

Terms of Service / Terms of USE / EULA

Effective Date: 20.11.2015

These Terms of Service are a binding agreement between you and Cherrypick Games S.A. (“Cherrypick Games”), its subsidiaries and affiliated companies that governs your use of the Service. The “Service” means (i) the website located at <https://cherrypickgames.com> (the “Site”), including any services, features and content accessible or downloadable from the Site, and (ii) any other applications, service or product licensed, downloaded or otherwise accessed by you through third party websites or sources.

1. YOUR AGREEMENT TO THESE TERMS OF SERVICE

Please carefully read these Terms of Service. By registering for an Account or otherwise using the Service, you represent that (1) you are age 13 or older, (2) you understand and agree to these Terms of Service, and (3) if you are between the ages of 13 and 18, your legal guardian has reviewed and agrees to these Terms of Service.

BY INSTALLING, USING OR OTHERWISE ACCESSING THE SERVICE, YOU AGREE TO THESE TERMS OF SERVICE. IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE, PLEASE DO NOT INSTALL, USE OR OTHERWISE ACCESS THE SERVICE. USE OF THE SERVICE IS VOID WHERE PROHIBITED.

2. CHANGES TO THE TERMS OF SERVICE AND THE SERVICE

Cherrypick Games reserves the right, at its discretion, to change, modify, add or remove portions of these Terms of Service and its Privacy Policy at any time by posting the amended terms on the Site. You will be deemed to have accepted such changes by continuing to use the Service. Except as otherwise expressly stated, all amended terms shall automatically be effective immediately when posted.

These Terms of Service may not be otherwise amended except in a writing signed by you and Cherrypick Games. For purposes of this provision, “writing” does not include an e-mail message and a signature does not include an electronic signature. If at any point you do not agree to any portion of the then-current version of the Terms of Service, the Privacy Policy, or any other Cherrypick Games policy or rules relating to your use of the Service, your license to use the Service shall immediately terminate, and you must immediately stop using the Service. To the extent the Terms of Service or Privacy Policy conflict with any other terms, policy or rules of Cherrypick Games, the terms contained in these Terms of Service and in the Privacy Policy shall govern.

Except as may be expressly specified otherwise by Cherrypick Games with respect to paid portions of the Service, Cherrypick Games reserves the right to add, change, suspend or discontinue the Service, or any aspect or feature of the Service, without notice or liability.

3. LIMITED LICENSE GRANT AND RESTRICTIONS

Cherrypick Games grants to you a limited, non-exclusive, non-transferable, non-sublicensable revocable license to use and display the following: (a) the portions of the Service that are freely accessible from the Cherrypick Games Site or that are, with Cherrypick' authorization, made freely accessible from third party websites or sources, and (b) such other portions of the Service accessible on a "for-payment" basis, provided that you have paid the applicable fees and satisfied all applicable conditions. The license in the preceding sentence is (i) solely for your personal, non-commercial use; (ii) solely for a single computer to access the Site and solely on a Device to access applications; and (iii) subject to your compliance at all times with these Terms of Service.

You agree not to (and not to attempt to): (i) copy, adapt, modify, prepare derivative works based upon, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast or otherwise exploit the Service or any portion of the Service, except as expressly permitted in these Terms of Service; or (ii) use the Service for any use or purpose other than as expressly permitted by these Terms of Service. Neither Cherrypick Games nor any of the Cherrypick Games Parties (as defined below) grant to you any licenses or rights except for the licenses and rights expressly granted in these Terms of Service.

4. REGISTRATION, USER DATA AND ACCOUNTS:

You may register to play our games through the Service (the "Account"). As part of this registration process, you may be asked to provide information about yourself in order to use the Service. You agree to provide and maintain (updating as necessary) true, accurate, complete and current information as requested by the Service. If you provide any information that is untrue, inaccurate, incomplete or not current, Cherrypick Games has the right to suspend or terminate your Account and refuse any and all current or future use of the Service by you.

