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PLAINTIFFS BLIZZARD ENTERTAINMENT, INC.  
and VIVENDI GAMES, INC.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

BLIZZARD ENTERTAINMENT,  
INC. and VIVENDI GAMES, INC.,

Plaintiffs,

vs.

IN GAME DOLLAR, LLC and  
BENJAMIN LEE,,

Defendants.

SACV07-0589  
No.

COMPLAINT FOR:

- (1) VIOLATION OF THE  
COMPUTER FRAUD AND  
ABUSE ACT
- (2) VIOLATION OF THE  
CALIFORNIA COMPUTER  
DATA ACCESS AND  
FRAUD ACT
- (3) INTENTIONAL  
INTERFERENCE WITH  
CONTRACT
- (4) TRESPASS TO CHATTELS
- (5) UNJUST ENRICHMENT
- (6) UNFAIR COMPETITION

DEMAND FOR JURY TRIAL

1 Plaintiffs Blizzard Entertainment, Inc. and Vivendi Games, Inc.  
2 (collectively, "Blizzard") allege as follows against defendants In Game Dollar,  
3 LLC and Benjamin Lee (collectively, "Defendants"):

#### 4 JURISDICTION AND VENUE

5 1. This is a civil action by Blizzard seeking injunctive relief and  
6 damages for Defendants' violations of the Computer Fraud and Abuse Act, 18  
7 U.S.C. § 1030; violations of the California Computer Data Access and Fraud Act,  
8 Cal. Penal Code § 502; intentional interference with contract; trespass to chattels;  
9 unjust enrichment; and unfair competition in violation of Cal. Bus. & Prof. Code §  
10 17200 *et seq.*

11 2. This Court has jurisdiction over the claims for violations of the  
12 Computer Fraud and Abuse Act pursuant to 28 U.S.C. § 1331. This Court has  
13 supplemental jurisdiction over the remaining claims, pursuant to 28 U.S.C. § 1367.

14 3. Venue properly lies in this district pursuant to 28 U.S.C. § 1391(b),  
15 because a substantial part of the acts giving rise to the claims alleged herein  
16 occurred in this district.

#### 17 PARTIES

18 4. Plaintiff Blizzard Entertainment, Inc. is a Delaware corporation with  
19 its principal place of business in Irvine, California. Plaintiff Vivendi Games, Inc.,  
20 the parent corporation of Blizzard Entertainment, Inc., is a Delaware corporation  
21 with its principal place of business in Los Angeles, California.

22 5. On information and belief, Benjamin Lee is the founder and owner  
23 of In Game Dollar, LLC, and is a Florida resident living in Lake Worth, Florida.

24 6. On information and belief, In Game Dollar, LLC is a Florida limited  
25 liability company with its principal place of business in West Palm Beach, Florida.  
26 On information and belief, In Game Dollar, LLC is the alter-ego of Benjamin Lee.

## THE WORLD OF WARCRAFT GAME

7. Blizzard is a premier publisher of entertainment software, known particularly for its high-quality, extremely popular computer game franchises such as Diablo®, Starcraft® and Warcraft®. Many of Blizzard's games offer online play through Blizzard's internet gaming service, and over 20 million accounts have been registered by individuals to play Blizzard's games online.

8. In November 2004, Blizzard released its most advanced and ambitious online computer game to date--World of Warcraft® ("WoW"). WoW is a Massively Multiplayer Online Role Playing Game ("MMORPG"), i.e., a computer game that uses the internet to allow vast numbers of players to interact with each other in an online persistent virtual universe.

9. WoW's virtual universe is maintained on dozens of servers in California and elsewhere that are owned and operated by Blizzard, and which may only be accessed by authorized WoW players in the manner permitted by Blizzard.

10. In order to access the WoW universe and adventure with thousands of other online players, players are required to purchase a license to use the WoW software and to pay a monthly subscription fee.

11. WoW players devote time and energy to increasing their characters' "levels." This in turn gives them the ability to access new game content.

12. Players also accumulate virtual gold which allows their characters to obtain various virtual assets in the game. This "virtual gold" is used in the game to obtain various virtual assets (e.g., armor, weapons, clothing and potions) selected for "purchase" by a player for his or her character.

13. A key component of WoW is the game's communication--or "chat"-- system that allows players to type messages to other individual players or groups of players. The WoW chat system is vital to players' enjoyment of the game, enabling them to engage in all manner of communications. The chat system

allows players to coordinate complex quests, trade virtual assets, and engage in friendly social interactions with fellow players.

### THE WORLD OF WARCRAFT AGREEMENTS

14. Before installing the WoW client software on their personal computer, and before playing WoW for the first time, players must agree to the World of Warcraft End User License Agreement (the "EULA"). (Attached as Exhibit A.)

15. When creating an account on the WoW servers, and before playing WoW for the first time, players must also agree to the World of Warcraft Terms of Use (the "TOU"). (Attached as Exhibit B.)

16. The EULA and the TOU clearly state that authorization to play the game and to access the WoW servers is conditioned on compliance with the EULA and the TOU, respectively.

17. The EULA provides licensees a limited license to use the WoW client for non-commercial purposes. Paragraph 4(B)(ii) of the EULA expressly prohibits using WoW for any commercial purpose.

18. Paragraph 5(B) of the TOU prohibits various uses of the WoW chat system, including "posting commercial solicitations and/or advertisements for goods and services available outside of the World of Warcraft universe" and "[s]ending repeated unsolicited or unwelcome messages to a single user or repeatedly posting similar messages in a Chat area."

19. Paragraph 3 of the TOU prohibits WoW users from sharing their account information.

### DEFENDANTS' UNLAWFUL ACTIVITIES

20. On information and belief, Defendants own and operate the website [www.peons4hire.com](http://www.peons4hire.com).

21. The website [www.peons4hire.com](http://www.peons4hire.com) is used, *inter alia*, to offer and sell "power leveling" services.

1           22.       “Power leveling” services allow players to pay a certain amount of  
2 real money to have their WoW character advanced a specified number of levels.  
3 After payment is made, the player provides his account information to the  
4 merchant, who then arranges for one or more third parties to play that account  
5 until the agreed upon level is attained.

6           23.       “Virtual gold” sales are sales of virtual (in-game) gold for real-  
7 world money. Virtual gold sales are usually arranged on third-party websites. The  
8 delivery of the virtual gold must be made in-game from one character (controlled  
9 by the virtual gold merchant) to another character (controlled by the  
10 player/purchaser).

11          24.       On information and belief, Defendants use the WoW chat system to  
12 advertise Defendants’ virtual gold sales and power leveling services by sending  
13 high volumes of unsolicited chat messages--i.e., “spam”--to WoW players .

14          25.       On average, Defendants send most WoW players several spam  
15 messages an hour.

16          26.       Defendants have sent these unsolicited spam messages to WoW  
17 players continuously for at least the last several months.

18          27.       In total, Defendants have sent several million unsolicited spam  
19 messages to WoW players.

20          28.       On information and belief, Defendants use modified, unauthorized  
21 versions of the WoW client to allow for the automated sending of these enormous  
22 volumes of unsolicited commercial messages and to avoid the anti-spam  
23 mechanisms put in place by Blizzard.

24          29.       Despite significant expenditures of time and money, Blizzard has  
25 been unable to stop Defendants’ onslaught of spam messages.

26          30.       This spam assault has had a serious impact on the WoW game.  
27 Among other things: (a) the game loses its immersive effect – a valuable element  
28 of a role-playing game like WoW – when a player receives commercial

1 advertisements, (b) the social interactions of the game are deteriorated because the  
2 high volume of unsolicited messages disrupts or denies players' ability to  
3 communicate with one another, (c) the spam messages that players receive from  
4 Defendants cause legitimate messages from other players to "scroll out" of a  
5 player's chat window, resulting in that player missing messages from other  
6 players; and (d) the overall performance of the game is degraded because the vast  
7 quantities of messages sent by Defendants consume Blizzard's server and network  
8 resources.

