.

The following Terms & Conditions apply to the use of the Portal and the Games and Services. The Games and Services can be accessed primarily through a personal computer connected to the Internet by telephone, ISDN, broadband or equivalent connection. In addition, various other Internet-capable devices may be used, whereby the scope of operation and/or display characteristics may be limited.

These Terms & Conditions expressly exclude questions which might arise with regard to the establishment of Internet access, connection to websites and online games, and third-party software such as web browsers or access software, as these Services are not provided by gamefabrik GmbH.

### 1.1 Users

1.1.1 gamefabrik GmbH offers its Games and Services exclusively to Users with respect to the German law. The use of gamefabrik GmbH Games and Services for pecuniary or any other commercial purposes is hereby prohibited.

1.1.2 Only those individuals who have reached the age of 18 are entitled to use the full scope of Games and Services provided by gamefabrik GmbH. Individuals under a certain age who have the express consent of their legal guardian may nonetheless be prohibited from participating in particular games due to age restrictions specifically applicable to those Games.

1.1.3 By registering to use the Games or Services, the User expressly warrants and represents that (i) he/she has reached the age of majority and is legally competent and/or (ii) in case of being a minor, he/she has obtained an express consent of his/her legal guardian(s).

Furthermore, continued use of the Games and/or Services by minors that have reached the age of majority shall signify approval thereby of any and all declarations of intent previously made in connection with the user agreement, unless gamefabrik GmbH is notified in writing of such an approval being withdrawn within two (2) weeks of the date the minor reaches the age of majority.

1.1.4 Users residing in Cuba, Iran, North Korea, Sudan, and Syria are expressly prohibited from using the games.

## 1.2 Subject Matter of the Contract, Usage of and Changes to the Games and Services

1.2.1 The gamefabrik GmbH offers its Users the possibility of using Games and Services which are offered by gamefabrik GmbH subject to existing technical and commercial capabilities.

1.2.2 Participation in the Games is for entertainment purposes only.

1.2.3 gamefabrik GmbH, as part of its Services, stores certain information on the Portal and offers its Users the possibility of uploading information to the Internet and creating personal profiles, etc., which can be viewed by other Users of gamefabrik GmbH Games and Services as well as by third parties. Furthermore, the User can also communicate with third parties via the Portal, upload and exchange photographs, videos, games, music and other media, publish blogs and comments, and rate games, other Users, third parties or transactions.

1.2.4 The use of gamefabrik GmbH Games and Services online is made possible through the provision of the necessary applications at the respective URLs by gamefabrik GmbH. gamefabrik GmbH also reserves the right to offer or sell its Games on other digital media and which may have a range of features that differ from the online versions of said games. Such a sale of these Games is not subject to these Terms & Conditions.

1.2.5 The use of gamefabrik GmbH Games and Services is expressly limited to individuals who previously created a customer account (hereinafter referred to as Account) at the time of registration. An Account can be created at the Portal or at the URL of the respective Game(s). An Account which has been created at the Portal enables the User access to any of the Games subject to the conditions set forth in Sec. 1.1 above.

1.2.6 Registration, i.e. an application to open an Account, can be accomplished by filling out a form electronically and providing the information requested therein. The use of gamefabrik GmbH Games and/or Services will be permitted from the time an account is created for the user by gamefabrik GmbH.

1.2.7 The user must not use more than one account to play Mars Tomorrow ("Prohibition of multi-accounts"). Users who use more than one account to play, particularly to interact and communicate between several accounts owned by the same user, will be banned from the game ("Prohibition of pushing").

Communication, or any kind of interaction whatsoever, between accounts of the same User is prohibited (ban on “pushing”). In particular, an Account may not be used to create advantages for another Account from the same User, for example, to transfer items or game currency from one Account to another Account of the same User, or to allow one Account to fight against another Account of the same User.

1.2.8 After creating an Account, the User may use the respective Game and/or Service by opening the Portal or the corresponding URL, and then logging in.

1.2.9 The use of Games and Services is only authorized via web browser or special tools made available and expressly permitted by gamefabrik GmbH (ban on unauthorized scripts). In other words: The use of programs which cause excessive server load are strictly forbidden. The application of software to systematically or automatically control games or individual game functions such as bots, macros, etc. or to reproduce or evaluate games, game components or content provided on the Portal is prohibited.

1.2.10 The use of programming bugs and/or other errors to achieve personal gain is strictly prohibited. Recognized bugs should be reported as quickly as possible in the bug forum or by e-mail.

