THIS AGREEMENT is made when you click the "ACCEPT" button

BETWEEN Empire Interactive (Europe) Limited (**"we", "us" "our"**) and you, the end user (**"you"**). By clicking on the "ACCEPT" button at the end of these terms and conditions you now submit to this Agreement. If you do not accept this Agreement you are prohibited from downloading and making use of the Source Code.

BACKGROUND

1. We are the owners of the Program (as defined below) and own the Empire Intellectual Property (as defined below).

2. We wish to make the Source Code (as defined below) and Executable Code, (as defined below) publicly available to allow you to run, copy, study, distribute, change, modify and improve the Program.

3. In return for making the Source Code and Executable Code publicly available to you, you agree that we may use any Improvements (as defined below) which you make to the Source Code or the Executable Code in future releases of the Program.

4. You agree only to make use of the Source Code and Executable Code on the terms and conditions of this Agreement.

1.   DEFINITIONS AND INTERPRETATION

1.1   In this Agreement unless the context requires otherwise, the following words and phrases shall have the following meanings:

"Acceptance Date" means the date that you click on the "ACCEPT" button at the end of these terms and conditions;

"Derivative Work" means a derivative work based on the Source Code or Executable Code (as applicable) which contains the Source Code or Executable Code (as applicable) or any part of the Source Code or Executable Code;

"Empire Intellectual Property" all Intellectual Property of Empire in the Program including, without limitation:

(a)   in the copyright and trademark notices; and

(b)   in the concepts, script, speech, image, plot, music, characters sound, characterisations, designs, graphics, artwork, programming tools and routines, code and any other characteristics associated with the Program.

"Executable Code" means the compiled output of all the programming statements contained in the Program which allow it to run on a computer;

"Exploit" run, study, change, produce, modify, sublicense, create Derivative Works, copy, Improve, distribute, disseminate, diffuse, include in any telecommunications or on-line system, network, display, exhibit, show, play, transmit, broadcast, convey, download, lend, issue to the public and the words **"Exploitation"** and **"Exploiting"** shall be construed accordingly;

"Intellectual Property" all rights in any patents, trade marks (whether registered or not) trade name, business name (whether registered or not) Internet domain name, service marks, chip topography right, moral rights, rights of privacy or publicity, personality rights, copyright, design rights, registered designs, know-how, confidential information or anything analogous to any of the foregoing anywhere in the world and rights in any applications for any of the above;

"Improve" means to create any patch materials for the Source Code or Executable Code (as applicable) which can be inserted into and improve the gameplay of the Program and the word **"Improvements"** shall be construed accordingly;

"Object Code" means the programming statements representing the Program in eye readable code;

"Program" means the computer software entertainment game owned by us known as "Battle of Britain";

"Recipient" means any person to whom you distribute the Source Code or Executable Code any Derivative Work under the terms of this Agreement;

"Source Code" means the programming statements representing the Program in machine-readable code;

1.2 In this Agreement, unless the context otherwise requires:

    1.2.1 the word "including" shall be understood to mean "including without limitation" and the word "includes" shall be understood to mean "includes without limitation";

    1.2.2 words of a technical nature shall be construed in accordance with general trade usage in the computer industry in England.

2. LICENCE

2.1 Subject to the provisions of this Agreement we now grant to you the following rights in respect of the Source Code:

    2.1.1 the non-exclusive right to Exploit the Source Code and Executable Code on any medium; and

    2.1.2 the non-exclusive right to create and distribute Derivative Works.

2.2 Subject to the provisions of this Agreement we now grant you the following rights in respect of the Object Code:

    2.2.1 the non-exclusive right to Exploit the Object Code on the same terms and conditions set out in clause 3, provided that any distribution is done so on the terms of this Agreement and is accompanied by the Source Code and Executable Code (as applicable).

3. GENERAL OBLIGATIONS

3.1 In consideration of the licence granted in clause 2.1 you now agree:

    3.1.1 that when you distribute the Source Code or Executable Code or any Derivative Works to Recipients you will also include the terms of this Agreement;

3.1.2   that when you make the Source Code, Executable Code or any Derivative Works ("Materials") available to download, you will ensure that Recipients must accept the terms of this Agreement before being allowed to download such Materials;

3.1.3   that by Exploiting the Source Code or Executable Code you may not impose any further restrictions on a Recipient's subsequent Exploitation of the Source Code or Executable Code other than those contained in the terms and conditions of this Agreement;

3.1.4   not (and not to allow any third party) to profit or make any charge for the Source Code, or Executable Code, any Exploitation of the Source Code or Executable Code, or for any Derivative Works;

3.1.5   not to place any restrictions on the operability of the Source Code;

3.1.6   to attach prominent notices to any Derivative Works stating that you have changed the Source Code or Executable Code and to include the details anddate of such change; and

3.1.7   not to Exploit the Source Code or Executable Code otherwise than as expressly permitted by this Agreement.

