

## Terms & Conditions for the DECA Closed Testers Program

### 1. Area of Application

1.1. Deca Live Operations GmbH (registered address: Unter den Linden 21, 10117 Berlin, Germany; hereinafter as “**DECA**”) is a game developer and publisher for online games. These terms and conditions (hereinafter the “**T&C**”) apply to the Closed Testers Program for the game Realm of the Mad God (the “**Game**” or “**ROTMG**”) of DECA.

1.2. DECA envisages to set up a ROTMG Closed Testers Program, for which players of the Game may apply to be selected as a Closed Testers Program member (“**Closed Tester**”). A Closed Tester may test certain features of the Game that DECA has requested and provide feedback on them, further a Closed Tester may develop / compose / design certain audio and/or visual game assets, such as music, audio files, graphics and/or characters (collectively referred to as the “**Assets**”).

### 2. Subject matter of these T&C and obligations of Contract Partner

2.1. As a Closed Tester the player may be asked by DECA to give feedback regarding the Game, including but not limited to new features, events, sprites, projects created by other Closed Testers, the game play, art work or any other aspect of the Game.

2.2. Any feedback of a Closed Tester and/or any communication of a Closed Tester with another a Closed Tester or other players must not violate any guidelines of DECA for respectful communication.

2.3. The Closed Tester may create / develop / compose / design Assets for ROTMG as user generated content (in no other agreement is signed). Any Asset must be developed and submitted by a Closed Tester according to DECA’s user generated content guidelines, which are linked under [[http://remaster.realmofthemadgod.com/?page\\_id=1845](http://remaster.realmofthemadgod.com/?page_id=1845)].

2.4. Any Assets developed and/or submitted by Closed Tester for the Game must not:

- 2.4.1. contain any third-party copyrighted material or material that is subject to other third-party proprietary rights (including rights of publicity);
- 2.4.2. contain any illegal material;
- 2.4.3. contain voluntary or involuntary pornography;
- 2.4.4. contain sexual suggestive content involving minors;
- 2.4.5. contain anything that encourages or incites violence;
- 2.4.6. contain anything that threatens, harasses or bullies, or encourages others to do so;
- 2.4.7. contain personal and confidential information of third parties;
- 2.4.8. impersonates someone in a misleading or deceptive manner;
- 2.4.9. uses ROTMG to solicit or facilitate any transaction or gift involving certain goods and/or services and/or
- 2.4.10. contain spam.

2.5. In case DECA becomes aware of any potential violation of these T&C, DECA reserves the right (but has no obligation) to determine whether the Assets comply with the user-generated content guidelines and may, at its sole discretion, remove such assets.

2.6. DECA reserves the right to reject submissions of assets and to ban a Closed Tester from the Game if they violate any provisions of these T&C and/or any other terms and conditions of DECA regarding the Game.

2.7. DECA may decide at its sole discretion whether submitted assets will be included in the Game. A Closed Tester has no right to demand that any submitted Assets be included in the Game.

### **3. Granting of rights**

3.1. Closed Testers grant to DECA any and all copyright-related rights of use, ancillary copyrights, and other rights they have accrued or will accrue in connection with the Assets and/or that they have acquired or will acquire for it, to exploit – commercially or otherwise - the Assets in whole or in part in the Game, including but not limited to the right to edit the Assets, the right of making the Assets available to the public, the adaptation right, the reproduction and distribution right, the synchronisation and dubbing right, the right to exploit excerpts and clippings, the right to archive and store the Assets, the merchandising right for freely transferable and sub-licensable use without restriction or limitation with regard to time, territory, and subject matter (the “**Granted Rights**”). For clarification purposes, DECA is entitled to unlimited exploitation of the Assets in the Game; DECA will be permitted to transfer or sublicense any and all of the Granted Rights to third parties.

3.2. To the extent legally permissible, Closed Testers waive all moral rights to the Assets including they author’s naming right (“Urheberbenennungsrecht”) acc. to Section 13 UrhG (German Copyright Act).