1.2.11 The User is not entitled to open an account or to publish any information whatsoever on the Portal.

1.2.12 All respective, current technical and other Game and participation requirements for Services offered are contained on the Portal and/or the respective Game websites.

1.2.13 All Games and Services are updated, adapted, expanded and modified regularly. For this reason, the User is only granted the right to use the current version of the respective Games and Services.

1.2.14 The use of the Games in their respective basic version is free of charge. Some features are only available to paying customers (see Sec. 7 below). Use of the Services is free unless otherwise stipulated in the description of the respective Services.

1.2.15 The User has no right to retain the Games and/or Services of the version current at the time of the conclusion of the contract. gamefabrik GmbH reserves the right to cease operation of individual gamefabrik GmbH Games and/or Services at any time without prior notice or justification. At his or her own discretion, the User may request, in such an event, that fees paid in advance within the scope of continual obligations (e.g. for Premium memberships, subscriptions) be credited to his/her account for other Games and/or Services operated by gamefabrik GmbH, or that gamefabrik GmbH recompense all fees paid in advance. The right does not apply to fees for services, which have been fully rendered within the scope of individual obligations (e.g. individual orders). The User's right to terminate the agreement with immediate effect due to Games and/or Services which are unable to be used remains unaffected. Further claims made by the User are hereby prohibited unless otherwise expressly described in these Terms & Conditions.

## 2 Offer and Conclusion of Contract

2.1 By filling in the registration form for the Account, the User enters into a binding contract (hereinafter referred to as “User Application”). For this purpose, all fields of the registration form marked as being “required” must be filled in completely and correctly.

2.2 The agreement between gamefabrik GmbH and the User is considered valid when gamefabrik GmbH approves the User Application. Confirmation of the User Application can be explicitly communicated by gamefabrik GmbH as a result of an action on the part of gamefabrik GmbH.

2.3 gamefabrik GmbH will promptly send a confirmation e-mail acknowledging receipt of the User application to the e-mail address provided by the User at the time of registration. This acknowledgment of receipt does not represent a binding approval of the User Application. The acceptance of the User application and the confirmation to access gamefabrik GmbH Games and Services can, however, be sent together with the acknowledgment e-mail.

## 3 Cancellation Policy and Sample Cancellation Form

### Cancellation Policy:

Without having to state any reasons, the User can revoke his/her declaration of intent to enter into a contractual agreement for gamefabrik GmbH Games and Services and to order Premium features within a period of fourteen (14) days.

The cancellation period totals 14 days and shall begin from the date of contract conclusion.

In order to exercise the right of cancellation, the User must inform gamefabrik GmbH (gamefabrik GmbH, Im Mediapark 5, 50670 Cologne, Germany, Email: info@gamefab.de) about his/her decision to terminate his/her contract declaration on the use of Games and Services and the order of Premium Features through a clear statement (e.g. a letter sent in the mail or email). To do this, the User may use the sample cancellation form provided below; the use of this form however is not mandatory. The cancellation deadline shall be considered met as long as the notification concerning the exercise of the right of withdrawal is sent by the consumer before the end of the cancellation deadline. In order to quickly process cancellations sent via email, it is useful to specify the name of the game as well as any premium features or services, plus the user’s name and user ID in the email’s subject line.

### Consequences of Cancellation:

In case of user cancellation, all payments made by the User to gamefabrik GmbH, including any associated delivery/shipping costs (excluding any additional costs arising on the part of the user selecting another type of delivery other than the cheapest standard shipping offered by gamefabrik GmbH), must be returned immediately and at the latest within 14 days of gamefabrik GmbH receiving the notification of user cancellation. To repay the User, gamefabrik GmbH shall use the same means of payment used by the User for the original transaction, unless the User explicitly agrees upon otherwise; under no circumstances shall the User be charged any fees for this repayment.

Please note:

Cancellation shall not be considered valid if digital assets are delivered which are not supplied on a tangible medium, when the execution has already begun with User's express prior consent and his/her acknowledgment that he/she thereby shall lose his/her right of cancellation.

End of Cancellation Policy

Sample Cancellation Form

(Should you wish to cancel the contract, then please fill out this form and send it back to us.)