9 31. The harm to the WoW gaming experience has caused Blizzard  
10 serious economic harm in the form of, among other things: (a) lost subscription  
11 revenue from players who leave in frustration, (b) increased system costs due to  
12 higher bandwidth and server usage, (c) costs of developing technological measures  
13 in an attempt to stop Defendants' spam attacks, and (d) increased customer service  
14 costs needed to respond to dissatisfied players.

15 **IDENTITY OF LEE AND IN GAME DOLLAR, LLC**

16 32. On information and belief, Defendant Lee is the only member of In  
17 Game Dollar, LLC

18 33. On information and belief, Defendant Lee and In Game Dollar, LLC  
19 have a unity of interest and ownership such that the separate personalities of the  
20 entity and the person cease to exist.

21 34. On information and belief, In Game Dollar, LLC acts as an alter ego  
22 for Defendant Lee and was created to insulate Defendant Lee from the legal  
23 consequences of his unlawful practices associated with the services offered by In  
24 Game Dollar, LLC and the advertising of those services.

25 //

26 //

27 //

28 //

COUNT I

**Violation of the Computer Fraud and Abuse Act**

**(18 U.S.C. §§ 1030(a)(5)(A)(i) and (ii))**

35. Blizzard realleges each and every allegation set forth in Paragraphs 1 through 34 as if set forth fully herein.

36. The Blizzard WoW servers are “protected computers” as defined in the Computer Fraud and Abuse Act (18 U.S.C. § 1030), through which electronic messages are received, stored and disseminated in interstate and/or foreign commerce or communication.

37. The WoW TOU specifically prohibits transmitting commercial solicitations for goods or services outside the WoW universe and sending repeated unsolicited chat messages.

38. The WoW EULA specifically prohibits any commercial use of the WoW game.

39. By virtue of their use of WoW accounts, Defendants were on notice of and agreed to the TOU and EULA.

40. Defendants have knowingly and repeatedly transmitted and/or caused to be transmitted millions of unsolicited commercial messages without authorization. Defendants knew that the messages would impair the operation of Blizzard’s protected computers and degrade the quality of Blizzard’s services to its users.

41. Defendants knowingly and intentionally caused, through the means of a computer used in interstate commerce, the transmission of information to Blizzard’s protected computers and, as a result of such conduct, caused damage without authorization to Blizzard’s protected computers in violation of 18 U.S.C. § 1030(a)(5)(A)(i).

4           43.       As a direct result of Defendants' actions, Blizzard has suffered harm  
5       in an amount to be determined at trial, but, in any event, no less than \$5,000 in a  
6       one-year period.

7           44.       Blizzard seeks compensatory damages under 18 U.S.C. § 1030(g) in  
8       an amount to be proven at trial.

9           45.       As a direct result of Defendants' actions, Blizzard has suffered and  
0 continues to suffer irreparable harm for which Blizzard has no adequate remedy at  
1 law, and which will continue unless Defendants' actions are enjoined. §

## COUNT II

## **Violation of the California Computer Data Access and Fraud Act**

**(Cal. Penal Code § 502)**

46. Blizzard realleges each and every allegation set forth in Paragraphs 1 through 34 as if set forth fully herein.

7           47.       Defendants have violated California Penal Code § 502(c)(3) by  
8       knowingly and without permission accessing and using Blizzard's computer  
9       services.

0            48.        Defendants have violated California Penal Code § 502(c)(5) by  
1        knowingly and without permission disrupting or causing the disruption of  
2        Blizzard's computer services, and denying or causing the denial of computer  
3        services to authorized users of Blizzard's computers, computer system, or  
4        computer network.

5           49.       Defendants have violated California Penal Code § 502(c)(7) by  
6       knowingly and without permission accessing, or causing to be accessed, Blizzard's  
7       computers, computer system, and/or computer network.

7            51.        As a direct result of Defendants' actions, Blizzard has suffered and  
8 continues to suffer irreparable harm for which Blizzard has no adequate remedy at  
9 law, and which will continue unless Defendants' actions are enjoined.

0            52.        Blizzard is also entitled to recover its reasonable attorneys' fees  
1 pursuant to California Penal Code § 502(e)(2).

53. On information and belief, Defendants actions were willful and malicious, and Blizzard is therefore entitled to punitive damages pursuant to California Penal Code § 502(e)(4).

## Intentional Interference with Contract

7           54.       Blizzard realleges each and every allegation set forth in Paragraphs  
8       1 through 34 as if set forth fully herein.

9            55.        Blizzard has two valid and enforceable contracts with all WoW  
0        players, namely, the EULA and TOU.

56. Defendants are aware of Blizzard's contracts with WoW players because, among other things, Defendants have assented to those terms as well.

57. Defendants' actions, including without limitation its sales of virtual gold and power leveling services, are acts intentionally designed to induce a breach or disruption of Blizzard's contractual relationship with WoW players.

6 58. Defendants' actions have no justification.

7            59. Defendants' actions have resulted in actual breach or disruption of  
8            Blizzard's contractual relationship with WoW players.

1           60.     As a direct result of Defendants' actions, Blizzard has suffered harm  
2 in an amount to be determined at trial.

3           61.     As a direct result of Defendants' actions, Blizzard has suffered and  
4 continues to suffer irreparable harm for which Blizzard has no adequate remedy at  
5 law, and which will continue unless Defendants' actions are enjoined.

6                               **COUNT IV**

7                               **Trespass to Chattels**

8           62.     Blizzard realleges each and every allegation set forth in Paragraphs  
9 1 through 34 as if set forth fully herein.

10          63.     The WoW servers, computer system, network and associated  
11 hardware are the personal property of Blizzard.

12          64.     As described above, Defendants knowingly and intentionally,  
13 without the authorization of Blizzard, used, trespassed on, and interfered with  
14 Blizzard's property rights, thereby wrongfully exercising dominion over  
15 Blizzard's proprietary WoW servers and depriving Blizzard and its customers of  
16 the legitimate use of Blizzard's system.

17          65.     As a direct result of Defendants' actions, Blizzard has suffered harm  
18 to, among other things, the WoW servers, computer system, network and  
19 associated hardware in an amount to be determined at trial.

20          66.     As a direct result of Defendants' actions, Blizzard has suffered and  
21 continues to suffer irreparable harm for which Blizzard has no adequate remedy at  
22 law, and which will continue unless Defendants' actions are enjoined.

23                               **COUNT V**

24                               **Unjust Enrichment**

25          67.     Blizzard realleges each and every allegation set forth in Paragraphs  
26 1 through 34 as if set forth fully herein.

27          68.     On information and belief, Defendants have reaped substantial  
28 profits from the actions described above.

70. It would be unjust to allow Defendants to retain the value they have obtained at Blizzard's expense as a result of Defendants' unlawful conduct.

71. Blizzard is accordingly entitled to full restitution of the amounts by which Defendants have been unjustly enriched at Blizzard's expense.

## COUNT VI

## Unfair Competition

**(Cal. Bus. & Prof. Code §§ 17200 *et seq.*)**

72. Blizzard realleges each and every allegation set forth in Paragraphs 1 through 34 as if set forth fully herein.

73. Defendants' conduct constitutes fraudulent, unlawful, or unfair competition as defined by California Business & Professional Code §§ 17200 *et seq.*, in that, among other things, it violates the federal and state laws described above.