You are responsible for maintaining the confidentiality of your Account. You are fully responsible for all activities that occur under your Account with or without your knowledge. You agree to notify Cherrypick Games immediately of any unauthorized use of your Account or any other breach of security related to your Account.

5. YOUR CONTENT; SERVICE MATERIALS

As between you and Cherrypick Games, Cherrypick Games and its licensors own and will retain ownership of all right, title and interest in and to the Service and the Service Materials, except for Your Content (as defined below) and except as otherwise expressly set forth in these Terms of Service. You shall not acquire any ownership rights whatsoever by downloading Service Materials or by purchasing any Virtual Currency or Virtual Goods (each as defined below).

You agree that the Service Materials are protected by, and their use, copying and dissemination may be restricted by, applicable intellectual property and other laws by jurisdiction of Poland. All rights not expressly granted by these Terms of Service are reserved by Cherrypick Games and its licensors, and no license is granted hereunder by estoppel, implication or otherwise. You agree not to encumber, license, modify, publish, copy, sell, transfer, transmit or in any way exploit, any portion of the Service or Service Materials other than Your Content (as defined below), nor will you attempt to do so, except as expressly permitted in writing by Cherrypick Games and, as applicable, the owner of such Service Materials (from whom you are solely responsible for obtaining permission).

“Service Materials” means all information and materials that are part of the Service, including without limitation the following: any and all copyrightable material, including software; the “look and feel” of the Service or portions thereof; the compilation, assembly and arrangement of the materials of the Service or portions thereof; photographs; graphics; layout; text; images; audio; video; designs; advertising copy; data; logos; domain names; trademarks, service marks, trade names and other source identifiers; and User Content.

6. TRADEMARKS

The term “Cherrypick Games,” the Cherrypick Games logo and other Cherrypick Games logos and product and service names are trademarks and service marks of, and are owned by Cherrypick Games. You may not use or display such trademarks in any manner, including without limitation using such trademarks as “metatags,” except as expressly set forth in these Terms of Service. All third party trademarks and service marks appearing on the Service are the property of their respective owners and all rights therein are reserved.

7. USER CONTENT (INCLUDING YOUR CONTENT)

The Service may invite or enable you and other users to create, submit, post, display, transmit, perform, publish or distribute communications, content and materials (including without limitation text, writings, photographs, graphics, images, comments, personally identifiable information, etc.), including by making the foregoing available to Cherrypick Games and other users of the Service, whether via e-mail or through online forums, message boards, messaging services, blogs or other functionality of the Service or portions thereof (collectively, "User Content"). Cherrypick Games has no obligation to accept, display, review, maintain or otherwise exploit any User Content.

You understand that all User Content available in connection with the Service is the sole responsibility of the person from whom such User Content originated. Cherrypick Games has no obligation to pre-screen, review, examine, evaluate or otherwise monitor any User Content for accuracy, validity, legality, decency, integrity or any other quality. Cherrypick Games makes no, and hereby disclaims any and all, warranties or other guarantees with respect to User Content. You understand that your use of the Service is at your own risk and that by using the Service, you may be exposed to User Content that is offensive, indecent, objectionable or that does not otherwise meet your needs. You bear all risks associated with, the use of any User Content available in connection with the Service. Cherrypick Games shall not be liable in any way for any User Content made available via the Service, including, but not limited to, any errors or omissions in any such User Content, or any loss or damage of any kind incurred as a result of the use of such User Content.

Notwithstanding the foregoing, Cherrypick Games reserves the right in its sole discretion to pre-screen, review, monitor, refuse, remove from the Service, censor, edit, alter, delete, disable access to or otherwise make unavailable any User Content (including without limitation Your Content) without notice for any reason, including without limitation the violation of these Terms of Service, or for no reason, at any time. You may bring User Content that you believe violates against these Terms of Service, or other inappropriate user behavior, to Cherrypick Games' attention by emailing hello@cherrypickgames.com

User Content that you make available in connection with the Service is referred to herein as "Your Content." You agree that Your Content is not confidential. You further agree that Your Content will not be returned to you. You represent and warrant that Your Content is original to you and that you exclusively own the rights to Your Content, including the right to grant all of the rights and licenses in these Terms of Service without Cherrypick Games incurring any third party obligations or liability arising out of its exercise of such rights and licenses. Cherrypick Games does not claim any ownership rights in Your Content and nothing in these Terms of Service will be deemed to restrict any rights that you may have to use and exploit Your Content. Cherrypick Games has no obligation to monitor or enforce your intellectual property rights in or to

Your Content.