- To gamefabrik GmbH, Im Mediapark 5, 50670 Cologne, Germany, e-mail: info@gamefab.de
- I/We(\*) hereby give notice that I/We(\*) withdraw from my/our\* contract on the purchase of the following goods\*/the provision of the following service (\*)
- Ordered on (\*)/Received on (\*)
- Name of the consumer(s)
- Address of the consumer(s)
- Signature of the consumer(s) (only for notification on paper)
- Date

(\*) Delete as applicable.

## 4 Availability

gamefabrik GmbH guarantees that its Games and Services will be available 90% (ninety percent) of the time on a yearly average. Excluded from this percentage are time periods in which gamefabrik GmbH portal servers, individual Games and/or Services are not available on the Internet due to technical or other problems which are outside the control of gamefabrik GmbH, such as force majeure, third-party fault, etc. as well as periods in which routine maintenance work is carried out. The liability of gamefabrik GmbH with regard to inaccessibility of the games and/or services by intent and gross negligence remains unaffected. gamefabrik GmbH can restrict access to its Games and Services if required for network security and preservation of network integrity, especially with regard to the prevention of severe breakdowns or interruptions of the network, software or stored data.

## 5 Access to these Terms & Conditions, Changes and Further Notifications, Contact by the User

5.1 The User accepts these Terms & Conditions as binding by submitting his/her User Application and using gamefabrik GmbH Games and/or Services. These Terms & Conditions apply for each

login to the Portal, especially when any of the gamefabrik GmbH Games and/or Services are used. The Terms & Conditions can be printed out or saved onto digital media before sending the User Application.

5.2 gamefabrik GmbH reserves the right to change or amend these Terms & Conditions with regard to future arrangements at any given time, provided this is deemed necessary and if the User is not put at a disadvantage in a breach of good faith.

5.3 The User will be notified of the changes made to the Terms & Conditions either by e-mail or on the website of the Games and Services offered by gamefabrik GmbH. Changes to the Terms & Conditions will always be provided to the User with a highlighted announcement at the next login. The modified Terms and Conditions shall be effective immediately, provided that the User has agreed to them. Furthermore, the conditions as stipulated in the second and third sentence of section 5.1 shall apply.

5.4 If the User objects to the changes of the Terms and Conditions, both parties are entitled to terminate this agreement with a one-month notice unless both parties have the right to terminate without notice according to Sec 8.1. Until termination has been finalized, the original Terms & Conditions will remain in effect. Any payment made for Games and/or Services which extend beyond the termination date will be reimbursed to the User on a pro-rata basis. Further claims by the User are considered hereby invalid.

5.5 gamefabrik GmbH, in the course of informing the User about such changes, will especially inform the User about the possibility of objecting to the changes, cancellation of Services.

5.6 Unless otherwise stipulated in these Terms & Conditions or in other agreements with the User, gamefabrik GmbH will generally communicate with the User by e-mail. The User will ensure that he/she can receive all e-mails sent by gamefabrik GmbH to the address he/she submitted to gamefabrik GmbH at the time of registration and at subsequent times. He/she is responsible for settings and maintenance of the spam filter and for regularly checking all incoming e-mail sent to this address. gamefabrik GmbH reserves the right to correspond with Users using whichever form of communication they deem necessary.

5.7 Upon contacting gamefabrik GmbH, the User will indicate which Games and/or Services and which Game and/or Service Account his/her correspondence pertains to.

## 6 Instructions and Rules of the Games

6.1 Instructions and rules of the Games and/or Services will be published on the portal and/or on the websites of the respective Games and/or Services.

6.2 The User is consciously aware that he/she plays together with numerous other Users in online games, and that he/she communicates with different Users of Services over the Portal. In order to ensure successful interaction between the Users in the Games, it is imperative that the rules are observed by all Users. By using gamefabrik GmbH Games and Services, the User thereby acknowledges the rules and participation requirements as legally binding.

6.3 The User will also refrain from undertaking any other activity which could interfere with the normal operation of Games and/or Services or disrupt the successful interaction between Users.

# 7 Fees, Payment Conditions, Late Payment

## 7.1 Online Games

### 7.1.1 Basic Version

gamefabrik GmbH provides Users access to the Games in principle as of the creation of a User Account (see Sec. 1.2 above). In this case, the User will initially only be provided with a basic version of the Game. The creation of an Account and the use of the basic version are free of charge. The basic version of the Game can be used indefinitely and without restrictions in Game function, without prejudice to gamefabrik GmbH right to withdraw the Game. In the basic version, the User does not have full access to all Game features.

### 7.1.2 Premium features

The User has the option of receiving features which are not available in the basic version (hereinafter referred to as “Premium Features”) in return for payment. The Premium Features offered may vary from one Game to another. Information pertaining to the prices of the Premium Features offered, the functions included with these Premium Features and their requirements for use can be obtained from the website of each respective Game. Depending on the Premium Feature and price, a one-time payment may have to be made in order to credit an Account with features or items which may be used for certain purposes subject to the respective rules of a Game, or to make payments which are due periodically, such as on a daily, weekly, monthly, quarterly, semiannual or yearly basis. All prices listed include all possible applicable taxes.

All Games are updated regularly. gamefabrik GmbH therefore reserves the right to offer new Premium Features at any time. In the course of adapting and developing the Games, gamefabrik GmbH also reserves the right to discontinue individual Premium Features and/or to offer them in the basic version (see Sec. 7.1.1 above). All Users are excluded from reimbursement of fees paid. In the event of a permanent discontinuation of a gamefabrik GmbH Game, section 1.2.15 shall apply.

If the User is a minor, he or she expressly declares when ordering the premium features that he or she has received the means of payment necessary for these services or were freely available to him or her.

If there is a possibility of downloading software to a mobile phone allowing access to individual Games, the rules for Premium Features will also apply for payment of these accrued costs.

### 7.1.3 Subscription / Automatic Renewal

If payments for Premium Features are to be made at regular intervals, the User effectively enters into a subscription for these Premium Features that will automatically be renewed if it is not cancelled by the User before the end of the set time limit as stipulated in Sec 8.2 below. The subscription terms are described in the rules for the respective Games.

## **7.1.4 Payment Conditions and Due Date of Payment**

gamefabrik GmbH is authorized to ask for advance payment for the use of Premium Features (see Sec. 7.1.2 above). Such payment will be due upon conclusion of the contract and will be debited from the bank account or charged to the credit card account provided by the User, inasmuch as the User has not opted for another form of payment, for example, payment by text message for Premium Features. The amount to be collected will be displayed as “GAMEFABRIK” or “gamefabrik GmbH” on credit card bills or bank account statements.

## **7.1.5 Adjustment of Fees**

gamefabrik GmbH reserves the right to reduce prices or to offer new products, services or methods of payment at any time either on a temporary or permanent basis. In addition, gamefabrik GmbH is authorized to change prices at any given time with six week’s notice either in writing or by e-mail sent to the address provided by the User. The changed price will take effect if the User does not object to the changed price within six weeks. The contractual relationship will be carried forward according to the conditions and prices which were changed. gamefabrik GmbH, in the course of notifying the User about these changes, will inform the User about the possibility of objecting to the changes, cancellation of services, the set time limit and legal ramifications in the case of failing to submit an objection.

If the User objects within the set time limit, both parties reserve the right to terminate this agreement at the end of one month, unless the right to terminate immediately according to Sec 8.1 already exists. Until termination of the contract, the original Terms & Conditions will remain in effect.

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Any payment made for Games and Services which extend beyond the termination date will be reimbursed to the User on a pro-rata basis. Further claims by the User are considered invalid.

## **7.2 Late Payment**

In case of late payment, gamefabrik GmbH is authorized to charge interest set at 3% above the applicable legal lending rate in Luxembourg. gamefabrik GmbH is also entitled to discontinue Services and to suspend the User’s Account(s) if payment is overdue. During the Account suspension period, no charges for subscriptions which have been entered into will accrue. gamefabrik GmbH, however, is authorized to impose a processing fee for suspending an Account, for informing the User of Account suspension, for reactivating the Account or for creating a new Account upon payment in full. The amount of the processing fees can be found on the Portal by accessing the respective Game and Service. The User is entitled to prove that no damage occurred or that a substantially lower level of damage was caused due to late payment.

## **7.3 SEPA Procedure**

Any direct debit authorization the User may have previously given to gamefabrik GmbH shall convert into a SEPA direct debit authorization. gamefabrik GmbH shall inform the User in advance before debiting his/her account (within five banking days prior)

## 7.4 No Guarantee of Prizes

gamefabrik GmbH does not guarantee prizes to Users. In particular, the Users do not have the right to claim the payment of prizes, unless such a claim is explicitly outlined in these Terms & Conditions.

A claim to the payment of a prize can only be permitted if gamefabrik GmbH has explicitly offered/advertised such a prize.