4.   IMPROVEMENTS

4.1   If during the exercise of your rights under this Agreement you create any Improvements, you now agree to allow us to Exploit such Improvements, as are made publicly available by you, in future releases of the Program.

4.2   Pursuant to clause 4.1, we will give appropriate credit to you in respect of our Exploitation of any Improvements which you make publicly available.

5.   COPYRIGHT AND TRADEMARK NOTICES

5.1   In all Improvements which you make publicly available you shall include and not alter, remove or tamper with our copyright and trademark notices; those we use in relation to the Source Code and the Executable Code; .

5.2 Any goodwill arising out of the use of the copyright and trademark notices shall inure for the benefit of us.

6. INTELLECTUAL PROPERTY

You acknowledge that the Empire Intellectual Property Rights shall remain our property at all times and you shall not obtain under this Agreement any rights in the Empire Intellectual Property Rights and, except as provided for in this Agreement, you shall have no right to use any of them.

7.

8. DISCLAIMER

8.1 The Source Code and Executable Code are licensed free of charge on an "as is" basis and all representations, conditions and warranties whether express or implied (by statue or otherwise), including any implied warranties of satisfactory quality and fitness for a particular purpose are expressly excluded to the fullest extent permitted by law.

8.2 Nothing in this Agreement shall exclude or limit either party's liability for fraud or fraudulent misrepresentation, personal injury or death caused by the negligence of such party.

8.3 We shall not be liable to you for any claim which you make in respect of any indirect or consequential loss or damage at all, or any loss of business, capital, profit, anticipated savings, reputation or goodwill arising out of or in connection with this Agreement or its subject matter.

9. TERMINATION

9.1 This Agreement commences on the Acceptance Date and will continue indefinitely unless it is terminated under clause 9.2.

9.2 If you commit a material breach of this Agreement and, where such breach is capable of remedy you fail remedy it within 30 days of such breach or where such

breach is not capable of remedy this Agreement will be void, and your rights under it will be automatically terminated.

9.3   Following termination under clause 9.2 you will immediately cease to Exploit the Source Code , or Executable Code or any Derivative Works (as appropriate).

10.   EXCLUSION OF OTHER TERMS

10.1   This Agreement sets out the entire agreement and understanding between the parties. In particular, but without limitation to the generality of the foregoing, you warrant and represent that in accepting this Agreement you have not relied upon any statement of fact or opinion made by us or our Personnel which has not been included expressly in this Agreement. Further, you irrevocably and unconditionally waive any right you may have:

10.1.1   to claim damages for any misrepresentation whether or not contained in this Agreement; or

10.1.2   to claim damages for breach of any warranty or condition not contained in this Agreement.

10.2   Nothing in this clause 10 shall affect the liability of either party in respect of any misrepresentation, warranty or condition that it makes fraudulently.

11.   WAIVER

Failure by either party to exercise or enforce any rights, or the giving of any forbearance, delay or indulgence, will not be construed as a waiver of its rights under this Agreement or otherwise.

12.   SEVERANCE

If any provision of this Agreement is or becomes invalid or unenforceable it will be severed from the rest of this Agreement so that it is ineffective to the extent that it is invalid or unenforceable and no other provision of this Agreement shall be rendered invalid, enforceable or be otherwise affected.

13. RELATIONSHIP

Nothing in this Agreement shall make either party, the agent or partner of the other, or give either party the power to bind the other or to hold itself out as being the agent or partner or otherwise associate itself with the other.

14. ASSIGNMENT

14.1   We may novate, assign, sub-contract or otherwise transfer the benefit of, and/or our obligations under this Agreement to any third party.

14.2   You acknowledge that this Agreement is personal to you and that you may not assign or in any other way make over to any third party, whether in whole or in part, the benefit of, and/or your obligations under, this Agreement.

15. THIRD PARTY RIGHTS

Nothing in this Agreement shall confer on any third party any right or benefit under the provisions of the Contracts (Rights of Third Parties) Act 1999.

16. JURISDICTION

This Agreement shall be governed by English law. The parties now submit to the non-exclusive jurisdiction of the English Courts.