You hereby grant to Cherrypick Games a worldwide, irrevocable, perpetual, non-exclusive, transferable, royalty-free license, (with the right to sublicense), to use, copy, adapt, modify, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast and otherwise exploit for any purpose Your Content via the Service or by any other means. You also hereby grant to Cherrypick Games the right to sublicense and authorize others to exercise any of the rights granted to Cherrypick Games under these Terms of Service. You further hereby irrevocably grant to Cherrypick Games the unconditional right to use and exploit your name, voice, persona and likeness included in any User Content and in connection with any User Content, without any obligation to you. Except as prohibited by law, you waive any rights of attribution and/or any moral rights you may have in Your Content, regardless whether Your Content is altered or changed in a manner not agreeable to you.

8. RESTRICTIONS AND RULES OF USE

The following restrictions and rules apply to your use of the Service. As a condition of your use of the Service, and without limiting your other obligations under these Terms of Service, you agree to comply with the restrictions and rules set forth in this Section as well as any additional restrictions or rules (such as application-specific rules) set forth in the Service itself.

- You shall not create an Account or access the Service if you are under the age of 13
 - You shall monitor your Account to restrict use by minors, and you will deny access to children under the age of 13. You accept full responsibility for any unauthorized use of your Account by minors. You are responsible for any use of your credit card or other payment instrument by minors
 - You shall not use your Account for any commercial purpose, including without limitation, (a) any attempt to raise money for any party or any purpose or advertise, (b) promote or attempt to trade or sell a website, pyramid scheme or any other product or service of any kind, or (c) perform market research on the Service
 - You shall not use your Account to advertise, or solicit, or transmit any commercial advertisements, including chain letters, junk e-mail or repetitive messages (e.g., spam) to anyone
 - You shall not use your Account to engage in any illegal conduct
 - You shall not rent, lease, sell, trade or otherwise transfer your Account or any virtual items or virtual currency associated with your Account to anyone without Cherrypick Games' prior written permission
 - You shall not submit false refund requests to Cherrypick Games or third party platform
- You further agree not to:
- (i) interfere with or disrupt the Service or servers or networks connected to the Service,

- or disobey any requirements, procedures, policies or regulations of networks connected to the Service;
- (ii) interfere with, disrupt or circumvent any security feature of the Service or any feature that restricts or enforces limitations on use of or access to the Service;
 - (iii) use the Service to intentionally or unintentionally violate any applicable local, state, national or international law;
 - (iv) use the Service to harm minors in any way;
 - (v) use the Service to reveal any personal information about another individual, including any information that may be used to track, contact or impersonate that individual;
 - (vi) defraud or mislead Cherrypick Games or other users;
 - (viii) impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity;
 - (ix) create any Account by automated means or false pretenses or use any other user's Account for any purpose, including to circumvent a suspension or ban; or
 - (x) cheat or use, develop or distribute automation software programs ("bots"), "macro" software programs or other "cheat utility" software program or applications which are designed to modify the Cherrypick Games experience to the detriment of fair play.

You also agree to comply with all applicable laws or other rules regarding online conduct and acceptable User Content, and you agree to comply with all applicable laws or other rules regarding the transmission of technical data exported from Poland or the country in which you reside.

In addition, you agree not to use the Service or any portion of the Service to commit actions that Cherrypick Games considers, in its sole discretion, to be detrimental in any way to the Service or to any user's enjoyment of the Service.