### **4. Representation and warranties / Indemnification**

4.1. Closed Testers represent and warrant to DECA that

(i) they hold all rights necessary for the fulfillment of they contractual obligations, including but not limited to the Assets and

(ii) they are entitled to dispose over the Granted Rights for the Assets in favor of DECA.

4.2. If claims of third parties should nonetheless be brought against DECA, which contradict the foregoing warranty, Closed Testers shall defend and indemnify DECA against them in relation to third parties upon first request and to full extent and shall respectively compensate DECA for all losses and expenses (including lawyer and court fees) incurred by it to this extent.

### **5. Compensation**

For all developments, creations and/or design of the Assets and rights under this Agreement, the Contract Partner shall receive no compensation. However, for every month a Closed Tester is active, which may DECA decide according to its sole discretion, the Closed Tester shall receive a symbolic compensation in form of 5000 ROTMG Gold.

### **6. Confidential Information**

6.1. Any information disclosed by DECA and/or its representatives to Closed Testers (either orally or in writing or in any other form or medium whatsoever) shall be considered "Confidential Information" for purposes of these T&C. The term "Confidential Information" shall not include any information which the Closed Tester can demonstrate (a) is in or enters the public domain other than by reason of a breach of these T&C; (b) was already lawfully in its possession without restriction in relation to disclosure prior to the date of receipt from the disclosing party (as evidenced by records kept in the ordinary course of its business); (c) is obtained from a third party which is lawfully entitled to disclose such information without any

restriction on its disclosure or (d) is required to be disclosed by law or by order of a court of competent jurisdiction.

6.2. Closed Testers shall (a) keep all Confidential Information secret and confidential; (b) not make use of any Confidential Information other than for purposes of the discussions and of evaluating the project and (c) not disclose any such Confidential Information to any third party.

6.3. To secure the confidentiality of the Confidential Information, the Contract Partner shall store all documents or materials containing Confidential Information, separate from all other documents and records, and in a way that identifies it as proprietary information belonging to the disclosing party; and safely so as to protect them against theft and unauthorised access; only make copies of the Confidential Information to the extent required to allow them to conduct the discussions effectively or evaluate the project; not use, reproduce, transform or store any of the Confidential Information in an externally accessible computer or electronic information retrieval system or transmit it in any form or by any means; inform DECA immediately upon coming aware of any actual or imminent unauthorised use or disclosure of Confidential Information, and shall take all reasonable steps to assist DECA in preventing or stopping such unauthorised use or disclosure; and upon request supply the disclosing party with a list showing the names and addresses of the persons to whom Confidential Information has been disclosed and their relationship to the receiving party; and the places where Confidential Information disclosed to it is held.

6.4. Closed Testers acknowledge that the unauthorized disclosure or use of Confidential Information may cause irreparable harm to DECA, for which monetary damages may be difficult to quantify. Closed Testers therefore undertake to pay a contractual penalty for each case of a culpable breach of the obligations set forth in this Section 6, the amount of the penalty to be determined at DECA's reasonable discretion and to be reviewed by the competent court in the event of a dispute. The assertion of further claims by DECA remains unaffected by this penalty.

## **7. Final provisions**

7.1. No oral supplements have been made between the Closed Tester and DECA. Changes to these T&C must be made in writing in order to be valid.

7.2. This T&C shall be governed by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG). If the Closed Tester is a consumer and has no place of residence in the Federal Republic of Germany, the contractual relationship shall be governed exclusively by the laws of the Federal Republic of Germany, excluding the CISG, unless mandatory provisions of the law of the country in which the consumer has his habitual residence provide otherwise. The exclusive place of jurisdiction for all disputes arising from these T&C shall be based on the registered office of DECA.

7.4. Should individual provisions in these T&C be or become invalid, the validity of the T&C on the whole and of its remaining provisions shall not be affected thereby.

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