

Terms of Service

effective date January 1st, 2019

Welcome.

These terms of service ("**TOS**") apply to you and MadGraph SASU, address 11 rue Francis de Pressensé, 92800, Puteaux, France, ("**MadStudio**") regarding your use of MadStudio's games, websites, discussion forums and related services ("**Services**"). Use of the Services is also governed by MadStudio's Privacy Notice available at <https://www.mad.studio/privacy-notice.pdf>, which is incorporated by reference.

For United States residents, these TOS contain a binding arbitration clause in Article 8 and a class-action waiver that affects your rights about how to resolve disputes. If you live in the United States, please read it carefully. Except where you opt out, and except for certain types of disputes described in Section 8, you agree that any disputes arising between you and MadStudio will be resolved by binding, individual arbitration and you waive your right to participate in any class-action lawsuit or class-wide arbitration.

As a precondition for using the Services, you must agree to these TOS. If you accept these TOS, you represent that you are age 13 or older. If you are between the ages of 13 and 17 or otherwise do not have the authority to enter into agreements such as these TOS, you represent that your legal guardian, or a holder of parental responsibility, has reviewed and agreed to these TOS.

By using or otherwise accessing the Services, you agree to these TOS. If you do not agree to these TOS, you may not use or otherwise access the Services.

Unless otherwise specified by a component of an applicable Service, **the Services are free to use or download but may contain features that may allow you to make purchases within the Services.**

If you access the Services from a social networking site ("**SNS**"), such as Facebook, you agree to comply with its terms of service as well as these TOS.

MadStudio may issue additional policies related to specific components of the Services (including, but not limited to, forums, contests, sweepstakes or loyalty programs). Your right to use the Services is subject to such relevant policies and these TOS.

1. Right to Use the Services

Subject to these TOS, MadStudio hereby grants you a non-exclusive, non-transferable, non-sublicensable, limited right and license to use the Services for your personal, non-commercial use. The rights granted to you are subject to your compliance with these TOS.

Except as previously set forth, you do not receive any other license. MadStudio retains all right, title and interest in and to the Services, including, but not limited to, all copyrights, trademarks, trade secrets, trade names, proprietary rights, patents, titles, computer codes, audiovisual effects, themes, characters, character names, stories, dialog, settings, artwork, sound effects, musical works, gameplay recordings made using the Services, moral rights, whether registered or not and all applications thereof. Unless expressly authorized by law, the Services may not be copied, reproduced or distributed in any manner or medium, in whole or in part, without MadStudio's prior written consent. MadStudio reserves all rights not expressly granted to you herein.

The Services and its contents are licensed, not sold. You agree that you have no right or title in or to any content that appears in the Service, including, but not limited to, the Virtual Items or currency appearing in or originating from the Services, whether earned in the Services or purchased from MadStudio or third parties.

2. Purchases in the Services

MadStudio may license to you certain virtual goods to be used within the Service and which you may purchase with "real world" money or which you may earn or redeem via gameplay ("**Virtual Items**"). Virtual Items are licensed to you on a limited, personal, non-transferable, non-sublicensable, revocable basis and are intended solely for non-commercial use. MadStudio may manage, control, modify or eliminate Virtual Items at any time, with or without notice.

The transfer of Virtual Items is prohibited except where expressly authorized in the Services, as applicable.

Virtual Items do not have an equivalent value in real world money and are not a substitute for real world money. Neither MadStudio nor any other person or entity has any obligation to exchange Virtual Items for anything of value. MadStudio is not liable for hacking or loss of your Virtual Items.

Price and availability of Virtual Items are subject to change without notice.

By law, **all purchases and redemptions of Virtual Items made through the Services are final and non-refundable.** You acknowledge and consent that the provision of Virtual Items for use in the Services is a process that commences immediately upon purchase and that you forfeit your right of cancellation once the process has commenced.

Accordingly, you agree that MadStudio is not required to provide a refund for Virtual Items for any reason. You further acknowledge that you will not receive money or other compensation for unused Virtual Items, regardless of whether your loss of license under these TOS was voluntary or involuntary.

If you ask for your personal data to be deleted as described in MadStudio's Privacy Notice, you will permanently forfeit all of your Virtual Items without the right to refund, as MadStudio will no longer be able to associate such Virtual Items with you.