74. As a direct result of Defendants' actions, Blizzard has suffered and continues to suffer irreparable harm for which Blizzard has no adequate remedy at law, and which will continue unless Defendants' actions are enjoined.

## PRAYER FOR RELIEF

WHEREFORE, Blizzard prays that this Court enter judgment in its favor and against Defendants on each and every claim for relief set forth above, and issue an order:

A. Preliminarily and permanently enjoining Defendants, their agents, subsidiaries, representatives, distributors, dealers, members, affiliates, and all persons active in concert or participation with them from: (i) making any unauthorized use, or obtaining any unauthorized access to Blizzard's computer systems or network; (ii) using WoW servers or accounts for transmission of any

1 commercial messages; (iii) using WoW servers or accounts for any reason  
2 whatsoever; (iv) engaging in the sale of WoW virtual assets or power leveling  
3 services; (v) otherwise encouraging or facilitating WoW players' violations of the  
4 EULA or TOU;

5 B. Requiring Defendants to provide an accounting of any and all sales or  
6 products or services that violate Blizzard's rights described herein;

7 C. Awarding Blizzard compensatory damages;

8 D. Awarding Blizzard punitive damages;

9 E. Awarding Blizzard disgorgement of Defendants' profits from the  
10 wrongful acts described herein;

11 F. Requiring Defendants to pay restitution;

12 G. Awarding Blizzard costs and reasonable attorneys' fees;

13 H. Awarding Blizzard pre- and post-judgment interest; and

14 I. Any further relief that this Court deems just and proper.

15 **DEMAND FOR JURY TRIAL**

16 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs  
17 hereby demand a trial by jury.

18  
19 Dated: May 22, 2007

SONNENSCHN NATH & ROSENTHAL LLP  
MICHAEL E. PAPPAS

20  
21  
22 By   
23 MICHAEL E. PAPPAS

24 Attorneys for Plaintiff  
25 Plaintiffs Blizzard Entertainment, Inc. And  
26 Vivendi Games, Inc.

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Last Updated February 2, 2007

## WORLD OF WARCRAFT® END USER LICENSE AGREEMENT

**IMPORTANT! PLEASE READ CAREFULLY.**

**BY INSTALLING, COPYING, OR OTHERWISE USING THE GAME (DEFINED BELOW), YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, YOU ARE NOT PERMITTED TO INSTALL, COPY, OR USE THE GAME. IF YOU REJECT THE TERMS OF THIS AGREEMENT WITHIN THIRTY (30) DAYS AFTER PURCHASING THE GAME, YOU MAY CALL (800)757-7707 TO REQUEST A FULL REFUND OF THE PURCHASE PRICE.**

This software program, and any files that are delivered to you by Blizzard Entertainment, Inc. (via on-line transmission or otherwise) to "patch," update, or otherwise modify the software program, as well as any printed materials and any on-line or electronic documentation (the "Manual"), and any and all copies and derivative works of such software program and Manual (collectively, with the "Game Client" defined below, the "Game") is the copyrighted work of Blizzard Entertainment, Inc. or its licensors (collectively referred to herein as "Blizzard"). Any and all uses of the Game are governed by the terms of this End User License Agreement ("License Agreement" or "Agreement"). The Game may only be played by obtaining from Blizzard access to the World of Warcraft massively multi-player on-line role-playing game service (the "Service"), which is subject to a separate Terms of Use agreement (the "Terms of Use"). If your purchase of the Game included a period of "free access" to the Service, the Terms of Use agreement also governs your access to the Service during the period of "free access." The Game is distributed solely for use by authorized end users according to the terms of the License Agreement. Any use, reproduction, modification or distribution of the Game not expressly authorized by the terms of the License Agreement is expressly prohibited.

1. Grant of a Limited Use License. If you agree to this License Agreement, computer software (hereafter referred to as the "Game Client") will be installed onto your hardware. If your hardware meets the minimum requirements, the installation of the Game Client will enable you to play the Game by accessing your account with the Service (your "Account"). Subject to your agreement to and continuing compliance with this License Agreement, Blizzard hereby grants, and you hereby accept, a limited, non-exclusive license to (a) install the Game Client on one or more computers owned by you or under your legitimate control, and (b) use the Game Client in conjunction with the Service for your non-commercial entertainment purposes only. All use of the Game Client is subject to this License Agreement and to the Terms of Use agreement, both of which you must accept before you can use your Account to play the Game.

2. Service and Terms of Use. As mentioned above, you must accept the Terms of Use in order to access the Service to play the Game. The Terms of Use agreement governs all aspects of game play. You may view the

Terms of Use by visiting the following website: <http://www.worldofwarcraft.com/legal/termsofuse.shtml>. If you do not agree with the Terms of Use, then (a) you may not register for an Account to play the Game, and (b) you may call (800)757-7707 within thirty (30) days after the original purchase to arrange to return the Game and to request a full refund of the purchase price. Once you accept the License Agreement and the Terms of Use, you will no longer be eligible for a refund.

### 3. Ownership.

A. All title, ownership rights and intellectual property rights in and to the Game and all copies thereof (including without limitation any titles, computer code, themes, objects, characters, character names, stories, dialog, catch phrases, locations, concepts, artwork, character inventories, structural or landscape designs, animations, sounds, musical compositions and recordings, audio-visual effects, storylines, character likenesses, methods of operation, moral rights, and any related documentation) are owned or licensed by Blizzard. The Game is protected by the copyright laws of the United States, international treaties and conventions, and other laws. The Game may contain materials licensed by third parties, and the licensors of those materials may enforce their rights in the event of any violation of this License Agreement.

B. You may permanently transfer all of your rights and obligations under the License Agreement to another by physically transferring the original media (e.g., the CD-ROM or DVD you purchased), all original packaging, and all Manuals or other documentation distributed with the Game; provided, however, that you permanently delete all copies and installations of the Game in your possession or control, and that the recipient agrees to the terms of this License Agreement. The transferor (i.e., you), and not Blizzard, agrees to be solely responsible for any taxes, fees, charges, duties, withholdings, assessments, and the like, together with any interest, penalties, and additions imposed in connection with such transfer.

### 4. Responsibilities of End User.

A. Subject to the license granted hereunder, you may not, in whole or in part, copy, photocopy, reproduce, translate, reverse engineer, derive source code from, modify, disassemble, decompile, or create derivative works based on the Game, or remove any proprietary notices or labels on the Game. Failure to comply with the restrictions and limitations contained in this Section 4 shall result in the immediate, automatic termination of the license granted hereunder and may subject you to civil and/or criminal liability. Notwithstanding the foregoing, you may make one (1) copy of the Game Client and the Manuals for archival purposes only.

B. You agree that you shall not, under any circumstances,

(i) sell, grant a security interest in or transfer reproductions of the Game to other parties in any way not expressly authorized herein, nor shall you rent, lease or license the Game to others;

(ii) exploit the Game or any of its parts, including without limitation the Game Client, for any commercial purpose, including without limitation use at a cyber cafe, computer gaming center or any other location-based site without the express written consent of Blizzard;

(iii) host, provide or develop matchmaking services for the Game or intercept, emulate or redirect the communication protocols used by Blizzard in any way, including without limitation through protocol emulation, tunneling, packet sniffing, modifying or adding components to the Game, use of a utility program or any other techniques now known or hereafter developed, for any purpose, including without limitation unauthorized

network play over the Internet, network play utilizing commercial or non-commercial gaming networks, or as part of content aggregation networks; or

(iv) facilitate, create or maintain any unauthorized connection to the Game or the Service, including without limitation any connection to any unauthorized server that emulates, or attempts to emulate, the Service. All connections to the Game and/or the Service, whether created by the Game Client or by other tools and utilities, may only be made through methods and means expressly approved by Blizzard. Under no circumstances may you connect, or create tools that allow you or others to connect, to the Game's proprietary interface other than those expressly provided by Blizzard for public use.