A claim to the payment of a prize also does not exist if gamefabrik GmbH learns that a potential claim to a prize may be the result of technical or legal manipulations and/or the result of any other kind of criminal conduct, in general. By using gamefabrik GmbH Games and Services, Users thereby agree that gamefabrik GmbH may conduct a thorough investigation at any time pertaining to the legality of the claim for prizes, and while this claim is under investigation may withhold the payment of the prize from the User without his/her express consent. A claim to a prize will also be forfeited if the User has not complied with the rules of the Game. If there is reason to doubt a claim, it is up to the User to provide sufficient evidence that he/she complied with the rules of the Game. The User acknowledges and explicitly accepts this obligation to provide evidence even when it is not usually common legal practice to do so.

## 7.5 No Set-off; No Right of Retention; No Cession

The User may only set off a claim by gamefabrik GmbH for outstanding accounts if his/her counterclaims cannot be disputed or have been declared legally binding. The User can only withhold payment if his/her counterclaim is related to the same Terms & Conditions. The right of the User to assign his/her claims to a third party is invalid.

## 7.6 Services

Unless otherwise stipulated in the Service description, Services can be used free of charge. Furthermore, Sec. 7.1 through Sec. 7.5 apply to fee-based Services.

# 8 Term, Termination

## 8.1 Duration

All contracts entered into between the User and gamefabrik GmbH are for an indeterminate period of time unless a limited period of time has been expressly specified in the Terms & Conditions.

## 8.2 Orderly Termination

Subject to the condition that the period of termination is respected, each party is legally entitled to terminate the contractual agreement without provision of any reasons, provided that the following is fulfilled:

8.2.1 If no limited period of time has been agreed upon for a contract, both parties may terminate the contractual agreement in a due and orderly manner with immediate effect.

8.2.2 If a contract (e.g. gaming or service usage contract) for using the Games and Services and/or premium features has been agreed upon for a set period of time (see Sec. 7.1.2 and Sec. 7.1.3), said contract will be automatically renewed for the same period after the original contract expires. unless the contract has been terminated by the user at least 14 days prior to the end of the contract period.

## 8.3 Just grounds for termination

8.3.1 The parties may also terminate the contractual agreement for important reasons at any time without prejudice to the above regulations.

8.3.2 In the event that gamefabrik GmbH is responsible for a premature termination of the contractual agreement for important reasons, the User will receive a pro-rata refund for any payments made by them, if applicable, (especially for Premium Features) which apply to the period after the termination becomes effective. All other claims of the User are considered invalid unless otherwise specified in these Terms & Conditions.

gamefabrik GmbH has the right to terminate the contractual agreement especially for, but not limited to, the following reasons:

- The User is late in paying fees of at least EUR 5.00 and has not paid despite having received two reminders.
- The User knowingly violates any law or the rules of the Games and Services, and does not discontinue his/her actions despite having received a warning. A warning is not required in case of a severe offense where it would be unreasonable to expect gamefabrik GmbH to remain bound by the contract.
- The User has not used their Account for a period of four weeks despite having received a reminder.

Cases in which it would be unreasonable to expect gamefabrik GmbH to remain bound by the contract generally include the following:

- The User violates criminal law.

- The User violates the prohibition of multi-accounts which may be stipulated in the respective Game's rules (see Sec. 1.2 above).
- The User violates the prohibition of pushing (see Sec. 1.2 above).
- The User violates the prohibition of non-authorized scripts (see Sec. 1.2 above).
- The User violates the prohibition of exploiting programming errors (bugs) (see sec. 1.2)
- The User deliberately provides false information upon registration 2, User application form) or while completing payment of Premium Features (see Sec. 7.1).

In the event that gamefabrik GmbH correctly terminates the contractual agreement for important reasons, gamefabrik GmbH is entitled to charge the amount of 75% percent of all fees which the User would have had to pay for the rest of the term had the User terminated the contract of their own volition within the set time limit as governed by the contractual agreement. The User's right to prove that no damage occurred or that a substantially lower level of damage was caused due to the termination remains unaffected.

## 8.4 Written Form for Termination

If there is no option for terminating the contract in the respective Games, the termination must be submitted in written form, whereas e-mail is considered to be in compliance with the requirement of written form. A termination for important reasons can only be declared in written form and must include the reason(s) for the cancellation.

