

Nondisclosure and Playtest Agreement

PLEASE READ THIS NON-DISCLOSURE AND PLAYTEST AGREEMENT (THE “**AGREEMENT**”) CAREFULLY. THIS IS A LEGAL AGREEMENT BETWEEN YOU AND AKUPARA GAMES, LLC (REFERRED TO HEREIN AS, “**AKUPARA**”, “**WE**”, “**OUR**”, “**US**”) AND GOVERNS YOUR PARTICIPATION IN OUR CLOSED AND CONFIDENTIAL PLAYTEST (THE “**PLAYTEST**”).

BY CLICKING “I ACCEPT”, AND/OR PARTICIPATING IN THE PLAYTEST YOU: (A) ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT; (B) AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS; AND (C) ARE AUTHORIZED AND ABLE TO ACCEPT THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT IN THEIR ENTIRETY, THEN DO NOT CLICK THE “I ACCEPT” BUTTON OR PARTICIPATE IN THE PLAYTEST.

1. **Playtest.** As part of your participation in the Playtest, Akupara will provide you with access to certain software, documentation, and access to a specific channel (e.g., Discord) to communicate with other Playtest participants and developers (collectively, the “**Game**”). The Playtest will run for a period that begins when the Game is first accessed or used by you and ending until your access to the Game is suspended or terminated by Akupara (the “**Playtest Period**”). Nothing herein shall obligate Akupara to release the Game or provide future access, and this Agreement does not create any employment or partnership relationship. Akupara may terminate this Agreement and the Playtest Period at any time without cause or advance notice to you. You must keep the Game within your control and take reasonable efforts to prevent others from using it.
2. **Limited License.** Subject to the terms of this Agreement and solely during the Playtest Period, Akupara grants you a limited, revocable, non-transferable, non-sublicensable, non-exclusive license to access and use the Game solely for your personal, non-commercial use for the purposes of the Playtest. You shall not, and shall not permit any third party to: (i) copy, modify, translate, or create derivative works of the Game or any content therein; (ii) reverse engineer, decompile, disassemble, translate or otherwise attempt reconstruct, identify or discover any source code or embedded content within the Game; (iii) disclose or authorize disclosure of, lend, lease, license offer for sale, sell, transfer, distribute, assign, or otherwise use the Game to or for the benefit of third parties; (iv) stream, broadcast, post, publish, or otherwise disclose any image, video, or audio capture of the Game, unless specifically authorized in writing by Akupara as part of the Playtest; (v) capture, mine, or analyze network traffic, telemetry, or other data generated by the Game; or (vi) bypass, disable, or interfere with any digital-rights-management, anti-cheat, or security mechanism that protects the Game. Any attempt to do so immediately terminates the license and this Agreement. The Game may not be used by anyone other than you. Any use of the Game not expressly permitted under this Agreement is strictly prohibited. All rights in and to the Game not expressly granted herein are reserved to Akupara.
3. **Your Information.** Akupara will collect, use, disclose and dispose of personal information as described in our privacy policy, which is available at <https://www.akuparagames.com/privacy-policy/> and incorporated herein by reference (“**Privacy Policy**”).

Our Privacy Policy is available to inform you of our data collection practices and your rights with respect to the data we may collect from you. We provide our Privacy Policy to you separately because it is not an agreement to which you must consent in order to enjoy our products—instead, the policy exists solely to communicate our practices and your rights with respect to those practices; and your privacy rights are important to us and deserve your undivided attention. Please take the time to review our [Privacy Policy](#).

If you have any questions about our Privacy Policy, please contact us at team@akuparagames.com. Because we cannot control the activities of third parties, we cannot accept responsibility for any use of your personal information by such third parties, and we cannot guarantee that they will adhere to the same privacy and security practices as we do. We encourage you to review the privacy policies of any other service provider from whom you request services. If you visit a third-party website that is linked to the Game, you should consult that site’s privacy policy before providing any personal information.