5. Consent to Monitor. WHEN RUNNING, THE GAME MAY MONITOR YOUR COMPUTER'S RANDOM ACCESS MEMORY (RAM) FOR UNAUTHORIZED THIRD PARTY PROGRAMS RUNNING CONCURRENTLY WITH THE GAME. AN UNAUTHORIZED THIRD PARTY PROGRAM AS USED HEREIN SHALL BE DEFINED AS ANY THIRD PARTY SOFTWARE, INCLUDING WITHOUT LIMITATION ANY ADDON, MOD, HACK, TRAINER, OR CHEAT THAT IN BLIZZARD'S SOLE DETERMINATION: (i) ENABLES OR FACILITATES CHEATING OF ANY TYPE; (ii) ALLOWS USERS TO MODIFY OR HACK THE GAME INTERFACE, ENVIRONMENT, AND/OR EXPERIENCE IN ANY WAY NOT EXPRESSLY AUTHORIZED BY BLIZZARD; OR (iii) INTERCEPTS, MINES, OR OTHERWISE COLLECTS INFORMATION FROM OR THROUGH THE GAME. IN THE EVENT THAT THE GAME DETECTS AN UNAUTHORIZED THIRD PARTY PROGRAM, THE GAME MAY (a) COMMUNICATE INFORMATION BACK TO BLIZZARD, INCLUDING WITHOUT LIMITATION YOUR ACCOUNT NAME, DETAILS ABOUT THE UNAUTHORIZED THIRD PARTY PROGRAM DETECTED, AND THE TIME AND DATE THE UNAUTHORIZED THIRD PARTY PROGRAM WAS DETECTED; AND/OR (b) EXERCISE ANY OR ALL OF ITS RIGHTS UNDER THIS AGREEMENT, WITH OR WITHOUT PRIOR NOTICE TO THE USER.

6. Termination. This License Agreement is effective until terminated. You may terminate the License Agreement at any time by (i) permanently destroying all copies of the Game in your possession or control; (ii) removing the Game Client from your hard drive; and (iii) notifying Blizzard of your intention to terminate this License Agreement. Blizzard may terminate this Agreement at any time for any reason or no reason. In such event, you must immediately and permanently destroy all copies of the Game in your possession and control and remove the Game Client from your hard drive. Upon termination of this Agreement for any reason, all licenses granted herein shall immediately terminate.

7. Export Controls. The Game may not be re-exported, downloaded or otherwise exported into (or to a national or resident of) any country to which the U.S. has embargoed goods, or to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders. You represent and warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list.

8. Patches and Updates. Blizzard may deploy or provide patches, updates and modifications to the Game that must be installed for the user to continue to play the Game. Blizzard may update the Game remotely, including, without limitation, the Game Client residing on the user's machine, without the knowledge or consent of the user, and you hereby grant to Blizzard your consent to deploy and apply such patches, updates and modifications.

9. Duration of the "On-line" Component of the Game. This Game is an 'on-line' game that must be played over the Internet through the Service as provided by Blizzard. You understand and agree that the Service is provided

by Blizzard at its discretion and may be terminated or otherwise discontinued by Blizzard pursuant to the Terms of Use.

10. Limited Warranty. THE GAME (INCLUDING WITHOUT LIMITATION THE GAME CLIENT AND MANUAL(S)) IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF CONDITION, UNINTERRUPTED USE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. The entire risk arising out of use or performance of the Game (including without limitation the Game Client and Manual(s)) remains with the user. Notwithstanding the foregoing, Blizzard warrants up to and including 90 days from the date of your purchase of the Game that the media containing the Game Client shall be free from defects in material and workmanship. In the event that such media proves to be defective during that time period, and upon presentation to Blizzard of proof of purchase of the defective media, Blizzard will at its option (a) correct any defect, (b) provide you with a similar product of similar value, or (b) refund your money. THE FOREGOING IS YOUR SOLE AND EXCLUSIVE REMEDY FOR THE EXPRESS WARRANTY SET FORTH IN THIS SECTION. Some states do not allow the exclusion or limitation of implied warranties, so the above limitations may not apply to you.

11. Limitation of Liability, Indemnity. NEITHER BLIZZARD NOR ITS PARENT, SUBSIDIARIES OR AFFILIATES SHALL BE LIABLE IN ANY WAY FOR ANY LOSS OR DAMAGE OF ANY KIND ARISING OUT OF THE GAME OR ANY USE OF THE GAME, INCLUDING WITHOUT LIMITATION LOSS OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER DAMAGES OR LOSSES. FURTHER, NEITHER BLIZZARD NOR ITS PARENT, SUBSIDIARIES OR AFFILIATES SHALL BE LIABLE IN ANY WAY FOR ANY LOSS OR DAMAGE TO PLAYER CHARACTERS, VIRTUAL GOODS (E.G., ARMOR, POTIONS, WEAPONS, ETC.) OR CURRENCY, ACCOUNTS, STATISTICS, OR USER STANDINGS, RANKS, OR PROFILE INFORMATION STORED BY THE GAME AND/OR THE SERVICE. BLIZZARD SHALL NOT BE RESPONSIBLE FOR ANY INTERRUPTIONS OF SERVICE, INCLUDING WITHOUT LIMITATION ISP DISRUPTIONS, SOFTWARE OR HARDWARE FAILURES, OR ANY OTHER EVENT WHICH MAY RESULT IN A LOSS OF DATA OR DISRUPTION OF SERVICE. IN NO EVENT WILL BLIZZARD BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES. In no event shall Blizzard's liability, whether arising in contract, tort, strict liability or otherwise, exceed (in the aggregate) the total fees paid by you to Blizzard during the six (6) months prior to the time such claim arose. You hereby agree to defend, indemnify and hold Blizzard harmless from and against any claim, liability, loss, injury, damage, cost or expense (including reasonable attorneys' fees) incurred by Blizzard arising out of or from your use of the Game. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations may not apply to you.

12. Equitable Remedies. You hereby agree that Blizzard would be irreparably damaged if the terms of this License Agreement were not specifically enforced, and therefore you agree that Blizzard shall be entitled, without bond, other security, or proof of damages, to appropriate equitable remedies with respect to breaches of this License Agreement, in addition to such other remedies as Blizzard may otherwise have available to it under applicable laws. In the event any litigation is brought by either party in connection with this License Agreement, the prevailing party in such litigation shall be entitled to recover from the other party all the costs, attorneys' fees and other expenses incurred by such prevailing party in the litigation.

13. Changes to the Agreement. Blizzard reserves the right, at its sole discretion, to change, modify, add to, supplement or delete any of the terms and conditions of this License Agreement when Blizzard upgrades the Game Client, effective upon prior notice as follows: Blizzard will post notification of any such changes to this

License Agreement on the World of Warcraft website and will post the revised version of this License Agreement in this location, and may provide such other notice as Blizzard may elect in its sole discretion. If any future changes to this License Agreement are unacceptable to you or cause you to no longer be in compliance with this License Agreement, you may terminate this License Agreement in accordance with Section 5 herein. Your installation and use of any updates or modifications to the Game or your continued use of the Game following notice of changes to this Agreement will demonstrate your acceptance of any and all such changes. Blizzard may change, modify, suspend, or discontinue any aspect of the Game at any time. Blizzard may also impose limits on certain features or restrict your access to parts or all of the Game without notice or liability. You have no interest, monetary or otherwise, in any feature or content contained in the Game.