Cherrypick Games reserves the right to determine what conduct it considers to be in violation of the rules of use or otherwise outside the spirit of the these Terms of Service or the Service itself and to take action as a result, which may include termination of your Account and exclusion from further participation in the Service.

9. VIRTUAL CURRENCY AND VIRTUAL GOODS

The Service may include virtual currency, such as coins, points or similar items that may be earned or obtained through the Service or otherwise purchased by you for legal tender or actual currency, subject to applicable law ("Virtual Currency"). The Service may also include virtual digital items, such as commodities, abilities or other goods that may be earned or obtained through the Service or otherwise purchased by you for legal tender or actual currency, or for Virtual Currency, subject to applicable law ("Virtual Goods"). Cherrypick Games reserves the absolute right, at any time and at its sole discretion, to manage, regulate, control, modify or eliminate Virtual Currency and/or

Virtual Goods. Cherrypick Games shall have no liability to you or any third party in the event that Cherrypick Games exercises any such rights. You have no right, title or interest in or to any such Virtual Goods or Virtual Currency appearing or originating in the Service except the following: You will have a limited, personal, non-transferable, non-sublicensable, revocable license to use, solely within the Service, Virtual Goods and Virtual Currency that you have earned, purchased or otherwise obtained in a manner authorized by Cherrypick Games.

You agree that the transfer of Virtual Currency and Virtual Goods is prohibited except where expressly authorized in the Service. Also, outside of the Service, you shall not sell, redeem or otherwise transfer Virtual Currency or Virtual Goods to Cherrypick Games, any other user of the Service or any other party.

You agree that all sales of Virtual Currency and Virtual Goods are final and non-refundable, unless Cherrypick Games or the applicable third party platform decides in its sole and absolute discretion to provide a refund. You agree that in the event that these Terms of Service, your Account or the Service is terminated for any reason, which may include without limitation Cherrypick Games' discontinuation for any reason of the applicable portion of the Service, you will forfeit all Virtual Currency and Virtual Goods and Cherrypick Games will have no liability to you in connection with that forfeiture.

10. FEEDBACK

"Feedback" means any comments, suggestions or feedback about, or in connection with, the Service that you provide to Cherrypick Games. You agree that any Feedback shall be the exclusive property of Cherrypick Games, and you hereby assign all rights, title and interest in and to such Feedback to Cherrypick Games. You agree that unless otherwise prohibited by applicable law, Cherrypick Games may use, sell, disclose and otherwise exploit the Feedback in any way and for any purpose, without compensation to you.

11. TERMINATION

You may terminate your Account at any time and for any reason by sending an email via <https://cherrypickgames.com>.

Cherrypick Games may terminate these Terms of Service, your Account and your access to the Service (or, at Cherrypick Games' sole option, applicable portions of the Service) at any time and for any reason. In addition, Cherrypick Games may notify authorities or take any actions it deems appropriate (including without limitation suspending your Account and your access to the Service), without notice to you if Cherrypick Games suspects or determines that you may have (i) failed to comply with any provision of these Terms of Service or any policies or rules established by

Cherrypick Games; or (ii) engaged in actions relating to or in the course of using the Service that may be illegal or cause liability, harm, embarrassment, harassment, abuse or disruption for you, Cherrypick Games, any third parties or the Service itself.

You may, as the result of termination, lose your Account and all information and data associated therewith, including without limitation your user names, avatars, characters and achievements, Virtual Currency and Virtual Goods. You will not be entitled to and Cherrypick Games will not be liable to you or any third party for any refund, reimbursement or other liability as a result of any termination permitted under these Terms of Service for any reason, whether by you or Cherrypick Games. Cherrypick Games reserves the right to refuse to keep Accounts for or provide the Service to any individual. You shall not allow individuals whose Accounts have been terminated by Cherrypick Games to use your Account.