3. Code of Conduct

You agree that you will not, under any circumstances:

- Use, either directly or indirectly, any cheats, exploits, automation software, bots, hacks, mods or any unauthorized third-party software designed to modify or interfere with the Services.
- Use the Services in violation of any applicable law or regulation.
- Use the Services for commercial purposes, including, but not limited to, advertising, or solicitation, or transmission of any commercial advertisements such as spam emails, chain letters, pyramid or other get-rich-quick schemes.
- Use the Services for fraudulent or abusive purposes including, but not limited to, using the Services to impersonate any person or entity, or otherwise misrepresent your affiliation with a person, entity or the Services;

- Disrupt, interfere with or otherwise adversely affect the normal flow of the Services or otherwise act in a manner that may negatively affect other users' experience when using the Services.
- Disrupt, overburden, or aid or assist in the disruption or overburdening of any computer or servers used to offer or support the Services.
- Attempt to gain unauthorized access to the Services, to accounts registered to others or to the computers, servers, or networks connected to the Services by any means other than the user interface provided by MadStudio, including, but not limited to, by circumventing or modifying, attempting to circumvent or modify, or encouraging or assisting any other person to circumvent or modify, any security, technology, device, encryption, or software that is part of the Services.
- Post any information, content or other material (or post links to any information or content) that contains nudity, excessive violence or is abusive, threatening, obscene, defamatory, libelous, or racially, sexually, religiously offensive or otherwise objectionable.
- Engage in ongoing toxic behavior, such as repeatedly posting information on an unsolicited basis.
- Attempt to, or harass, abuse, or harm, or advocate or incite harassment, abuse, or harm of another person, group, including MadStudio employees, directors, officers, customer service representatives, partners, and contractors.
- Make available through the Services any material or information that infringes any copyright, trademark, patent, trade secret, right of privacy, right of publicity, or other right of any person or entity, or which impersonates any other person, including, but not limited to, a MadStudio employee, director, officer, partner or contractor.
- Unless specifically authorized by law, attempt to decompile, reverse engineer, disassemble or hack any of the Services, or to defeat or overcome any of the encryption technologies or security measures or data transmitted, processed or stored by MadStudio, or to obtain any information from the Services using any method not expressly permitted by MadStudio.
- Solicit or attempt to solicit login information or any other login credentials or personal information from other users of the Services.
- Harvest, scrape or collect any information about or regarding other people that use the Services, including, but not limited to, through use of pixel tags, cookies, GIFs or similar items that are sometimes also referred to as spyware.
- Post anyone's private information, including personally identifiable information/personal data (whether in text, image or video form), identification documents, or financial information through the Services.
- Engage in any act that MadStudio deems to conflict with the spirit or intent of the Services or make improper use of MadStudio's support services.

4. Third-Party Services

Services may include links to third-party services (including, but not limited to, advertisements displayed by third parties) and/or the third-party services may be made available to you via Services. These services may include, but are not limited to gameplay recording and sharing, social media connectivity and advertisements. These services are subject to respective third-party terms and conditions. Please read these third-party terms and conditions, carefully as they constitute an agreement between you and the relevant third-party service provider to which MadStudio is not a party.

5. Accounts and Login Information

Certain elements of the Services may enable you to create an account or otherwise register with the Services (“**Account**”). You may be required to select a password for your Account or you may also use other credentials to access the Account (“**Login Information**”). You agree that you will not give your Login Information to anyone else or allow anyone else to use your Login Information or Account. You are solely responsible for maintaining the confidentiality of the Login Information, and you are responsible for all uses thereof, including purchases.

MadStudio may assume that anyone logging into your Account using your Login Information is either you or someone logging in with your permission.

MadStudio reserves the right to delete your Account if MadStudio observes no activity by you in relation to the Account for 180 days or more. **In such event, you may no longer be able to access and/or use any Virtual Items associated with that Account and no refund will be offered to you.**

6. User Contributions

The Services may allow you to create content, including, but not limited to, gameplay maps, characters, screenshots or videos of your gameplay (collectively “**User Contributions**”).

In exchange for use of the Services, you hereby grant MadStudio a non-exclusive, royalty-free, perpetual, irrevocable, fully transferable and sub-licensable worldwide right and license to use your User Contributions in any way and for any purposes including, but not limited to, the right to reproduce, copy, adapt, modify, perform, display, publish, broadcast, transmit, or otherwise communicate to the public by any current or future means and to distribute your User Contributions without any further notice or compensation to you of any kind.

Where not expressly prohibited by law, you hereby waive any moral rights of paternity, publication, reputation, or attribution with respect to MadStudio's and other players' use and enjoyment of your User Contributions in connection with the Services and related goods and services under applicable law. This grant of license to MadStudio, and the foregoing waiver of any applicable moral rights, survives any termination of these TOS.