#### 14. Dispute Resolution and Governing Law

a. Informal Negotiations. To expedite resolution and control the cost of any dispute, controversy or claim related to this License Agreement (i½Disputei½), you and Blizzard agree to first attempt to negotiate any Dispute (except those Disputes expressly provided below) informally for at least 30 days before initiating any arbitration or court proceeding. Such informal negotiations commence upon written notice from one person to the other. Blizzard will send its notice to your billing address and email you a copy to the email address you have provided to us. You will send your notice to Blizzard Entertainment, Inc., P.O. Box 18979, Irvine CA 92623, attn: Legal Department.

b. Binding Arbitration. If you and Blizzard are unable to resolve a Dispute through informal negotiations, either you or Blizzard may elect to have the Dispute (except those Disputes expressly excluded below) finally and exclusively resolved by binding arbitration. Any election to arbitrate by one party shall be final and binding on the other. YOU UNDERSTAND THAT ABSENT THIS PROVISION, YOU WOULD HAVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL. The arbitration shall be commenced and conducted under the Commercial Arbitration Rules of the American Arbitration Association (i½AAAi½) and, where appropriate, the AAAi½s Supplementary Procedures for Consumer Related Disputes (i½AAA Consumer Rulesi½), both of which are available at the AAA website [www.adr.org](http://www.adr.org). The determination of whether a Dispute is subject to arbitration shall be governed by the Federal Arbitration Act and determined by a court rather than an arbitrator. Your arbitration fees and your share of arbitrator compensation shall be governed by the AAA Rules and, where appropriate, limited by the AAA Consumer Rules. If such costs are determined by the arbitrator to be excessive, Blizzard will pay all arbitration fees and expenses. The arbitration may be conducted in person, through the submission of documents, by phone or online. The arbitrator will make a decision in writing, but need not provide a statement of reasons unless requested by a party. The arbitrator must follow applicable law, and any award may be challenged if the arbitrator fails to do so. Except as otherwise provided in this License Agreement, you and Blizzard may litigate in court to compel arbitration, stay proceeding pending arbitration, or to confirm, modify, vacate or enter judgment on the award entered by the arbitrator.

c. Restrictions. You and Blizzard agree that any arbitration shall be limited to the Dispute between Blizzard and you individually. To the full extent permitted by law, (1) no arbitration shall be joined with any other; (2) there is no right or authority for any Dispute to be arbitrated on a class-action basis or to utilize class action procedures; and (3) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons.

d. Exceptions to Informal Negotiations and Arbitration. You and Blizzard agree that the following Disputes are not subject to the above provisions concerning informal negotiations and binding arbitration: (1) any Disputes seeking to enforce or protect, or concerning the validity of, any of your or Blizzard's intellectual property

rights; (2) any Dispute related to, or arising from, allegations of theft, piracy, invasion of privacy or unauthorized use; and (3) any claim for injunctive relief.

e. Location. If you are a resident of the United States, any arbitration will take place at any reasonable location convenient for you. For residents outside the United States, any arbitration shall be initiated in the County of Los Angeles, State of California, United States of America. Any Dispute not subject to arbitration (other than claims proceeding in any small claims court), or where no election to arbitrate has been made, shall be decided by a court of competent jurisdiction within the County of Los Angeles, State of California, United States of America, and you and Blizzard agree to submit to the personal jurisdiction of that court.

f. Governing Law. Except as expressly provided otherwise, this License Agreement shall be governed by, and will be construed under, the Laws of the United States of America and the law of the State of Delaware, without regard to choice of law principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. For our customers who purchased a license to the Game in, and are a resident of, Canada, Australia, Singapore, or New Zealand, other laws may apply if choose not to agree to arbitrate as set forth above, and in such an event, shall affect this Agreement only to the extent required by such jurisdiction. In such a case, this Agreement shall be interpreted to give maximum effect to the terms and conditions hereof. If you purchased your license to the Game in New Zealand, and are a resident of New Zealand, The New Zealand Consumer Guarantees Act of 1993 ("Act") may apply to the Game and/or the Service as supplied by Blizzard to you. If the Act applies, then notwithstanding any other provision in this License Agreement, you may have rights or remedies as set out in the Act which may apply in addition to, or, to the extent that they are inconsistent, instead of, the rights or remedies set out in this License Agreement. Those who choose to access the Service from locations outside of the United States, Canada, Australia, Singapore, or New Zealand do so on their own initiative and are responsible for compliance with local laws if and to the extent local laws are applicable.

g. Severability. You and Blizzard agree that if any portion Section 14 is found illegal or unenforceable (except any portion of 14(d)) that portion shall be severed and the remainder of the Section shall be given full force and effect. If Section 14(d) is found to be illegal or unenforceable then neither you nor Blizzard will elect to arbitrate any Dispute falling within that portion of Section 14(d) found to be illegal or unenforceable and such Dispute shall be decided by a court of competent jurisdiction within the County of Los Angeles, State of California, United States of America, and you and Blizzard agree to submit to the personal jurisdiction of that court.

15. Miscellaneous. This License Agreement constitutes and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior oral or written agreements, provided, however, that this Agreement shall coexist with, and shall not supersede, the Terms of Use. To the extent that the provisions of this Agreement conflict with the provisions of the Terms of Use, the conflicting provisions in the Terms of Use shall govern.

I hereby acknowledge that I have read and understand the foregoing License Agreement and agree that by clicking ☒ Accept ☐ or installing the Game Client I am acknowledging my agreement to be bound by the terms and conditions of this License Agreement.

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# WORLD OF WARCRAFT®

## TERMS OF USE AGREEMENT

Last Updated January 11, 2007

YOU SHOULD CAREFULLY READ THE FOLLOWING WORLD OF WARCRAFT TERMS OF USE AGREEMENT (THE "TERMS OF USE" OR "AGREEMENT"). IF YOU DO NOT AGREE WITH ALL OF THE TERMS OF THIS AGREEMENT, YOU MUST CLICK "REJECT." IF YOU REJECT THIS AGREEMENT WITHIN THIRTY (30) DAYS AFTER FIRST PURCHASING THE WORLD OF WARCRAFT SOFTWARE, YOU MAY CALL (800)757-7707 TO REQUEST A FULL REFUND OF THE PURCHASE PRICE. ONCE YOU AGREE TO THE TERMS OF USE AND THE END USER LICENSE AGREEMENT (EULA), YOU WILL NO LONGER BE ELIGIBLE FOR A REFUND.

Welcome to Blizzard Entertainment, Inc.'s ("Blizzard") "World of Warcraft®" or "World of Warcraft®: The Burning Crusade™" (the "Game"). The Game includes two components: (a) the software program along with any accompanying materials or documentation (collectively, the "Program"), and (b) Blizzard's proprietary World of Warcraft online service (the "Service"). All use of the Service is governed by the terms and conditions contained in this Agreement, including any future revisions. Any use of the Service not in accordance with the Terms of Use is expressly prohibited.

1. **Eligibility.**

You represent that you are an adult in your country of residence. You agree to these Terms of Use on behalf of yourself and, at your discretion, for one (1) minor child for whom you are a parent or guardian and whom you have authorized to use the account you create on the Service.

2. **Ownership.**

All rights and title in and to the Program and the Service (including without limitation any user accounts, titles, computer code, themes, objects, characters, character names, stories, dialogue, catch phrases, locations, concepts, artwork, animations, sounds, musical compositions, audio-visual effects, methods of operation, moral rights, any related documentation, "applets" incorporated into the Program, transcripts of the chat rooms, character profile information, recordings of games played on the Program, and the Program client and server software) are owned by Blizzard or its licensors. The Program and the Service are protected by United States and international laws. The Program and the Service may contain certain licensed materials, and Blizzard's licensors may enforce their rights in the event of any violation of this Agreement.