These Terms of Service will remain effective until terminated. You agree that the following sections of these Terms of Service will survive any termination of these Terms of Service, your Account or the Service: Section 5 (Your Content; Service Materials), Section 6 (Trademarks), Section 7 (User Content (including Your Content)), Section 9 (Virtual Currency and Virtual Goods), Section 10 (Feedback), Section 11 (Termination), Section 12 (Disputes with Others), Section 13 (Disclaimers of Warranties and Damages, Limitations of Liability), Section 14 (Indemnification), Section 15 (Governing Law and Remedies), Section 16 (Links to Third Party Websites) and Section 17 (Miscellaneous Provisions).

12. DISPUTES WITH OTHERS

Cherrypick Games reserves the right, but has no obligation, to monitor and manage disputes between you and other users of the Service. You are solely responsible for your interaction with other users of the Service and other parties that you come in contact with through the Service. You will cooperate fully with Cherrypick Games to investigate any suspected unlawful, fraudulent or improper activity, including, without limitation, granting Cherrypick Games access to any password-protected portions of your Account. Cherrypick Games hereby disclaims any and all liability to you or any third party relating to any dispute between you and other users of the Service.

13. DISCLAIMERS OF WARRANTIES AND DAMAGES, LIMITATIONS OF LIABILITY

Cherrypick Games and you are liable only for damage caused by intent or gross negligence. Other than in case of intent, Cherrypick Games and you are not liable for indirect damage and consequential damage.

Where the damage is due to the culpable breach of a material contractual duty or to the breach of a duty the discharge of which allows the proper performance of the

agreement in the first place and on the fulfillment of which Cherrypick Games can regularly rely and if you are responsible for such breach of duty, you will be liable in accordance with the statutory provisions. In the event of simple negligence, however, liability shall be limited to foreseeable and typical damage.

14. INDEMNIFICATION

You agree to indemnify, defend and hold Cherrypick Games Parties harmless from and against any and all claims, liabilities, damages, losses, costs, expenses, fees (including reasonable attorneys' fees and court costs) due to or arising from (1) information in your Account and any information you (or anyone accessing the Service using your Account) submit, post or transmit through the Service, (2) your (or anyone accessing the Service using your Account) use of the Service, (3) your (or anyone accessing the Service using your Account) violation of these Terms of Service, and (4) your (or anyone accessing the Service using your Account) violation of any rights of any other person or entity.

Cherrypick Games reserves the right, at your expense, to assume the exclusive defense and control of any indemnifiable matter and you agree to cooperate with Cherrypick Games to defend these claims.

15. GOVERNING LAW AND REMEDIES

These Terms of Service and any action related thereto or to the Service will be governed by the laws of the Republic of Poland without regard to its conflict of law provisions. The exclusive jurisdiction and venue of any action with respect to the subject matter of these Terms of Service will be the state and federal courts located in Warsaw, Republic of Poland. The parties specifically disclaim application of the United Nations Convention on Contracts for the International Sale of Goods. You acknowledge that the rights granted and obligations made to Cherrypick Games under these Terms of Service are of a unique and irreplaceable nature, the loss of which may result in immediate and irreparable harm to Cherrypick Games for which remedies at law are inadequate. Cherrypick Games shall therefore be entitled to seek injunctive or other equitable relief (without the obligation to post any bond) in the event of any breach or anticipatory breach by you. You hereby irrevocably waive all rights to seek injunctive or other equitable relief.

16. LINKS TO THIRD PARTY WEBSITES

The Service may contain links to third party websites or resources. You acknowledge and agree that Cherrypick Games is not responsible or liable for: (i) the availability or accuracy of such websites or resources; or (ii) the content, products, or services on or available from such websites or resources. Links to such websites or resources do not imply any endorsement by Cherrypick Games of such websites or resources or the content, products, or services available from such websites or resources. You acknowledge sole responsibility for and assume all risk arising from your use of any such websites or resources. Cherrypick Games may remove any links at any time for any reason or for no reason.

17. MISCELLANEOUS PROVISIONS

(a) Access and Availability. You agree to be responsible for obtaining and maintaining all telephone, computer hardware, mobile devices and any other equipment needed for access to and use of the Service, and all charges related thereto. Cherrypick Games operates and controls the Service from its offices in Poland. The information and materials provided on the Service are not intended for distribution to or use by any person or entity in any jurisdiction where such distribution or use would be contrary to law or regulation or which would subject Cherrypick Games to any registration requirement within such jurisdiction or country.

(b) Entire Agreement. These Terms of Service, Privacy Policy, and additional Cherrypick Games' published policies and rules, constitute the entire agreement between you and Cherrypick Games with respect to your use of the Service and any other subject matter hereof, supersede all prior understandings of the parties, whether electronic, oral or written, or whether established by custom, practice, policy or precedent and cannot be changed or modified by you except as expressly posted on the Service by Cherrypick Games.

(c) No Waiver. The failure of Cherrypick Games to exercise or enforce any right or provision of these Terms of Service shall not constitute a waiver of such right or provision, and no waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. If any provision of these Terms of Service is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms of Service shall remain in full force and effect.

(d) Assignment. These Terms of Service may not be assigned by you without Cherrypick Games' prior written consent, but are freely assignable by Cherrypick Games.

(e) Compliance. Upon Cherrypick Games' request, you will furnish Cherrypick any documentation, substantiation or releases necessary to verify your compliance with

these Terms of Service.

(f) Construction and Waiver of Defenses. You agree that these Terms of Service will not be construed against Cherrypick Games by virtue of having drafted them. You hereby waive any and all defenses you may have based on the electronic form of these Terms of Service and the lack of signing by the parties hereto to execute these Terms of Service.

(g) Force Majeure. Cherrypick Games shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including without limitation any failure to perform hereunder due to acts of God, war, terrorism, riots, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, or shortages of energy.

18. PAID SERVICES

(a) Cherrypick Games offers some paid services to which you may subscribe for auto-renewable periods of time. Different subscription periods may be offered at different fees.

(b) Before making a payment for a paid service the user is provided with all information required by law, including: (i) obligation to pay for the service offered, (ii) amount of fee to be paid, (iii) available subscription periods, (iv) terms and conditions of subscription's renewal and its cancellation.

(c) Cherrypick Games is not a payment provider and it is not responsible for any issues related to the services provided by the payment provider in connection with the purchase.

(d) You may pay for paid services and/or subscribe to them using the methods available in third parties' platforms such as Apple Store, Google Play or others ("Third Party"). via your Third Party's account

(e) When purchasing services offered by Cherrypick Games, the transaction is proceeded by the Third Party's platform and is under its terms and conditions. Therefore, Cherrypick Games may be provided with very limited information regarding your purchase. Cherrypick Games has no impact on a payment transaction and may not be able to provide you with information as to your purchase history as you might expect.

(f) Any applicable fee for paid service offered by Cherrypick Games is payable in advance and, in principle, is non-refundable neither in whole nor in part after the payment has been charged to your Third Party's account at the confirmation of payment.

(g) Subscription to paid service offered by Cherrypick Games is subject to renewal for the subsequent period of time unless terminated (cancelled) at least 24 hours before the expiry of chosen subscription period.

(h) You can manage and unsubscribe from each paid service at any time by going to Third Party's account settings. However, if you do not terminate (cancel) the paid service

you subscribed for at least 24 hours before the expiry of each subscription period, the service will be prolonged for the same period of time and you will be charged for it automatically.

(i) You authorize the Third Party or any other applicable payment provider, with whom the Third Party cooperates, to charge you for the paid service, using the payment method initially chosen by you, at the purchase and after the expiration of precedent subscription period, if not terminated (cancelled) under these Terms of Services. You must promptly update all billing information to keep it current, complete and accurate (including a change in billing address, credit card number or credit card expiration date).

(j) By clicking on the “Confirm Purchase” button you consent to these Terms of Services and you authorise the applicable payment provider from the Third Party’s platform to charge you for the paid service and its renewal, unless you terminate the subscription according to these Terms of Services, by using previously chosen payment method.

CONTACT US:

For all correspondence, please contact us via <https://cherrypickgames.com>

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