# 9 Responsibilities and Other Obligations of the User; Liability for Information Uploaded by the User; Copyright

## 9.1 User Responsibilities

It shall be the primary responsibility of the User to pay any and all applicable fees, unless he/she uses the basic version of the Games and/or Services (see paragraph 7 above). Furthermore, the User shall comply with all applicable game rules and provide accurate and complete information to gamefabrik GmbH upon entering into this agreement and through the duration thereof. Therefore, the User declares that all information relating to his/her person or other facts relevant to the contract (especially bank or credit card details) and which he/she provides on the User application or during the course of the contractual agreement are complete and correct to the best of his/her knowledge. The User is obligated to inform gamefabrik GmbH about any changes to this information without undue delay. The User is obliged to follow the game rules. In the case of repeated violation of the rules despite warnings to this effect, or in the case of a severe breach of

the rules (see Sec. 8.3), gamefabrik GmbH reserves the right to suspend all services immediately and without warning, and to terminate the contract.

## 9.2 Installation of Software

gamefabrik GmbH is not liable for damages or loss of data on the User's computer which may be caused by the installation of software which does not originate from gamefabrik GmbH.

## 9.3 Further Obligations of the User

9.3.1 gamefabrik GmbH provides the available Games and Services online for use with a web browser. gamefabrik GmbH neither provides nor installs any of the software required by the user on their local computer, especially but not limited to the operating system, web browser(s) or plug-ins such as Flash or Java, if applicable. gamefabrik GmbH also does not provide any support services for such software installations. It is solely the User's responsibility to maintain the computer in a state which enables the use of gamefabrik GmbH Games. Therefore, gamefabrik GmbH does not provide any kind of technical support for the installation of locally-required software.

9.3.2 The User is obligated to treat all data provided by gamefabrik GmbH for the purpose of accessing the Games and Services (login, passwords etc.) in a strictly confidential manner. The User will inform gamefabrik GmbH without delay if they learn or suspects that an unauthorized third party has gained possession of said access data. gamefabrik GmbH advises the User to do this in written form, e.g. via e-mail. In the event that a third party gains access to gamefabrik GmbH Games or Services with the User's access data because the User neglected to sufficiently protect the account from unauthorized access, the User must, due to the danger of an uncertainty caused by him/her regarding who misused the account or was responsible for a contractual or legal infringement of said account, assume the responsibility for said actions as if he/she had performed these actions himself/herself. gamefabrik GmbH is entitled to evaluate all entry into an account with the User's data as the entry of the User into the account. gamefabrik GmbH advises that passwords should be regularly changed for security reasons. The User is solely responsible for the access to and use of their Account.

The User is solely responsible for the access to and use of his/her Account.

9.3.3 In the event that gamefabrik GmbH has a justifiable reason to believe that an unauthorized third party is wrongly in possession of access data, gamefabrik GmbH may, but is not required to, at its own discretion, change the account access data without prior notice or suspend the respective Account. gamefabrik GmbH will promptly inform the rightful User and will, upon request, communicate the new access data to him or her without undue delay. The User has no right to demand that the original access data be restored.

9.3.4 The User is not entitled to sell their account to a third party or in another way, shape or manner to transfer it. This is not applicable for the sale or transmission of offers, which have been created and reserved by gamefabrik GmbH for this purpose.

9.3.5 gamefabrik GmbH protects its systems against viruses. Even so, virus infections can never be completely ruled out. In addition, it is possible that unauthorized third parties may send e-mails using the name of gamefabrik GmbH without gamefabrik GmbH consent, and that such e-mails may contain viruses, spyware or links to web content which, in turn, may contain viruses or spyware. gamefabrik GmbH has no influence over such occurrences. The User agrees to check all incoming mail sent or supposedly sent by or in the name of gamefabrik GmbH for potential viruses. The same applies to mails from other Users of the Games or Services.

9.3.6 The User agrees to abide by the instructions of gamefabrik GmbH, its employees, assignees and vicarious agents, especially including but not limited to administrators and moderators of forums for a specific game and/or service.

9.3.7 The User agrees that they shall not, under any circumstances, use the Account, login name or password of another User.

## 9.4 User's Obligations Regarding Information for Upload

9.4.1 The User shall exercise due care in the selection of the information which they make available to other Users by uploading it to the Portal.