3. **Establishing an Account.**

You may establish one (1) user account (the "Account") on the Service for each Authentication Key you receive from Blizzard. To establish an Account, you will be required to provide Blizzard with certain personal information and the Authentication Key provided to you by Blizzard. Your failure to supply accurate information to Blizzard when requested, or to update that information as it changes, shall constitute a material breach of this Agreement.

During the registration process, you will be required to select a username and a password that are unique to the Account (collectively referred to hereunder as "Login Information"). You may not share the Account or the Login Information with anyone other than as expressly set forth herein.

Notwithstanding anything to the contrary herein, you acknowledge and agree that you shall have no ownership or other property interest in the Account, and you further acknowledge and agree that all rights in and to the Account are and shall forever be owned by and inure to the benefit of Blizzard.

4. **Limitations on Your Use of the Service.**

- A. Only Blizzard or its licensees have the right to host the Game. You may not host or provide matchmaking services for the Game, or intercept, emulate or redirect the proprietary communication protocols used by Blizzard in connection with the Program, regardless of the method used to do so. Such prohibited methods may include, but are not limited to, protocol emulation, reverse engineering, modifying the Program, adding unauthorized components to the Program, or using a packet sniffer while the Program is running.

- B. You agree that you will not (i) modify or cause to be modified any files that are a part of the Program or the Service; (ii) create or use cheats, bots, "mods", and/or hacks, or any other third-party software designed to modify the World of Warcraft experience; or (iii) use any third-party software that intercepts, "mines", or otherwise collects information from or through the Program or the Service. Notwithstanding the foregoing, you may update the Program with authorized patches and updates distributed by Blizzard, and Blizzard may, at its sole and absolute discretion, allow the use of certain third party user interfaces.
- C. You may not disrupt or assist in the disruption of (i) any computer used to support the Service (each a "Server"); or (ii) any other player's Game experience. ANY ATTEMPT BY YOU TO DISRUPT THE SERVICE OR UNDERMINE THE LEGITIMATE OPERATION OF THE PROGRAM MAY BE A VIOLATION OF CRIMINAL AND CIVIL LAWS. You agree that you will not violate any applicable law or regulation in connection with your use of the Program or the Service.
- D. Blizzard reserves the exclusive right to create derivative works based on the Program. You may not create derivative works based on the Program without Blizzard's prior written consent.

## 5. Rules of Conduct.

As with all things, your use of the Program is governed by certain rules of conduct. These rules of conduct (the "Rules of Conduct"), maintained and enforced exclusively by Blizzard, must be adhered to by all users of the Service. It is your responsibility to know, understand and abide by these Rules of Conduct. The following rules are not meant to be exhaustive, and Blizzard reserves the right to determine which conduct it considers to be outside the spirit of the Game and to take such disciplinary measures as it sees fit up to and including termination and deletion of the Account. Blizzard reserves the right to modify these Rules of Conduct at any time.

### A. *Rules Related to Usernames and Guild Designations.*

Each user will either select a character name or allow the Program to automatically select a character name at random. Additionally, users may form "guilds" and such guilds will be required to choose a name for the guild. When you choose a character name, create a guild, or otherwise create a label that can be seen by other players using the Program, you must abide by the following guidelines as well as the rules of common decency. If Blizzard finds such a label to be offensive or improper, it may, in its sole and absolute discretion, change the name, remove the label and corresponding chat room, and/or suspend or terminate your use of the Program.

In particular, you may not use any name:

1. Belonging to another person with the intent to impersonate that person, including without limitation a "Game Master" or any other employee or agent of Blizzard;

2. That incorporates vulgar language or which are otherwise offensive, defamatory, obscene, hateful, or racially, ethnically or otherwise objectionable;
3. Subject to the rights of any other person or entity without written authorization from that person or entity;
4. That belongs to a popular culture figure, celebrity, or media personality;
5. That is, contains, or is substantially similar to a trademark or service mark, whether registered or not;
6. Belonging to any religious figure or deity;
7. Taken from Blizzard's Warcraft products, including character names from the Warcraft series of novels;
8. Related to drugs, sex, alcohol, or criminal activity;
9. Comprised of partial or complete sentence (e.g., "Inyourface", "Welovebeef", etc);
10. Comprised of gibberish (e.g., "Asdfasdf", "Jjxccm", "Hvldrm");
11. Referring to pop culture icons or personas (e.g. "Britneyspears", "Austinpowers", "Batman")
12. That utilizes "Leet" or "Dudespeak" (e.g., "Roflcopter", "xxnewbxx", "Roxxyou")
13. That incorporates titles. For purposes of this subsection, "titles" shall include without limitation 'rank' titles (e.g. , "CorporalTed," or "GeneralVlad"), monarchistic or fantasy titles (e.g., "KingMike", "LordSanchez"), and religious titles (e.g., "ThePope," or "Reverend AI").

You may not use a misspelling or an alternative spelling to circumvent the name restrictions listed above, nor can you have a "first" and "last" name that, when combined, violate the above name restrictions.

**B. Rules Related to "Chat" and Interaction With Other Users.**

Communicating with other Users and Blizzard representatives is an integral part of the Program and is referred to in this document as "Chat." You understand that Blizzard may record your chat sessions and you consent to such monitoring or logging. Your Chat sessions may be subject to monitoring, logging, review, modification, disclosure, and/or deletion by Blizzard without notice to you. Additionally, you hereby acknowledge that Blizzard is under no obligation to monitor Chat, and you engage in Chat at your own risk. When engaging in Chat in the Program, or otherwise utilizing the Program, you may not:

1. Transmit or post any content or language which, in the sole and absolute discretion of Blizzard, is deemed to be offensive, including without limitation content or language that is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, hateful, sexually explicit, or racially, ethnically or otherwise objectionable, nor may you use a misspelling or an alternative spelling to circumvent the content and language restrictions listed above;
2. Carry out any action with a disruptive effect, such as intentionally causing the Chat screen to scroll faster than other users are able to read, or setting up macros with large amounts of text that, when used, can have a disruptive effect on the normal flow of Chat;
3. Disrupt the normal flow of dialogue in Chat or otherwise act in a manner that negatively affects other users including without limitation posting commercial solicitations and/or advertisements for goods and services available outside of the World of Warcraft universe;
4. Sending repeated unsolicited or unwelcome messages to a single user or repeatedly posting similar messages in a Chat area, including but not limited to continuous advertisements to sell goods or services;
5. Communicate or post any user's personal information in the Program, or on websites or forums related to the Program, except that a user may communicate his or her own personal information in a private message directed to a single user;
6. Use bots or other automated techniques to collect information from the Program or any forum or website owned or administered by Blizzard;
7. Harass, threaten, stalk, embarrass or cause distress, unwanted attention or discomfort to any user of the Program;
8. Cheat or utilize "exploits" while playing the Program in any way, including without limitation modification of the Program's files;
9. Participate in any action that, in the sole and absolute opinion of Blizzard, results or may result in an authorized user of the Program being "scammed" or defrauded out of gold, weapons, armor, or any other items that user has earned through authorized game play in the Program;
10. Communicate directly with players who are playing characters aligned with the opposite faction (e.g. Horde communicating with Alliance or vice versa); or
11. Impersonate any real person, including without limitation any "game master" or any other Blizzard agent or employee, nor may you communicate in the Game in any way designed to

make others believe that your message constitutes a server message or was otherwise posted by any Blizzard agent or employee.

