

**THIS AGREEMENT** is made this .... day of ..... 2007.

**PARTIES**

- 1 ..... of ..... (“the licensor”)
- 2 Victoria University of Wellington, PO Box 600, Wellington (“the licensee”)

**RECITALS**

- A The licensor owns the copyright in a computer game and supporting documentation.
- B. The licensee wishes to obtain a licence to use, copy and disseminate the computer game and supporting documentation.
- C. The licensor agrees to grant, and the licensee accepts, a licence to use, copy and disseminate the computer game and supporting documentation on the terms of this agreement.

**IT IS AGREED** as follows:

- 1 Definitions

In this agreement:

“Commencement date” means ..... day of ..... 2007.

“Computer Game” means the original computer game entitled .....  
XX.....

“Copyright” means the copyright subsisting in the Computer Game including all copyright subsisting in any original literary, musical, and artistic works that comprise the Computer Game and also includes the copyright in the Supporting Documentation.

“Supporting Documentation” means the documentation supplied to the licensee by the licensor in connection with the Computer Game.

- 2 The Grant

2.1 The licensor is the owner of the Copyright.

- 2.2 In consideration of the sum of One Dollar (\$1) paid to the licensor by the licensee, receipt of which the licensor hereby acknowledges, the licensor grants the licensee the right to make copies of the Computer Game and the Supporting Documentation for the licensee's research into the preservation of early digital entities created by New Zealand residents in an archive for cultural and heritage purposes.
- 2.3 The copies of the Computer Game and Supporting Documentation may be used by the licensee for the following specific procedures:
- 2.3.1 Preservation and storage of the Computer Game and the Supporting Documentation in a format that is appropriate for digital archiving.
- 2.3.2 Migration and/or provision of an emulation platform for the Computer Game that will allow the Computer Game to be played for not-for-profit cultural and research purposes.
- 2.3.3 Ongoing emulation and migration of the Computer Game as necessary for the creation of a digital archive for cultural and research purposes.
- 2.3.4 Dissemination of the Computer Game and the Supporting Documentation to the public for not-for-profit cultural and research purposes, including dissemination over electronic networks such as the world wide web.
- 2.4 The licensee may allow its employees, agents and contractors to access, use, copy and disseminate the Computer Game and the Supporting Documentation on the licensee's behalf for the purposes set out above in clause 2.3.

### 3 Intellectual Property

- 3.1 The licensor warrants that the licensor is the owner of the Copyright and is entitled to enter into this agreement and grant the licence to the licensee under clause 2.
- 3.2 Without limiting any rights or remedies the licensee may have under this agreement or at law, the licensor will indemnify and keep indemnified the licensee and its officers, servants and agents from and against any and all liability, losses, damages, costs and expenses of any nature whatsoever awarded against, incurred or suffered by them, whether direct or consequential (including, but without limitation, any economic loss or other loss of profits, business opportunity, data or goodwill), arising out of or resulting from any claim that the:

- 3.2.1 licensee's use, copying or dissemination of the Computer Game and/or the Supporting Documentation infringes the rights, including intellectual property rights, of any third party; or
- 3.2.2 licensee or any third party is required to pay any licensing fees to any copyright licensing organisation in relation to the licensee's use, copying or dissemination of the Computer Game and/or the Supporting Documentation and the licensor must pay any such fees.

#### 4 Term and termination

- 4.1 This agreement shall begin at the Commencement Date and shall continue unless and until it expires or is terminated in accordance with its terms.
- 4.2 This agreement will terminate upon the earliest of the following to occur:
  - 4.1.1 expiry of the Copyright; or
  - 4.1.2 the parties mutually agree in writing to terminate this agreement; or
  - 4.1.3 the licensee notifies the licensor that it no longer wishes to make further copies of the Computer Game and the Supporting Documentation for archiving and dissemination purposes.

#### 5 Liability

- 5.1 Subject to clause 5.3, in no event will the licensee be liable (whether in contract, tort including negligence, or otherwise) to the licensor for:
  - 5.1.1 any indirect or consequential loss, damage, cost or expense of any kind; or
  - 5.1.2 any loss of revenue and/or profit, loss of production, loss of anticipated savings, loss or corruption of data or wasted management time,even if such loss, damage, cost or expense was reasonably foreseeable by the licensor.
- 1.1 5.2 Subject to clause 5.1 and 5.3, the licensee's maximum liability to the licensor arising out of all claims under this agreement or relating

to the Computer Game or Supporting Documentation will not in any circumstances exceed \$1000.

5.3 None of the exclusions or limitations set out in this agreement will have the effect of limiting or excluding any form of liability where such liability cannot be so limited or excluded under applicable law.

6 General

6.1 The rights granted under this agreement are non-exclusive to the licensee.

6.2 The rights licensed under this agreement are personal to the licensee. Except as set out in clause 2.4 and apart from assigning or granting a sub-licence to a not for profit archiving organisation in New Zealand, the licensee may not assign or grant any other sub-licence in respect of these rights, without the express consent in writing of the licensor.

6.3 This agreement is governed by the laws of New Zealand.

Executed as an agreement:

[Insert name of licensor] by:

\_\_\_\_\_  
Signature of Authorised Signatory

\_\_\_\_\_  
Name of Authorised Signatory

VICTORIA UNIVERSITY OF WELLINGTON by:

\_\_\_\_\_  
Signature of Authorised Signatory

\_\_\_\_\_  
Name of Authorised Signatory