4. Feedback. As part of the Playtest, you may, but are not required to, provide Akupara with comments, feedback, thoughts, questions, ideas, and suggestions regarding the Game (“**Feedback**”). You are solely responsible for all Feedback you provide, and you acknowledge that such Feedback will not violate the intellectual property rights of any third party. If you choose to provide us with any such Feedback, you acknowledge and agree that all Feedback is submitted without any expectation of compensation, attribution, or confidentiality and further, all Feedback, including all intellectual property rights therein, is our sole and exclusive property under the terms of this Agreement. For avoidance of doubt, Feedback includes all your inputs into the Game, data generated by your use of the Game, and any other communications such as those through Discord or email.
5. Restrictions. You agree that you will not use the Game to submit, upload, transmit, display, or otherwise make available any content: (i) that infringes, misappropriates, or violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or other intellectual property or proprietary right; (ii) that is unlawful, harmful, harassing, abusive, tortious, defamatory, vulgar, obscene, pornographic, invasive of another’s privacy, intentionally misleading, false, or otherwise objectionable, including any content that promotes racism, bigotry, hatred, discrimination, or physical harm against any individual or group; (iii) that is harmful to minors in any manner; or (iv) that violates any applicable law, regulation, or contractual or fiduciary obligation. You further agree that you will not: (i) upload, transmit, or distribute via the Game any viruses, worms, malware, or other code intended to disrupt, damage, or alter a computer system, network, or data; (ii) send through the Game any unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages; (iii) use the Game to harvest, collect, or gather information about other users (including email addresses) without their express consent; (iv) interfere with, disrupt, or impose an unreasonable or disproportionately large load on the Game or on any servers or networks connected to the Game, or violate any policies or procedures governing such networks; (v) attempt to gain unauthorized access to the Game or to any systems or networks connected to the Game, including through password mining or other intrusive means; or (vi) harass, threaten, or interfere with any other user’s use or enjoyment of the Game.
6. Intellectual Property Rights; Ownership. Akupara owns all right, title, and interest in and to: (i) the ideas, concepts, brands, and products arising from the Playtest, (ii) the Game, (iii) all related and underlying intellectual property including all trademarks, patents, and copyrights in the Game, and (iv) all derivatives of the foregoing as defined by the Copyright Act (17 U.S.C. §101) and applicable case law. All Feedback submitted by you to Akupara is deemed a “work-made-for hire” as defined in the Copyright Act (17 U.S.C. §201) and is exclusively owned by Akupara. To the extent necessary, you hereby convey, transfer, and assign all rights in and to the same to Akupara and disclaim any and all proprietary and moral rights. You agree to execute documents and take further actions as requested by Akupara to assist in validating, effectuating, maintaining, protecting, enforcing, perfecting, recording, patenting, or registering its rights. If you are unavailable, or fail to execute such documents when requested to do so for any reason, Akupara may execute the aforementioned documents as your attorney-in-fact, which appointment will be irrevocable for this sole purpose.
7. Automatic Game Communications and Monitoring. Playing the Game requires an internet connection to Akupara’s and/or the Game’s servers. As part of playing the Game during the Playtest Period, you explicitly consent to Akupara’s collection of your hardware system profile data, internet connection data, gameplay data, location data, and any other data related to the operation of the Game. Akupara may automatically deploy or provide patches, updates, and modifications to the Game that must be installed to continue to play the Game. Akupara may update the Game remotely including, without limitation, the Game client residing on your machine, with or without your knowledge. You hereby expressly grant to Akupara your consent to deploy and apply such patches, updates, and modifications to the Game.

8. Confidentiality.

For purposes of this Agreement, “**Confidential Information**” means the Playtest, the Game, all materials and content provided or made available to you in connection with the Playtest (including this Agreement and any materials posted to any Akupara-designated forums or Discord channels), and any related documentation, feedback, or communications. All Confidential Information is proprietary to Akupara.

You may use Confidential Information solely for the purpose of participating in the Playtest and evaluating the Game. You agree to maintain all Confidential Information in confidence using at least a reasonable degree of care and not to disclose it to any third party except as expressly permitted under this Agreement. You may discuss your Playtest experience only with other authorized playtesters and only within the specific Akupara-designated channel or forum intended for Playtest communications. You may not discuss the Playtest, the Game, or related materials with any other person.

Without limiting the general obligations above, you agree that you will not: (i) copy, record, reproduce, adapt, or create derivative works from the Game or other Confidential Information; (ii) publicly or privately display, stream, or otherwise make the Game available to individuals who are not authorized playtesters; (iii) use or play the Game in any public location or other environment where it may be viewed by non-participants; or (iv) publish, post, or disseminate Confidential Information in any public or non-Akupara-controlled medium. Notwithstanding the foregoing, once the Game is commercially released by Akupara, any information that is publicly disclosed as part of such release will no longer be considered Confidential Information under this Agreement. For clarity, any such release of the Game does not permit you to disclose any information regarding pre-release builds, playtest environments, unreleased features, or any other non-public communications or materials made available in connection with the Playtest.

You acknowledge and agree that disclosure or misuse of Confidential Information will cause significant and irreparable harm to Akupara, the extent of which may be difficult to ascertain. Accordingly, in the event of a breach or threatened breach of this section, Akupara is entitled to injunctive relief without the necessity of posting a bond, as well as all other legal remedies that may be available.

This confidentiality obligation will survive any expiration or termination of this Agreement.