C. *Rules Related to Game Play*

Game play is what World of Warcraft is all about, and Blizzard strictly enforces the rules that govern game play. Blizzard considers most conduct to be part of the Game, and not harassment, so player-killing the enemies of your race and/or alliance, including gravestone and/or corpse camping, is considered a part of the Game. Because the Program is a "player vs. player" game, you should always remember to protect yourself in areas where the members of hostile races can attack you, rather than contacting Blizzard's in-game customer service representatives for help when you have been killed by an enemy of your race. Nonetheless, certain acts go beyond what is "fair" and are considered serious violations of these Terms of Use. Those acts include, but are not necessarily limited to, the following:

1. Using or exploiting errors in design, features which have not been documented, and/or "program bugs" to gain access that is otherwise not available, or to obtain a competitive advantage over other players;
2. Conduct prohibited by the EULA or these Terms of Use, including without limitation that conduct prohibited by Section 2(C); and
3. Anything that Blizzard considers contrary to the "essence" of the Program.

6. **Security of Login Information.**

You are responsible for maintaining the confidentiality of your Login Information, and you will be responsible for all uses of your Login Information, whether or not authorized by you. In the event that you become aware of or reasonably suspect any breach of security, including without limitation any loss, theft, or unauthorized disclosure of your Login Information, you must immediately notify Blizzard by emailing [wowaccountadmin@blizzard.com](mailto:wowaccountadmin@blizzard.com).

7. **Blizzard's Absolute Right to Suspend, Terminate and/or Delete the Account.**

BLIZZARD MAY SUSPEND, TERMINATE, MODIFY, OR DELETE THE ACCOUNT AT ANY TIME WITH ANY REASON OR NO REASON, WITH OR WITHOUT NOTICE. For purposes of explanation and not limitation, most account suspensions, terminations and/or deletions are the result of violations of this Terms of Use or the EULA.

8. **Ownership/Selling of the Account or Virtual Items.**

Blizzard does not recognize the transfer of Accounts. You may not purchase, sell, gift or trade any Account, or offer to purchase, sell, gift or trade any Account, and any such attempt shall be null and void.

Blizzard owns, has licensed, or otherwise has rights to all of the content that appears in the Program. You agree that you have no right or title in or to any such content, including the virtual goods or currency appearing or originating in the Game, or any other attributes associated with the Account or stored on the Service. Blizzard does not recognize any virtual property transfers executed outside of the Game or the purported sale, gift or trade in the "real world" of anything related to the Game. Accordingly, you may not sell items for "real" money or otherwise exchange items for value outside of the Game.

9. **Changes to the Terms of Use Agreement or the Program.**

Blizzard reserves the right, at its sole and absolute discretion, to change, modify, add to, supplement or delete any of the terms and conditions of this Agreement at any time, including without limitation access policies, the availability of any feature of the Program, hours of availability, content, data, software or equipment needed to access the Program, effective with or without prior notice; provided, however, that material changes (as determined in Blizzard's sole and absolute discretion) will be disclosed as follows: Blizzard will provide you with notification of any such changes to the Program through a patch process, or by email, postal mail, website posting, pop-up screen, or in-game notice. If any future changes to this Agreement are unacceptable to you or cause you to no longer be in compliance with this Agreement, you must terminate, and immediately stop using, the Program and the Account. Your continued use of the Program following any revision to this Agreement constitute your complete and irrevocable acceptance of any and all such changes. Blizzard may change, modify, suspend, or discontinue any aspect of the Program at any time. Blizzard may also impose limits on certain features or restrict your access to parts or all of the Program without notice or liability.

10. **Termination.**

This Agreement is effective until terminated. You may terminate this Agreement by terminating the Account and deleting the Program. In the event that you terminate or breach this Agreement, you will forfeit your right to any and all payments you may have made for pre-purchased game access to World of Warcraft. You agree and acknowledge that you are not entitled to any refund for any amounts which were pre-paid on behalf of the Account prior to any termination of this Agreement. Blizzard may terminate this Agreement with or without notice by terminating your Account. The provisions of Sections 2, 4 and Sections 6-17 shall survive any termination of this Agreement.

11. **Warranty Disclaimer**

THE PROGRAM IS PROVIDED "AS IS" AND BLIZZARD DOES NOT WARRANT THAT THE PROGRAM WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE PROGRAM OR THE SERVICE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. BLIZZARD EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE, AND NON-INFRINGEMENT.

12. **Limitation of Liability**

NEITHER BLIZZARD NOR ITS PARENT, SUBSIDIARIES, LICENSORS OR AFFILIATES SHALL BE LIABLE IN ANY WAY FOR DAMAGE OR LOSS OF ANY KIND RESULTING FROM (A) THE USE OF OR INABILITY TO USE THE PROGRAM OR SERVICE INCLUDING WITHOUT LIMITATION LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION; (B) THE LOSS OR DAMAGE TO PLAYER CHARACTERS, ACCOUNTS, STATISTICS, INVENTORIES, USER PROFILE INFORMATION STORED BY WORLD OF WARCRAFT; OR (C) INTERRUPTIONS OF SERVICE INCLUDING WITHOUT LIMITATION ISP DISRUPTIONS, SOFTWARE OR HARDWARE FAILURES OR ANY OTHER EVENT WHICH MAY RESULT IN A LOSS OF DATA OR DISRUPTION OF SERVICE. IN NO EVENT WILL BLIZZARD BE LIABLE TO YOU OR ANYONE ELSE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES.

13. **Force Majeure**

Blizzard shall not be liable for any delay or failure to perform resulting from causes outside the reasonable control of Blizzard, including without limitation any failure to perform hereunder due to unforeseen circumstances or cause beyond Blizzard's control such as acts of God, war, terrorism, riots, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, or shortages of transportation facilities, fuel, energy, labor or materials.

14. **Acknowledgments.**

You hereby acknowledge and agree that:

- A. WHEN RUNNING, THE PROGRAM MAY MONITOR YOUR COMPUTER'S RANDOM ACCESS MEMORY (RAM) AND/OR CPU PROCESSES FOR UNAUTHORIZED THIRD PARTY PROGRAMS RUNNING CONCURRENTLY WITH WORLD OF WARCRAFT. AN "UNAUTHORIZED THIRD PARTY PROGRAM" AS USED HEREIN SHALL BE DEFINED AS ANY THIRD PARTY SOFTWARE, INCLUDING WITHOUT LIMITATION ANY "ADDON" OR "MOD," THAT IN BLIZZARD'S SOLE DETERMINATION: (i) ENABLES OR FACILITATES CHEATING OF ANY TYPE; (ii) ALLOWS USERS TO MODIFY OR HACK THE WORLD OF WARCRAFT INTERFACE, ENVIRONMENT, AND/OR EXPERIENCE IN ANY WAY NOT EXPRESSLY AUTHORIZED BY BLIZZARD; OR (iii) INTERCEPTS, "MINES," OR OTHERWISE COLLECTS INFORMATION FROM OR THROUGH THE PROGRAM. IN THE EVENT THAT THE PROGRAM DETECTS AN UNAUTHORIZED THIRD PARTY PROGRAM, BLIZZARD MAY (a) COMMUNICATE INFORMATION BACK TO BLIZZARD, INCLUDING WITHOUT LIMITATION YOUR ACCOUNT NAME, DETAILS ABOUT THE UNAUTHORIZED THIRD PARTY PROGRAM DETECTED, AND THE TIME AND DATE THE UNAUTHORIZED THIRD PARTY PROGRAM WAS DETECTED; AND/OR (b) EXERCISE ANY OR ALL OF ITS RIGHTS UNDER SECTION 6 OF THIS AGREEMENT, WITH OR WITHOUT PRIOR NOTICE TO THE USER.
- B. WHEN THE PROGRAM IS RUNNING, BLIZZARD MAY OBTAIN CERTAIN IDENTIFICATION INFORMATION ABOUT YOUR COMPUTER AND ITS OPERATING SYSTEM, INCLUDING

WITHOUT LIMITATION YOUR HARD DRIVES, CENTRAL PROCESSING UNIT, IP ADDRESS (ES) AND OPERATING SYSTEM(S), FOR PURPOSES OF IMPROVING THE PROGRAM AND/OR THE SERVICE, AND TO POLICE AND ENFORCE THE PROVISIONS OF THIS AGREEMENT AND THE EULA.