MadStudio, its directors, officers and employees do not accept or consider unsolicited idea or product submissions of any kind (e.g. game or other product ideas, stories, screenplays, artwork, musical or audiovisual works, concepts or any other creative materials) in any format, by means of any transmission (“**Unsolicited Content**”). Please do not submit any Unsolicited Content to MadStudio or its directors, officers or employees. However, if you submit Unsolicited Content to us, you agree that such Unsolicited Content will not be treated as confidential, regardless of what you otherwise state in your accompanying message. You further agree that such Unsolicited Content may be used and exploited by MadStudio without compensation to you or any third party and you grant MadStudio a perpetual, non-exclusive, irrevocable, fully paid, royalty free, sub-licensable and transferable (in whole or in part) worldwide license to use, exploit, reproduce, transmit, amend, display and exhibit Unsolicited Content in all current or future media for any purpose and to create derivative works based upon the Unsolicited Content.

7. Communications between Users of the Services

MadStudio assumes no responsibility for the conduct of other users of the Services and assumes no responsibility for monitoring the Services for inappropriate content or conduct.

MadStudio does not, and cannot, pre-screen or monitor all content or conduct of users. Your use of the Services is at your own risk.

By using the Services, you may be exposed to content or conduct that is offensive, indecent or otherwise not in line with your values. MadStudio may utilize technology to monitor and/or record your interactions with the Services or communications (including, but not limited to, chat text) when you are using the Services. **You irrevocably consent to such monitoring and recording. Accordingly, you agree that you have no expectation of privacy concerning the transmission of any content within the Services, including, but not limited to, chat text or voice communications.**

MadStudio reserves the right at its sole discretion to review, monitor, prohibit, edit, delete, disable access to or otherwise make unavailable any content made available by users of the Service without notice for any reason or for no reason at any time. If at any time MadStudio chooses, at its sole discretion, to monitor the Services, MadStudio nonetheless assumes no responsibility for content made available by users of the Services, and MadStudio assumes no obligation to modify or remove any inappropriate content.

8. Binding arbitration / Class waiver

If you are a United States resident or otherwise make any claim against MadStudio in the United States, you expressly agree that any legal claim, dispute or other controversy between you and MadStudio arising out of or otherwise relating in any way to Services, including controversies relating to the applicability, enforceability or validity of any provision of these TOS or MadStudio's Privacy Policy (collectively "Disputes"), shall be resolved in confidential binding arbitration in accordance with the Rules of the Association Française d'Arbitrage ("AFA"), rather than in a court, as described herein. The arbitration will be governed by the AFA's commercial arbitration rules and, if the arbitrator deems them applicable, the supplementary procedures for consumer related disputes (collectively "Rules and Procedures"). You acknowledge that you are voluntarily and knowingly forfeiting your right to a trial by jury and to otherwise proceed in a lawsuit in state or federal court.

Payment of arbitration costs will be governed by the AFA's fee schedule, unless you are able to show that your portion will be prohibitive as compared to litigation costs, in which case MadStudio will pay as much of your arbitration costs as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive as compared to litigation costs. MadStudio also reserves the right in its sole and exclusive discretion to assume responsibility for all arbitration costs imposed by the AFA. Each party agrees to pay its own attorneys' fees and expenses unless there is a governing statutory provision that requires the prevailing party to be paid attorneys' fees and expenses.

The AFA may be seized whatever the language of the contract and the procedural and substantive laws applicable to the dispute even though Paris is not fixed as place of arbitration. The arbitrator's award shall be final and binding on you and MadStudio and may be entered as a judgment in any court of competent jurisdiction.

For more information on AFA, its Rules and Procedures, and how to file an arbitration claim, you may visit the AFA's website at <http://www.afa-arbitrage.com/en/>.

As an exception to the binding arbitration rule, to the extent the Dispute arises from:

1. A violation of MadStudio's intellectual property rights in any manner;

2. Any claim related to, or arising from, allegations of theft, piracy, unauthorized use or a violation of the United States Computer Fraud and Abuse Act or Section “Code of conduct” of these TOS; and
3. Any claim for equitable relief;

then both parties agree that a party may seek injunctive remedies (or an equivalent type of urgent legal relief) in any court with jurisdiction over the other party. In addition to the foregoing, either party may assert an individual action in small claims court for Claims that are within the scope of such court's jurisdiction in lieu of arbitration.

To the extent permissible under applicable law, all Disputes shall be resolved by binding confidential arbitration on an individual basis. You expressly agree that no other Disputes shall be consolidated or joined with your Dispute, whether through class arbitration proceedings or otherwise. **You and MadStudio agree that there is no right or authority for any dispute to be arbitrated on a class-action basis or to utilize class action procedures, there is no right or authority for any dispute to be brought in a purported representative capacity or as a private attorney general, and no arbitration shall be joined with any other arbitration.**

You may opt out of this obligation to arbitrate. If you do so, neither you nor MadStudio can require the other to participate in an arbitration proceeding. To opt out, you must notify MadStudio in writing within 30 days of the date that you first became subject to this arbitration provision. You must use this address to opt out: MadGraph SASU, ATTN: Legal Department, 11 rue Francis de Pressensé, 92800 Puteaux, France. You must include your name and residence address and a clear statement that you want to opt out of this arbitration clause.

To begin an arbitration proceeding, you must send a letter to: MadGraph SASU, ATTN: Legal Department 11 rue Francis de Pressensé, 92800 Puteaux, France requesting arbitration and describing your claim.

MadStudio will provide 30-days' notice of any changes to this Section “Binding arbitration/ Class waiver” through the Services or via other similar means. Changes will become effective on the 30th day and will apply prospectively only to any claims arising after the 30th day.

9. Suspension and Termination for your Breach

Without limiting any other remedies available to MadStudio, if MadStudio believes that you are in breach of these TOS, MadStudio reserves the right to take any of the following actions, whether individually or in combination, and either with or without notice to you: (i) delete, suspend and/or modify your Account or parts of your Account; (ii) limit, suspend and/or terminate your access to the Services; (iii) modify and/or remove any of your Virtual Items; (iv) reset and/or modify any game progression or benefits and privileges associated with you, such as any level or score you have reached in the Services.

10. Availability of the Services

MadStudio may limit, suspend or terminate the Services, or portions thereof, and take technical and legal steps to prevent users from accessing the Services if MadStudio believes they are creating risk or possible legal liabilities, infringing intellectual property rights of third parties, or not acting in accordance with the letter or spirit of these TOS.

MadStudio reserves the right to stop offering and/or supporting the Services or a part thereof (e.g. a game or a feature of a game) at any time, at which point your license to use the Services or a part thereof will be terminated automatically. **In such an event, unless otherwise required by applicable law, MadStudio does not have to provide refunds for Virtual Items or other items in connection with such discontinued Services.**

11. Disclaimer

To the fullest extent permissible under applicable law, the Services are provided to you “AS IS,” without warranty, assurances or guarantees of any kind. It may have defects, and your use is solely at your risk. MadStudio does not make, and hereby disclaims any and all express, implied or statutory warranties, including implied warranties of condition, uninterrupted use, accuracy of data (including, but not limited to, location data), merchantability, satisfactory quality, fitness for a particular purpose, non-infringement of third-party rights, and warranties (if any) arising in the course of dealing, usage, or trade practices. MadStudio does not warrant against interference with your enjoyment of the Services; that the Services will meet your requirements; that operation of the Services will be uninterrupted or error-free; that the Services will interoperate or be compatible with any other services; or, that any errors in the Services will be corrected. No oral or written advice provided by MadStudio, its employees or other representatives constitute a warranty.

Some jurisdictions do not allow disclaimers such as those set forth above; thus, the above terms may not apply to you. Instead, in such jurisdictions, the foregoing disclaimers shall only apply to the extent permitted by the laws of such jurisdictions. Moreover, you may have additional legal rights in your jurisdiction, and nothing in these TOS shall infringe upon the statutory rights that you may have as a consumer of the Services.

12. Limitations of Liability

In no way will MadStudio be liable for special, incidental or consequential damages resulting from access, use or malfunction of the Services, including but not limited to, damages to property, loss of goodwill, device failure or malfunction and, to the extent permitted by law, damages for personal injuries, property damage, lost profits or punitive damages from any causes of action arising out of or related to these TOS or the Services, whether arising in tort (including negligence), contract, strict liability or otherwise and whether or not MadStudio has been advised of the possibility of such damages. For purposes of Article 12 “Limitations of Liability,” MadStudio’s licensors and other partners are third-party beneficiaries to the limitations of liability specified herein and may enforce these TOS against you.

In no way will MadStudio’s total aggregate liability arising out of or in connection with these TOS, the Privacy Notice or the Services exceed the higher of: (i) the actual price (if any) you paid for the license to use Virtual Items; or (ii) one hundred euros (€100). The exclusions and limitations of damages are fundamental elements of the basis of the agreement between MadStudio and you.

Some jurisdictions do not allow certain limitations of liability such as these stated above; thus, the above terms may not apply to you. Instead, in such jurisdictions, the foregoing limitations of liability shall apply only to the extent permitted by the laws of such jurisdictions. Moreover, you may have additional legal rights in your jurisdiction, and nothing in these TOS will infringe upon any statutory rights you may have as a consumer of the Services.

You agree to indemnify, defend and hold MadStudio (and MadStudio’s officers, directors, agents, subsidiaries, joint ventures, contractors and employees) harmless from any claim,

demand, damages or other losses, including reasonable attorneys' fees, asserted by any third-party resulting from or arising out of your use of the Services, or any breach by you of these TOS; however, the foregoing does not apply if the third-party claim is not attributable to your intentional or negligent behavior.

13. Copyright and DMCA

If you believe the Services or any of its content infringes your copyrights, please send a notice to: MadGraph SASU, Legal Department, 11 rue Francis de Pressensé, 92800, Puteaux or alternatively via email to: legal@mad.studio. Notices sent to the specified address will reach MadStudio's registered DMCA agent. Please include all of the following in your DMCA notice:

- Identify the copyrighted work that you claim has been infringed. If your DMCA notice covers multiple works, you may provide a representative list of such works.
- Identify what you claim is the infringing material, including a description of where the material is located. Your description must be reasonably sufficient to enable MadStudio to locate the material.
- Provide your full legal name, mailing address, telephone number, and (if available) email address.

Include the following statement in the body of the DMCA notice:

"I have a good-faith belief that the use of the material is not authorized by the copyright owner, its agent, or the law. I represent that the information in this DMCA notice is accurate and, under penalty of perjury, that I am the owner of the copyright or authorized to act on the copyright owner's behalf."

Please note that under 17 U.S.C. 512(f), if you knowingly misrepresent that a material or activity is causing infringement, you may be liable for damages, including the costs and attorneys' fees incurred by us or our users. If you are unsure whether the material or activity you are reporting is causing infringement, you may wish to contact an attorney before serving a notice to MadStudio.

14. Links to Third-party Products and Services

MadStudio may link to third-party websites or services from the Services. You understand that MadStudio makes no promises regarding any content, goods or services provided by such third parties and, you understand MadStudio does not endorse them. MadStudio is also not responsible to you in relation to any losses or harm caused by such third parties. Any charges you incur in relation to these third parties are your responsibility. You understand that when you provide data to such third parties you are providing it in accordance with their privacy policy (if any) and you understand MadStudio's Privacy Notice does not apply in relation to such data.

15. Changes to these TOS

Notwithstanding Article 8 "Binding arbitration / Class Waiver," MadStudio may update these TOS from time to time in response to changing legal, technical or business developments. When MadStudio updates these TOS, MadStudio will take appropriate measures to inform

you via the Services or otherwise, in accordance with the significance of the changes MadStudio makes.

By continuing to access or use the Services after updates become effective, you agree to be bound by the updated TOS.

16. Governing Law

If you are a United States resident, in addition to **Article 8 above, “Binding Arbitration / Class Waiver,”** these TOS are governed by the laws of the State of California and applicable federal laws regardless of conflict of law provisions. If you are a resident outside the United States, you agree that all disputes between you and MadStudio shall be governed by the laws of France, regardless of conflict of law provisions. You agree that any claim or dispute you may file against MadStudio must be resolved exclusively by a court located in Paris, France.

If the jurisdiction of your domicile prohibits MadStudio from enforcing the governing law provision, nothing in these TOS limits your rights based on the laws governing your domicile.

17. Assignment, Severability and Entire Agreement

MadStudio may assign these TOS, in whole or in part, to any person or entity at any time with or without your consent. You may not assign or delegate any rights or obligations under these TOS or the Privacy Notice without MadStudio’s prior written consent, and any unauthorized assignment and delegation by you is void.

If any provision of these TOS is held to be invalid or unenforceable, such provision will be limited or eliminated to the minimum extent necessary, and the remaining provisions of these TOS will remain in full force and effect. MadStudio’s failure to enforce any right or provision of these TOS will not be deemed a waiver of such right or provision.

This TOS and Privacy Notice set out the entire agreement between you and MadStudio regarding the Services and supersede all earlier agreements and understandings between you and MadStudio.

Any failure by MadStudio to exercise or enforce any of its rights under these TOS does not waive its right to enforce such right. Any waiver of such rights shall only be effective if it is in writing and signed by an authorized representative of MadStudio.

If you have any questions about these TOS, please contact legal@mad.studio.