9.4.2 The User shall not use the Service(s) to distribute content including but not limited to pictures, videos, links, names, words which contain political, religious, insulting, offensive, violent, sexist, pornographic or other objectionable matter, especially including racist, right extremist or left extremist content, persons or depictions. In addition, the User agrees not to use any copyrighted or otherwise legally protected terms, names, pictures, videos, music, games, or other material. In case of doubt, the User shall promptly remove any content contested by gamefabrik GmbH. gamefabrik GmbH is also entitled to remove such questionable content on its own. The User will always respect any applicable laws and regulations, especially with regard to youth protection, data privacy, protection of personal rights, protection against slander and defamation, copyright laws and trademarks.

9.4.3 The User may not misuse the Service(s) for illegal or unauthorized purposes. It is strictly prohibited to use the account names or e-mail addresses of other Users without their express prior consent for the purpose of sending unsolicited e-mails, promotional messages or for any other commercial purposes.

9.4.4 gamefabrik GmbH is entitled to delete any content submitted by the User in culpable violation of the above-mentioned rules and regulations.

9.4.5 gamefabrik GmbH is especially entitled to delete any information in whole or in part which has been submitted by the User and which gives firm reasons to indicate a breach of these Terms and Conditions, the instructions and rules of the respective Service(s) or are otherwise in violation of applicable law. This, for example, includes but is not limited to:

- information which is obviously offensive, racist, fanatical, or glorifies violence;
- information which is of a molesting, insulting, threatening, obscene, defaming nature or is libelous to other persons;

- information which is sexist, pornographic or otherwise harmful to underage persons, or which contains links to websites unsuitable for underage persons;
- information which is false or misleading and/or which is intended to promote illegal activities;
- illegal or unauthorized copies or distributions of a work protected by copyright, for example by providing illegal computer programs or links to illegal computer programs, information on how to bypass copy protection measures, illegal copies of music, links to illegal copies of music or other copyright infringements;
- the sending of junk mails, chain mails and/or unsolicited mass mails, instant messages, spimming and spamming;
- limited-access pages or pictures which are hidden or password protected;
- promoting or endorsing criminal activities or providing instructions for committing criminal activities, including but not limited to information on the production or purchase of arms, child pornography, fraud, drug trafficking, gambling, stalking, spamming, spimming, distribution of computer viruses and other harmful files, copyright infringement, patent infringement and/or theft of trade secrets;
- soliciting other Users to disclose personal information for commercial or illegal purposes, or inducing them to disclose login data;
- promoting commercial or sales activities, such as contests, raffles, swapping offers, classified ads and/or pyramid schemes;
- providing picture(s) of another person without that person's express consent.

9.4.6 The User is not entitled to demand that such deleted information be restored. Furthermore, gamefabrik GmbH is also entitled to exclude the offending User from continued use of the respective Service(s) and, in case of repeated infringements of the aforementioned prohibitions despite written notice, to terminate the User's Account without prior warning. gamefabrik GmbH reserves the right to make any further necessary and additional claims, particularly the entitlement to damages.

9.4.7 The User will inform gamefabrik GmbH in case he/she becomes aware of an abuse of the Service(s) by other Users or third parties, such as making accessible or sending information which violates this Sect. 9.4. To ensure that effective measures can be taken, gamefabrik GmbH requests that such information be provided in writing (e.g. e-mail).

## 9.5 User's Liability Regarding Uploaded Information

9.5.1 The User is solely responsible for any texts, files, pictures, photographs, videos, sounds, music, copyrighted or other material, information etc. (hereinafter "Uploaded Information") which they upload to the Portal or shares with other users. gamefabrik GmbH neither condones nor approves such information.

9.5.2 gamefabrik GmbH does not have control over the Uploaded Information on the Portal. gamefabrik GmbH does not evaluate the Uploaded Information before it is made public. If gamefabrik GmbH learns that specific Uploaded Information is illegal, it will be deleted promptly.

9.5.3 gamefabrik GmbH disclaims any liability or warranty with respect to the Uploaded Information, especially regarding accuracy, completeness and reliability.

## 9.6 Copyright

9.6.1 The User maintains all rights to the Uploaded Information. By submitting information to the Portal, the Games or Service(s), the User grants gamefabrik GmbH a non-exclusive, revocable license, free of charge, to publicly offer, display, reproduce and distribute such information.

9.6.2 The User does not grant gamefabrik GmbH any further rights to the uploaded information. gamefabrik GmbH is not authorized to use or distribute uploaded information outside of the Portal, Games or Service(s).

9.6.3 By submitting information, the User acknowledges and accepts that uploaded information on the Portal can be accessed globally through the Internet. With the uploading of such information, the User agrees to these conditions.

9.6.4 The aforementioned license ends at that time when the uploaded content has been deleted from the Portal and the Services by the User.

## 10 Claims Based on Defects

10.1 gamefabrik GmbH grants the User access to the Games and Services in their current version only (Sec. 1.2). The User has no right to demand the maintenance or restoring of a particular version or range of functions of the Games and Services. The User acknowledges and agrees that the Games and Services provided by gamefabrik GmbH, as with any other software, can never be completely free of errors. Therefore, the Games and Services can only be considered to be defective if their playability or usability is affected severely and over a sustained period of time.

The User shall document any faults in the Games and Services and/or other deliveries of gamefabrik GmbH, and to document them fully in writing along with a protocol of the error messages displayed. Before reporting a potential bug, the User shall consult the instructions for the Games and Services and any other troubleshooting tools provided by gamefabrik GmbH (especially frequently asked question lists and boards for troubleshooting). The User will use best efforts to support gamefabrik GmbH in any attempts to debug the Game or Service in question.

10.2 The User will notify gamefabrik GmbH in written form of any faults and without undue delay upon their discovery. To prove that the deadline has been met, it is advised to submit such reports in writing (letter or e-mail) to gamefabrik GmbH.

10.3 gamefabrik GmbH is not liable for defects caused by external influences, faulty handling by the User, force majeure or changes or manipulations which are not performed by gamefabrik GmbH.

10.4 gamefabrik GmbH does not assume any guarantees or warranties.

## 11 Transfer of Private Information to Third Parties

The User herewith agrees to permitting their personal data to be transferred by gamefabrik GmbH to company affiliate gamefabrik GmbH GmbH (Hamburg) within the framework of current applicable laws. For all matters pertaining to this, the gamefabrik GmbH data privacy policy is referred to.

## 12 Liability and Limitation of Liability

12.1 The User shall be directly and immediately liable to third parties for violating any of their rights. The User shall indemnify and hold gamefabrik GmbH harmless against any damage caused by his or her failure to observe these Terms of Use. The User shall indemnify and hold gamefabrik GmbH harmless against any and all claims by third parties that posting of any content by the User or any other violations of these Terms of Use by him or her violates their respective rights. The User shall also be responsible for any legal costs gamefabrik GmbH may incur as a result of the said failure to comply with the Terms of Use, including court costs and attorney fees. This shall only apply in the event the User is responsible for any such infringement.

12.2 Provided that gamefabrik GmbH offers its services free of charge, gamefabrik GmbH shall only be liable for intentionally caused damage or damaged caused by gross negligence. This, however, does not apply to liability regarding loss of life, bodily injury or damage to health, or the assumption of a guarantee offered by gamefabrik GmbH.

12.3 Insofar as gamefabrik GmbH demands payment for its Services, gamefabrik GmbH shall assume liability for damage caused by intent and gross negligence without limitation. In the event of simple negligence, gamefabrik GmbH shall only be liable for breaches to substantial contract stipulations or breaches of a guarantee. Substantial contractual stipulations include those that enable the contract to be properly executed and on which fulfillment the User may rely. The above limitations of liability do not apply to liability regarding loss of life, bodily injury or damage to health, or the assumption of a guarantee offered by gamefabrik GmbH. gamefabrik GmbH liability regarding the product liability act remains unaffected.

12.4 The obligation to pay damages or compensation is limited to foreseeable damage or loss caused through the violation of material contractual obligations.

12.5 Depending on the extent, the foreseeable damage or loss is limited to €200 per account.

12.6 The above exclusions or restrictions shall also apply with regard to the liability of staff, employees, representatives and/or agents of gamefabrik GmbH, especially for the benefit of

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12.7 gamefabrik GmbH is liable for consultation only, as far as the question has concerned the contents of the offer.

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## 13 Final Clauses

13.1 Any and all changes, amendments or the termination of the contract, either partly or entirely, must be made in writing to be considered valid, including any provision to suspend or amend the requirement for using the written form.

13.2 The law of Luxembourg applies exclusively to all contracts concluded by gamefabrik GmbH based on these Terms & Conditions and to any further kind of claims arising thereof; to the exclusion of provisions pertaining to the UN Convention on contracts for the international sale of goods and to the exclusion of Luxembourg International Private Law.

13.3 If any provisions of these Terms & Conditions are invalid or become invalid, the validity of the other provisions shall not be affected.

Cologne, November 14, 2014

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