- C. Blizzard may, with or without notice to you, disclose your Internet Protocol (IP) address(es), personal information, and information about you and your activities in response to a written request by law enforcement, a court order or other legal process. Blizzard may use or disclose your personal information if Blizzard believes that doing so may protect your safety or the safety of others.
- D. BLIZZARD MAY RECORD YOUR CHAT SESSIONS AND OTHER ELECTRONIC COMMUNICATION TRANSMITTED OR RECEIVED THROUGH THE GAME AND YOU CONSENT TO SUCH MONITORING OR LOGGING.
- E. You are wholly responsible for the cost of all telephone and Internet access charges along with all necessary equipment, servicing, repair or correction incurred in maintaining connectivity to the Servers.

15. **Equitable Remedies.**

In the event that you breach this Agreement, you hereby agree that Blizzard would be irreparably damaged if this Agreement were not specifically enforced, and therefore you agree that Blizzard shall be entitled, without bond, other security, or proof of damages, to appropriate equitable remedies with respect to breaches of this Agreement, in addition to such other remedies as Blizzard may otherwise have available to it under applicable laws. In the event any litigation is brought by either party in connection with this Agreement, the prevailing party in such litigation shall be entitled to recover from the other party all the costs, attorneys' fees and other expenses incurred by such prevailing party in the litigation.

16. **Dispute Resolution and Governing Law**

- A. Informal Negotiations. To expedite resolution and control the cost of any dispute, controversy or claim related to this Agreement ("Dispute"), you and Blizzard agree to first attempt to negotiate any Dispute (except those Disputes expressly provided below) informally for at least thirty (30) days before initiating any arbitration or court proceeding. Such informal negotiations commence upon written notice from one person to the other. Blizzard will send its notice to your billing address and email you a copy to the email address you have provided to us. You will send your notice to Blizzard Entertainment, Inc., P.O. Box 18979, Irvine CA 92623, ATTN: Legal Department.
- B. Binding Arbitration. If you and Blizzard are unable to resolve a Dispute through informal negotiations, either you or Blizzard may elect to have the Dispute (except those Disputes expressly excluded below) finally and exclusively resolved by binding arbitration. Any election to arbitrate by

one party shall be final and binding on the other. YOU UNDERSTAND THAT ABSENT THIS PROVISION, YOU WOULD HAVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL. The arbitration shall be commenced and conducted under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") and, where appropriate, the AAA's Supplementary Procedures for Consumer Related Disputes ("AAA Consumer Rules"), both of which are available that the AAA website [www.adr.org](http://www.adr.org). The determination of whether a Dispute is subject to arbitration shall be governed by the Federal Arbitration Act and determined by a court rather than an arbitrator. Your arbitration fees and your share of arbitrator compensation shall be governed by the AAA Rules and, where appropriate, limited by the AAA Consumer Rules. If such costs are determined by the arbitrator to be excessive, Blizzard will pay all arbitration fees and expenses. The arbitration may be conducted in person, through the submission of documents, by phone or online. The arbitrator will make a decision in writing, but need not provide a statement of reasons unless requested by a party. The arbitrator must follow applicable law, and any award may be challenged if the arbitrator fails to do so. Except as otherwise provided in this Agreement, you and Blizzard may litigate in court to compel arbitration, stay proceeding pending arbitration, or to confirm, modify, vacate or enter judgment on the award entered by the arbitrator.

- C. Restrictions. You and Blizzard agree that any arbitration shall be limited to the Dispute between Blizzard and you individually. To the full extent permitted by law, (1) no arbitration shall be joined with any other; (2) there is no right or authority for any Dispute to be arbitrated on a class-action basis or to utilize class action procedures; and (3) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons.
- D. Exceptions to Informal Negotiations and Arbitration. You and Blizzard agree that the following Disputes are not subject to the above provisions concerning informal negotiations and binding arbitration: (1) any Disputes seeking to enforce or protect, or concerning the validity of, any of your or Blizzard's intellectual property rights; (2) any Dispute related to, or arising from, allegations of theft, piracy, invasion of privacy or unauthorized use; and (3) any claim for injunctive relief.
- E. Location. If you are a resident of the United States, any arbitration will take place at any reasonable location within the United States convenient for you. For residents outside the United States, any arbitration shall be initiated in the County of Los Angeles, State of California, United States of America. Any Dispute not subject to arbitration (other than claims proceeding in any small claims court), or where no election to arbitrate has been made, shall be decided by a court of competent jurisdiction within the County of Los Angeles, State of California, United States of America, and you and Blizzard agree to submit to the personal jurisdiction of that court.
- F. Governing Law. Except as expressly provided otherwise, this Agreement shall be is governed by, and will be construed under, the Laws of the United States of America and the law of the State of Delaware, without regard to choice of law principles. The application of the United Nations

Convention on Contracts for the International Sale of Goods is expressly excluded. For our customers who access the Service from Canada, Australia, Singapore, or New Zealand, other laws may apply if you choose not to agree to arbitrate as set forth above, and in such an event, shall affect this Agreement only to the extent required by such jurisdiction. In such a case, this Agreement shall be interpreted to give maximum effect to the terms and conditions hereof. If you access the Service from New Zealand, and are a resident of New Zealand, The New Zealand Consumer Guarantees Act of 1993 ("Act") may apply to the Game and/or the Service as supplied by Blizzard to you. If the Act applies, then notwithstanding any other provision in this Agreement, you may have rights or remedies as set out in the Act which may apply in addition to, or, to the extent that they are inconsistent, instead of, the rights or remedies set out in this Agreement. Those who choose to access the Service from locations outside of the United States, Canada, Australia, Singapore, or New Zealand do so on their own initiative contrary to the terms of this Agreement, and are responsible for compliance with local laws if and to the extent local laws are applicable.

- G. Severability. You and Blizzard agree that if any portion Section 16 is found illegal or unenforceable (except any portion of 16(d)), that portion shall be severed and the remainder of the Section shall be given full force and effect. If Section 16(d) is found to be illegal or unenforceable then neither you nor Blizzard will elect to arbitrate any Dispute falling within that portion of Section 16(d) found to be illegal or unenforceable and such Dispute shall be decided by a court of competent jurisdiction within the County of Los Angeles, State of California, United States of America, and you and Blizzard agree to submit to the personal jurisdiction of that court.

## 17. **Miscellaneous.**

If any provision of this Agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions. This Terms of Use Agreement is the complete and exclusive statement of the agreement between you and Blizzard concerning the Service, and this Agreement supersedes any prior or contemporaneous agreement, either oral or written, and any other communications with regard thereto between you and Blizzard; provided, however that this Agreement is in addition to, and does not replace or supplant, the EULA. This Agreement may only be modified as set forth herein. The section headings used herein are for reference only and shall not be read to have any legal effect.

I HEREBY ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE FOREGOING TERMS OF USE AGREEMENT AND AGREE THAT MY USE OF THE PROGRAM AND/OR THE SERVICE IS AN ACKNOWLEDGMENT OF MY AGREEMENT TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS TERMS OF USE AGREEMENT.

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