9. Return of Materials. All documents, materials, and other tangible objects containing or representing Confidential Information disclosed by, or on behalf of, Akupara in connection with the Playtest and this Agreement, and all copies thereof, shall be and remain the exclusive property of Akupara. Upon our request or upon termination of this Agreement (whichever occurs first), you shall promptly return to Akupara or, at our option, destroy all such materials in your possession or control, and shall certify such return or destruction in writing upon our request.

10. Disclaimer: Liability Limitations. THE GAME, PLAYTEST AND ALL RELATED SERVICES ARE PROVIDED “AS IS” AND, TO THE MAXIMUM EXTENT ALLOWABLE UNDER LAW, AKUPARA DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. WITHOUT LIMITING THE FOREGOING, AKUPARA DOES NOT WARRANT THAT OPERATION OF THE GAME WILL BE UNINTERRUPTED OR ERROR-FREE, THAT THE GAME WILL BE COMPATIBLE WITH ANY OTHER PRODUCT OTHER THAN THE DESIGNATED SYSTEM, OR THAT THE GAME WILL WORK PROPERLY ON ALL DEVICES. AKUPARA MAY IN DISCRETION, DISCONTINUE SUPPORTING THE GAME AT ANY TIME, AND AKUPARA HAS NO LIABILITY FOR DISCONTINUANCE. AKUPARA WILL NOT BE LIABLE TO YOU FOR ANY PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS, LOSS OF DATA OR ANY OTHER FORM OF DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES FROM ANY CAUSES OF ACTION ARISING OUT OF

OR RELATED TO THIS AGREEMENT, THE PLAYTEST, OR THE GAME, WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE), CONTRACT, STRICT LIABILITY OR OTHERWISE, REGARDLESS OF WHETHER OR NOT AKUPARA HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. IN NO EVENT WILL AKUPARA' TOTAL LIABILITY TO YOU FOR ALL DAMAGES EXCEED \$10. SOME JURISDICTIONS DO NOT ALLOW FOR CERTAIN LIMITATIONS OF LIABILITIES OR WARRANTIES, SO SOME OR ALL OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU.

11. Term. Upon expiration or termination of the Playtest Period, your right to access and use of the Game will immediately terminate, you shall cease all use of the Game, delete and destroy all copies of the Game in your possession or control (if any), and Akupara shall have the right to prohibit your use of the Game. Sections 4, 6, 8, 9, 10, 12, 13 and 14 shall survive termination of this Agreement.
12. Governing Law and Forum; Waiver of Class or Consolidated Action. This Agreement, the Playtest, and any action related thereto are governed by the laws of the State of California (USA) without regard to its conflict of laws provisions. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. The parties agree that any judicial proceeding involving this Agreement shall be exclusively brought in a state or federal court located in Los Angeles County, California (USA) and each party hereby consents to the personal jurisdiction of, and venue in, such courts. You hereby waive your right to participate in a class or consolidated action against Akupara and that ANY JUDICIAL PROCEEDING INVOLVING THESE TERMS OF Service MAY ONLY BE BROUGHT IN AN INDIVIDUAL CAPACITY AND CLAIMS OF MORE THAN ONE USER CANNOT BE BROUGHT JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER USER.
13. Miscellaneous. Except as otherwise provided in any applicable End User License Agreement for the Game, this Agreement constitutes the entire understanding and agreement between the parties regarding its subject matter and supersedes all prior oral and written negotiations, representations, and understandings of the parties with respect thereto. This Agreement may be amended or modified only by a written document executed by both parties. You may not assign or transfer any rights or obligations under this Agreement, by operation of law or otherwise, without first obtaining the prior written consent of Akupara, and any attempted assignment without such consent will be null and void. Nothing in this Agreement is intended to, or will be construed to, create a partnership, agency, joint venture, employment or similar relationship. If any provision of this Agreement is held invalid or unenforceable, in whole or in part, that provision will be modified to the minimum extent necessary to make it valid and enforceable, and the validity and enforceability of all other provisions of this Agreement shall not be affected. Our failure to enforce any right or provision of this Agreement will not constitute a waiver of future enforcement of that right or provision.
14. Notices. You consent to the use of: (i) electronic means to acknowledge and accept this Agreement and to deliver any notices or other communications permitted or required hereunder; and (ii) electronic records to store information related to this Agreement and the Playtest. Any notices or other communications permitted or required hereunder, including notices regarding modifications to this Agreement, will be in writing and given: (x) by us via email (in each case to the email address that you have provided), or (y) when posted to the designated channel for the Playtest. For notices delivered by email, the date of receipt shall be the date on which the email is transmitted by Akupara.

By clicking "I Accept," you represent and warrant that: (i) you are at least eighteen (18) years of age (or the legal age of majority in your jurisdiction of residence) or, if you are a parent or legal guardian entering into this Agreement on behalf of a minor playtester, you accept this Agreement on the playtester's behalf; and (ii) you are not a resident or citizen of any country or region subject to economic sanctions administered by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC").