TAKE TWO INTERACTIVE SOFTWARE INC (TTWO)

10-Q

Quarterly report pursuant to sections 13 or 15(d)
Filed on 11/08/2011
Filed Period 09/30/2011

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2011

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to .
Commission file number 0-29230

TAKE-TWO INTERACTIVE SOFTWARE, INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware	**51-0350842**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
622 Broadway **New York, New York**	**10012**
(Address of principal executive offices)	(Zip Code)

Registrant's Telephone Number, Including Area Code: **(646) 536-2842**

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒	Accelerated filer ☐	Non-accelerated filer ☐ (Do not check if a smaller reporting company)	Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of November 3, 2011, there were 86,659,775 shares of the Registrant's Common Stock outstanding.

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(All other items in this report are inapplicable)

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

TAKE-TWO INTERACTIVE SOFTWARE, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS

(in thousands, except per share amounts)

	September 30, 2011 (Unaudited)	March 31, 2011
ASSETS		
Current assets:		
Cash and cash equivalents	**$ 269,740**	$ 280,359
Accounts receivable, net of allowances of $17,434 and $42,900 at September 30, 2011 and March 31, 2011, respectively	**19,572**	84,217
Inventory	**45,077**	24,578
Software development costs and licenses	**150,373**	131,676
Prepaid taxes and taxes receivable	**5,834**	8,280
Prepaid expenses and other	**55,343**	37,493
Total current assets	**545,939**	566,603
Fixed assets, net	**18,107**	19,632
Software development costs and licenses, net of current portion	**122,676**	138,320
Goodwill	**225,729**	225,170
Other intangibles, net	**16,735**	17,833
Other assets	**2,730**	4,101
Total assets	**$ 931,916**	$ 971,659
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	**$ 90,331**	$ 56,153
Accrued expenses and other current liabilities	**126,931**	158,459
Deferred revenue	**17,193**	13,434
Liabilities of discontinued operations	**1,060**	2,842
Total current liabilities	**235,515**	230,888
Long-term debt	**111,299**	107,239
Income taxes payable	**13,498**	12,037
Other long-term liabilities	**3,117**	2,961
Liabilities of discontinued operations, net of current portion	**2,605**	3,255
Total liabilities	**366,034**	356,380
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, $.01 par value, 5,000 shares authorized	**—**	—
Common stock, $.01 par value, 150,000 shares authorized; 86,366 and 86,119 shares issued and outstanding at September 30, 2011 and March 31, 2011, respectively	**864**	861
Additional paid-in capital	**722,406**	706,482
Accumulated deficit	**(158,607)**	(102,523)
Accumulated other comprehensive income	**1,219**	10,459
Total stockholders' equity	**565,882**	615,279
Total liabilities and stockholders' equity	**$ 931,916**	$ 971,659

See accompanying Notes.

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TAKE-TWO INTERACTIVE SOFTWARE, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (Unaudited)

(in thousands, except per share amounts)

	Three Months Ended September 30,		Six Months Ended September 30,	
	2011	2010	2011	2010
Net revenue	**$ 107,034**	$ 244,972	**$ 441,414**	$ 620,362
Cost of goods sold	**74,703**	136,642	**285,922**	380,688
Gross profit	**32,331**	108,330	**155,492**	239,674
Selling and marketing	**28,773**	46,602	**103,456**	96,407
General and administrative	**25,785**	26,620	**56,362**	52,822
Research and development	**15,998**	18,074	**32,517**	34,255
Depreciation and amortization	**3,284**	4,005	**6,529**	7,770
Total operating expenses	**73,840**	95,301	**198,864**	191,254
Income (loss) from operations	**(41,509)**	13,029	**(43,372)**	48,420
Interest and other, net	**(4,333)**	(1,644)	**(8,013)**	(6,382)
Income (loss) from continuing operations before income taxes	**(45,842)**	11,385	**(51,385)**	42,038
Provision for income taxes	**1,419**	3,347	**4,495**	6,638
Income (loss) from continuing operations	**(47,261)**	8,038	**(55,880)**	35,400
Loss from discontinued operations, net of taxes	**(110)**	(4,699)	**(204)**	(5,747)
Net income (loss)	**$ (47,371)**	$ 3,339	**$ (56,084)**	$ 29,653
Earnings (loss) per share:				
Continuing operations	**$ (0.57)**	$ 0.09	**$ (0.68)**	$ 0.41
Discontinued operations	**—**	(0.05)	**—**	(0.06)
Basic earnings (loss) per share	**$ (0.57)**	$ 0.04	**$ (0.68)**	$ 0.35
Continuing operations	**$ (0.57)**	$ 0.09	**$ (0.68)**	$ 0.41
Discontinued operations	**—**	(0.05)	**—**	(0.06)
Diluted earnings (loss) per share	**$ (0.57)**	$ 0.04	**$ (0.68)**	$ 0.35

See accompanying Notes.

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TAKE-TWO INTERACTIVE SOFTWARE, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (Unaudited)

(in thousands)

	Six Months Ended September 30,	
	2011	**2010**
Operating activities:		
Net income (loss)	**$ (56,084)**	$ 29,653
Adjustments to reconcile net income (loss) to net cash (used in) provided by operating activities:		
Amortization and impairment of software development costs and licenses	**84,361**	92,409
Depreciation and amortization	**6,529**	7,770
Loss from discontinued operations	**204**	5,747
Amortization and impairment of intellectual property	**716**	1,743
Stock-based compensation	**12,660**	17,714
Amortization of discount on Convertible Notes	**4,060**	3,568
Amortization of debt issuance costs	**626**	626
Other, net	**91**	(1,033)
Changes in assets and liabilities, net of effect from purchases of businesses:		
Accounts receivable	**64,645**	(30,515)
Inventory	**(20,499)**	(21,406)
Software development costs and licenses	**(87,584)**	(83,531)
Prepaid expenses, other current and other non-current assets	**(14,734)**	(29,691)
Deferred revenue	**3,759**	2,009
Accounts payable, accrued expenses, income taxes payable and other liabilities	**(7,821)**	78,251
Net cash used in discontinued operations	**(1,161)**	(8,067)
Net cash (used in) provided by operating activities	**(10,232)**	65,247
Investing activities:		
Purchase of fixed assets	**(4,780)**	(5,674)
Settlement of purchase price related to discontinued operations	**(1,475)**	—
Cash received from sale of business	**—**	3,075
Payments in connection with business combinations, net of cash acquired	**—**	(1,000)
Net cash used in investing activities	**(6,255)**	(3,599)
Financing activities:		
Proceeds from exercise of employee stock options	**195**	87
Net cash provided by financing activities	**195**	87
Effects of exchange rates on cash and cash equivalents	**5,673**	(2,754)
Net (decrease) increase in cash and cash equivalents	**(10,619)**	58,981
Cash and cash equivalents, beginning of year	**280,359**	145,838
Cash and cash equivalents, end of period	**$ 269,740**	$ 204,819

See accompanying Notes.

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements

(Dollars in thousands, except share and per share amounts)

1. BASIS OF PRESENTATION AND SIGNIFICANT ACCOUNTING POLICIES

Take-Two Interactive Software, Inc. (the "Company," "we," "us," or similar pronouns) was incorporated in the state of Delaware in 1993. We are a leading developer, marketer and publisher of interactive entertainment for consumers around the globe. The Company develops and publishes products through its two wholly-owned labels Rockstar Games and 2K, which publishes its titles under the 2K Games, 2K Sports and 2K Play brands. Our products are designed for console systems, handheld gaming systems and personal computers, including smart phones and tablets, and are delivered through physical retail, digital download, online platforms and cloud streaming services.

Basis of Presentation

The accompanying Condensed Consolidated Financial Statements include the accounts of the Company and its wholly-owned subsidiaries and reflect all normal and recurring adjustments necessary for the fair presentation of our financial position, results of operations and cash flows. All material inter-company accounts and transactions have been eliminated in consolidation. The preparation of these Condensed Consolidated Financial Statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in these Condensed Consolidated Financial Statements and accompanying notes. We adhere to the same accounting policies in the preparation of our interim financial statements. As permitted under accounting principles generally accepted in the United States, interim accounting for certain expenses, including income taxes, are based on full year assumptions when appropriate. Actual results could differ materially from those estimates.

Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States have been omitted pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC"), although we believe that the disclosures are adequate to make the information presented not misleading. These Condensed Consolidated Financial Statements and accompanying notes should be read in conjunction with our annual consolidated financial statements and the notes thereto, included in our Annual Report on Form 10-K for the year ended March 31, 2011.

Discontinued Operations

In February 2010, we completed the sale to SYNNEX Corporation ("Synnex") of our Jack of all Games third party distribution business, which primarily distributed third party interactive entertainment software, hardware and accessories in North America. The financial information of our distribution business has been classified as discontinued operations in the Condensed Consolidated Financial Statements for all of the periods presented. See Note 2 for additional information regarding discontinued operations. Unless otherwise noted, amounts and disclosures throughout the Notes to Unaudited Condensed Consolidated Financial Statements relate to the Company's continuing operations.

Financial Instruments

The carrying amounts of our financial instruments, including cash and cash equivalents, accounts receivable, accounts payable and accrued liabilities, approximate fair value because of their short maturities. We consider all highly liquid instruments purchased with original maturities of three months

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

1. BASIS OF PRESENTATION AND SIGNIFICANT ACCOUNTING POLICIES (Continued)

or less to be cash equivalents. At September 30, 2011 and March 31, 2011 we had $28,484 and $20,091, respectively, of cash on deposit reported as a component of prepaid expenses and other in the accompanying Condensed Consolidated Balance Sheets because its use was restricted.

The estimated fair value of the Company's Convertible Notes (defined in Note 9) is $108,914 as of September 30, 2011. The fair value was determined using observable market data for the Convertible Notes and its embedded option feature.

We transact business in various foreign currencies and have significant sales and purchase transactions denominated in foreign currencies. From time to time, we use forward exchange contracts to mitigate foreign currency risk associated with foreign currency assets and liabilities consisting primarily of cash balances and certain non-functional currency denominated inter-company funding loans, non-functional currency denominated accounts receivable and non-functional currency denominated accounts payable. We do not enter into derivative financial instruments for trading purposes. We do not designate foreign currency forward contracts as hedging instruments and accordingly, we mark to market our foreign currency forward contracts each period and any gains and losses are recognized in net income (loss). At September 30, 2011, we had forward contracts outstanding to purchase $2,339 of foreign currency in exchange for U.S. dollars and to purchase $53,856 of U.S. dollars in exchange for foreign currencies with maturities of less than one year. The fair value of our foreign currency forward contracts was immaterial as of September 30, 2011. At March 31, 2011, we had forward contracts outstanding to purchase $2,399 of foreign currency in exchange for U.S. dollars and to purchase $35,539 of U.S. dollars in exchange for foreign currencies with maturities of less than one year. The fair value of our foreign currency forward contracts was immaterial as of March 31, 2011. For the three months ended September 30, 2011 and 2010, we recorded a loss of $180 and a loss of $4,369, respectively, related to foreign currency forward contracts in interest and other, net on the Condensed Consolidated Statements of Operations. For the six months ended September 30, 2011 and 2010, we recorded a gain of $237 and a loss of $5,221, respectively, related to foreign currency forward contracts in interest and other, net on the Condensed Consolidated Statements of Operations.

Recently Issued Accounting Pronouncements

Multiple-Deliverable Revenue Arrangements

On April 1, 2011, the Company adopted new guidance related to the accounting for multiple-deliverable revenue arrangements. These new rules amend the existing guidance for separating consideration in multiple-deliverable arrangements and establish a selling price hierarchy for determining the selling price of a deliverable. The adoption of this new guidance did not have any impact on our consolidated financial position, cash flows or results of operations.

Certain Revenue Arrangements That Include Software Elements

On April 1, 2011, the Company adopted new guidance that changes the accounting model for revenue arrangements by excluding tangible products containing both software and non-software components that function together to deliver the product's essential functionality. The adoption of this

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

1. BASIS OF PRESENTATION AND SIGNIFICANT ACCOUNTING POLICIES (Continued)

new guidance did not have any impact on our consolidated financial position, cash flows or results of operations.

Testing Goodwill for Impairment

On September 30, 2011, the Company adopted new guidance related to testing goodwill for impairment effective for the Company's annual impairment test as of August 1, 2011. This new guidance permits an entity to make a qualitative assessment of whether it is more likely than not that a reporting unit's fair value is less than its carrying value as a basis for determining whether it is necessary to perform the two-step goodwill impairment test. If it is determined through the qualitative assessment that a reporting unit's fair value is more likely than not greater than its carrying value, the remaining impairment steps would be unnecessary. The qualitative assessment is optional, allowing entities to go directly to the quantitative assessment. This new guidance is effective for annual and interim goodwill impairment tests performed in fiscal years beginning after December 15, 2011. However, early adoption is permitted, including for annual and interim goodwill impairment tests performed as of a date before September 15, 2011, if an entity's financial statements for the most recent annual or interim period have not yet been issued. The early adoption of this new guidance did not have any impact on our consolidated financial position, cash flows or results of operations.

Comprehensive Income

In June 2011, new guidance was issued related to the presentation of comprehensive income. The main provisions of the new guidance provide that an entity that reports items of other comprehensive income has the option to present comprehensive income as (i) a single statement that presents the components of net income and total net income, the components of other comprehensive income and total other comprehensive income and a total for comprehensive income or (ii) in two separate but consecutive statements, whereby an entity must present the components of net income and total net income in the first statement and that statement is immediately followed by a financial statement that presents the components of other comprehensive income, a total for other comprehensive income and a total for comprehensive income. The new rules eliminate the option to present the components of other comprehensive income as part of the statement of stockholders' equity. These new rules are to be applied retrospectively and become effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2011 (April 1, 2012 for the Company), with early adoption permitted. We do not expect the adoption of this new guidance to have a material impact on our consolidated financial position, cash flows or results of operations.

2. DISCONTINUED OPERATIONS

In February 2010, we completed the sale of our Jack of all Games third party distribution business, which primarily distributed third party interactive entertainment software, hardware and accessories in North America, for approximately $44,000, including $37,250 in cash, subject to purchase price adjustments, and up to an additional $6,750 subject to the achievement of certain items, which were not met. In April 2011, we settled on the purchase adjustments and as a result the purchase price was lowered by $1,475. Consequently, the net purchase price after the settlement was $35,775. The sale has allowed us to focus our resources on our publishing operations. The financial information of our

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

2. DISCONTINUED OPERATIONS (Continued)

distribution business has been classified as discontinued operations in the Condensed Consolidated Financial Statements for all of the periods presented.

The following is a summary of the results of the discontinued operations:

	Three Months Ended September 30,		Six Months Ended September 30,	
	2011	2010	2011	2010
Loss before income taxes	**$ (110)**	$ (4,531)	**$ (204)**	$ (5,425)
Loss on sale	**—**	—	**—**	(274)
Provision for income taxes	**—**	168	**—**	48
Net loss	**$ (110)**	$ (4,699)	**$ (204)**	$ (5,747)

The following is a summary of the liabilities of discontinued operations:

	September 30, 2011	March 31, 2011
Liabilities of discontinued operations:		
Current:		
Accrued expenses and other current liabilities	**$ 1,060**	$ 2,842
Total current liabilities	**1,060**	2,842
Other non-current liabilities	**2,605**	3,255
Total liabilities of discontinued operations	**$ 3,665**	$ 6,097

3. MANAGEMENT AGREEMENT

In March 2007, we entered into a management services agreement (as amended, the "Management Agreement") with ZelnickMedia Corporation ("ZelnickMedia"), whereby ZelnickMedia provides us with certain management, consulting and executive level services. Strauss Zelnick, the President of ZelnickMedia, serves as our Executive Chairman and Chief Executive Officer and Karl Slatoff, a partner of ZelnickMedia, serves as our Chief Operating Officer. In May 2011, we entered into a new management agreement (the "New Management Agreement") with ZelnickMedia pursuant to which ZelnickMedia will continue to provide management, consulting and executive level services to the Company through May 2015. As part of the New Management Agreement, Mr. Zelnick serves as Executive Chairman and Chief Executive Officer and Mr. Slatoff serves as Chief Operating Officer. In September 2011, the New Management Agreement, which upon effectiveness, superseded and replaced the Management Agreement was approved by the Company's stockholders at the Company's 2011 Annual Meeting. The New Management Agreement provides for the annual management fee to remain at $2,500, subject to annual increases in the amount of 3% over the term of the agreement, and the maximum annual bonus was increased to $3,500 from $2,500, subject to annual increases in the amount of 3% over the term of the agreement, based on the Company achieving certain performance thresholds. In consideration for ZelnickMedia's services, we recorded consulting expense (a component of general and administrative expenses) of $1,187 and $1,250 for the three months ended

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

3. MANAGEMENT AGREEMENT (Continued)

September 30, 2011 and 2010, respectively, and $2,125 and $3,021 for the six months ended September 30, 2011 and 2010, respectively.

Pursuant to the Management Agreement, in August 2007, we issued stock options to ZelnickMedia to acquire 2,009,075 shares of our common stock at an exercise price of $14.74 per share, which vested over 36 months and expire 10 years from the date of grant. Each month, we remeasured the fair value of the unvested portion of such options and recorded compensation expense for the difference between total earned compensation at the end of the period and total earned compensation at the beginning of the period. As a result, changes in the price of our common stock impacted compensation expense or benefit recognized from period to period. We recorded stock-based compensation related to this option grant of $584 and $1,565 for the three months and six months ended September 30, 2010, respectively.

In June 2008, pursuant to the Management Agreement, we granted 600,000 shares of restricted stock to ZelnickMedia that vested annually over a three year period and 900,000 shares of market-based restricted stock that vest over a four year period through 2012, provided that the price of our common stock outperforms 75% of the companies in the NASDAQ Industrial Index measured annually on a cumulative basis. For the three months ended September 30, 2011 and 2010, we recorded a benefit of $20 and an expense of $300, respectively, of stock-based compensation (a component of general and administrative expenses) related to these grants of restricted stock. For the six months ended September 30, 2011 and 2010, we recorded an expense of $507 and $385, respectively, of stock-based compensation (a component of general and administrative expenses) related to these grants of restricted stock.

In addition, pursuant to the New Management Agreement, we granted 1,100,000 shares of restricted stock to ZelnickMedia that will vest annually through April 1, 2015 and 1,650,000 shares of market-based restricted stock that vest through April 1, 2015, provided that the price of our common stock outperforms 75% of the companies in the NASDAQ Composite Index measured annually on a cumulative basis. For the three months and six months ended September 30, 2011, we recorded an expense of $332 of stock-based compensation (a component of general and administrative expenses) related to these grants of restricted stock.

4. FAIR VALUE MEASUREMENTS

We follow a three-level fair value hierarchy that prioritizes the inputs used to measure fair value. This hierarchy requires entities to maximize the use of "observable inputs" and minimize the use of "unobservable inputs." The three levels of inputs used to measure fair value are as follows:

- Level 1—Quoted prices in active markets for identical assets or liabilities.
- Level 2—Observable inputs other than quoted prices included in Level 1, such as quoted prices for markets that are not active or other inputs that are observable or can be corroborated by observable market data.
- Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. This includes certain pricing models, discounted cash flow methodologies and similar techniques that use significant unobservable inputs.

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

4. FAIR VALUE MEASUREMENTS (Continued)

The table below segregates all assets that are measured at fair value on a recurring basis (which is measured at least annually) into the most appropriate level within the fair value hierarchy based on the inputs used to determine the fair value at the measurement date.

	September 30, 2011	Quoted prices in active markets for identical assets (level 1)	Significant other observable inputs (level 2)	Significant unobservable inputs (level 3)
Money market funds	$ 31,859	$ 31,859	$ —	$ —
Bank-time deposits	$ 96,619	$ 96,619	$ —	$ —

5. COMPREHENSIVE INCOME (LOSS)

Components of comprehensive income (loss) are as follows:

	Three Months Ended September 30,		Six Months Ended September 30,	
	2011	2010	2011	2010
Net income (loss)	**$ (47,371)**	$ 3,339	**$ (56,084)**	$ 29,653
Foreign currency translation adjustment	**(9,508)**	14,395	**(9,240)**	7,185
Comprehensive income (loss)	**$ (56,879)**	$ 17,734	**$ (65,324)**	$ 36,838

6. INVENTORY

Inventory balances by category are as follows:

	September 30, 2011	March 31, 2011
Finished products	**$ 42,090**	$ 21,541
Parts and supplies	**2,987**	3,037
Inventory	**$ 45,077**	$ 24,578

Estimated product returns included in inventory at September 30, 2011 and March 31, 2011 were $1,581 and $1,183, respectively.

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

7. SOFTWARE DEVELOPMENT COSTS AND LICENSES

Details of our capitalized software development costs and licenses are as follows:

	September 30, 2011		March 31, 2011	
	Current	Non-current	Current	Non-current
Software development costs, internally developed	**$ 96,248**	**$ 102,784**	$ 65,297	$ 100,251
Software development costs, externally developed	**52,677**	**19,892**	65,292	38,069
Licenses	**1,448**	**—**	1,087	—
Software development costs and licenses	**$ 150,373**	**$ 122,676**	$ 131,676	$ 138,320

Software development costs and licenses as of September 30, 2011 and March 31, 2011 included $260,086 and $263,082, respectively, related to titles that have not been released.

8. ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

Accrued expenses and other current liabilities consist of the following:

	September 30, 2011	March 31, 2011
Software development royalties	**$ 52,570**	$ 63,720
Compensation and benefits	**14,880**	19,699
Licenses	**11,454**	28,488
Income tax payable and deferred tax liability	**10,603**	12,481
Marketing and promotions	**8,580**	8,238
Rent and deferred rent obligations	**5,670**	5,006
Deferred consideration for acquisitions	**5,289**	2,500
Professional fees	**3,831**	4,093
Other	**14,054**	14,234
Accrued expenses and other current liabilities	**$ 126,931**	$ 158,459

9. LONG-TERM DEBT

Credit Agreement

In July 2007, we entered into a Credit Agreement (the "Existing Credit Agreement") which provided for borrowings of up to $140,000 and was secured by substantially all of our assets and the equity of our subsidiaries. Revolving loans under the Existing Credit Agreement bore interest at our election of (a) 2.00% to 2.50% above a certain base rate with a minimum 6.00% base rate (8.00% at September 30, 2011), or (b) 3.25% to 3.75% above the LIBOR Rate with a minimum 4.00% LIBOR Rate (7.25% at September 30, 2011), with the margin rate subject to the achievement of certain average liquidity levels. We were also required to pay a monthly fee on the unused available balance, ranging from 0.25% to 0.75%. We had no outstanding borrowings at September 30, 2011 and March 31, 2011.

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

9. LONG-TERM DEBT (Continued)

Information related to availability on our Existing Credit Agreement is as follows:

	September 30, 2011	March 31, 2011
Available borrowings	**$ 62,216**	$ 115,503
Outstanding letters of credit	**1,664**	1,664

We recorded interest expense and fees related to the Existing Credit Agreement of $439 and $441 for the three months ended September 30, 2011 and 2010, respectively, and $875 and $897 for the six months ended September 30, 2011 and 2010, respectively.

The Existing Credit Agreement contained covenants that substantially limited us and our subsidiaries' ability to: create, incur, assume or be liable for indebtedness; dispose of assets outside the ordinary course of business; acquire, merge or consolidate with or into another person or entity; create, incur or allow any lien on any of their respective properties; make investments; or pay dividends or make distributions (each subject to certain limitations). In addition, the Existing Credit Agreement provided for certain events of default such as nonpayment of principal and interest, breaches of representations and warranties, noncompliance with covenants, acts of insolvency, default on indebtedness held by third parties and default on certain material contracts (subject to certain limitations and cure periods). The Existing Credit Agreement also contained a requirement that we maintain an interest coverage ratio of more than one to one for the trailing twelve month period, if the liquidity of our domestic operations falls below $30,000 (including available borrowings under the credit facility), based on a 30-day average. As of September 30, 2011, we were in compliance with all covenants and requirements outlined in the Existing Credit Agreement.

In October 2011, we amended the Existing Credit Agreement by entering into a Second Amended and Restated Credit Agreement (the "Credit Agreement") which provides for borrowings of up to $100,000, which may be increased by up to $40,000 pursuant to the terms of the Credit Agreement, and is secured by substantially all of our assets and the equity of our subsidiaries. The Credit Agreement expires on October 17, 2016. Revolving loans under the Credit Agreement bear interest at our election of (a) 1.50% to 2.00% above a certain base rate, or (b) 2.50% to 3.00% above the LIBOR Rate, with the margin rate subject to the achievement of certain average liquidity levels. We are also required to pay a monthly fee on the unused available balance, ranging from 0.375% to 0.50% based on availability.

The Credit Agreement contains covenants that substantially limit us and our subsidiaries' ability to: create, incur, assume or be liable for indebtedness; dispose of assets outside the ordinary course of business; acquire, merge or consolidate with or into another person or entity; create, incur or allow any lien on any of their respective properties; make investments; or pay dividends or make distributions (each subject to certain limitations); or optionally prepay any indebtedness (subject to certain exceptions, including an exception permitting the redemption of the Company's unsecured convertible senior notes ("Convertible Notes") upon the meeting of certain minimum liquidity requirements). In addition, the Credit Agreement provides for certain events of default such as nonpayment of principal and interest, breaches of representations and warranties, noncompliance with covenants, acts of insolvency, default on indebtedness held by third parties and default on certain material contracts (subject to certain limitations and cure periods). The Credit Agreement also contains a requirement that we maintain an interest coverage ratio of more than one to one for the trailing twelve month

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

9. LONG-TERM DEBT (Continued)

period, if the liquidity of our domestic operations falls below $30,000 (including available borrowings under the credit facility), based on a 30-day average period preceding the last day of any fiscal quarter.

Convertible Notes

In June 2009, we issued $138,000 aggregate principal amount of 4.375% Convertible Notes due 2014. The issuance of the Convertible Notes included $18,000 related to the exercise of an over-allotment option by the underwriters. Interest on the Convertible Notes is payable semi-annually in arrears on June 1st and December 1st of each year, and commenced on December 1, 2009. The Convertible Notes mature on June 1, 2014, unless earlier redeemed or repurchased by the Company or converted.

The Convertible Notes are convertible at an initial conversion rate of 93.6768 shares of our common stock per $1 principal amount of Convertible Notes (representing an initial conversion price of approximately $10.675 per share of common stock for a total of approximately 12,927,000 underlying conversion shares) subject to adjustment in certain circumstances. Holders may convert the Convertible Notes at their option prior to the close of business on the business day immediately preceding December 1, 2013 only under the following circumstances: (1) during any fiscal quarter commencing after July 31, 2009, if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on the last trading day of the preceding fiscal quarter is greater than or equal to 130% of the applicable conversion price on each applicable trading day; (2) during the five business day period after any 10 consecutive trading day period (the "measurement period") in which the trading price per $1 principal amount of Convertible Notes for each day of that measurement period was less than 98% of the product of the last reported sale price of our common stock and the applicable conversion rate on each such day; (3) if we call the Convertible Notes for redemption, at any time prior to the close of business on the third scheduled trading day prior to the redemption date; or (4) upon the occurrence of specified corporate events. On and after December 1, 2013 until the close of business on the third scheduled trading day immediately preceding the maturity date, holders may convert their Convertible Notes at any time, regardless of the foregoing circumstances. Upon conversion, the Convertible Notes may be settled, at our election, in cash, shares of our common stock, or a combination of cash and shares of the Company's common stock.

At any time on or after June 5, 2012, the Company may redeem all of the outstanding Convertible Notes for cash, but only if the last reported sale of our common stock for 20 or more trading days in a period of 30 consecutive trading days ending on the trading day prior to the date we provide notice of redemption to holders of the Convertible Notes exceeds 150% of the conversion price in effect on each such trading day. The redemption price will equal 100% of the principal amount of the Convertible Notes to be redeemed, plus all accrued and unpaid interest (including additional interest, if any) to, but excluding, the redemption date.

Upon the occurrence of certain fundamental changes involving the Company, holders of the Convertible Notes may require us to purchase all or a portion of their Convertible Notes for cash at a price equal to 100% of the principal amount of the notes to be purchased, plus accrued and unpaid interest (including additional interest, if any) to, but excluding, the fundamental change purchase date.

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

9. LONG-TERM DEBT (Continued)

The indenture governing the Convertible Notes contains customary terms and covenants and events of default. If an event of default (as defined therein) occurs and is continuing, the Trustee by notice to the Company, or the holders of at least 25% in aggregate principal amount of the Convertible Notes then outstanding by notice to the Company and the Trustee, may, and the Trustee at the request of such holders shall, declare 100% of the principal of and accrued and unpaid interest (including additional interest, if any) on all the Convertible Notes to be due and payable. In the case of an event of default arising out of certain bankruptcy events, 100% of the principal of and accrued and unpaid interest (including additional interest, if any), on the Convertible Notes will automatically become due and payable immediately. As of September 30, 2011, we were in compliance with all covenants and requirements outlined in the indenture governing the Convertible Notes.

The Convertible Notes are senior unsecured obligations and rank senior in right of payment to our existing and future indebtedness that may be expressly subordinated in right of payment to the Convertible Notes; equal in right of payment to our existing and future indebtedness that is not so subordinated; junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and structurally junior to all existing and future indebtedness incurred by our subsidiaries.

In connection with the offering of the Convertible Notes, we entered into convertible note hedge transactions which are expected to reduce the potential dilution to our common stock upon conversion of the Convertible Notes. The convertible note hedge transactions allow the Company to receive shares of its common stock related to the excess conversion value that it would convey to the holders of the Convertible Notes upon conversion. The transactions include options to purchase approximately 12,927,000 shares of common stock at $10.675 per share, expiring on June 1, 2014, for a total cost of approximately $43,600, which was charged to additional paid-in capital.

Separately, the Company entered into a warrant transaction with a strike price of $14.945 per share. The warrants will be net share settled and will cover approximately 12,927,000 shares of the Company's common stock and expire on August 30, 2014, for total proceeds of approximately $26,300, which was credited to additional paid-in capital.

A portion of the net proceeds from the Convertible Notes offering was used to pay the net cost of the convertible note hedge transactions (after such cost was partially offset by proceeds from the sale of the warrants). We recorded approximately $3,410 of banking, legal and accounting fees related to the issuance of the Convertible Notes which were capitalized as debt issuance costs and will be amortized to interest and other, net over the term of the Convertible Notes.

The following table provides additional information related to our Convertible Notes:

	September 30, 2011	March 31, 2011
Principal amount of Convertible Notes	**$ 138,000**	$ 138,000
Unamortized discount of the liability component	**26,701**	30,761
Net carrying amount of Convertible Notes	**$ 111,299**	$ 107,239
Carrying amount of debt issuance costs	**$ 1,820**	$ 2,161

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

9. LONG-TERM DEBT (Continued)

The following table provides the components of interest expense related to our Convertible Notes:

	Three Months Ended September 30,		Six Months Ended September 30,	
	2011	2010	2011	2010
Cash interest expense (coupon interest expense)	**$ 1,509**	$ 1,509	**$ 3,018**	$ 2,985
Non-cash amortization of discount on Convertible Notes	**2,063**	1,813	**4,060**	3,568
Amortization of debt issuance costs	**170**	170	**341**	341
Total interest expense related to Convertible Notes	**$ 3,742**	$ 3,492	**$ 7,419**	$ 6,894

10. LEGAL AND OTHER PROCEEDINGS

Various lawsuits, claims, proceedings and investigations are pending involving us and certain of our subsidiaries, certain of which are described below in this section. Depending on the amount and the timing, an unfavorable resolution of some or all of these matters could materially affect our business or financial statements. We have appropriately accrued amounts related to certain legal and other proceedings discussed below. While it is reasonably possible that a loss may be incurred in excess of the amounts accrued in our financial statements, we believe that such losses, unless otherwise disclosed, would not be material. In addition to the matters described herein, we are, or may become, involved in routine litigation in the ordinary course of business which we do not believe to be material to our business or financial statements.

Wilamowsky v. Take-Two et al. On September 29, 2010, an individual claiming to be a shareholder of Take-Two filed a Complaint in the United States District Court for the Southern District of New York (the "SDNY Court") against the Company, its former Chief Executive Officer, and three former directors. Wilamowsky alleged that he sold short shares of Take-Two stock between March 2004 and July 2006, and as a result of alleged misstatements regarding stock options backdating, the Company's stock price remained at artificially high levels during that period. Wilamowsky claims he was therefore forced to cover his short sales with purchases of Take-Two stock at prices that were higher than the true value of those shares. The Complaint alleges against all defendants violations of §10(b) of the Exchange Act and Rule 10b-5, breaches of fiduciary duty and unjust enrichment. In addition, the Complaint alleges violations §20(a) of the Exchange Act against our former Chief Executive Officer. Wilamowsky's claims arise from the same allegations of stock options backdating that were alleged in *In re Take-Two Interactive Securities Litigation*, a class action that was previously settled and dismissed on October 19, 2010, and from which settlement Wilamowsky, as a short seller, was excluded.

On November 17, 2010, the Company and the individual defendants sought leave to file motions to dismiss all of Wilamowsky's claims, in accordance with the presiding judge's individual rules. A pre-motion hearing to address defendants' request was held on December 14, 2010, at which the requested leave was granted, and on January 14, 2011 defendants filed their motions. The matter was fully briefed as of January 28, 2011. On September 30, 2011, the SDNY Court granted the Company's and the individual defendants' motions to dismiss, dismissing all of Plaintiff's claims with prejudice.

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

11. EARNINGS (LOSS) PER SHARE ("EPS")

The following table sets forth the computation of basic and diluted EPS (shares in thousands):

	Three Months Ended September 30,		Six Months Ended September 30,	
	2011	2010	2011	2010
Computation of Basic EPS:				
Net income (loss)	**$ (47,371)**	$ 3,339	**$ (56,084)**	$ 29,653
Less: net income allocated to participating securities	—	(226)	—	(2,069)
Net income (loss) for basic EPS calculation	**$ (47,371)**	$ 3,113	**$ (56,084)**	$ 27,584
Total weighted average shares outstanding—basic	**82,940**	85,580	**82,722**	85,534
Less: weighted average participating shares outstanding	—	(5,786)	—	(5,968)
Weighted average common shares outstanding—basic	**82,940**	79,794	**82,722**	79,566
Basic EPS	**$ (0.57)**	$ 0.04	**$ (0.68)**	$ 0.35
Computation of Diluted EPS:				
Net income (loss)	**$ (47,371)**	$ 3,339	**$ (56,084)**	$ 29,653
Less: net income allocated to participating securities	—	(226)	—	(2,069)
Net income (loss) for diluted EPS calculation	**$ (47,371)**	$ 3,113	**$ (56,084)**	$ 27,584
Weighted average common shares outstanding—basic	**82,940**	79,794	**82,722**	79,566
Add: dilutive effect of common stock equivalents	—	—	—	—
Weighted average common shares outstanding—diluted	**82,940**	79,794	**82,722**	79,566
Diluted EPS	**$ (0.57)**	$ 0.04	**$ (0.68)**	$ 0.35

The Company incurred a net loss for the three and six months ended September 30, 2011; therefore, the basic and diluted weighted average shares outstanding exclude the impact of unvested share-based awards that are considered participating restricted stock and all common stock equivalents because their impact would be antidilutive.

Our unvested restricted stock rights (including restricted stock units, time-based and market-based restricted stock awards) are considered participating restricted stock since these securities have non-forfeitable rights to dividends or dividend equivalents during the contractual period of the award, and thus require the two-class method of computing EPS. The calculation of EPS for common stock shown above excludes the income attributable to the unvested restricted stock rights from the numerator and excludes the dilutive impact of those awards from the denominator. For the three and six months ended September 30, 2011, we had 4,651,000 of unvested share-based awards that are considered participating restricted stock which are excluded due to the net loss for those periods.

The Company defines common stock equivalents as unexercised stock options, common stock equivalents underlying the Convertible Notes (see Note 9) and warrants outstanding during the period. Common stock equivalents are measured using the treasury stock method, except for the Convertible Notes, which are assessed for their impact on diluted EPS using the more dilutive of the treasury stock method or the if-converted method. Under the provisions of the if-converted method, the Convertible

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

11. EARNINGS (LOSS) PER SHARE ("EPS") (Continued)

Notes are assumed to be converted and included in the denominator of the EPS calculation and the interest expense, net of tax, recorded in connection with the Convertible Notes is added back to the numerator.

In connection with the issuance of our Convertible Notes in June 2009, the Company purchased convertible note hedges (see Note 9) which were excluded from the calculation of diluted EPS because their impact is always considered antidilutive since the call option would be exercised by the Company when the exercise price is lower than the market price. Also in connection with the issuance of our Convertible Notes, the Company entered into warrant transactions (see Note 9). For the three months and six months ended September 30, 2010, the Company excluded the warrants outstanding from its diluted EPS because the warrants' strike price of $14.945 was greater than the average market price of our common stock.

Other common stock equivalents excluded from the diluted EPS calculation were unexercised stock option awards of approximately 2,299,000 for the three and six months ended September 30, 2011 because their effect would be antidilutive. For the three and six months ended September 30, 2010, the Company excluded from its diluted EPS calculation approximately 2,475,000 of common stock equivalents which were antidilutive because the common stock equivalents' exercise prices exceeded the average fair market value of the Company's common stock.

For the three and six months ended September 30, 2011, we issued approximately 68,000 and 144,000 shares, respectively, of common stock in connection with restricted stock awards. During the three and six months ended September 30, 2011, we canceled 58,000 and 108,000 shares, respectively, of unvested restricted stock awards.

12. SEGMENT AND GEOGRAPHIC INFORMATION

We operate in one reportable segment in which we are a publisher of interactive software games designed for video game consoles, personal computers, handheld devices and digital distribution. Our reporting segment is based upon our internal organizational structure, the manner in which our operations are managed and the criteria used by our Chief Executive Officer, our chief operating decision maker ("CODM") to evaluate performance. The Company's operations involve similar products and customers worldwide. We are centrally managed and the CODM primarily uses consolidated financial information supplemented by sales information by product category, major product title and platform to make operational decisions and assess financial performance. Our business consists of our Rockstar Games and 2K labels which have been aggregated into a single reportable segment (the "publishing segment") based upon their similar economic characteristics, products and distribution methods. Revenue earned from our publishing segment is primarily derived from the sale of internally developed software titles and software titles developed on our behalf by third-parties.

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Notes to Unaudited Condensed Consolidated Financial Statements (Continued)

(Dollars in thousands, except share and per share amounts)

12. SEGMENT AND GEOGRAPHIC INFORMATION (Continued)

We attribute net revenue to geographic regions based on product destination. Net revenue by geographic region was as follows:

	Three Months Ended September 30,		Six Months Ended September 30,	
Net revenue by geographic region:	**2011**	**2010**	**2011**	**2010**
United States	**$ 51,814**	$ 105,701	**$ 203,856**	$ 293,307
Canada	**4,285**	13,860	**26,004**	32,438
North America	**56,099**	119,561	**229,860**	325,745
Rest of Europe	**22,924**	82,413	**108,937**	172,458
United Kingdom	**10,803**	21,755	**52,786**	69,832
Asia Pacific and other	**17,208**	21,243	**49,831**	52,327
Total net revenue	**$ 107,034**	$ 244,972	**$ 441,414**	$ 620,362

Net revenue by product platform was as follows:

	Three Months Ended September 30,		Six Months Ended September 30,	
Net revenue by product platform:	**2011**	**2010**	**2011**	**2010**
Microsoft Xbox 360	**$ 41,466**	$ 78,836	**$ 205,329**	$ 245,732
Sony PlayStation 3	**32,372**	87,789	**168,640**	260,398
PC	**15,364**	47,431	**39,591**	63,905
Sony PSP	**4,318**	4,805	**6,973**	8,580
Nintendo DS	**4,185**	8,169	**6,728**	13,344
Sony PlayStation 2	**3,362**	4,266	**5,945**	7,961
Nintendo Wii	**4,129**	12,414	**5,562**	18,194
Other	**1,838**	1,262	**2,646**	2,248
Total net revenue	**$ 107,034**	$ 244,972	**$ 441,414**	$ 620,362

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Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

CAUTIONARY NOTE ABOUT FORWARD-LOOKING STATEMENTS

The statements contained herein which are not historical facts are considered forward-looking statements under federal securities laws and may be identified by words such as "anticipates," "believes," "estimates," "expects," "intends," "plans," "potential," "predicts," "projects," "seeks," "will," or words of similar meaning and include, but are not limited to, statements regarding the outlook for the Company's future business and financial performance. Such forward-looking statements are based on the current beliefs of our management as well as assumptions made by and information currently available to them, which are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict. Actual outcomes and results may vary materially from these forward-looking statements based on a variety of risks and uncertainties including those contained herein, in the Company's Annual Report on Form 10-K for the fiscal year ended March 31, 2011, in the section entitled "Risk Factors," and the Company's other periodic filings with the SEC. All forward-looking statements are qualified by these cautionary statements and apply only as of the date they are made. The Company undertakes no obligation to update any forward- looking statement, whether as a result of new information, future events or otherwise.

Our Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is provided in addition to the accompanying Condensed Consolidated Financial Statements and footnotes to assist readers in understanding our results of operations, financial condition and cash flows. The following discussion should be read in conjunction with the MD&A included in our annual consolidated financial statements and the notes thereto, included in our Annual Report on Form 10-K for the fiscal year ended March 31, 2011.

Overview

Our Business

We are a leading developer, marketer and publisher of interactive entertainment for consumers around the globe. The Company develops and publishes products through its two wholly-owned labels Rockstar Games and 2K, which publishes its titles under the 2K Games, 2K Sports and 2K Play brands. Our products are designed for console systems, handheld gaming systems and personal computers, including smart phones and tablets, and are delivered through physical retail, digital download, online platforms and cloud streaming services. In July 2011, we launched our first social gaming experience, *Sid Meier's Civilization World*, for Facebook. The global installed base for the prior generation of platforms, including Sony's Play Station®2 ("PS2") and Nintendo's DS ("DS") ("prior generation platforms") is substantial. The release of Sony's Playstation®3 ("PS3"), Microsoft's Xbox 360® ("XBox 360"), and Nintendo's Wii ("Wii") platforms ("current generation platforms") has further expanded the video game software market. We are continuing to increase the number of titles released on the current generation platforms while also selectively developing titles for certain prior generation platforms such as PS2 and DS given their significant installed base, as long as it is economically attractive to do so. We have pursued a strategy of capitalizing on the widespread market acceptance of interactive entertainment, as well as the growing popularity of innovative action, adventure, racing, role-playing, sports and strategy games that appeal to the expanding demographic of video game players.

We endeavor to be the most creative, innovative and efficient company in our industry. Our strategy is to capitalize on the widespread popularity of interactive entertainment by focusing on publishing a select number of high quality titles for which we can create sequels and build successful franchises. We develop most of our frontline products internally and own the intellectual property associated with the majority of them, which we believe best positions us financially and competitively. We have established a portfolio of proprietary software content for the major hardware platforms in a wide range of genres including action, adventure, racing, role-playing, sports and strategy, which we

distribute world-wide. We believe that our commitment to creativity and innovation is a distinguishing strength, allowing us to differentiate many of our products in the marketplace by combining advanced technology with compelling storylines and characters that provide unique gameplay experiences for consumers. We have created, acquired or licensed a group of highly recognizable brands to match the variety of consumer demographics we aspire to serve, ranging from adults to children and game enthusiasts to casual gamers.

Our revenue is primarily derived from the sale of internally developed software titles and software titles developed by third parties for our benefit. Operating margins are dependent in part upon our ability to continually release new, commercially successful products and to manage software product development costs. We have internal development studios located in Australia, Canada, China, Czech Republic, the United Kingdom, and the United States.

We expect Rockstar Games, our wholly-owned publisher of the *Grand Theft Auto*, *Midnight Club*, *Red Dead* and other popular franchises, to continue to be a leader in the action product category and create groundbreaking entertainment by leveraging our existing titles as well as developing new brands. Software titles published by our Rockstar Games label are primarily internally developed. We believe that Rockstar has established a uniquely original, popular cultural phenomenon with its *Grand Theft Auto* series and continues to expand on our established franchises by releasing sequels as well as offering downloadable episodes and content. In May 2011, Rockstar released the commercially successful and critically acclaimed *L.A. Noire* for Xbox 360 and PS3, which became the first video game ever chosen as an official selection of the Tribeca Film Festival. Rockstar has released several downloadable content packs to support the title. Rockstar is also well known for developing brands in other genres, including the *Bully*, *Manhunt* and *Max Payne* franchises.

2K Games has published a variety of popular entertainment properties across multiple genres and platforms and we expect 2K Games to continue to develop new and successful franchises in the future. 2K Games' internally owned and developed franchises include the critically acclaimed, multi-million unit selling *BioShock*, *Mafia*, and *Sid Meier's Civilization* series. 2K Games has also published titles that were externally developed, such as *The Darkness*, *Duke Nukem Forever* and *Borderlands*, which has become another key franchise for 2K Games since its launch in October 2009.

Our 2K Sports series, which includes *Major League Baseball 2K* and *NBA 2K*, provides annual revenue streams since they are generally published on a yearly basis. We develop most of our 2K Sports software titles through our internal development studios including the *Major League Baseball 2K*series, *NBA 2K* series and our *Top Spin* tennis series. 2K Sports has secured long-term, third party exclusive licensing relationships with Major League Baseball Properties, the Major League Baseball Players Association and Major League Baseball Advanced Media. In addition, 2K Sports has secured a licensing agreement with the National Basketball Association ("NBA").

2K Play focuses on developing and publishing titles for the casual and family-friendly games market. 2K Play titles are developed by both internal development studios and third party developers. Internally developed titles include *Carnival Games* and *Birthday Party Bash*. 2K Play also has a partnership with Nickelodeon to publish video games based on its top rated Nick Jr. titles such as *Dora the Explorer*; *Go, Diego, Go!*; *Ni Hao, Kai-lan* and *The Backyardigans*. We expect family-oriented gaming to continue to be a component of our business in the future.

We also have expansion initiatives in the Asia-Pacific markets, where our strategy is to broaden the distribution of our existing products, expand our business in Japan, and establish an online gaming presence, especially in China and Korea.

Discontinued operations

In February 2010, we completed the sale to SYNNEX Corporation ("Synnex") of our Jack of all Games third-party distribution business, which primarily distributed third-party interactive entertainment software, hardware and accessories in North America for approximately $44.0 million, including $37.3 million in cash, subject to purchase price adjustments, and up to an additional $6.7 million, subject to the achievement of certain items, which were not met. In April 2011, we settled on the purchase price adjustments and as a result the purchase price was lowered by $1.5 million. Consequently, the net purchase price after the settlement was $35.8 million. The financial information of our distribution business has been classified as discontinued operations in the Condensed Consolidated Financial Statements for all of the periods presented. See Note 2 to our Unaudited Condensed Consolidated Financial Statements for additional information regarding discontinued operations.

Trends and Factors Impacting our Business

Product Release Schedule. Our financial results are affected by the timing of our product releases and the commercial success of those titles. Our *Grand Theft Auto* products in particular have historically accounted for a substantial portion of our revenue. Sales of *Grand Theft Auto* products generated approximately 11.8% of the Company's net revenue for the six months ended September 30, 2011. The timing of our *Grand Theft Auto* releases varies significantly, which in turn may impact our financial performance on a quarterly and annual basis.

Economic Environment and Retailer Performance. We continue to monitor economic conditions which may have unfavorable impacts on our businesses, such as deteriorating consumer demand, pricing pressure on our products, credit quality of our receivables, and foreign currency exchange rates. Our business is dependent upon a limited number of customers who account for a significant portion of our revenue. Our five largest customers accounted for approximately 49.5% and 48.4% of net revenue for the six months ended September 30, 2011 and 2010, respectively. As of September 30, 2011 and March 31, 2011, amounts due from our five largest customers comprised approximately 61.5% and 54.2% of our gross accounts receivable balance, respectively, with our significant customers (those that individually comprised more than 10% of our gross accounts receivable balance) accounting for approximately 46.7% and 38.2% of such balance at September 30, 2011 and March 31, 2011, respectively. The economic environment has impacted our customers in the past, and may do so in the future. Bankruptcies or consolidations of our large retail customers could seriously hurt our business, due to uncollectible accounts receivables and the concentration of purchasing power among the remaining large retailers. Our business is also negatively impacted by the actions of certain of our large customers, who sell used copies of our games, which reduces demand for new copies of our games. We now offer downloadable episodes for certain of our titles. While this may serve to reduce some used game sales, we expect sales of used games to continue to affect our business.

Hardware Platforms. The majority of our products are made for the hardware platforms developed by three companies—Sony, Microsoft and Nintendo. Note 12 to our Unaudited Condensed Consolidated Financial Statements, "Segment and Geographic Information," discloses that Sony, Microsoft and Nintendo hardware platforms comprised approximately 90.4% of the Company's net revenue by product platform for the six months ended September 30, 2011. The success of our business is dependent upon the consumer acceptance of these platforms and the continued growth in the installed base of these platforms. When new hardware platforms are introduced, demand for software based on older platforms declines, which may negatively affect our business. Additionally, our development costs are generally higher for titles based on new platforms, and we have limited ability to predict the consumer acceptance of the new platforms, which may impact our sales and profitability. As a result, we believe it is important to focus our development efforts on a select number of titles, which is consistent with our strategy.

International Operations. Sales in international markets, primarily in Europe, have accounted for a significant portion of our revenue. Note 12 to our Unaudited Condensed Consolidated Financial Statements, "Segment and Geographic Information," discloses that the United Kingdom and the Rest of Europe comprised approximately 36.6% of the Company's net revenue for the six months ended September 30, 2011. We have also expanded our Asian operations in an effort to increase our geographical scope and diversify our revenue base. We are subject to risks associated with foreign trade, including credit risks and consumer acceptance of our products and our financial results may be impacted by fluctuations in foreign currency exchange rates.

Online Content and Digital Distribution. The interactive entertainment software industry is delivering a growing amount of content through digital online delivery methods. We provide a variety of online delivered products and services. A number of our titles that are available through retailers as packaged goods products are also available through direct digital download through the Internet (from websites we own and others owned by third-parties). We also offer downloadable add-on content to our packaged goods titles. In addition, in July 2011, we launched our first social gaming experience, *Sid Meier's Civilization World*, for Facebook, and we have several initiatives underway to develop online games primarily for Asian markets. We expect online delivery of games and game services to become an increasing part of our business over the long-term.

Product Releases

We have recently released the following key titles during the six months ended September 30, 2011:

Title	Publishing Label	Internal or External Development	Platform(s)	Date Released
L.A. Noire	Rockstar Games	External	PS3, Xbox 360	May 17, 2011
Duke Nukem Forever	2K Games	External	PS3, Xbox 360, PC	June 10, 2011

Product Pipeline

We have announced expected release dates for the following key titles (this list does not represent all titles currently in development):

Title	Publishing Label	Internal or External Development	Platform(s)	Expected Release Date
NBA® 2K12	2K Sports	Internal	PS3, PS2, PSP, Xbox 360, Wii, PC	October 4, 2011 (released)
The Darkness II	2K Games	External	PS3, Xbox 360, PC	February 7, 2012
Max Payne 3	Rockstar Games	Internal	PS3, Xbox 360, PC	March 2012
Major League Baseball 2K12	2K Sports	Internal	PS3, PS2, Xbox 360, Wii, DS, PC	March 2012
BioShock® Infinite	2K Games	Internal	PS3, Xbox 360, PC	Calendar year 2012
Spec Ops: The Line	2K Games	External	PS3, Xbox 360, PC	Fiscal year 2013
Borderlands 2	2K Games	External	PS3, Xbox 360, PC	Fiscal year 2013
XCOM®	2K Games	Internal	PS3, Xbox 360, PC	Fiscal year 2013
Grand Theft Auto V	Rockstar Games	Internal	To Be Announced	To Be Announced

Critical Accounting Policies and Estimates

Our most critical accounting policies, which are those that require significant judgment, include: revenue recognition; allowances for returns, price concessions and other allowances; capitalization and recognition of software development costs and licenses; fair value estimates including inventory obsolescence, valuation of goodwill, intangible assets and long-lived assets; valuation and recognition of

stock-based compensation; and income taxes. In-depth descriptions of these can be found in our Annual Report on Form 10-K for the fiscal year ended March 31, 2011.

Recently Issued Accounting Pronouncements

Multiple-Deliverable Revenue Arrangements

On April 1, 2011, the Company adopted new guidance related to the accounting for multiple-deliverable revenue arrangements. These new rules amend the existing guidance for separating consideration in multiple-deliverable arrangements and establish a selling price hierarchy for determining the selling price of a deliverable. The adoption of this new guidance did not have any impact on our consolidated financial position, cash flows or results of operations.

Certain Revenue Arrangements That Include Software Elements

On April 1, 2011, the Company adopted new guidance that changes the accounting model for revenue arrangements by excluding tangible products containing both software and non-software components that function together to deliver the product's essential functionality. The adoption of this new guidance did not have any impact on our consolidated financial position, cash flows or results of operations.

Testing Goodwill for Impairment

On September 30, 2011, the Company adopted new guidance related to testing goodwill for impairment effective for the Company's annual impairment test as of August 1, 2011. This new guidance permits an entity to make a qualitative assessment of whether it is more likely than not that a reporting unit's fair value is less than its carrying value as a basis for determining whether it is necessary to perform the two-step goodwill impairment test. If it is determined through the qualitative assessment that a reporting unit's fair value is more likely than not greater than its carrying value, the remaining impairment steps would be unnecessary. The qualitative assessment is optional, allowing entities to go directly to the quantitative assessment. This new guidance is effective for annual and interim goodwill impairment tests performed in fiscal years beginning after December 15, 2011. However, early adoption is permitted, including for annual and interim goodwill impairment tests performed as of a date before September 15, 2011, if an entity's financial statements for the most recent annual or interim period have not yet been issued. The early adoption of this new guidance did not have any impact on our consolidated financial position, cash flows or results of operations.

Comprehensive Income

In June 2011, new guidance was issued related to the presentation of comprehensive income. The main provisions of the new guidance provide that an entity that reports items of other comprehensive income has the option to present comprehensive income as (i) a single statement that presents the components of net income and total net income, the components of other comprehensive income and total other comprehensive income and a total for comprehensive income or (ii) in two separate but consecutive statements, whereby an entity must present the components of net income and total net income in the first statement and that statement is immediately followed by a financial statement that presents the components of other comprehensive income, a total for other comprehensive income and a total for comprehensive income. The new rules eliminate the option to present the components of other comprehensive income as part of the statement of stockholders' equity. These new rules are to be applied retrospectively and become effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2011 (April 1, 2012 for the Company), with early adoption permitted. We do not expect the adoption of this new guidance to have a material impact on our consolidated financial position, cash flows or results of operations.

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Results of Operations

Consolidated operating results, net revenue by geographic region and net revenue by platform as a percentage of net revenue are as follows:

	Three Months Ended September 30,		Six Months Ended September 30,	
	2011	2010	2011	2010
Net revenue	**100.0%**	100.0%	**100.0%**	100.0%
Cost of goods sold	**69.8%**	55.8%	**64.8%**	61.4%
Gross profit	**30.2%**	44.2%	**35.2%**	38.6%
Selling and marketing	**26.9%**	19.0%	**23.4%**	15.5%
General and administrative	**24.1%**	10.9%	**12.8%**	8.5%
Research and development	**14.9%**	7.4%	**7.4%**	5.5%
Depreciation and amortization	**3.1%**	1.6%	**1.4%**	1.3%
Total operating expenses	**69.0%**	38.9%	**45.0%**	30.8%
Income (loss) from operations	**(38.8)%**	5.3%	**(9.8)%**	7.8%
Interest and other, net	**(4.0)%**	(0.7)%	**(1.8)%**	(1.0)%
Income (loss) from continuing operations before income taxes	**(42.8)%**	4.6%	**(11.6)%**	6.8%
Provision for income taxes	**1.4%**	1.4%	**1.1%**	1.1%
Income (loss) from continuing operations	**(44.2)%**	3.2%	**(12.7)%**	5.7%
Loss from discontinued operations, net of taxes	**(0.1)%**	(1.8)%	**0.0%**	(0.9)%
Net income (loss)	**(44.3)%**	1.4%	**(12.7)%**	4.8%
Net revenue by geographic region:				
United States and Canada	**52.4%**	48.8%	**52.1%**	52.5%
Europe, Asia Pacific and Other	**47.6%**	51.2%	**47.9%**	47.5%
Net revenue by platform:				
Console	**76.0%**	74.8%	**87.3%**	85.8%
PC	**14.4%**	19.4%	**9.0%**	10.3%
Handheld	**7.9%**	5.3%	**3.1%**	3.5%
Other	**1.7%**	0.5%	**0.6%**	0.4%

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Three Months Ended September 30, 2011 Compared to September 30, 2010

(thousands of dollars)	2011	%	2010	%	Increase/ (decrease)	% Increase/ (decrease)
Net revenue	**$107,034**	**100.0%**	$244,972	100.0%	$(137,938)	(56.3)%
Product costs	**40,137**	**37.5%**	67,026	27.4%	(26,889)	(40.1)%
Software development costs and royalties(1)	**17,248**	**16.1%**	44,592	18.2%	(27,344)	(61.3)%
Internal royalties	**6,579**	**6.2%**	15,803	6.4%	(9,224)	(58.4)%
Licenses	**10,739**	**10.0%**	9,221	3.8%	1,518	16.5%
Cost of goods sold	**74,703**	**69.8%**	136,642	55.8%	(61,939)	(45.3)%
Gross profit	**$ 32,331**	**30.2%**	$108,330	44.2%	$ (75,999)	(70.2)%

(1) Includes $381 and $1,788 of stock-based compensation expense in 2011 and 2010, respectively.

Net revenue decreased $137.9 million for the three months ended September 30, 2011 as compared to the prior year. This decrease is primarily due to a $137.3 million decrease from *Red Dead Redemption*, which released in May 2010, *Mafia II*, which released in August 2010, and *Sid Meier's Civilization® V*, which released in September 2010. These decreases are partially offset by an $11.8 million increase from *L.A. Noire*, which released in May 2011, and *Nicktoons MLB*, which released in September 2011, as well as an increase in sales of our *Grand Theft Auto* franchise of approximately $4.3 million.

Net revenue on current generation consoles accounted for approximately 72.8% of our total net revenue for the three months ended September 30, 2011 which is in line with 73.1% for the prior year. PC sales decreased to approximately 14.4% of our total net revenue for the three months ended September 30, 2011 as compared to 19.4% for the prior year primarily due to the September 2010 release of *Sid Meier's Civilization® V*. Handheld sales increased to 7.9% of our total net revenue for the three months ended September 30, 2011 as compared to 5.3% for the prior year, primarily due to the impact of the decreased PC sales for the three months ended September 30, 2011 as discussed above.

Gross profit as a percentage of net revenue decreased for the three months ended September 30, 2011 as compared to the prior year primarily due to higher product costs as a percentage of net revenue resulting from a greater share of net revenue having been generated from a product mix with lower selling price points.

Revenue earned outside of North America accounted for approximately $50.9 million (47.6%) for the three months ended September 30, 2011 as compared to $125.4 million (51.2%) in the prior year. The year-over-year decrease as a percentage of revenue earned outside of North America was primarily due to the global release of *Mafia II* in August 2010. Foreign exchange positively impacted net revenue by approximately $3.4 million and negatively impacted gross profit by $0.3 million for the three months ended September 30, 2011 as compared to the prior year.

Operating Expenses

(thousands of dollars)	2011	% of net revenue	2010	% of net revenue	Increase/ (decrease)	% Increase/ (decrease)
Selling and marketing	**$ 28,773**	**26.9%**	$ 46,602	19.0%	$ (17,829)	(38.3)%
General and administrative	**25,785**	**24.1%**	26,620	10.9%	(835)	(3.1)%
Research and development	**15,998**	**14.9%**	18,074	7.4%	(2,076)	(11.5)%
Depreciation and amortization	**3,284**	**3.1%**	4,005	1.6%	(721)	(18.0)%
Total operating expenses(1)	**$ 73,840**	**69.0%**	$ 95,301	38.9%	$ (21,461)	(22.5)%

(1) Includes stock-based compensation expense, which was allocated as follows:

	2011	2010
Selling and marketing	**$ 1,281**	$ 1,076
General and administrative	**1,901**	2,497
Research and development	**1,049**	1,132

Foreign currency exchange rates increased total operating expenses by approximately $1.7 million for the three months ended September 30, 2011 as compared to the prior year.

Selling and marketing

Selling and marketing expenses decreased $17.8 million for the three months ended September 30, 2011, as compared to the prior year primarily due to advertising expenses incurred in the prior year for the release of *Mafia II* in August 2010.

General and administrative

General and administrative expenses were in line for the three months ended September 30, 2011 as compared to the prior year.

General and administrative expenses for the three months ended September 30, 2011 and 2010 include occupancy expense (primarily rent, utilities and office expenses) of $3.5 million and $3.4 million, respectively, related to our development studios.

Research and development

Research and development expenses decreased $2.1 million for the three months ended September 30, 2011 as compared to the prior year primarily due to a $1.4 million decrease in personnel costs due to higher payroll capitalization rates at our development studios and a $0.8 million decrease in production expenses.

Interest and other, net

Interest and other, net was an expense of $4.3 million for the three months ended September 30, 2011, as compared to an expense of $1.6 million for the three months ended September 30, 2010, primarily due to a foreign exchange transaction loss for the three months ended September 30, 2011 of $0.3 million as compared to a foreign exchange transaction gain for the three months ended September 30, 2010 of $2.2 million in our foreign subsidiaries.

Provision for income taxes

For the three months ended September 30, 2011, income tax expense was $1.4 million, compared to income tax expense of $3.3 million for the three months ended September 30, 2010. The decrease in

tax expense was primarily attributable to lower taxable earnings in certain foreign jurisdictions during the three months ended September 30, 2011.

Our effective tax rate differed from the federal statutory rate primarily due to changes in valuation allowances and changes in gross unrecognized tax benefits during the periods.

We are regularly audited by domestic and foreign taxing authorities. Audits may result in tax assessments in excess of amounts claimed and the payment of additional taxes. We believe that our tax positions comply with applicable tax law, and that we have adequately provided for reasonably foreseeable tax assessments.

Discontinued operations

Loss from discontinued operations, net of income tax, reflects the results of our former distribution business for which net assets were sold in February 2010. For the three months ended September 30, 2011, the net loss was $0.1 million as compared to a net loss of $4.7 million for the three months ended September 30, 2010. The loss for the three months ended September 30, 2010 was primarily due to $4.8 million in costs associated with a liability for a lease assumption without economic benefit less estimates of sublease income.

Net income (loss) and earnings (loss) per share

For the three months ended September 30, 2011, our net loss was $47.4 million, as compared to net income of $3.3 million in the prior year. Net loss per share for the three months ended September 30, 2011 was $0.57 as compared to net income per share of $0.04 for the three months ended September 30, 2010. Weighted average shares outstanding decreased compared to the prior year, primarily due to the inclusion of unvested share-based awards that are considered participating restricted stock due to net income generated during the three months ended September 30, 2010 offset, in part, by the vesting of restricted stock awards over the last twelve months.

Six Months Ended September 30, 2011 Compared to September 30, 2010

(thousands of dollars)	2011	%	2010	%	Increase/ (decrease)	% Increase/ (decrease)
Net revenue	**$441,414**	**100.0%**	$620,362	100.0%	$(178,948)	(28.8)%
Product costs	**138,588**	**31.4%**	168,103	27.1%	(29,515)	(17.6)%
Software development costs and royalties(1)	**101,850**	**23.1%**	108,630	17.5%	(6,780)	(6.2)%
Internal royalties	**23,091**	**5.2%**	83,265	13.4%	(60,174)	(72.3)%
Licenses	**22,393**	**5.1%**	20,690	3.4%	1,703	8.2%
Cost of goods sold	**285,922**	**64.8%**	380,688	61.4%	(94,766)	(24.9)%
Gross profit	**$155,492**	**35.2%**	$239,674	38.6%	$ (84,182)	(35.1)%

(1) Includes $3,585 and $8,008 of stock-based compensation expense in 2011 and 2010, respectively.

Net revenue decreased $178.9 million for the six months ended September 30, 2011 as compared to the prior year. This decrease is primarily due to a $370.6 million decrease from *Red Dead Redemption*, which released in May 2010, and *Mafia II*, which released in August 2010 as well as a decrease in sales of our *Grand Theft Auto* franchise of approximately $35.6 million. These decreases are partially offset by a $246.8 million increase from the releases of *L.A. Noire* in May 2011 and *Duke Nukem Forever* in June 2011.

Net revenue on current generation consoles accounted for approximately 86.0% of our total net revenue for the six months ended September 30, 2011 as compared to 84.5% for the prior year. The increase is primarily due to the September 2010 release of *Sid Meier's Civilization® V* on the PC. PC sales decreased to approximately 9.0% of our total net revenue for the six months ended September 30, 2011 as compared to 10.3% for the prior year primarily due to the September 2010 release of *Sid Meier's Civilization® V*. Handheld sales decreased to 3.1% of our total net revenue for the six months ended September 30, 2011 as compared to 3.5% for the prior year, primarily due to a decrease in sales of *Grand Theft Auto: Chinatown Wars*, which released on the PSP in October 2009 and the Nintendo DS in March 2009.

Gross profit as a percentage of net revenue decreased for the six months ended September 30, 2011 as compared to the prior year. Product costs increased as a percentage of net revenue as a result of a greater share of net revenue being generated from a product mix with lower selling price points. Software development costs and royalties increased as a percentage of net revenue for the six months ended September 30, 2011 as we incurred higher royalty costs primarily associated with the May 2011 release of *L.A. Noire* and the June 2011 release of *Duke Nukem Forever*, which were externally developed. Partially offsetting the decrease in gross profit as a percentage of net revenue is lower internal royalty expense, which was primarily due to higher income generated in the prior year from the release of *Red Dead Redemption* in May 2010.

Revenue earned outside of North America accounted for approximately $211.6 million (47.9%) for the six months ended September 30, 2011 as compared to $294.6 million (47.5%) in the prior year. The year-over-year increase as a percentage of revenue earned outside of North America was primarily due the global releases of *L.A. Noire* in May 2011 and *Duke Nukem Forever* in June 2011. Foreign exchange increased net revenue and gross profit by approximately $20.6 million and $3.0 million, respectively, for the six months ended September 30, 2011 as compared to the prior year.

Operating Expenses

(thousands of dollars)	2011	% of net revenue	2010	% of net revenue	Increase/ (decrease)	% Increase/ (decrease)
Selling and marketing	**$ 103,456**	**23.4%**	$ 96,407	15.5%	$ 7,049	7.3%
General and administrative	**56,362**	**12.8%**	52,822	8.5%	3,540	6.7%
Research and development	**32,517**	**7.4%**	34,255	5.5%	(1,738)	(5.1)%
Depreciation and amortization	**6,529**	**1.4%**	7,770	1.3%	(1,241)	(16.0)%
Total operating expenses(1)	**$ 198,864**	**45.0%**	$ 191,254	30.8%	$ 7,610	4.0%

(1) Includes stock-based compensation expense, which was allocated as follows:

	2011	2010
Selling and marketing	**$ 2,680**	$ 2,304
General and administrative	**$ 4,271**	$ 5,429
Research and development	**$ 2,124**	$ 1,973

Foreign currency exchange rates increased total operating expenses by approximately $6.6 million for the six months ended September 30, 2011 as compared to the prior year.

Selling and marketing

Selling and marketing expenses increased $7.0 million for the six months ended September 30, 2011, as compared to the prior year primarily due to a $5.0 million increase in advertising expenses incurred for the releases of *L.A. Noire* in May 2011 and *Duke Nukem Forever* in June 2011 partially

offset by advertising expenses incurred in the prior year for the release of *Red Dead Redemption* in May 2010 and *Mafia II* in August 2010. Also contributing to the increase in selling and marketing expenses is a $1.9 million increase in personnel costs primarily due to increased headcount.

General and administrative

General and administrative expenses increased $3.5 million for the six months ended September 30, 2011 as compared to the prior year primarily due to $2.5 million of income resulting from a favorable legal settlement in the prior year and $1.0 million of costs associated with a net liability for a lease assumption without economic benefit during the six months ended September 30, 2011.

General and administrative expenses for the six months ended September 30, 2011 and 2010 include occupancy expense (primarily rent, utilities and office expenses) of $7.7 million and $7.1 million, respectively, related to our development studios.

Research and development

Research and development expenses decreased $1.7 million for the six months ended September 30, 2011 as compared to the prior year primarily due to a $2.1 million decrease in production expenses partially offset by a $0.2 million increase in personnel-related costs.

Interest and other, net

Interest and other, net was an expense of $8.0 million for the six months ended September 30, 2011, as compared to an expense of $6.4 million for the six months ended September 30, 2010, primarily due to a foreign exchange transaction loss for the six months ended September 30, 2011 of $0.1 million as compared to a foreign exchange transaction gain for the six months ended September 30, 2010 of $1.0 million in our foreign subsidiaries.

Provision for income taxes

For the six months ended September 30, 2011, income tax expense was $4.5 million, compared to income tax expense of $6.6 million for the six months ended September 30, 2010. The decrease in tax expense was primarily attributable to lower taxable earnings in certain foreign jurisdictions during the six months ended September 30, 2011.

Our effective tax rate differed from the federal statutory rate primarily due to changes in valuation allowances and changes in gross unrecognized tax benefits during the periods.

For the six months ended September 30, 2011, gross unrecognized tax benefits increased by $1.5 million, which primarily related to an increase in uncertain tax positions in foreign jurisdictions offset by a decrease in interest and penalties of $0.1 million. We generally are no longer subject to audit for U.S. federal income tax returns for periods prior to our fiscal year ended October 31, 2008 and state income tax returns for periods prior to fiscal year ended October 31, 2004. With few exceptions, we are no longer subject to income tax examinations in non-U.S. jurisdictions for years prior to fiscal year ended October 31, 2005. U.S. federal taxing authorities have completed examinations of our income tax returns through the fiscal years ended October 31, 2006 and commenced their audit of fiscal years ending October 31, 2008 and 2009. Certain U.S. state taxing authorities are currently examining our income tax returns from fiscal years ended October 31, 2004 through October 31, 2006. In addition, tax authorities in certain non-U.S. jurisdictions are currently examining our income tax returns. The determination as to further adjustments to our gross unrecognized tax benefits during the next 12 months is not practicable.

We are regularly audited by domestic and foreign taxing authorities. Audits may result in tax assessments in excess of amounts claimed and the payment of additional taxes. We believe that our tax positions comply with applicable tax law, and that we have adequately provided for reasonably foreseeable tax assessments.

Discontinued operations

Loss from discontinued operations, net of income tax, reflects the results of our former distribution business for which net assets were sold in February 2010. For the six months ended September 30, 2011, the net loss was $0.2 million as compared to a net loss of $5.7 million for the six months ended September 30, 2010. The loss for the six months ended September 30, 2010 was primarily due to $4.8 million in costs associated with a liability for a lease assumption without economic benefit less estimates of sublease income.

Net income (loss) and earnings (loss) per share

For the six months ended September 30, 2011, our net loss was $56.1 million, as compared to net income of $29.7 million in the prior year. Net loss per share for the six months ended September 30, 2011 was $0.68 as compared to net income per share of $0.35 for the six months ended September 30, 2010. Weighted average shares outstanding decreased compared to the prior year, primarily due to the inclusion of unvested share-based awards that are considered participating restricted stock due to net income generated during the six months ended September 30, 2010 offset, in part, by the vesting of restricted stock awards over the last twelve months.

Liquidity and Capital Resources

Our primary cash requirements have been to fund (i) the development, manufacturing and marketing of our published products, (ii) working capital, (iii) acquisitions and (iv) capital expenditures. We expect to rely on funds provided by our operating activities, our credit agreement and our Convertible Notes to satisfy our working capital needs.

In June 2009, we issued $138.0 million aggregate principal amount of 4.375% convertible senior notes due 2014 ("Convertible Notes"). Interest on the Convertible Notes is payable semi-annually on June 1 and December 1 of each year, and commenced on December 1, 2009. The Convertible Notes mature on June 1, 2014, unless earlier redeemed or repurchased by the Company or converted.

The Convertible Notes are convertible at an initial conversion rate of 93.6768 shares of our common stock per $1,000 principal amount of Convertible Notes (representing an initial conversion price of approximately $10.675 per share of common stock for a total of approximately 12,927,000 underlying conversion shares) subject to adjustment in certain circumstances. Holders may convert the Convertible Notes at their option prior to the close of business on the business day immediately preceding December 1, 2013 only under the following circumstances: (1) during any fiscal quarter commencing after July 31, 2009, if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on the last trading day of the preceding fiscal quarter is greater than or equal to 130% of the applicable conversion price on each applicable trading day; (2) during the five business day period after any 10 consecutive trading day period (the "measurement period") in which the trading price per $1,000 principal amount of Convertible Notes for each day of that measurement period was less than 98% of the product of the last reported sale price of our common stock and the applicable conversion rate on each such day; (3) if we call the Convertible Notes for redemption, at any time prior to the close of business on the third scheduled trading day prior to the redemption date; or (4) upon the occurrence of specified corporate events. On and after December 1, 2013 until the close of business on the third scheduled trading day immediately preceding the maturity date, holders may convert their Convertible

Notes at any time, regardless of the foregoing circumstances. Upon conversion, the Convertible Notes may be settled, at our election, in cash, shares of our common stock, or a combination of cash and shares of our common stock.

At any time on or after June 5, 2012, the Company may redeem all of the outstanding Convertible Notes for cash, but only if the last reported sale of our common stock for 20 or more trading days in a period of 30 consecutive trading days ending on the trading day prior to the date we provide notice of redemption to holders of the Convertible Notes exceeds 150% of the conversion price in effect on each such trading day. The redemption price will equal 100% of the principal amount of the Convertible Notes to be redeemed, plus all accrued and unpaid interest (including additional interest, if any) to, but excluding, the redemption date. The indenture governing the Convertible Notes contains customary terms and covenants and events of default. As of September 30, 2011, we were in compliance with all covenants and requirements outlined in the indenture governing the Convertible Notes.

In July 2007, we entered into a Credit Agreement (the "Existing Credit Agreement") which provided for borrowings of up to $140.0 million and was secured by substantially all of our assets and the equity of our subsidiaries. Revolving loans under the Existing Credit Agreement bore interest at our election of (a) 2.00% to 2.50% above a certain base rate with a minimum 6.00% base rate (8.00% at September 30, 2011 and March 31, 2011), or (b) 3.25% to 3.75% above the LIBOR Rate with a minimum 4.00% LIBOR Rate (7.25% at September 30, 2011 and March 31, 2011). We were also required to pay a monthly fee on the unused available balance, ranging from 0.25% to 0.75%, based on amounts borrowed.

Availability under the Existing Credit Agreement was restricted by our domestic and United Kingdom based accounts receivable and inventory balances. The Existing Credit Agreement also allowed for the issuance of letters of credit in an aggregate amount of up to $25.0 million.

As of September 30, 2011 there were no outstanding borrowings and $62.2 million was available to borrow. We had $1.7 million of letters of credit outstanding at September 30, 2011.

The Existing Credit Agreement contained covenants that substantially limited us and our subsidiaries' ability to: create, incur, assume or be liable for indebtedness; dispose of assets outside the ordinary course of business; acquire, merge or consolidate with or into another person or entity; create, incur or allow any lien on any of their respective properties; make investments; or pay dividends or make distributions (each subject to certain limitations). In addition, the Existing Credit Agreement provided for certain events of default such as nonpayment of principal and interest, breaches of representations and warranties, noncompliance with covenants, acts of insolvency, default on indebtedness held by third parties and default on certain material contracts (subject to certain limitations and cure periods). The Existing Credit Agreement also contained a requirement that we maintain an interest coverage ratio of more than one to one for the trailing twelve month period, if the liquidity of our domestic operations falls below $30.0 million (including available borrowings under the credit facility), based on a 30-day average. As of September 30, 2011, we were in compliance with all covenants and requirements outlined in the Existing Credit Agreement.

In October 2011, we amended the Existing Credit Agreement by entering into a Second Amended and Restated Credit Agreement (the "Credit Agreement") which provides for borrowings of up to $100.0 million, which may be increased by up to $40.0 million pursuant to the terms of the Credit Agreement, and is secured by substantially all of our assets and the equity of our subsidiaries. The Credit Agreement expires on October 17, 2016. Revolving loans under the Credit Agreement bear interest at our election of (a) 1.50% to 2.00% above a certain base rate, or (b) 2.50% to 3.00% above the LIBOR Rate, with the margin rate subject to the achievement of certain average liquidity levels. We are also required to pay a monthly fee on the unused available balance, ranging from 0.375% to 0.50% based on availability.

The Credit Agreement contains covenants that substantially limit us and our subsidiaries' ability to: create, incur, assume or be liable for indebtedness; dispose of assets outside the ordinary course of business; acquire, merge or consolidate with or into another person or entity; create, incur or allow any lien on any of their respective properties; make investments; or pay dividends or make distributions (each subject to certain limitations); or optionally prepay any indebtedness (subject to certain exceptions, including an exception permitting the redemption of the Company's unsecured convertible senior notes ("Convertible Notes") upon the meeting of certain minimum liquidity requirements). In addition, the Credit Agreement provides for certain events of default such as nonpayment of principal and interest, breaches of representations and warranties, noncompliance with covenants, acts of insolvency, default on indebtedness held by third parties and default on certain material contracts (subject to certain limitations and cure periods). The Credit Agreement also contains a requirement that we maintain an interest coverage ratio of more than one to one for the trailing twelve month period, if the liquidity of our domestic operations falls below $30.0 million (including available borrowings under the credit facility), based on a 30-day average period preceding the last day of any fiscal quarter.

Availability under the Credit Agreement is restricted by our domestic and United Kingdom based accounts receivable and inventory balances. The Credit Agreement also allows for the issuance of letters of credit in an aggregate amount of up to $25.0 million.

We are subject to credit risks, particularly if any of our receivables represent a limited number of customers or are concentrated in foreign markets. If we are unable to collect our accounts receivable as they become due, it could adversely affect our liquidity and working capital position.

Generally, we have been able to collect our accounts receivable in the ordinary course of business. We do not hold any collateral to secure payment from customers. We have trade credit insurance on the majority of our customers to mitigate accounts receivable risk.

A majority of our trade receivables are derived from sales to major retailers and distributors. Our five largest customers accounted for approximately 49.5% and 48.4% of net revenue for the six months ended September 30, 2011 and 2010, respectively. As of September 30, 2011 and March 31, 2011, amounts due from our five largest customers comprised approximately 61.5% and 54.2% of our gross accounts receivable balance, respectively, with our significant customers (those that individually comprised more than 10% of our gross accounts receivable balance) accounting for approximately 46.7% and 38.2% of such balance at September 30, 2011 and March 31, 2011, respectively. We believe that the receivable balances from these largest customers do not represent a significant credit risk based on past collection experience, although we actively monitor each customer's credit worthiness and economic conditions that may impact our customers' business and access to capital. We are monitoring the current global economic conditions, including credit markets and other factors as it relates to our customers in order to manage the risk of uncollectible accounts receivable.

We have entered into various agreements in the ordinary course of business that require substantial cash commitments over the next several years. Other than agreements entered into in the ordinary course of business, there were no material agreements requiring known cash commitments entered into during the six months ended September 30, 2011.

We believe our current cash and cash equivalents and projected cash flow from operations, along with availability under our Credit Agreement will provide us with sufficient liquidity to satisfy our cash requirements for working capital, capital expenditures and commitments through at least the next 12 months.

As of September 30, 2011, the amount of cash and cash equivalents held outside of the U.S. by our foreign subsidiaries was approximately $159.3 million. These balances are dispersed across various locations around the world. We believe that such dispersion meets our business and liquidity needs of our foreign affiliates. In addition, the Company expects in the foreseeable future to have the ability to

generate sufficient cash domestically to support ongoing operations. Consequently, it is the Company's intention to indefinitely reinvest undistributed earnings of its foreign subsidiaries. In the event the Company needed to repatriate funds outside of the U.S., such repatriation may be subject to local laws and tax consequences including foreign withholding taxes or U.S. income taxes. It is not practicable to estimate the tax liability and the Company would try to minimize the tax impact to the extent possible. However, any repatriation may not result in actual cash payments as the taxable event would likely be offset by the utilization of the then available net operating losses and tax credits.

Our changes in cash flows are as follows:

	Six Months Ended Sept 30,	
(thousands of dollars)	**2011**	**2010**
Cash (used in) provided by operating activities	**$ (10,232)**	$ 65,247
Cash used in investing activities	**(6,255)**	(3,599)
Cash provided by financing activities	**195**	87
Effects of exchange rates on cash and cash equivalents	**5,673**	(2,754)
Net (decrease) increase in cash and cash equivalents	**$ (10,619)**	$ 58,981

At September 30, 2011 we had $269.7 million of cash and cash equivalents, compared to $280.4 million at March 31, 2011. Our decrease in cash and cash equivalents from March 31, 2011 was primarily a result of cash used for operating activities and investing activities partially offset by the effect of exchange rates.

Cash used for operating activities was primarily due to our net loss of $56.1 million and increased inventory purchases related to the releases of *L.A. Noire* in May 2011, *Duke Nukem Forever* in June 2011 and *NBA 2K12* in October 2011 offset by the collection of customer receivables. Cash used for investing activities was primarily due to capital expenditures. Cash and cash equivalents were positively impacted by $5.7 million during the six months ended September 30, 2011 as a result of foreign currency exchange movements.

Off-Balance Sheet Arrangements

As of September 30, 2011 and March 31, 2011, we did not have any relationships with unconsolidated entities or financial parties, such as entities often referred to as structured finance or variable interest entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. As such, we do not have any off-balance sheet arrangements and are not exposed to any financing, liquidity, market or credit risk that could arise if we had engaged in such relationships.

International Operations

Net revenue earned outside of the United States is principally generated by our operations in Europe, Canada, Australia, Latin America and Asia. For the three months ended September 30, 2011 and 2010, approximately 51.6% and 56.9%, respectively, of our net revenue was earned outside of the United States. For the six months ended September 30, 2011 and 2010, approximately 53.8% and 52.7%, respectively, of our net revenue was earned outside of the United States. We are subject to risks inherent in foreign trade, including increased credit risks, tariffs and duties, fluctuations in foreign currency exchange rates, shipping delays and international political, regulatory and economic developments, all of which can have a significant impact on our operating results.

Fluctuations in Quarterly Operating Results and Seasonality

We have experienced fluctuations in quarterly operating results as a result of the timing of the introduction of new titles; variations in sales of titles developed for particular platforms; market acceptance of our titles; development and promotional expenses relating to the introduction of new titles; sequels or enhancements of existing titles; projected and actual changes in platforms; the timing and success of title introductions by our competitors; product returns; changes in pricing policies by us and our competitors; the accuracy of retailers' forecasts of consumer demand; the size and timing of acquisitions; the timing of orders from major customers; and order cancellations and delays in product shipment. Sales of our titles are also seasonal, with higher shipments typically occurring in the fourth calendar quarter as a result of increased demand for titles during the holiday season. Quarterly comparisons of operating results are not necessarily indicative of future operating results.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Interest Rate Risk

Historically, fluctuations in interest rates have not had a significant impact on our operating results. Under our Existing Credit Agreement, outstanding balances bear interest at our election of (a) 2.00% to 2.50% above a certain base rate with a minimum 6.00% base rate (8.00% at September 30, 2011), or (b) 3.25% to 3.75% above the LIBOR rate with a minimum 4.00% LIBOR Rate (7.25% at September 30, 2011), with the margin rate subject to the achievement of certain average liquidity levels. Changes in market rates may impact our future interest expense if there is an outstanding balance on our line of credit. The Convertible Notes pay interest semi-annually at a fixed rate of 4.375% per annum and we expect that there will be no fluctuation related to the Convertible Notes impacting our cash component of interest expense. For additional details on our Convertible Notes see Note 9 to our Condensed Consolidated Financial Statements.

Foreign Currency Exchange Rate Risk

We transact business in foreign currencies and are exposed to risks resulting from fluctuations in foreign currency exchange rates. Accounts relating to foreign operations are translated into United States dollars using prevailing exchange rates at the relevant quarter end. Translation adjustments are included as a separate component of stockholders' equity. For the six months ended September 30, 2011, our foreign currency translation loss adjustment was approximately $9.2 million. We recognized a foreign exchange transaction loss in interest and other, net on our Condensed Consolidated Statements of Operations for the six months ended September 30, 2011 of $0.1 million and a foreign exchange transaction gain for the six months ended September 30, 2010 of $1.0 million.

We use forward foreign exchange contracts to mitigate foreign currency risk related to foreign currency transactions. These transactions primarily relate to non-functional currency denominated inter-company funding loans, non-functional currency denominated accounts receivable and non-functional currency denominated accounts payable. We do not enter into derivative financial instruments for trading purposes. At September 30, 2011, we had forward contracts outstanding to purchase $2.3 million of foreign currency in exchange for U.S. dollars and to purchase $53.9 million of U.S. dollars in exchange for foreign currencies with maturities of less than one year. For the three months ended September 30, 2011 and 2010, we recorded a loss of $0.2 million and a loss of $4.4 million, respectively, related to foreign currency forward contracts in interest and other, net on the Condensed Consolidated Statements of Operations. For the six months ended September 30, 2011 and 2010, we recorded a gain of $0.2 million and a loss of $5.2 million, respectively, related to foreign currency forward contracts in interest and other, net on the Condensed Consolidated Statements of Operations.

For the six months ended September 30, 2011, 53.8% of the Company's revenue was generated outside the United States. Using sensitivity analysis, a hypothetical 10% increase in the value of the

U.S. dollar against all currencies would decrease revenues by 5.4%, while a hypothetical 10% decrease in the value of the U.S. dollar against all currencies would increase revenues by 5.4%. In the opinion of management, a substantial portion of this fluctuation would be offset by cost of goods sold and operating expenses incurred in local currency.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Based on an evaluation under the supervision and with the participation of management, our principal executive officer and principal financial officer have concluded that our disclosure controls and procedures as defined in rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended ("Exchange Act") were effective as of the end of the period covered by this report to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission rules and forms and (ii) accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting during the quarter ended September 30, 2011, which were identified in connection with management's evaluation required by paragraph (d) of Rules 13a-15 and 15d-15 under the Exchange Act, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

Various lawsuits, claims, proceedings and investigations are pending involving us and certain of our subsidiaries. Depending on the amount and the timing, an unfavorable resolution of some or all of these matters could materially affect our business or financial statements. Except as noted below, there were no new material legal proceedings or material developments to the pending legal proceedings that have been previously reported in Part I, Item 3 of our Annual Report on Form 10-K for the fiscal year ended March 31, 2011. In addition to the matters reported in our Annual Report on Form 10-K for the fiscal year ended March 31, 2011, we are, or may become, involved in routine litigation in the ordinary course of business which we do not believe to be material to our business or financial statements.

Wilamowsky v. Take-Two et al. As described in Note 10 of Part I, on September 29, 2010, an individual claiming to be a shareholder of Take-Two filed a Complaint in the United States District Court for the Southern District of New York (the "SDNY Court") against the Company, its former Chief Executive Officer, and three former directors. Wilamowsky alleged that he sold short shares of Take-Two stock between March 2004 and July 2006, and as a result of alleged misstatements regarding stock options backdating, the Company's stock price remained at artificially high levels during that period. Wilamowsky claims he was therefore forced to cover his short sales with purchases of Take-Two stock at prices that were higher than the true value of those shares. The Complaint alleges against all defendants violations of §10(b) of the Exchange Act and Rule 10b-5, breaches of fiduciary duty and unjust enrichment. In addition, the Complaint alleges violations §20(a) of the Exchange Act against our former Chief Executive Officer. Wilamowsky's claims arise from the same allegations of stock options backdating that were alleged in *In re Take-Two Interactive Securities Litigation*, a class action that was previously settled and dismissed on October 19, 2010, and from which settlement Wilamowsky, as a short seller, was excluded.

On November 17, 2010, the Company and the individual defendants sought leave to file motions to dismiss all of Wilamowsky's claims, in accordance with the presiding judge's individual rules. A pre-motion hearing to address defendants' request was held on December 14, 2010, at which the requested leave was granted, and on January 14, 2011 defendants filed their motions. The matter was fully briefed as of January 28, 2011. On September 30, 2011, the SDNY Court granted the Company's and the individual defendants' motions to dismiss, dismissing all of Plaintiff's claims with prejudice.

Item 1A. Risk Factors

There have been no material changes to the Risk Factors disclosed in Item 1A of our Annual Report on Form 10-K for the fiscal year ended March 31, 2011 other than the following.

The lockout by NBA owners could have a material adverse impact on our business and operating results.

The NBA players union and the owners of the NBA teams are currently renegotiating their collective bargaining agreement, which expired following the 2010-2011 basketball season. Sales of 2K's annually released basketball game could be adversely affected due to the players being locked out and the reduction in the number of games in, or cancellation of, the 2011-2012 basketball season.

Item 4. (Removed and Reserved)

Item 6. Exhibits

Exhibits:

10.1	Global Playstation 3 Format Licensed Publisher Agreement, dated May 20, 2010, between the Company and Sony Computer Entertainment America LLC*
10.2	Global Playstation 3 Format Licensed Publisher Agreement, dated May 18, 2010, between Take-Two International S.A. and Sony Computer Entertainment Europe Limited*
10.3	Xbox 360 Publisher License Agreement, dated November 17, 2005, between the Company and Microsoft Licensing, GP*
10.4	Second Amended and Restated Credit Agreement, dated as of October 17, 2011, by and among the Company, each of its Subsidiaries identified on the signature pages thereto as Borrowers, each of its Subsidiaries identified on the signature pages thereto as Guarantors, the lender parties thereto, and Wells Fargo Capital Finance, Inc., as administrative agent, filed as Exhibit 10.1 to the Company's Current Report on Form 8-K on October 17, 2011 and incorporated herein by reference.
10.5	Amendment No. 2 to the Take-Two Interactive Software, Inc. 2009 Stock Incentive Plan, filed as Exhibit 10.1 to the Company's Current Report on Form 8-K on September 27, 2011 and incorporated herein by reference.
31.1	Chief Executive Officer Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Chief Financial Officer Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Chief Executive Officer Certification pursuant to 18 U.S.C. Section 1350, as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Chief Financial Officer Certification pursuant to 18 U.S.C. Section 1350, as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	XBRL Instance Document.
101.SCH	XBRL Taxonomy Extension Schema Document.
101.CAL	XBRL Taxonomy Calculation Linkbase Document.

Exhibits:	
101.LAB	XBRL Taxonomy Label Linkbase Document.
101.PRE	XBRL Taxonomy Presentation Linkbase Document.
101.DEF	XBRL Taxonomy Extension Definition Document.

* Portions hereof have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment in accordance with Exchange Act Rule 24b-2.

Attached as Exhibit 101 to this report are the following formatted in XBRL (Extensible Business Reporting Language): (i) Condensed Consolidated Balance Sheets at September 30, 2011 and March 31, 2011, (ii) Condensed Consolidated Statements of Operations for the three and six months ended September 30, 2011 and September 30, 2010, (iii) Condensed Consolidated Statements of Cash Flows for the six months ended September 30, 2011 and September 30, 2010; and (iv) Notes to Condensed Consolidated Financial Statements.

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

TAKE-TWO INTERACTIVE SOFTWARE, INC.
(Registrant)

Date: November 8, 2011	By:	/s/ STRAUSS ZELNICK
		Strauss Zelnick *Chairman and Chief Executive Officer* *(Principal Executive Officer)*
Date: November 8, 2011	By:	/s/ LAINIE GOLDSTEIN
		Lainie Goldstein *Chief Financial Officer* *(Principal Financial Officer)*

Exhibit 10.1

XXXX INDICATES MATERIAL THAT WAS OMITTED AND FOR WHICH CONFIDENTIAL TREATMENT WAS REQUESTED. ALL SUCH OMITTED MATERIAL WAS FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO THE RULES APPLICABLE TO SUCH CONFIDENTIAL TREATMENT REQUEST.

GLOBAL PLAYSTATION®3 FORMAT

LICENSED PUBLISHER AGREEMENT

Sony Computer Entertainment America
GLPA

CONFIDENTIAL

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GLOBAL PLAYSTATION® 3 FORMAT
LICENSED PUBLISHER AGREEMENT

This **Global PlayStation®3 Format Licensed Publisher Agreement** (the "Agreement") is entered into on May 20, 2010 by and between SONY COMPUTER ENTERTAINMENT AMERICA LLC., with offices at 919 East Hillsdale Boulevard, Foster City, California ("the SCE Company") and Take-Two Interactive Software, Inc., with offices at 622 Broadway, New York, NY 10012 ("Publisher").

Sony Computer Entertainment Inc. ("SCEI"), has designed and developed certain core technology of or concerning the System.

The SCE Company has the right to grant non-exclusive licenses to qualified entities regarding certain intellectual property rights with respect to the System.

Publisher desires to be granted a non-exclusive license to publish, develop, have manufactured, market, advertise, distribute and sell Licensed Products in accordance with the provisions of this Agreement and the provisions of the Regional Rider that is attached hereto and incorporated herein by reference, and the SCE Company is willing, in accordance with the terms and subject to the conditions of this Agreement and the Regional Rider, to grant Publisher such a license.

In consideration of the representations, warranties and covenants contained herein and in the Regional Rider, and other good and valuable consideration, Publisher and the SCE Company hereby agree as follows:

1. Definition of Terms.

1.1. "Advertising Materials" means any advertising, marketing, merchandising, promotional, contest-related, public relations (including press releases), display, point of sale or website materials regarding or relating to the Licensed Products or depicting any of the Licensed Trademarks. Advertising Materials include any advertisements in which the System is displayed, referred to, or used, including giving away any unit(s) of the System as prizes in contests or sweepstakes and the public display of the System in product placement opportunities.

1.2. "Affiliate" means, as applicable, either Sony Corporation of America ("SCA"), Sony Computer Entertainment America LLC ("SCEA"), Sony Computer Entertainment Inc. ("SCEI"), Sony Computer Entertainment Europe Ltd. ("SCEE"), Sony Computer Entertainment Korea ("SCEK"), any subsidiary of the foregoing, or any other entity as may be established from time to time and becomes a part of the Sony Computer Entertainment Group.

1.3. "Attribution Line" means the legal attribution line used on Advertising Materials, which shall be substantially similar to the following: "Product copyright and trademarks are the property of the respective publisher or its licensors."

1.4. "Designated Manufacturing Facility" means a manufacturing facility that is designated by the SCE Company, in its sole discretion, to manufacture Disc Products or any of their component parts.

1.5. "Development System Agreement" means an agreement entered into between the

SCE Company and a Licensed Publisher or other licensee regarding the sale, lease, loan or license of Development Tools.

1.6. "Development Tools" means the PlayStation 3 development tools sold, leased, loaned or licensed solely for use in the development of Executable Software.

1.7. "Disc Products" means the Executable Software on PS3 Format Discs, Advertising Materials, Packaging, Printed Materials and Product Information relating to any individual title which shall consist of one application software product per Unit. Disc Products may, but need not, be designed to allow Online Gameplay.

1.8. "Effective Date" is the date specified in the preamble of this Agreement.

1.9. "Executable Software" means software in final object code form that is designed for use and operation exclusively on the System which consists of Publisher Software and any SCE Materials (except where agreed between Publisher and any affiliate) and constitutes a complete, standalone videogame.

1.10. "Guidelines" means any guidelines or specifications of the SCE Company with respect to the development, manufacture and publishing of Licensed Products, including any requirements regarding the development of Executable Software, the display of the Licensed Trademarks in any Licensed Products and related Advertising Materials, or the protection of any of the SCE Intellectual Property Rights, which may be set forth in the Technical Requirements Checklist, Corporate Identity Guidelines or in any other documentation provided to Publisher by the SCE Company. Guidelines shall be comparable to the guidelines and specifications applied by the SCE Company to its own software products for the System. All Guidelines may be modified, supplemented or amended by any Affiliate from time to time upon reasonable notice to Publisher. Guidelines are incorporated into and form a part of this Agreement.

1.11. "Licensed Developer" means an entity that has signed a Licensed Developer Agreement with any Affiliate.

1.12. "Licensed Developer Agreement" or "LDA" means a valid and current license agreement authorizing the development of software for the System, fully executed between a Licensed Developer and an Affiliate.

1.13. "Licensed Products" means Disc Products and Online Products, including any Publisher demonstration discs.

1.14. "Licensed Publisher" means an entity that has signed a Licensed Publisher Agreement with an Affiliate.

1.15. "Licensed Publisher Agreement" or "LPA" means a valid and current license agreement for the publishing, development, manufacture, marketing, advertising, distribution and sale of Licensed Products, fully executed between a Licensed Publisher and an Affiliate.

1.16. "Licensed Trademarks" means the trademarks, service marks, trade dress, logos, icons and other indicia designated in the Guidelines or otherwise for use on, in or otherwise in connection with Licensed Products The Licensed Trademarks (or any part thereof) are subject to change during the term of this Agreement and may be modified, supplemented or amended by any Affiliate (as applicable) from time to time upon reasonable notice to Publisher.

1.17. "Master Disc" means a recordable Blu-Ray disc in the form requested by the SCE Company containing final pre-production Executable Software.

1.18. "Online Gameplay" means the capability to operate and interact with the Executable Software associated with a Licensed Product used on a System that is connected to the Internet or any other network and which may allow an end user to participate in a game or gameplay with another end user (or other end users) across the Internet or any other network.

1.19. "Online Products" means (i) enhancements, improvements, additions, patches, and updates, including characters, artifacts, scripts, levels, modifications, player statistics and gameplay data, used in conjunction with a related Disc Product or the Executable Software and distributed electronically to any end users after sale or distribution of a Unit of the related Disc Product; and (ii) Executable Software distributed electronically to end-users. Online Products may, but need not, be designed to allow Online Gameplay.

1.20. "Packaging" means, with respect to each Disc Product, the carton, containers, cases, edge labels, wrapping materials, security seals and other proprietary labels and trade dress elements and wrapping materials of or concerning the Disc Products (and all parts of any of the foregoing) but specifically excluding Printed Materials and PlayStation 3 Format Discs.

1.21. "PlayStation 3 Format Disc" means the disc media formatted for use with the System.

1.22. "Printed Materials" means all artwork and mechanicals for the disc label for each PlayStation 3 Format Disc and for the Packaging relating to any of the Disc Products, and all instructional manuals, liners, inserts, and any other materials and user information within or attached to the Packaging and distributed as part of the Disc Products.

1.23. "Product Information" means any information owned or licensed by Publisher relating to any of the Licensed Products, including demos, videos, hints and tips, artwork, depictions of Disc Product cover art and videotaped interviews.

1.24. "Product Proposal" means a written proposal prepared by a Licensed Publisher and submitted to the SCE Company under the Guidelines regarding the concept and design for a Licensed Product.

1.25. "Publisher Software" means any software including incorporated audio and visual material developed by Publisher under this Agreement or an LDA, and does not include any SCE Materials.

1.26. "Publisher Intellectual Property Rights" means those worldwide intellectual property rights, current or future, that are owned and controlled by Publisher or its affiliates, including rights in or related to patents, inventions, designs, copyrights, databases, trademarks, service marks, trade names, trade dress, mask work rights, utility model rights, trade secret rights, technical information, know-how, and the equivalents of the foregoing under the laws of any jurisdiction and any other intellectual property rights recognized in the Territory (including all registrations, applications to register and rights to apply for registration of same), that relate to the Publisher Software, Packaging, Product Information, Printed Materials, Advertising Materials or other materials.

1.27. "Purchase Order" means a written purchase order issued by Publisher pursuant to Section 7.8.1, regarding the purchase of Disc Products that conform to the Guidelines and other terms and conditions imposed by the SCE Company or any Designated Manufacturing Facility.

1.28. "Regional Rider" means the additional set of binding terms and which are appended to and form part of this Agreement, and which are applicable to the Territory.

1.29. "SCE Confidential Information" means the term as defined in Section 13.1.1.

1.30. "SCE Intellectual Property Rights" means those worldwide intellectual property rights, current or future, including rights in or related to patents, inventions, designs, copyrights, databases, trademarks (including the Licensed Trademarks), service marks, trade names, trade dress, mask work rights, utility model rights, trade secret rights, technical information, know-how, and the equivalents of

the foregoing under the laws of any jurisdiction, and any other intellectual property rights recognized in the Territory (including all registrations, applications to register and rights to apply for registration of the same), for their full term including all renewals and extensions, that relate to the SCE Materials, the System, the design and development of Licensed Products compatible with the System, and any SCE Confidential Information.

1.31. "SCE Materials" means any data, object code, source code, firmware, documentation (or any part(s) of any of the foregoing) or information relating to the System or the development of interactive entertainment products compatible with the System, selected in the sole judgment of the SCE Company, which are directly or indirectly provided or supplied by any Affiliate to Publisher. SCE Materials shall not include any hardware portions of the Development Tools, but shall include firmware in such hardware.

1.32. "System" means the PLAYSTATION®3 computer entertainment system.

1.33. "Term" means the period from the Effective Date until March 31, 2012.

1.34. "Territory" means the term as defined in the Regional Rider.

1.35. "Unit" means an individual copy of a specific Disc Product regardless of the number of PlayStation 3 Format Discs that are contained within and are part of such Disc Product.

2. License.

2.1. **License Grant**. The SCE Company grants to Publisher, for the Term and throughout the Territory, and in accordance with the other terms, limitations and conditions referenced herein, a non-exclusive, non-transferable license under the SCE Intellectual Property Rights, without the right to sublicense (except as specifically provided herein), to use SCE Materials as follows: (i) to develop and publish Licensed Products and to enter into agreements with Licensed Developers and other approved third parties, where the SCE Company requires such approval, subject to Section 3.2, to develop Licensed Products; (ii) to have Disc Products manufactured by Designated Manufacturing Facilities; (iii) to market, advertise, promote, sell and distribute Disc Products directly to end users or to third parties for distribution to end users; (iv) to market, advertise and promote, and, pursuant to a separate online distribution agreement(s) with the SCE Company or any Affiliate, to distribute Online Products to end users over the PlayStation®Network; (v) to use the Licensed Trademarks only in connection with the manufacturing, marketing, packaging, advertising, promotion, sale and distribution of the Licensed Products; and (vi) to sublicense end-user customers the right to use the Licensed Products for personal, noncommercial purposes in conjunction with the System only, and not with other devices or for public performance.

2.2. **Separate PlayStation Agreements**. Unless specifically set forth in this Agreement, all terms used herein are specific to the System and the attendant SCE Company licensing program. Licenses relating to the original PlayStation, PS One, PlayStation 2 or PlayStation Portable game consoles are subject to separate agreements with the SCE Company (or any Affiliate, as applicable), and any license of rights to Publisher under such separate agreements shall not confer on Publisher any rights with respect to the System and vice versa.

3. Development and Distribution of Licensed Products.

3.1. **Right to Develop**. The SCE Company grants Publisher the right to purchase, lease or borrow, as applicable, certain hardware devices and license certain software tools and utilities that comprise the Development Tools, as is appropriate, from the SCE Company or its designee, pursuant to a separate Development System Agreement with the SCE Company or a separate rider to this Agreement, which hardware and software components may be used by Publisher only in connection with the

development of Licensed Products pursuant to Section 2.1. In developing Executable Software (or portions thereof), Publisher and any third-party Licensed Developers with whom Publisher contracts shall fully comply in all respects with all Guidelines, including technical specifications. In the event that Publisher uses any third-party tools to develop Executable Software or any portion thereof, Publisher shall be responsible at Publisher's sole risk and expense for ensuring that it has obtained all necessary licenses for any such use.

3.2. **Subcontractors**. Publisher may retain subcontractors who provide services which do not require access to SCE Materials or SCE Confidential Information without prior approval. Otherwise, Publisher may retain subcontractor(s) to assist with the development, publication and marketing of Licensed Products (or portions thereof) which have signed (i) an LPA or LDA with the SCE Company (the "PlayStation 3 Agreement") in full force and effect throughout the term of such development, publishing and marketing services or (ii) if required by the SCE Company, an SCE Company-approved subcontractor agreement ("Subcontractor Agreement"), and the SCE Company has approved such subcontractor in writing (which approval shall be in the SCE Company's sole discretion). Publisher shall not disclose to any subcontractor any of the SCE Confidential Information, including any SCE Materials, unless and until either a PlayStation 3 Agreement or any required Subcontractor Agreement has been executed and approved by the SCE Company. Publisher shall be solely responsible for verifying that all third parties that contribute to the development of any Licensed Product, or component thereof, satisfy the requirements of clause (i) or (ii) of this Section 3.2. Notwithstanding any consent which may be granted by the SCE Company for Publisher to employ any such permitted subcontractor(s), or any such separate agreement(s) that may be entered into by Publisher with any such permitted subcontractor, Publisher shall remain fully liable for its compliance with all of the provisions of this Agreement and for the compliance of any and all permitted subcontractors with the provisions of any agreements entered into by such subcontractors in accordance with this Section. Publisher shall use best efforts to cause all subcontractors that it retains in furtherance of this Agreement to comply in all respects with the terms and conditions of this Agreement, and hereby unconditionally guarantees all obligations of its subcontractors. The SCE Company may subcontract any of its rights or obligations hereunder.

3.3. **Form of Distribution**. Executable Software distributed physically to end users and demonstration discs shall be in the form of PlayStation 3 Format Discs only. Publisher shall not, directly or indirectly, incorporate more than one Disc Product in a single Unit, or package or bundle Units of any Disc Product with any other goods or services, without the SCE Company's prior written consent. Online Products, Online Gameplay and any services associated with Online Gameplay, including subscriptions, shall be distributed or made available electronically, including by wireless distribution, to end users over the PlayStation®Network only, unless the SCE Company gives express written consent to another manner of distribution on SCE Company standard terms or otherwise as agreed. Notwithstanding this limitation, Publisher may electronically transmit Executable Software from site to site, or from machine to machine over a computer network, for the sole purposes of facilitating development and for testing to be carried out under Section 6; provided that no right of retransmission shall attach to any such transmission, and provided further that Publisher shall use reasonable security measures customary within the high technology industry to reduce the risk of unauthorized interception or retransmission of such transmissions.

3.4. **Distribution Channels for Disc Products**. Publisher may use such distribution channels to distribute Disc Products as Publisher deems appropriate, including the use of third-party distributors, resellers, dealers and sales representatives. In the event that the SCE Company permits Publisher to have any of its Disc Products published by another Licensed

Publisher, Publisher must, in addition to complying with Section 3.2, provide the SCE Company with advance written notice of such arrangement, including the name of the Licensed Publisher and any additional information requested by the SCE Company regarding the nature of the distribution services that would be provided by such third-party Licensed Publisher prior to manufacture of the Disc Product.

4. Online Gameplay.

4.1. Access to and Maintenance of Online Gameplay. Publisher shall (itself or through a subcontractor approved pursuant to section 3.2) maintain servers hosting Online Gameplay for the periods specified in the Guidelines. Publisher, or, at SCE Company's option, the SCE company or its Affiliate, shall provide notice to consumers in a clear and conspicuous manner via one of the methods listed in Section 4.3 of any permanent shutdown to a server hosting or supporting Online Gameplay no later than three (3) months prior to any shutdown.

4.2. Publisher Online Designee. Publisher shall appoint a dedicated contact person for its Licensed Products designed to allow Online Gameplay, who shall act as a liaison between the SCE Company and Publisher for all online matters relating to Licensed Products designed to allow Online Gameplay. Publisher's designee shall also be responsible for ensuring that all terms and conditions relating to the online elements of the Licensed Products are complied with. Publisher shall give the SCE Company ten (10) days' written notice prior to any change in designee.

4.3. Online Legal Compliance. Licensed Products designed for Online Gameplay must include a legal disclosure enumerating end user, privacy and moderation policies and age rating (collectively, "Online Terms") prior to allowing any end users to engage in Online Gameplay for the first time for a particular user or as otherwise required by law. The SCE Company reserves the right to review Publisher's Online Terms, but shall have no liability for content of Publisher's Online Terms. Online Terms shall either be coded into the applicable Licensed Product or available on the server hosting Online Gameplay in such a way that an end user must agree to it prior to accessing and engaging in Online Gameplay. Online Terms must comply with the Guidelines. Publisher must inform all end users engaging in or accessing Online Gameplay if any personally identifying information will be collected, how it will be collected, and how it will be used.

4.4. Publisher Liability for Online Gameplay. Publisher shall bear exclusively all responsibility and liability for any features or capability of Licensed Products related to Online Gameplay, including Online Gameplay between territories using different television standards, whether PAL, NTSC or otherwise.

5. Limitations on Licenses; Reservation of Rights.

5.1. Application of Council Directive 91/250/EEC. If Publisher has executed the Regional Rider in a Territory governed by Council Directive 91/250/EEC, the limitations set forth in Section 5 shall be subject to Council Directive 91/250/EEC.

5.2. Reverse Engineering Prohibited. Publisher shall not directly or indirectly disassemble, decrypt, electronically scan, peel semiconductor components, decompile, or otherwise reverse engineer in any manner or attempt to reverse engineer or otherwise derive any source code from, all or any portion of the SCE Materials, or permit, assist or encourage any third party to do so.

5.3. Limitation on Creation of Derivative Works. Publisher shall not use, modify, reproduce, sublicense, distribute, create derivative works from, or otherwise provide to third parties, the SCE Materials, in whole or in part, other than as expressly set forth herein without the SCE Company's prior written consent.

5.4. Limitation on Examination and Study of Tools. Publisher may study the performance, design and operation of the Development Tools solely for the limited purposes of developing and testing Publisher Software, or to develop tools to assist Publisher with the development and testing of Publisher Software. Any tools developed or derived by Publisher as a result of studying the performance, design or operation of the Development Tools shall be considered derivative works of the SCE Materials and shall be owned by the SCE Company, but may be treated as trade secrets of Publisher. This section shall govern any conflict with a similar provision in any separate agreement.

5.5. Limitations Regarding Content of Licensed Products. No rights are granted under this Agreement with respect to non-game products or products which contain significant elements of, or are a hybrid with, audio or video profile products. No rights are granted under this Agreement with respect to serving or providing in-game dynamic advertisements. Licensed Products may contain in-game static advertisements, subject to the Guidelines.

5.6. Reservation of SCE Company's Rights.

5.6.1 Limitations on Use of SCE Materials and SCE Intellectual Property Rights. This Agreement does not grant any right or license under, and Publisher shall not use, any SCE Confidential Information, the SCE Materials, or any of the SCE Intellectual Property Rights except as expressly authorized hereunder and in strict compliance with the terms and conditions of this Agreement. No other right or license is to be implied by or inferred from any provision of this Agreement or the conduct of the parties. In particular, Publisher shall not use the Executable Software, SCE Materials or SCE Confidential Information (or any portion of any of the foregoing) in connection with the development of any software for any emulator or other computer hardware or software system. In no event shall Publisher patent any tools, methods, or applications, created, developed or derived from SCE Materials.

Publisher shall not make available to any third party any tools developed or derived from the study of the Development Tools without the SCE Company's express written permission. Use of such tools shall be strictly limited to the creation or testing of Licensed Products and any other use, direct or indirect, of such tools is strictly prohibited. Moreover, Publisher shall bear all risks arising from incompatibility of its Licensed Product and the System resulting from use of Publisher-created tools. The burden of proof under this Section shall be on Publisher, and the SCE Company reserves the right to require Publisher to furnish evidence satisfactory to the SCE Company that Publisher has complied with this Section.

5.6.2 **Ownership and Protection of SCE Materials and SCE Intellectual Property Rights**. All rights with respect to the SCE Materials and the System, including all of the SCE Intellectual Property Rights, are the exclusive property of the SCE Company or its Affiliates. Publisher shall not do or cause to be done any act or thing in any way impairing or tending to impair any of the SCE Company's rights, title or interests in or to the SCE Materials or the SCE Intellectual Property Rights. Publisher shall take all steps as the SCE Company may reasonably require for the protection and maintenance of the SCE Intellectual Property Rights, including executing licenses or obtaining registrations and all such steps shall be taken at SCEA's cost provided Publisher has not done anything which has or which may impair the relevant SCE Intellectual Property Rights. Publisher shall not register any trademark in its own name or in any other person's name, or use, or obtain rights to use Internet domain names or addresses, which are identical or similar to, or are likely to be confused with any of the Licensed Trademarks or any other trademarks of the SCE Company. All goodwill associated with the Licensed Trademarks, including any goodwill generated or arising by or through Publisher's or its sub-licensees' activities under this Agreement, accrues to the benefit of and belongs exclusively

to the SCE Company. Nothing contained in this Agreement shall be deemed to grant Publisher the right to use the trademark "SONY" in any manner or for any purpose.

5.6.3 **Authentication**. The SCE Company reserves the right to require Publisher to utilize an authentication or authorization system to be provided, licensed or designated by the SCE Company to authenticate and verify all Licensed Products and units of the System. The SCE Company reserves the right to insert serial numbers on all PlayStation 3 Format Discs for security or authentication purposes.

5.7. **Acknowledgment of Publisher's Ownership Rights**. Separate and apart from the SCE Materials and other rights licensed to Publisher by the SCE Company hereunder, as between Publisher and the SCE Company, Publisher retains all rights, title and interest in and to the Publisher Software, the Product Proposals, Printed Proposals, and related Product Information, including Publisher Intellectual Property Rights therein, as well as Publisher's rights in any source code and other underlying material such as artwork and music (but specifically excluding the SCE Materials and any software provided directly or indirectly by the SCE Company), - any names used as titles for Licensed Products and other trademarks used by Publisher and any other Publisher Intellectual Property Rights and the SCE Company shall not have and shall not, pursuant to this Agreement, acquire any rights to use any of the same other than as expressly provided for under, and in accordance with the terms of, this agreement. Nothing in this Agreement shall restrict the right of Publisher to develop, distribute or transmit products incorporating the Publisher Software and underlying material, which do not contain or were not developed through use of the SCE Materials or the SCE Intellectual Property Rights, for any hardware platform or service other than the System, or to use Printed Materials or Advertising Materials approved by the SCE Company (excepting Printed Materials or Advertising Materials that contain any Licensed Trademarks) as Publisher determines for such other platforms.

5.8. **Guidelines Requirement**. The licenses granted to Publisher are expressly conditioned on Publisher's compliance with all provisions of the SCE Company's Guidelines, as and when published or within a commercially reasonable time following its receipt of a publication expressly referencing such provisions, and any and all such provisions are incorporated herein by this reference. To the extent that the Guidelines change with respect to any Licensed Product materials that Publisher submits to the SCE Company under Section 6.1, Publisher shall only be required to implement any such revised Guidelines in subsequent orders of corresponding Disc Product or subsequent publications of corresponding Online Product. Publisher shall not be required to recall or destroy previously manufactured Disc Products, unless such Disc Products do not comply with the original standards, requirements and conditions set forth in the Guidelines or unless explicitly required to do so in writing by the SCE Company.

6. Quality Standards for Licensed Products.

6.1. **Product Assessment, Format Quality Assurance and Printed and Advertising Materials**. Publisher shall comply with the process and requirements for assessment and format quality assurance of Licensed Products and Advertising Materials, on a product-by-product basis as specified in the Guidelines. The SCE Company will not approve Licensed Products that are outside the PlayStation®3 format specifications in the Guidelines.

6.2. **Rating Requirements**. No Licensed Product may be published, sold, distributed, marketed, advertised or promoted unless each Licensed Product bears a consumer advisory age rating, consisting of a rating code and product descriptors, either as required by local law or as issued by, and following the rating display requirements of, a consumer advisory ratings system designated by the SCE Company. Any

and all costs and expenses incurred in connection with obtaining such rating shall be borne solely by Publisher. No Licensed Product, Printed Materials or Advertising Materials may bear more than one consumer advisory rating code. Any Online Product that can be used with a Disc Product must bear a rating that is the same as or lower than the rating issued to the Disc Product, unless the SCE Company gives express written consent.

6.3. Compatibility of Licensed Products with Peripherals. Publisher shall be solely responsible for functionality and operational compatibility of its Licensed Products with any third-party peripherals (e.g., controllers, memory storage devices, etc.). The SCE Company shall have no responsibility to test or otherwise evaluate the compatibility of Publisher's Licensed Products with any third-party peripherals. The SCE Company shall not be held responsible for any actual, incidental or consequential damages that may result from any use or inability to use any third-party peripherals with any Licensed Products or the System. If the SCE Company elects, at its sole discretion, to test or otherwise evaluate the compatibility of Publisher's Licensed Products with any third-party peripheral device then, (i) any such testing or evaluation shall not obligate the SCE Company to test or evaluate any other third-party peripherals; (ii) any such testing or evaluation shall not shift to the SCE Company any responsibility to ensure or assess the functionality or compatibility of any third-party peripheral or require the SCE Company to report any third-party peripheral incompatibilities; and (iii) Publisher shall provide the SCE Company, upon request and at no additional cost or expense to the SCE Company, with a reasonable number of samples of any such third-party peripheral products for testing and review in a timely manner. In the event that any Licensed Product fails to perform to the SCE Company's satisfaction with any third-party peripheral that it is intended to support, the SCE Company shall have the right to require that Publisher modify or remove such portions of the Executable Software as are intended to support the affected third-party peripheral.

6.4. Publisher's Additional Quality Assurance Obligations. If at any time or times subsequent to the approval of any part of a Licensed Product, the SCE Company identifies any material defects (such materiality to be determined by the SCE Company in its sole discretion) with respect to the Licensed Product, or in the event that the SCE Company identifies any improper use of its Licensed Trademarks or the SCE Materials, or any material defects or improper use are brought to the attention of the SCE Company, Publisher shall, at no cost to the SCE Company, promptly correct any such material defects, or improper use, to the SCE Company's commercially reasonable satisfaction, which may include, in the SCE Company's judgment, the recall and re-release of Units of the affected Disc Product or publication of an update, upgrade or technical fix to an Online Product. In the event any Licensed Products create any risk of loss or damage to any property or injury to any person, Publisher shall immediately take effective steps, at Publisher's sole liability and expense, to recall and remove such Licensed Products from any affected channels of distribution; provided, however, that if Publisher is not acting as the distributor or seller for the Licensed Products, its obligation shall be to use its best efforts to arrange removal of all affected Licensed Products from the relevant distribution channels. Publisher shall provide all end-user support for Licensed Products. Publisher and the SCE Group Company may enter into a separate agreement to have Publisher provide all end-user support for Online Gameplay of Publisher's Licensed Products that is provided through the PlayStation®Network. The SCE Company expressly disclaims any obligations or liability to provide end-user support with respect to Licensed Products.

7. Manufacture of Disc Products.

7.1. Manufacture of Units. Upon approval of Executable Software and associated Printed Materials pursuant to Section 6, and subject to Sections 7.4 —7.7, the Designated Manufacturing Facility will, in accordance with the terms and conditions set forth in this Section 7, and at

Publisher's request and sole expense (a) manufacture PlayStation 3 Format Discs for Publisher; (b) manufacture Publisher's Packaging and Printed Materials; and (c) assemble the PlayStation 3 Format Discs with the related Printed Materials and Packaging. Publisher shall comply with all Guidelines relating to the production of Units of Disc Products. The SCE Company reserves the right to insert or require Publisher to make arrangements for the insertion of certain Printed Materials relating to the System into each Unit.

7.2. Designated Manufacturing Facilities. To insure compatibility of PlayStation 3 Format Discs with the System, consistent quality of the Disc Products and incorporation of anti-piracy security measures, the SCE Company shall designate and license a Designated Manufacturing Facility or Facilities to reproduce PlayStation 3 Format Discs. Publisher shall purchase all of its requirements for PlayStation 3 Format Discs, including demonstration discs, from such Designated Manufacturing Facility. Any Designated Manufacturing Facility shall be entitled to enforce the terms of this Agreement.

7.3. Creation of Master PlayStation 3 Format Disc. Using one of the fully approved Master Discs provided by Publisher under the Guidelines, the SCE Company or the Designated Manufacturing Facility shall create an encrypted, reproducible master of the Executable Software (formatted as a PlayStation 3 Format Disc) from which all other copies of the Executable Software for the corresponding Disc Product are to be replicated. Publisher shall be responsible for the costs, as determined by the SCE Company or the Designated Manufacturing Facility, of producing the reproducible masters of any and all Executable Software.

7.4. Manufacture of Printed Materials by Designated Manufacturing Facility. If Publisher elects to order Printed Materials from a Designated Manufacturing Facility, Publisher shall deliver all SCE Company-approved Printed Materials to that Designated Manufacturing Facility, at Publisher's sole risk and expense, and the Designated Manufacturing Facility will manufacture such Printed Materials in accordance with this Section 7. In order to insure against loss or damage to the copies of the Printed Materials furnished to the SCE Company, Publisher shall retain duplicates of all Printed Materials, and neither the SCE Company nor any Designated Manufacturing Facility shall be liable for any loss of or damage to any Printed Materials.

7.5. Manufacture of Printed Materials by Alternate Source. Subject to the Guidelines, Publisher may elect to be responsible for manufacturing its own Printed Materials (other than artwork which is to be reproduced or otherwise displayed on any PlayStation 3 Format Discs, which Publisher will supply to the Designated Manufacturing Facility for incorporation within the Disc Products), at Publisher's sole risk and expense. The SCE Company shall have the right to disapprove any Printed Materials that do not comply with the applicable Guidelines. If Publisher elects to supply its own Printed Materials, neither the SCE Company nor any Designated Manufacturing Facility shall be responsible for any delays arising from use of Publisher's own Printed Materials.

7.6. Manufacture of Packaging by Designated Manufacturing Facility. To ensure consistent quality of the Disc Products, the SCE Company may designate and license a Designated Manufacturing Facility to reproduce all or part of the proprietary Packaging for the Disc Products. If so, then Publisher shall purchase all of its requirements for such Packaging from a Designated Manufacturing Facility during the Term.

7.7. Assembly Services. Publisher may either procure assembly services from a Designated Manufacturing Facility or, with the SCE Company's prior written consent, from an alternate source. If Publisher elects to be responsible for assembling the Disc Products, then the Designated Manufacturing Facility shall ship the component parts of the Disc Product to a destination designated by Publisher, at

Publisher's sole risk and expense. The SCE Company shall have the right to inspect any assembly facilities that Publisher proposes to use in order to determine if the component parts of the Disc Products are being assembled in accordance with the SCE Company's quality standards. The SCE Company may require Publisher to recall any Units of any Disc Products that fail to comply with the Guidelines. If Publisher elects to use alternate assembly facilities, neither the SCE Company nor any Designated Manufacturing Facility shall be responsible for any delays or other production issues, including missing component parts, arising from use of alternate assembly facilities. Publisher shall comply with all applicable labor laws and, in accordance with the provisions of Section 16.8, shall not employ child labor, slave labor or forced labor in connection with the assembly of the Licensed Products.

7.8. Orders and Delivery.

7.8.1 Orders. Publisher shall issue Purchase Order(s) to a Designated Manufacturing Facility in the form set forth and containing the information required in the Guidelines, with a copy to the SCE Company. No Purchase Orders will be processed for any Disc Product unless that Disc Product is fully compliant with the Guidelines. All Purchase Orders shall be subject to approval by the SCE Company not to be unreasonably withheld and to acceptance by the Designated Manufacturing Facility pursuant to the Guidelines. Purchase Orders issued by Publisher to a Designated Manufacturing Facility for each Licensed Product approved by the SCE Company shall be non-cancelable and are subject to the order requirements of the Designated Manufacturing Facility.

7.8.2 General Terms. Neither the SCE Company nor any Designated Manufacturing Facility shall be responsible for shortage or breakage with respect to any order if component parts or assembly services are obtained from alternate sources.

7.9. Delivery of Disc Products. The Designated Manufacturing Facility will deliver Disc Products to Publisher at Publisher's sole expense, except where otherwise provided under this Agreement. Publisher shall have no right to have completed Units of Disc Products stored after manufacture.

7.10. Ownership of Original Master Discs. Due to the proprietary and confidential nature of the mastering and encryption process, neither the SCE Company nor any Designated Manufacturing Facility shall under any circumstances release any original Master Discs, reproducible masters created under section 7.3 or other in-process materials to Publisher. All such materials shall be and remain the sole property of the SCE Company or the Designated Manufacturing Facility (as applicable). Notwithstanding the foregoing, the Publisher Intellectual Property Rights contained in the Publisher Software that is contained in any such in-process materials is, as between the SCE Company and Publisher, the sole and exclusive property of Publisher or its licensors.

8. Marketing of Licensed Products.

8.1. Marketing Generally. At no expense to the SCE Company, Publisher shall, and shall direct its distributors to, diligently market, sell and distribute the Licensed Products, and shall use commercially reasonable efforts to stimulate demand for such Licensed Products throughout the Territory and to supply any resulting demand. Publisher shall use reasonable efforts to protect the Licensed Products from and against illegal reproduction or copying by end users or by any other persons.

8.2. Samples. Publisher shall provide sample Units of each Disc Product to the SCE Company in the quantities and per the terms specified in the Guidelines. In the event that Publisher assembles any Disc Product using an alternate source, Publisher shall be responsible for shipping such sample Units to the SCE Company, at Publisher's cost and expense, promptly following the commercial release of such Disc Product. Units shall not be shipped to

the SCE Company prior to the commercial release of such Disc Product. The SCE Company assumes no liability for release of samples prior to commercial release. The SCE Company shall not directly or indirectly resell any such sample Units of the Disc Products without Publisher's prior written consent. The SCE Company may distribute sample Units to its employees, provided that it uses its reasonable efforts to ensure that such Units are not sold into the retail market. In addition, subject to availability, Publisher shall sell to the SCE Company additional Units at cost.

8.3. **Marketing Programs**. From time to time, the SCE Company may invite Publisher to participate in promotional or advertising opportunities that may feature one or more Licensed Products from one or more Licensed Publishers. Participation shall be voluntary and subject to terms to be determined at the time of the opportunity. In the event Publisher elects to participate, all materials submitted by Publisher to the SCE Company shall be submitted subject to the Guidelines and delivery of such materials to the SCE Company shall constitute acceptance by Publisher of the terms of the offer. Each Affiliate shall display — or otherwise use the Attribution Line on its multi-product marketing materials (created pursuant to this section 8.3), unless otherwise agreed in writing.

8.4. **PlayStation Website**. Publisher shall provide the SCE Company with Product Information for a web page for each of its Licensed Products for display on the PlayStation promotional website, or other website(s) operated by the SCE Company from time to time in connection with the promotion of the PlayStation brand. Specifications for Product Information for such web pages shall be as provided in the Guidelines. Publisher shall provide the SCE Company with such Product Information for each Licensed Product upon submission of Printed Materials to the SCE Company for approval pursuant to the Guidelines. Publisher shall also provide updates for any such web page in a timely manner as may be required in the Guidelines.

8.5. **Demonstration Disc Programs**. The SCE Company may, from time to time, provide opportunities for Publisher to contribute Licensed Product content for distribution as part of a demonstration disc published by any Affiliate, or permit Publisher to publish its own demonstration disc pursuant to a third party demonstration disc program. The specifications with respect to the approval, creation, manufacture, marketing, distribution and sale of any such demo disc programs shall be set forth in the Guidelines. The SCE Company reserves the right to choose from products submitted from other Licensed Publishers and first party products to determine the specific products that will be included in any SCE Company demonstration discs, and Publisher's Licensed Products will not be guaranteed prominence or preferential treatment on any SCE demonstration disc. The SCE Company has no obligation to publish, advertise or promote any demonstration disc.

8.6. **Contests and Sweepstakes of Publisher.** Publisher may conduct contests, sweepstakes, competitions and promotions, as permitted by law (collectively, "Contest" or "Contests"), to promote Licensed Products. The SCE Company shall permit Publisher to include Contest materials in Printed Materials and Advertising Materials, subject to compliance with the provisions of Sections 10.2 and 11.2, and subject to the Guidelines.

9. Payments.

9.1. **Payments for Licensed Products**. Publisher shall pay the SCE Company either directly or through its designee, for Licensed Products, including Licensed Products in any "Greatest Hits," "Platinum" or any other program, and demonstration discs, at the rates and in the manner specified in the Regional Riders and the terms of this Section 9. Publisher shall be required in all cases to make payments to the SCE Company, in accordance with this Section 9 and the Regional Rider, with respect to any and all of Publisher's products that are developed utilizing any SCE Materials or SCE Intellectual Property Rights or any derivative

works based on or otherwise derived from the same. The burden of proof under this Section shall be on Publisher. The SCE Company reserves the right to require Publisher to furnish evidence satisfactory to the SCE Company that Publisher has complied with any or all of its obligations pursuant to this Section. Payment terms are subject to change in the SCE Company's discretion upon reasonable notice to Publisher.

9.2. **Payment for Units of Disc Products**. Payments shall be made to the SCE Company through its Designated Manufacturing Facility concurrent with the placement of any Purchase Order for Units of any Disc Product in accordance with the terms and conditions set forth in this Agreement unless otherwise agreed in writing with the SCE Company. Payment shall be made prior to manufacture unless the SCE Company has agreed in writing to extend credit terms to Publisher under Section 9.3.

9.3. **Credit Terms**. The SCE Company is not required to extend any credit terms to Publisher, but may do so in the SCE Company's sole discretion. Credit terms and limits shall be subject to revocation or extension at the SCE Company's sole discretion. If credit terms are extended to Publisher, Purchase Orders will be invoiced upon shipment of Disc Products and each invoice will be payable within 30 days of the date of the invoice. Publisher shall be additionally liable for all costs and expenses of collection, including without limitation, reasonable fees for lawyers and court costs.

9.4. **Charges and Deductions**. The amounts that Publisher must pay under this Agreement are exclusive of all taxes, duties, charges or assessments which the SCE Company or the Designated Manufacturing Facility may have to collect or pay and for which Publisher is solely responsible. No costs incurred in the development, manufacture, marketing, sale or distribution of any Licensed Products shall be deducted from any amounts payable under this Agreement. Similarly, there shall be no deduction from any amounts owed hereunder as a result of any uncollectible accounts owed to Publisher, or for any credits, discounts, allowances or returns which Publisher may credit or otherwise grant to any third-party customer of any Licensed Products, or for any taxes, fees, assessments or expenses of any kind which may be incurred by Publisher in connection with its sale or distribution of any Licensed Products or arising with respect to the payment of royalties. Publisher may not assert any credit, set-off or counterclaim to justify withholding payment under this Agreement. Publisher shall be solely responsible for and bear any costs relating to any withholding taxes or other such assessments which may be imposed by any governmental authority with respect to the payments to the SCE Company. Publisher shall provide the SCE Company with official tax receipts or other such documentary evidence issued by the applicable tax authorities sufficient to substantiate that any such taxes or assessments have in fact been timely paid. Deductions may only be made after issuance of an approved credit memo from the SCE Company or a Designated Manufacturing Facility.

9.5. **General Terms**. Each shipment to Publisher shall constitute a separate sale, whether said shipment constitutes the whole or partial fulfillment of any Purchase Order. Title to Units shall pass to Publisher only upon payment in full of the amounts due under this Agreement for those Units. The receipt and deposit by the SCE Company of any moneys payable under this Agreement shall be without prejudice to any rights or remedies the SCE Company has and shall not restrict or prevent the SCE Company from challenging the basis for calculation or payment accuracy. Nothing in this Agreement shall excuse or be construed as a waiver of Publisher's obligation to timely provide any and all payments owed to the SCE Company or any Designated Manufacturing Facility.

10. Representations and Warranties.

10.1. **Representations and Warranties of SCE Company**. The SCE Company represents and warrants solely for the benefit of Publisher

that (i) the SCE Company has the right, power and authority to enter into this Agreement and to fully perform its obligations hereunder, (ii) neither the SCE Company nor any Affiliate shall make any respresentation or give any warranty to any person or entity expressly or impliedly on Publisher's behalf; and (iii) neither the SCE Company's policies and practices, nor those of any Designated Manufacturing Facility, shall reflect adversely upon the name, reputation or goodwill of the Publisher, where such policies or practices are directly revelant to the performance by the SCE Company of this Agreement.

10.2. Representations and Warranties of Publisher. Publisher represents and warrants that:

(i) There is no threatened or pending action, suit, claim or proceeding alleging that the use or possession by Publisher or its affiliates of all or any part of the Publisher Software, Product Proposals, Product Information, Printed Materials, Advertising Materials, Packaging not provided by the Designated Manufacturing Facility, or any underlying work or content embodied in any of the foregoing, including any name, designation or trademark used in conjunction with any of the Licensed Products, infringes or otherwise violates any intellectual property right or other right or interest of any kind whatsoever anywhere in the world of any third party, or otherwise contesting any right, title or interest of Publisher in or to the Publisher Software, Product Proposals, Product Information, Printed Materials, Advertising Materials, Packaging not provided by the Designated Manufacturing Facility, or any underlying work or content embodied in any of the foregoing, including any name, designation or trademark used in conjunction with any of the Licensed Products;

(ii) The Publisher Software, Product Proposals, Product Information, Printed Materials, Advertising Materials, Packaging not provided by the Designated Manufacturing Facility, and their contemplated disclosure or use under this Agreement do not and shall not infringe any person's rights including patents, copyrights (including rights in a joint work), trademarks, trade dress, trade secret, rights of publicity, privacy, performance, moral rights, literary rights or any other right or interest anywhere in the world of any third party. Publisher has obtained the consent of all holders of intellectual property rights necessary for the SCE Company's or its Affiliates' use of any Publisher Software, Product Proposals, Product Information, Printed Materials, Advertising Materials and Packaging not provided by the Designated Manufacturing Facility provided by Publisher, which may be reproduced, published, publicly displayed, publicly performed, marketed, sold and otherwise distributed by the SCE Company and any Affiliates in accordance with this Agreement. Publisher has made all payments required to any person having any legal rights arising from such disclosure or use so that the SCE Company will not incur any obligation to pay any royalty, residual, union, guild or other fees or expenses;

(iii) Publisher has the right, power and authority to enter into this Agreement, to grant the SCE Company the rights granted hereunder and to fully perform its obligations hereunder;

(iv) The making of this Agreement by Publisher does not violate any separate agreement, rights or obligations existing between Publisher and any other person, and, throughout the Term, Publisher shall not make any separate agreement with any third party that is inconsistent with any of the provisions of this Agreement;

(v) Publisher has not previously taken any action that could be interpreted as having sold, assigned, leased, licensed or in any other way disposed of or encumbered any of the rights granted to Publisher hereunder. Publisher will not sell, assign, lease, license or in any other way dispose of or encumber any of such rights except as expressly consented to by the SCE Company in writing;

(vi) Neither Publisher nor its affiliates shall make any representation or give any warranty to any person or entity expressly or on

the SCE Company's behalf, or to the effect that the Licensed Products are connected in any way with the SCE Company other than that the Executable Software and Licensed Products have been developed, marketed, sold and distributed under license from the SCE Company;

(vii) In the event that any Executable Software is delivered by Publisher to any other Licensed Publishers or Licensed Developers in source code form, Publisher will take all precautions consistent with the protection of valuable trade secrets by companies in high technology industries to ensure that such third parties protect and maintain the confidentiality of such source code;

(viii) The Executable Software, excepting any SCE Materials, and any Product Information shall be in a commercially acceptable form, free of significant bugs, defects, time bombs or viruses or unauthorized content that is inconsistent with the age rating applicable to the corresponding Licensed Product, which could disrupt, delay, or destroy the Executable Software or System, or render any of such items less than fully useful and Publisher shall notify the SCE Company, within a reasonable period prior to publication of any Licensed Product content that could cause the SCE Company to suffer public disrepute, contempt, scandal or ridicule, or which insults or offends the community or any substantial organized group thereof or which could tend to adversely affect the SCE Company's name, reputation or goodwill associated with the System, and shall be fully compatible with the System and all peripherals listed on the Printed Materials as compatible with the Licensed Product;

(ix) Each of the Licensed Products shall be developed, marketed, sold and distributed by or at the direction of Publisher in an ethical manner and in a responsible manner with respect to the protection of children in the online environment, and in full compliance with all applicable laws, including federal, state, provincial, local and foreign laws, and any rules, regulations and standards promulgated thereunder, including lottery laws and labor laws, and will not contain content that violates applicable laws, including those relating to privacy or any obscene or defamatory matter;

(x) Publisher's policies and practices with respect to the development, marketing, sale, and distribution of the Licensed Products shall in no manner reflect adversely upon the name, reputation or goodwill of the SCE Company or any Affiliate;

(xi) To the extent Publisher wishes to utilize a Licensed Developer to assist in development of Licensed Products, Publisher has contracted, or will contract, with a Licensed Developer for the technical expertise and resources necessary to fulfill its obligations under this Agreement; and

(xii) Publisher shall make no false, misleading or inconsistent representations or claims with respect to the System, any Licensed Products, or the SCE Company or any Affiliate.

11. Indemnities; Limited Liability.

11.1. Indemnification by SCE Company. The SCE Company shall indemnify and hold Publisher harmless from and against any and all third-party claims, demands, losses, liabilities, damages, expenses and costs, including reasonable fees for lawyers, expert witnesses and litigation costs, and costs incurred in the settlement or avoidance of any such claim, in connection with or which result from a breach of any of the SCE Company's representations or warranties set forth in Section 10.1 (collectively, "SCE-Indemnified Claim(s)"); provided that: (i) Publisher shall give prompt written notice to the SCE Company of the assertion of any SCE-Indemnified Claim; (ii) the SCE Company shall have the right to select counsel and control the defense and settlement of any SCE-Indemnified Claim and Publisher shall not agree to the settlement of any SCE-Indemnified Claim without the SCE Company's prior written consent; and (iii) Publisher shall provide the SCE Company reasonable assistance and

cooperation concerning any SCE-Indemnified Claim, except that Publisher need not incur any out-of-pocket costs in rendering such assistance and cooperation. The SCE Company shall have the exclusive right, at its discretion, to commence and prosecute at its own expense any lawsuit or to take such other action with respect to SCE-Indemnified Claims as shall be deemed appropriate by the SCE Company.

11.2. Indemnification By Publisher. Publisher shall indemnify and hold the SCE Company harmless from and against any and all claims, demands, losses, liabilities, damages, expenses and costs, including reasonable fees for lawyers, expert witnesses and litigation costs, and costs incurred in the settlement or avoidance of any such claim, in connection with or which result from (i) a breach of any of the provisions of this Agreement; (ii) any claim of infringement of a third party's intellectual property rights or any consumer claim, with respect to Publisher's Licensed Products, including claims related to Publisher's support of unauthorized or unlicensed peripherals or software that are not part of the PlayStation 3 format specifications as set forth in the Guidelines; (iii) any claim related to any Licensed Product features or capability related to cross-regional Online Gameplay; (iv) any claims of or in connection with any personal or bodily injury (including death or disability) or property damage arising out of, in whole or in part, the development, marketing, advertising, sale, distribution or use of any of the Licensed Products (or portions thereof) unless due directly and solely to the breach of the SCE Company in performing any of the specific duties or providing any of the specific services required of it hereunder; or (v) any federal, state or foreign civil or criminal investigations or actions relating to the development, marketing, advertising, sale or distribution of Licensed Products (all subsections collectively, "Publisher-Indemnified Claim(s)"), provided that (a) the SCE Company shall give prompt written notice to Publisher of the assertion of any Publisher-Indemnified Claim; (b) Publisher shall have the right to select counsel and control the defense and settlement of any Publisher-Indemnified Claim, except that with respect to any Publisher-Indemnified Claims made by a third party against the SCE Company, the SCE Company shall have the right to select counsel for the SCE Company and reasonably control the defense and settlement of the Publisher-Indemnified Claim against the SCE Company; and (c) the SCE Company shall provide Publisher with reasonable assistance and cooperation concerning any Publisher-Indemnified Claim, except that the SCE Company need not incur any out-of-pocket costs in rendering such assistance and cooperation. Subject to the foregoing, Publisher shall have the exclusive right, at its discretion, to commence and prosecute at its own expense any lawsuit or to take such other action with respect to Publisher-Indemnified Claims as shall be deemed appropriate by Publisher.

11.3. LIMITATIONS OF LIABILITY.

11.3.1 SCE Limitation of Liability for Financial Losses. In no event shall the SCE Company or any Affiliates, or the officers, directors, employees, agents, licensors or suppliers of any of such entities, be liable for loss of revenue, loss of actual or prospective profits, loss of contracts, loss of anticipated savings, loss of business opportunity, reputation or goodwill or loss of, damage to or corruption of data (whether such loss or damages are direct, indirect, special, incidental or consequential) arising out of, relating to, or in connection with this Agreement or any collateral contract (including the breach of this Agreement by the SCE Group Company), whether known, foreseen or foreseeable and whether in contract, tort (including negligence), product liability, under indemnity, or otherwise.

11.3.2 SCE Limitation of Liability for Other Consequential Losses. In no event shall the SCE Company, its Affiliates or the officers, directors, employees, agents, licensors or suppliers of any of such entities, be liable for any indirect, special, incidental or consequential loss or damage of any kind arising out of or in connection with this Agreement or any collateral contract (including the breach of this Agreement by the SCE Group Company), whether known,

foreseen or foreseeable and whether in contract, tort (including negligence), product liability, under an indemnity or otherwise.

11.3.3 SCE Limitation of Liability for Representations. Publisher shall have no remedy with respect to any representation made to it upon which it relied in entering into this Agreement and the SCE Company and its Affiliates and the officers, directors, employees, agents, licensors or suppliers of any of such entities shall have no liability to Publisher other than under the express terms of this Agreement. In this Section 11.3.3, "representation" means any undertaking, promise, assurance, statement, representation, warranty or understanding, whether in writing or otherwise, of any person (whether a party to this Agreement or not), relating to the subject matter of this Agreement.

11.3.4 SCE Limitation of Liability for SCE Materials and Publisher's Materials. Except as expressly set forth herein, neither the SCE Company, nor its Affiliates, nor the officers, directors, employees, agents, licensors or suppliers of any of such entities, shall bear any risk, or have any responsibility or liability of any kind to Publisher or to any third parties with respect to the quality, functionality, operation or performance of, or the use or inability to use, all or any part of the SCE Materials, the System, the Licensed Products or Units of Disc Products, or for any software errors or "bugs" in Product Information included on SCE Company demonstration discs.

11.3.5 SCE Limitation of Financial Liability. In no event shall the SCE Company's liability arising under, relating to, or in connection with this Agreement, or any collateral contract, exceed the total amount paid by Publisher under Section 9 within the 48 month period immediately prior to the date of the first occurrence of the event or circumstances giving rise to the claimed liability.

11.3.6 Publisher Limitation of Liability. In no event shall Publisher, its officers, directors, employees, agents, licensors or suppliers be liable to the SCE Company for loss of revenue, loss of actual or prospective profits, loss of contracts, loss of anticipated savings, loss of business opportunity, reputation or goodwill or loss of, damage to or corruption of data (whether such loss or damage is direct, indirect, special, incidental or consequential), arising out of or in connection with this Agreement or any collateral

contract (including the breach of this Agreement by Publisher) provided that such limitations shall not apply to damages resulting from Publisher's breach of Sections 2, 3, 5, 11.2, or 13 of this Agreement, or to any amounts which Publisher may be required to pay pursuant to Sections 11.2 or 16.9.

11.3.7 Disclaimer of Warranty. Except as expressly provided in Section 10.1, neither the SCE Company, nor any of its officers, directors, employees, agents or suppliers, make, nor does Publisher receive, any warranties (express, implied or statutory) regarding all or part of the SCE Materials, the SCE Confidential Information, the SCE Intellectual Property Rights, the System, Units manufactured hereunder or Product Information included on demonstration discs. Without limiting the generality of the foregoing, the SCE Company disclaims any warranties, conditions or other terms implied by any law (including as to merchantability, satisfactory quality or fitness for a particular purpose and warranties against infringement, and the equivalents thereof under the laws of any jurisdiction) to the fullest extent permitted by applicable law.

11.3.8 Law Applicable to Liabilities. Nothing in this Agreement shall exclude or limit any liability of either party which may not be excluded or limited under applicable law.

12. Infringement of SCE Intellectual Property Rights By Third Parties.

In the event that Publisher discovers or otherwise becomes aware that any of the SCE Intellectual Property Rights have been or are being infringed by any third party, Publisher

shall promptly notify the SCE Company. The SCE Company shall have the sole right, in its discretion, to institute and prosecute lawsuits against third parties regarding infringement of SCE Intellectual Property Rights. Any lawsuit shall be prosecuted solely at the cost and expense of the SCE Company and all sums recovered in any such lawsuits, whether by judgment, settlement or otherwise, shall belong solely to the SCE Company. Upon the SCE Company's request and cost, Publisher shall execute all papers, testify on all matters and otherwise cooperate in every way necessary or desirable for the prosecution of any such lawsuit. The SCE Company shall reimburse Publisher for the reasonable expenses incurred as a result of such cooperation, but unless authorized by other provisions of this Agreement, not costs and expenses attributable to any cross-claim, counterclaim or third party action.

13. Confidentiality.

13.1. SCE Confidential Information.

13.1.1 Definition of SCE Confidential Information. "SCE Confidential Information" shall mean:

(i) the SCE Materials, the Development Tools, the Guidelines, the Regional Riders and this Agreement, including all exhibits and schedules attached to any of the foregoing and all information related to these items;

(ii) other information, documents and materials developed, owned, licensed or under the control of the SCE Company or any Affiliate, including all processes, data, hardware, software, inventions, trade secrets, ideas, creations, improvements, designs, discoveries, developments, research and know-how, including SCE Intellectual Property Rights relating to the SCE Materials and the Development Tools; and

(iii) information, documents and other materials regarding the SCE Company's or any Affiliate's finances, business and business methods, marketing and technical plans, and development and production plans; and

(iv) third-party information and documents licensed to or under the control of the SCE Company or any Affiliate.

The SCE Confidential Information consists of information in any medium, whether oral, printed, in machine-readable form or otherwise, provided to Publisher before or during the Term, including information subsequently reduced to tangible or written form. In addition, the existence of a relationship between Publisher and the SCE Company shall be deemed to be the SCE Confidential Information unless otherwise agreed to in writing by the parties or until publicly announced by the SCE Company or any Affiliate.

13.1.2 Term of Protection of the SCE Confidential Information. The term for the protection of the SCE Confidential Information shall commence on the Effective Date and shall continue in full force and effect for as long as any of the SCE Confidential Information continues to be maintained as confidential and proprietary by the SCE Company or any Affiliate.

13.1.3 Preservation of SCE Confidential Information. Publisher shall, with respect to the SCE Confidential Information:

(i) not disclose SCE Confidential Information to any person, other than those employees, directors or officers of the Publisher or subcontractors expressly approved under Section 3.2, whose duties justify a "need-to-know" and who have executed a confidentiality agreement in which such employees, directors, officers or subcontractors have agreed not to disclose and to protect and maintain the confidentiality of all confidential information and materials inclusive of those of third parties which may be disclosed to them or to which they may have access during the course of their duties. At the SCE Company's request, Publisher shall provide the SCE Company with

a copy of such confidentiality agreement between Publisher and its employees, directors, officers, or subcontractors and shall also provide the SCE Company with a list of employee, director, officer, and subcontractor signatories. Publisher shall not disclose any of the SCE Confidential Information to third parties, other than expressly approved subcontractors under section 3.2, including to consultants or agents without the SCE Company's prior written consent. Any employees, directors, officers, subcontractors, authorized consultants and agents who obtain access to or copies of the SCE Confidential Information shall be advised by Publisher of the confidential or proprietary nature of the SCE Confidential Information, and Publisher shall be responsible for any breach of this Agreement by all such persons.

(ii) hold all of the SCE Confidential Information in confidence and take all measures necessary to preserve the confidentiality of the SCE Confidential Information in order to avoid disclosure, publication, or dissemination, using as high a degree of care and scrutiny, but at least reasonable care, as is consistent with the protection of valuable trade secrets by companies in high technology industries.

(iii) ensure that all written materials relating to or containing the SCE Confidential Information be maintained in a restricted access area and plainly marked to indicate the proprietary and confidential nature thereof.

(iv) at the SCE Company's request, return promptly to the SCE Company any and all portions of the SCE Confidential Information, together with all copies thereof.

(v) not use, copy, reproduce, modify, create derivative works from, sublicense, distribute, or otherwise disseminate the SCE Confidential Information, or any portion thereof, except as expressly authorized, nor shall Publisher remove any proprietary legend set forth on or contained within any of the SCE Confidential Information.

13.1.4 **Exceptions**. The foregoing restrictions shall not apply to any portion of the SCE Confidential Information which:

(i) was previously known by Publisher without restriction on disclosure or use, as proven by written documentation of Publisher;

(ii) is or legitimately becomes part of the public domain through no fault of Publisher or any of its employees, directors, officers, consultants or agents;

(iii) is independently developed by Publisher's employees or consultants who have not had access to or otherwise used the SCE Confidential Information (or any portion thereof), as proven by written documentation of Publisher;

(iv) is required to be disclosed by court, administrative or governmental order; provided that Publisher must use all reasonable efforts prior to issuance of any such order to maintain the confidentiality of the SCE Confidential Information, including asserting in any action or investigation the restrictions set forth in this Agreement, and, immediately after receiving notice of any such action, investigation, or threatened action or investigation, Publisher must notify the SCE Company of such action, investigation, or threatened action or investigation, unless Publisher is ordered by a court not to so notify; or

(v) is approved for release by written authorization of the SCE Company.

13.1.5 **No Obligation to License**. Disclosure of the SCE Confidential Information to Publisher shall not (i) constitute any option, grant or license from the SCE Company to Publisher under any SCE Intellectual Property Rights now or after owned or controlled by the SCE Company; (ii) result in any obligation on the part of the SCE Company to approve any materials of Publisher; (iii) give Publisher any right to, directly or indirectly, develop, manufacture, sell or otherwise distribute any product derived from or which uses or was

developed with the use of the SCE Confidential Information (or any portion thereof), other than as expressly set forth in this Agreement.

13.1.6 Publisher's Obligations Upon Unauthorized Disclosure. If at any time Publisher becomes aware of any unauthorized duplication, access, use, possession or knowledge of any of the SCE Confidential Information, it shall notify the SCE Company as soon as reasonably practicable, and shall promptly act to recover any such information and prevent further breach of the confidentiality obligations herein. Publisher shall provide any and all reasonable assistance to the SCE Company to protect the SCE Company's proprietary rights in any of the SCE Confidential Information that Publisher or its employees, directors, officers, or permitted subcontractors, consultants, or agents may have directly or indirectly disclosed or made available, and that may be duplicated, accessed, used, possessed or known in any manner or for any purpose not expressly authorized by this Agreement, including enforcement of confidentiality agreements, commencement and prosecution in good faith (alone or with the SCE Company) of legal action, and reimbursement for all reasonable lawyers' fees, costs and expenses incurred by the SCE Company to protect the SCE Company's proprietary rights in the SCE Confidential Information. Publisher shall take all steps reasonably requested by the SCE Company to prevent the recurrence of any unauthorized duplication, access, use, possession or knowledge of the SCE Confidential Information.

13.2. Publisher's Confidential Information.

13.2.1 Definition of Publisher's Confidential Information. "Publisher's Confidential Information" shall mean:

(i) any Publisher Software provided to the SCE Company pursuant to this Agreement and all documentation and information relating thereto, including Product Proposals, Printed Materials and Advertising Materials (other than documentation and information intended for release to and use by end users, the general public or the trade);

(ii) other documents and materials developed, owned, licensed or under the control of Publisher, including all processes, data, hardware, software, inventions, trade secrets, ideas, creations, improvements, designs, discoveries, developments, research and know-how; and

(iii) information and documents regarding Publisher's finances, business, marketing and technical plans, business methods and production plans.

Publisher's Confidential Information may consist of information in any medium, whether oral, printed, in machine-readable form or otherwise, provided to the SCE Company before or during the Term, including information subsequently reduced to tangible or written form.

13.2.2 Term of Protection of Publisher's Confidential Information. The term for the protection of Publisher's Confidential Information shall commence on the Effective Date and shall continue in full force and effect for as long as any of Publisher's Confidential Information continues to be maintained as confidential and proprietary by Publisher.

13.2.3 Preservation of Confidential Information of Publisher. The SCE Company shall, with respect to Publisher's Confidential Information:

(i) hold all Publisher's Confidential Information in confidence and take all reasonable steps to preserve the confidentiality of Publisher's Confidential Information, and to prevent it from falling into the public domain or into the possession of persons other than those persons to whom disclosure is authorized hereunder.

(ii) not disclose Publisher's Confidential Information to any person other

than the SCE Company's or a Designated Manufacturing Facility's employees, directors, agents, consultants and subcontractors who need to know or have access to Publisher's Confidential Information for the purposes of this Agreement, and only to the extent necessary for such purposes.

(iii) ensure that all written materials relating to or containing Publisher's Confidential Information be maintained in a secure area and plainly marked to indicate the proprietary and confidential nature thereof.

(iv) at Publisher's request, return promptly to Publisher any and all portions of Publisher's Confidential Information, together with all copies thereof.

(v) not use Publisher's Confidential Information, or any portion thereof, except as provided herein, nor shall the SCE Company remove any proprietary legend set forth on or contained within any of Publisher's Confidential Information.

13.2.4 **Exceptions**. The foregoing restrictions shall not apply to any portion of Publisher's Confidential Information which:

(i) was previously known by the SCE Company without restriction on disclosure or use, as proven by written documentation of the SCE Company;

(ii) comes into the possession of the SCE Company from a third party which is not under any obligation to maintain the confidentiality of such information;

(iii) is or legitimately becomes part of information in the public domain through no fault of the SCE Company, or any of its employees, directors, agents, consultants or subcontractors;

(iv) is independently developed by the SCE Company's employees, consultants or subcontractors who have not had access to or otherwise used Publisher's Confidential Information (or any portion thereof), as proven by written documentation of the SCE Company;

(v) is required to be disclosed by court, administrative, or governmental order; provided that the SCE Company attempts, prior to the issuance of any such order, to maintain the confidentiality of Publisher's Confidential Information, including asserting in any action or investigation the restrictions set forth in this Agreement, and immediately after receiving notice of any such action, investigation, or threatened action or investigation, notifies Publisher of such action, investigation, or threatened action or investigation, unless the SCE Company is ordered by a court not to so notify; or

(vi) is approved for release by written authorization of Publisher.

13.2.5 **SCE Company's Obligations Upon Unauthorized Disclosure**. If at any time the SCE Company becomes aware of any unauthorized duplication, access, use, possession or knowledge of Publisher's Confidential Information, it shall notify Publisher as soon as is reasonably practicable. The SCE Company shall provide any and all reasonable assistance to Publisher to protect Publisher's proprietary rights in any of Publisher's Confidential Information that it or its employees or permitted subcontractors may have directly or indirectly disclosed or made available and that may be duplicated, accessed, used, possessed or known in a manner or for a purpose not expressly authorized by this Agreement, including enforcement of confidentiality agreements, commencement and prosecution in good faith (alone or with Publisher) of legal action, and reimbursement for all reasonable lawyers' fees, costs and expenses incurred by Publisher to protect Publisher's proprietary rights in Publisher's Confidential Information. The SCE Company shall take all reasonable steps requested by Publisher to prevent the recurrence of any unauthorized duplication, access, use, possession or knowledge of Publisher's Confidential Information.

13.3. **Confidentiality of Agreement**. While the terms of this Agreement and the Regional Rider shall be treated as SCE Confidential Information, Publisher may disclose their terms and conditions:

(i) to legal counsel;

(ii) in confidence, to accountants, banks and financing sources and their advisors;

(iii) in confidence, in connection with the enforcement of this Agreement or rights arising under or relating to this Agreement; and

(iv) if required, in the opinion of its counsel, to file publicly or otherwise disclose the terms of this Agreement under applicable securities or other laws, Publisher shall promptly notify the SCE Company of such obligation so that the SCE Company has a reasonable opportunity to contest or limit the scope of such required disclosure, and Publisher shall request, and shall use best efforts to obtain, confidential treatment for such sections of this Agreement as the SCE Company may designate.

14. Term Renewal and Termination.

14.1. **Term Renewal**. The Term shall be automatically extended for additional one-year terms, unless either party provides the other with written notice of its election not to extend on or before January 31 of the year in which the Term would renew. Notwithstanding the foregoing, the term for the protection of SCE Confidential Information and Publisher's Confidential Information shall be as set forth in Sections 13.1.2 and 13.2.2 respectively.

14.2. **Termination by SCE Company**. The SCE Company shall have the right to terminate the Agreement immediately, on written notice to Publisher, upon the occurrence of any of the following:

(i) If Publisher is in material breach of any of its obligations under the Agreement or under any other agreement entered into between the SCE Company or any Affiliate, on the one hand, and Publisher on the other hand;

(ii) A statement of intent by Publisher to no longer exercise any of the rights granted by the SCE Company to Publisher hereunder or Publisher failing to submit materials under section 6.1 or failing to issue any Purchase Orders during any period of twelve consecutive calendar months;

(iii) If Publisher (a) is unable to pay its debts when due; (b) makes an assignment for the benefit of any of its creditors; (c) files or has filed against it a petition, or an order of bankruptcy or insolvency is made, under the bankruptcy or insolvency laws of any jurisdiction (and such petition is not discharged within 60 days) or becomes or is adjudicated bankrupt or insolvent; (d) is the subject of an order for, or applies for or notices its intent to apply for, the appointment of an administrator, receiver, administrative receiver, manager, liquidator, trustee or similar officer to be appointed over any of its business or property; (e) ceases to do business or enters into liquidation; or (f) takes or suffers any similar or analogous action in any jurisdiction as a consequence of debt;

(iv) If a controlling interest in Publisher or in an entity which directly or indirectly has a controlling interest in Publisher is transferred to a party that (a) is in breach of any agreement with the SCE Company or any Affiliate; (b) directly or indirectly holds or acquires a controlling interest in a third party which designs, develops any of the core components for an interactive device or product which is directly or indirectly competitive with the System, or itself develops any product that is directly or indirectly competitive with the System; or (c) is in litigation or in an adversarial administrative proceeding with the SCE Company or any Affiliate concerning the SCE Confidential Information or any SCE Intellectual Property Rights, including challenging validity of any SCE Intellectual Property Rights;

(v) If Publisher or any entity that directly or indirectly has a controlling interest in Publisher (a) enters into a business relationship with a third party related to the design or development of any core components for an interactive device or product which is directly or indirectly competitive with the System; or (b) acquires an interest in or otherwise forms a strategic business relationship with any third party which has developed or owns or acquires intellectual property rights in any such device or product;

(vi) If Publisher or any of its affiliates initiates any legal or administrative action against the SCE Company or any Affiliate or challenges the validity of any SCE Intellectual Property Rights;

(vii) If Publisher fails to pay any sums owed to the SCE Company on the date due and such default is not fully corrected or cured within ten (10) business days of the date on which such payment was originally due; or

(viii) If Publisher or any of its officers or employees engage in "hacking" of any software for any PlayStation format or in activities which facilitate the same by any third party.

As used hereinabove, "controlling interest" means, with respect to any form of entity, sufficient power to control the decisions of such entity. Publisher shall immediately notify the SCE Company in writing in the event that any of the events or circumstances specified in this Section 14.2 occur. In the event of termination under 14.2(viii), the SCE Company shall have the right to terminate any other agreements entered into between the SCE Company and Publisher.

14.3. Product-by-Product Termination. In addition to the events of termination described in Section 14.2, the SCE Company, at its option, shall be entitled to terminate, with respect to a particular Licensed Product, the licenses and related rights herein granted to Publisher immediately on written notice to Publisher, in the event that (a) Publisher fails to notify the SCE Company promptly in writing of any material change to any materials previously approved by the SCE Company in accordance with Sections 6 and the relevant Guidelines, and such breach is not corrected or cured within 30 days after receipt of written notice of such breach; (b) Publisher uses a third party that fails to comply with the requirements of Section 3.2 in connection with the development of any Licensed Product; (c) any third party with whom Publisher has contracted for the development of Licensed Products breaches any of its material obligations to the SCE Company pursuant to such third party's agreement with the SCE Company with respect to any such Licensed Product; (d) Publisher cancels a Licensed Product or fails to provide the SCE Company, in accordance with the provisions of Section 6 and the relevant Guidelines, with the final version of the Executable Software for any Licensed Product within three months of the scheduled release date (as referenced in the Product Proposal or as otherwise mutually agreed by the parties in writing), fails to provide work in progress to the SCE Company in strict compliance with the review process set forth in the Guidelines, fails to provide fully tested final Executable Software in strict conformance with the Guidelines; or (e) Publisher otherwise fails materially to conform to the Guidelines with respect to any particular Licensed Product.

14.4. Options in Lieu of Termination. As alternatives to terminating the Agreement or all licensed rights with respect to a particular Licensed Product as set forth in Sections 14.2 and 14.3, the SCE Company may, at its option and upon written notice to Publisher, suspend this Agreement, entirely or with respect to a particular Licensed Product or program, for a set period of time which shall be specified in writing to Publisher upon the occurrence of any breach of this Agreement. Election of suspension shall not constitute a waiver of or compromise with respect to any of the SCE Company's rights under this Agreement and the SCE Company may elect to terminate this Agreement with respect to any breach.

14.5. **No Refunds**. In the event that this Agreement expires or is terminated under any of Sections 14.2 through 14.4, no portion of any payments of any kind whatsoever previously provided hereunder shall be owed or be repayable or refunded to Publisher.

15. Effect of Expiration or Termination.

15.1. **Inventory Statement**. Within 30 days of the date of expiration or the effective date of termination with respect to any or all Licensed Products or this Agreement, Publisher shall provide the SCE Company with an itemized statement, certified to be accurate by an officer of Publisher, specifying the number of unsold Units of the Licensed Products as to which such termination applies, on a title-by-title basis, which remain in its inventory or under its control at the time of expiration or the effective date of termination. The SCE Company shall be entitled to conduct at its expense a physical inspection of Publisher's inventory and work in process upon reasonable written notice during normal business hours in order to ascertain or verify such inventory and inventory statement.

15.2. **Reversion of Rights**. Upon expiration or termination and subject to Section 15.3, the licenses and related rights herein granted to Publisher shall immediately revert to the SCE Company, and Publisher shall cease from any further use of the SCE Confidential Information, Licensed Trademarks and the SCE Materials and any SCE Intellectual Property Rights therein, and, subject to the provisions of Section 15.3, Publisher shall have no further right to continue the development, publication, manufacture, marketing, advertising, sale or other distribution of any Licensed Products, or to continue to use any Licensed Trademarks; provided, however, that for a period of one year after the effective date of termination, and subject to all the terms of Section 13, and provided this Agreement is not terminated due to any breach or default by Publisher, Publisher may retain such portions of the SCE Materials and the SCE Confidential Information as the SCE Company in its sole discretion agrees are required to support end users who possess Licensed Products but must return all these materials at the end of such one year period. Upon expiration or termination, the licenses and related rights herein granted to the SCE Company by Publisher shall immediately revert to Publisher, and the SCE Company shall cease from any further use of Product Information and any Publisher Intellectual Property Rights therein; provided that the SCE Company may continue the manufacture, marketing, advertising, sale and other such distribution of any SCE Company demonstration discs containing Publisher's Product Information which Publisher had previously approved.

15.3. **Disposal of Unsold Units Upon Termination**. In the event of termination of this Agreement under sections 14.2(ii), (iv), or (v), Publisher may sell off existing inventories of Units of the Disc Products, on a non-exclusive basis, and strictly in accordance with this Agreement, for a period of 90 days from the date of expiration or effective date of termination of this Agreement, and provided such inventories have not been manufactured solely or principally for sale during such period. Subsequent to the expiration of such 90 day period, or in the event this Agreement is terminated under Sections 14.2(i), (iii), (vi), (vii), or (viii), any and all Units of the Disc Products remaining in Publisher's inventory or otherwise under its control shall be destroyed by Publisher within five (5) business days of such expiration or termination date. Within five (5) business days after such destruction, Publisher shall provide the SCE Company with an itemized statement, certified to be accurate by an officer of Publisher, indicating the number of Units of the Licensed Products which have been destroyed (on a title-by-title basis), the location and date of such destruction, and the disposition of the remains of such destroyed materials.

15.4. **Disposal of Unsold Units Upon Non- Renewal**. In the event that the Term expires and this Agreement is not renewed, Publisher may continue to publish those Licensed Products containing Executable Software whose development was completed before or during the Term, and to use the Licensed Trademarks strictly, only and directly in connection with

such publication, until the Term expires or, if later, until the second anniversary of the 31 January next following such completion. Upon expiration of the Term or, the extended period for publishing Licensed Products, Publisher may sell off existing inventories of such Licensed Products on a non-exclusive basis for a period of 180 days from the applicable expiration date; provided that such inventory is not manufactured solely or principally for sale within such sell-off period.

15.5. Return of the SCE Materials and the SCE Confidential Information. Upon the expiration or earlier termination of this Agreement or following either the 180 day period or the 90 day period referenced in Sections 15.4 and 15.3 and subject to Section 15.2, Publisher shall immediately deliver to the SCE Company, or if and to the extent requested by the SCE Company, destroy, all SCE Materials and any and all copies thereof, and Publisher and the SCE Company shall, upon the request of the other party, immediately deliver to the other party, or to the extent requested by such party destroy, all Confidential Information of the other party, including any and all copies thereof, which the other party previously furnished to it in furtherance of this Agreement. Within five (5) working days after any such destruction, Publisher or the SCE Company, as appropriate, shall provide the other party with a certificate of destruction and an itemized statement, each certified to be accurate by an officer of Publisher, indicating the number of copies or units of the SCE Materials or SCE Confidential Information which have been destroyed, the location and date of such destruction and the disposition of the remains of such destroyed materials. In the event that Publisher fails to return or certify the destruction of the SCE Materials or SCE Confidential Information and the SCE Company must resort to legal means (including any use of lawyers) to recover the SCE Materials or SCE Confidential Information or the value thereof, all costs, including the SCE Company's reasonable lawyers' fees, shall be borne by Publisher, and the SCE Company may, in addition to the SCE Company's other remedies, withhold such amounts from any payment otherwise due from the SCE Company to Publisher under any agreement between the SCE Company and Publisher.

15.6. Extension of this Agreement; Termination Without Prejudice. The SCE Company shall be under no obligation to extend this Agreement notwithstanding any actions taken by either of the parties prior to the expiration of this Agreement. Upon the expiration of this Agreement, neither party shall be liable to the other for any damages (whether direct, indirect, consequential or incidental, and including any expenditures, loss of profits or prospective profits) sustained or arising out of or alleged to have been sustained or to have arisen out of such expiration. The expiration or termination of this Agreement shall be without prejudice to any rights or remedies which one party may otherwise have against the other party, and shall not excuse either party from liability with respect to any events occurring prior to expiration or the effective date of termination.

16. Miscellaneous Provisions.

16.1. Notices. All notices or other communications required or desired to be sent to either of the parties shall be in writing and shall be sent by registered or certified mail, postage prepaid, or sent by recognized international courier service, or facsimile, with charges prepaid. The address for all notices or other communications required to be sent to the SCE Company or Publisher, respectively, shall be the mailing address stated in the preamble hereof, or such other address as may be provided by written notice from one party to the other on at least ten (10) days' prior written notice. Any such notice shall be effective upon the date of actual receipt, as confirmed by the receiving party.

16.2. Audit Provisions. Publisher shall keep full, complete, and accurate books of accounts and records covering all transactions relating to this Agreement. Publisher shall preserve such books of accounts, records,

documents, and materials for a period of 24 months after the expiration or earlier termination of this Agreement. Acceptance by the SCE Company of any accounting statement, purchase order, or payment hereunder will not preclude the SCE Company from challenging or questioning the accuracy thereof at a later time. In the event that the SCE Company reasonably believes that the pricing information provided by Publisher with respect to any Licensed Product is not accurate, the SCE Company shall be entitled to request additional documentation from Publisher to support the pricing information provided for such Licensed Product. In addition, during the Term and for a period of two (2) years thereafter and upon the giving of reasonable prior written notice to Publisher, at the SCE Company's expense, representatives of the SCE Company shall be given access to, and the right to inspect, audit, and make copies and summaries of and take extracts from, such portions of all books and records of Publisher, and Publisher's affiliates and branch offices, as pertain to the Licensed Products and any payments due or credits received hereunder. Any such audit shall take place during normal business hours and shall, at the SCE Company's sole election, be conducted either by an independent certified accountant or by an appropriately professionally qualified SCE Company employee. In the event that such inspection reveals any under-reporting of any payment due to the SCE Company, Publisher shall immediately pay the SCE Company such amount. In the event that any audit conducted by the SCE Company reveals that Publisher has under-reported any payment due to the SCE Company hereunder by five percent or more for the relevant audit period, then in addition to the payment of the appropriate amount due to the SCE Company, Publisher shall reimburse the SCE Company for all reasonable audit costs for that audit and any and all collection costs to recover any unpaid amounts.

16.3. **Force Majeure**. Neither the SCE Company nor Publisher shall be liable for any loss or damage or be deemed to be in breach of this Agreement if its failure to perform or failure to cure any of its obligations under this Agreement results from any event or circumstance beyond its reasonable control, including any natural disaster, fire, flood, earthquake or other Act of God; shortage of equipment, materials, supplies or transportation facilities; strike or other industrial dispute; war or rebellion; shutdown or delay in power, telephone or other essential service due to the failure of computer or communications equipment or otherwise; provided, however, that the party interfered with gives the other party written notice thereof promptly, and, in any event, within fifteen (15) business days of discovery of any such Force Majeure condition. If notice of the existence of any Force Majeure condition is provided within such period, the time for performance or cure shall be extended for a period equal to the duration of the Force Majeure event or circumstance described in such notice, except that any such cause shall not excuse the payment of any sums owed to the SCE Company prior to, during or after the occurrence of any such Force Majeure condition. In the event that the Force Majeure condition continues for more than 60 days, the SCE Company may terminate this Agreement for cause by providing written notice to Publisher to such effect.

16.4. **No Agency, Partnership or Joint Venture.** The relationship between the SCE Company and Publisher, respectively, is that of licensor and licensee. Both parties are independent contractors and neither party is the legal representative, agent, joint venturer, partner or employee of the other party for any purpose whatsoever. Neither party has any right or authority to assume or create any obligations of any kind or to make any representation or warranty on behalf of the other party, whether express or implied, or to bind the other party in any respect whatsoever.

16.5. **Assignment**. The SCE Company has entered into this Agreement based upon the particular reputation, capabilities and experience of Publisher and its officers, directors and employees. Except as provided in this Agreement, Publisher may not assign, sublicense, subcontract, encumber or otherwise

transfer this Agreement or any of its rights hereunder, nor delegate or otherwise transfer any of its obligations hereunder, to any third party unless the prior written consent of the SCE Company shall first be obtained. Any attempted or purported assignment, delegation or other such transfer, directly or indirectly, without the required consent of the SCE Company shall be void and a material breach of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of the parties and their respective successors and permitted assigns (other than in connection with any of the events referenced in Section 14.2(iv).) The SCE Company shall have the right to assign any and all of its rights and obligations hereunder to any Affiliate(s) or to any company in the Sony family group of companies.

16.6. **Non-solicitation**. Neither Publisher nor any of its affiliates, by itself, its officers, employees or agents, or indirectly, shall during the Term, induce or seek to induce, on an individually targeted basis, the employment or the engagement of the services of, any employee of the SCE Company or any of its Affiliates, whose services are (a) specifically engaged in product development or directly related functions or (b) otherwise reasonably deemed by his or her employer to be of material importance to the protection of its legitimate business interests, and (c) with whom Publisher or any of its affiliates shall have had contact or dealings during the Term. The foregoing provisions shall continue to apply for a period of 12 months after this Agreement expires or is terminated.

16.7. **Compliance with Applicable Laws**. The parties shall at all times comply with all applicable laws and regulations and all conventions and treaties to which their countries are a party or relating to or in any way affecting this Agreement and the performance by the parties of this Agreement, including the US Children's Online Privacy Protection Act and all other laws and regulations relating to the gathering, handling and dissemination of all data from or concerning end users of Online Products Each party, at its own expense, shall negotiate and obtain any approval, license or permit required in the performance of its obligations, and shall declare, record or take such steps to render this Agreement binding, including the recording of this Agreement with any appropriate governmental authorities (if required).

16.8. **Legal Costs and Expenses**. In the event it is necessary for either party to retain the services of a lawyer to enforce the provisions of this Agreement or to file or defend any action arising out of this Agreement, then the prevailing party in any such action shall be entitled, in addition to any other rights and remedies available to it at law or in equity, to recover from the other party its

reasonable fees for lawyers and expert witnesses, plus such court costs and expenses as may be fixed by any court of competent jurisdiction. The term "prevailing party" for the purposes of this Section shall include a defendant who has by motion, judgment, verdict or dismissal by the court, successfully defended against any claim that has been asserted against it.

16.9. **Remedies**. Unless expressly set forth to the contrary, either party's election of any remedies provided for in this Agreement shall not be exclusive of any other remedies at law or equity, and all such remedies shall be deemed to be cumulative. Any breach of Sections 2, 3, 5, 6, 7.1 - 7.7, 13 or 15 of this Agreement would cause significant and irreparable harm to the SCE Company, the extent of which would be difficult to ascertain and for which damages might not be an adequate remedy. Accordingly, in addition to any other remedies, including damages to which the SCE Company may be entitled, in the event of a breach or threatened breach by Publisher, or any of its directors, officers, employees, agents or permitted consultants or subcontractors, of any such Section or Sections of this Agreement, the SCE Company shall be entitled to the immediate issuance without bond or other security, of ex parte equitable relief, including injunctive relief, or, if a bond is required under applicable law, on the posting of a bond in an amount not to exceed USD XXXX, enjoining any breach or threatened breach of any or all of such provisions. Such

remedy shall be in addition to and not in limitation of any injunctive relief or other remedies to which the SCE Company may be entitled under this Agreement or otherwise at law or in equity.

16.10. **Severability**. In the event that any provision of this Agreement or portion thereof is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, such provision or portion shall be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, while the remainder of this Agreement shall continue in full force and remain in effect according to its stated terms and conditions.

16.11. **Sections Surviving Expiration or Termination**. The following Sections shall survive the expiration or earlier termination of this Agreement for any reason: 5, 6.2, 6.3, 6.4, 7.10, 9, 10, 11, 13, 14.5, 15 and 16 and any terms in any Regional Rider that are expressly designated as surviving termination.

16.12. **Waiver**. No failure or delay by either party in exercising any right, power or remedy under this Agreement shall operate as a waiver of any such right, power or remedy. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. Any waiver by either party of any provision of this Agreement shall not be construed as a waiver of any other provision of this Agreement, nor shall such waiver operate or be construed as a waiver of such provision respecting any future event or circumstance.

16.13. **Modification and Amendment**. The SCE Company reserves the right, at any time upon reasonable notice to Publisher, to amend the relevant provisions of this Agreement or the Guidelines, to take account of or in response to any decision, order, or objection of any court or governmental or other competition authority of competent jurisdiction, or any statutory or similar measures that give effect to any such decision (from which this Agreement and the Guidelines are not exempt) or to reflect any undertaking by the SCE Company to any such authority. Any such amendment shall be of prospective application only and shall not be applied to any Licensed Products submitted to the SCE Company pursuant to Section 6 prior to the date of the SCE Company's notice of amendment. In the event that Publisher is unwilling to accept any such amendment, then Publisher shall have the right to terminate this Agreement by providing written notice to the SCE Company no more than 90 days following the date of the SCE Company's notice of amendment. The provisions of Section 15.3 shall come into effect upon any such termination by Publisher. Subject to the remainder of this Section 16.13 and except as otherwise provided in this Agreement, no modification or amendment of any provision of this Agreement shall be effective unless in writing and signed by both of the parties.

16.14. **Interpretation**. The section headings used in this Agreement are intended primarily for reference and shall not by themselves determine the construction or interpretation of this Agreement or any portion hereof. Any reference to section numbers are to the sections of this Agreement. Any reference to persons includes natural persons as well as organizations, including firms, partnerships, companies and corporations. Any phrase introduced by the terms "including," "include," "in particular," or any similar expression shall be construed as illustrative and shall not limit the category preceding those terms.

16.15. **Integration**. This Agreement, together with the Guidelines, constitutes the entire agreement between the SCE Company and Publisher and supersedes all prior or contemporaneous agreements, proposals, representations, understandings and communications between the SCE Company and Publisher, whether oral or written, with respect to the subject matter hereof, including any PlayStation 3 Confidentiality and Nondisclosure Agreement between the SCE Company and Publisher. Publisher is not relying upon any statement, representation, warranty or understanding, whether negligently or innocently made, of any person other than as expressly set out in this Agreement.

16.16. **Counterparts**. This Agreement may be executed in counterparts, each of which shall be deemed an original, and together shall constitute one and the same instrument.

16.17. **Construction**. This Agreement shall be fairly interpreted in accordance with its terms and without any strict construction in favor of or against either of the parties.

THIS AGREEMENT HAS BEEN ENTERED INTO ON THE DATE STATED AT THE BEGINNING OF IT.

SONY COMPUTER ENTERTAINMENT AMERICA LLC		**TAKE-TWO INTERACTIVE SOFTWARE, INC.**	
By:	/s/Rob Dyer	By:	/s/Daniel Emerson
Print Name:	Rob Dyer	Print Name:	Daniel Emerson
Title:	SVP	Title:	SVP and Associate General Counsel
Date:	August 9, 2012	Date:	July 20, 2010

NOT AN AGREEMENT UNTIL
EXECUTED BY BOTH PARTIES

SONY COMPUTER ENTERTAINMENT AMERICA LLC

FIRST AMENDED NORTH AMERICAN TERRITORY RIDER TO THE GLOBAL PLAYSTATION3 FORMAT LICENSED PUBLISHER AGREEMENT

This **First Amended North American Territory Rider to the Global PlayStation®3 Format Licensed Publisher Agreement** (the "Rider" or "1st Amended North American Rider") is entered into and rendered effective as of this 22nd day of April, 2010 (the "Effective Date.)

1. Incorporation

The Rider's terms and conditions are incorporated into and read in conjunction with the terms and conditions of the Global PlayStation 3 Format Licensed Publisher's Agreement signed by Publisher ("PS3 LPA").

2. Definitions

All capitalized words and phrases referenced in the Rider that are not expressly defined herein shall have the meanings set forth in the Definitions section of the PS3 LPA.

2.1 "Wholesale Price" or "WSP" means the initial wholesale price Publisher offers to retailers of Disc Products as evidenced by sell sheets or other trade materials. No deduction for volume discounts, cooperative marketing, merchandising incentives, or other sales or marketing programs shall be taken to determine the initial wholesale price for the purpose of calculating royalties.

3. Territory

A. The Territory pursuant to the Rider and the PS3 LPA is expressly limited to the following countries and territories:

(1) The United States of America and its territories and possessions;

(2) Canada; and

(3) Mexico.

B. SCEA shall be entitled to modify and amend the Territory from time to time during the Term by providing written notice of any such changes to Publisher. In the event a country is deleted from the Territory, SCEA shall deliver to Publisher a written notice stating the number of days within which Publisher must cease distributing Licensed Products and must retrieve any Development Tools located in any deleted country.

C. Publisher shall not, directly or indirectly, solicit orders for or sell any Units of Disc Products in any situation where Publisher knows or reasonably should know that any of such Disc Products may be exported or resold outside of the Territory.

4. Royalties Applicable to Licensed Products

A. Disc Products.

(i) Initial Orders. In accordance with Section 9 of the PS3 LPA, Publisher shall pay SCEA, either directly or through its designee, a royalty in United States dollars for each Unit of the Disc Products manufactured, as follows:

For product distributed on a XXXXGB BD: XXXX% of WSP + $XXXX

For product distributed on a XXXXGB BD: XXXX% of WSP + $XXXX

To insure quality, royalty payments include manufacturing of the BluRay disc and Packaging, excluding Printed Materials and inserts. In the future and at its sole discretion, SCEA may allow Publisher to use alternative packaging facilities provided that Publisher can prove that it can meet all of SCEA's quality assurance criteria set forth in the Guidelines. At that time, SCEA may restructure royalties to account for costs related to Packaging.

In the absence of satisfactory evidence to support the WSP, the royalty rate that shall apply will be XXXX ($XXXX) for a BluRay XXXX disc and XXXX ($XXXX) for a BluRay XXXX disc, per Unit. Upon receipt of any notice of change in royalties under Section 9.1 of the PS3 LPA, Publisher shall have the option to terminate this Agreement upon written notice to SCEA and discontinue all production, publishing, marketing, advertising, sale, distribution and other exploitation of Licensed Products, rather than having such revised royalty structure go into effect.

(ii) Reorders and Other Programs. Royalties on additional orders for Disc Products shall be the royalty determined by the initial Wholesale Price as originally reported by Publisher for that Disc Product, regardless of the wholesale price of the Disc Product at the time of reorder, except: (a) in the event that the Wholesale Price increases for such Disc Product, in which case the royalty shall be adjusted upwards to reflect the higher Wholesale Price; or (b) the product qualifies for an alternative royalty program offered by SCEA. Disc Products qualifying for SCEA's "Greatest Hits" programs or other SCEA alternative royalty programs shall be subject to the royalty rates applicable for such programs as set forth in the Guidelines.

(iii) Third Party Publisher Demo Disc Program Royalties. Publisher shall be able to produce demonstration discs in accordance with the Guidelines published by SCEA for demonstration discs in the Territory. The quantity of Units ordered shall comply with the terms of such SCEA Established Third Party Demo Disc Program.

B. Online Products.

Publisher must require all end-users to sign in with the end-user's unique PLAYSTATION Network identifier ("PSN Online ID") when accessing Online Gameplay. On a site that allows end-users access to Online Gameplay, for revenue, income, or other monetary value ("Consumer Value") that is earned, recognized, or otherwise derived by Publisher, including revenue recognized through distribution of Licensed Products or services provided free of charge to end-users, Publisher shall pay SCEA, either directly or through its designee, a XXXX% royalty in United States dollars on all Consumer Value.

Prior to distributing a Licensed Product to consumers without cost or other consideration, Publisher shall confer with SCEA to determine the deemed Consumer Value of the Licensed Product.

C. Advertising. Content or services that are supported by advertising shall be subject to a separate agreement or rider to the PS3 LPA and to SCEA's advertising policies and procedures. No advertisements shall be placed in Online Products nor shall advertisements be placed or served dynamically in Licensed Products without a separate express license from SCEA. SCEA reserves the right to charge an additional or different royalty for third-party advertising in-game, whether dynamic or static.

5. Accounting.

Publisher shall provide SCEA with monthly reports of the gross Consumer Value revenues actually received by Publisher (or otherwise credited to its benefit). Such monthly reports shall be delivered on a per title basis to SCEA no later than thirty (30) days after the end of each month, beginning with the month in which Publisher launches a title-specific site that allows end-users access to Online Gameplay of that title. SCEA shall have the right to adopt and implement online royalty accounting verification mechanisms at its sole discretion.

6. Additional Regional Terms.

6.1 Payment Terms. In addition to the remedies and requirements set forth in the PS3 LPA, any overdue sums shall bear interest at the rate of XXXX (XXXX%) per month, or such lower rate as may be the maximum rate permitted under applicable law, from the date when payment first became due through and including the date of payment.

6.2 Subpublishing Prohibited. Publisher's license to publish Licensed Products in the Territory under the PS3 LPA does not extend to Licensed Products previously published for the PlayStation 3 computer entertainment system by another Licensed Publisher.

6.3 Liquidated Damages. As an additional option in lieu of termination under Section 14.4 of the PS3 LPA, SCEA may require Publisher to pay liquidated damages of XXXX ($XXXX) for certain breaches of the Agreement, including violations of SCEA's trademark rights under Section 6.8.2 of the PS3 LPA. Liquidated damages may be invoiced separately or on Publisher's next invoice for Disc Products. Election of liquidated damages shall not constitute a waiver of or compromise with respect to any of SCEA's rights under this Rider or the PS3 LPA and SCEA may elect to terminate the PS3 LPA with respect to any breach.

6.4 Additional Ground for Termination. If Publisher fails to pay any sums owed to SCEA (including liquidated damages pursuant to Section 6.3 of this Rider) on the date due and such default is not fully corrected or cured within ten (10) business days of the date on which such payment was originally due, SCEA shall be entitled to terminate under Section 14.2 of the PS3 LPA.

6.5 Subcontractors. SCEA requires that Publisher enter into a Subcontractor Agreement for use of subcontractors under Sections 2.1(i) and 3.2 of the PS3 LPA. Each Subcontractor Agreement shall provide that SCEA has the full right to bring any actions against the signing subcontractor, to require the subcontractor to comply with all the terms and conditions of the PS3 LPA or the Subcontractor Agreement. Publisher shall provide a copy of any proposed Subcontractor Agreement to SCEA prior to, and a fully-executed copy promptly following, execution

of the Subcontractor Agreement. Publisher shall give SCEA written notice of the identity of any prospective subcontractor no less than ten (10) business days prior to entering into an agreement or other arrangement with the prospective subcontractor.

7. Notices.

Any notices required under this Rider or the PS3 LPA shall be delivered addressed to the following persons:

For Publisher: Take-Two Interactive Software, Inc.
622 Broadway
New York, NY 10012
Attn: _____

For SCEA: ATTN: General Counsel
Sony Computer Entertainment America LLC
919 East Hillsdale Boulevard
Foster City, CA 94404

8. Governing Law.

The Agreement and this Rider shall be governed by and interpreted in accordance with the laws of the State of California, excluding that body of law related to choice of laws, and of the United States of America.

9. Dispute Resolution.

The Parties shall attempt in good faith to resolve through informal discussions or negotiations any dispute, controversy or claim of any kind or nature arising under or in connection with this Agreement, including breach, termination or validity thereof (a "Dispute"). Any Dispute that the Parties are unable to resolve through informal discussions or negotiations after 30 days will be submitted to binding arbitration conducted in accordance with and subject to the Commercial Arbitration Rules of the American Arbitration Association ("AAA") except to the extent otherwise required under this dispute resolution clause. One arbitrator will be selected by the Parties' mutual agreement or, failing that, by the AAA. The arbitrator must have substantial experience in disputes involving technology licensing agreements. The arbitrator will allow such discovery as is appropriate, and impose such restrictions as are appropriate, consistent with the purposes of arbitration in accomplishing fair, speedy and cost-effective resolution of disputes, except that (i) no requests for admissions will be permitted; (ii) interrogatories will be limited to (a) identifying persons with knowledge of relevant facts and b) identifying expert witnesses and obtaining their opinions and the bases therefor; and (iii) each party will be limited to five (5) depositions. Judgment upon the award rendered in any such arbitration may be entered in any court having jurisdiction thereof. Any arbitration conducted pursuant to this section will take place in San Francisco, California. Each Party will bear its own costs. The Parties will share equally in paying the expenses and fees of the arbitrator. The arbitrator may not alter the foregoing allocation of the parties' costs, nor of the arbitrator's fees and expenses. Other than those matters involving injunctive relief or any action necessary to enforce the award of the arbitrator, the Parties agree that the provisions of this section are a complete defense to any suit, action or other proceeding instituted in any court or before any administrative tribunal with respect to any Dispute. Notwithstanding the foregoing, SCEA may apply to any court of competent jurisdiction within the Licensed Territory seeking a temporary

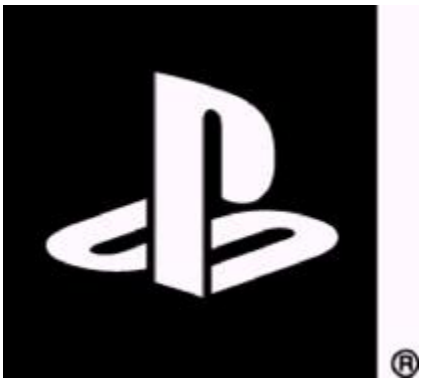
restraining order, preliminary injunction, or other interim or conservatory relief, with respect to the protection of any intellectual property rights or Confidential Information of or concerning the SCE Group Companies or the System, including, without limitation, the SCE Materials and Licensed Trademarks.

ACCEPTED AND AGREED:

Sony Computer Entertainment America LLC	**Take-Two Interactive Software, Inc.**
By: /s/Rob Dyer	By: /s/Daniel Emerson
Name: Rob Dyer	Name: Daniel P. Emerson
Title: SVP	Title: SVP and Associate General Counsel
Date: August 23, 2011	Date: August 19, 2011

Exhibit 10.2

XXXX INDICATES MATERIAL THAT WAS OMITTED AND FOR WHICH CONFIDENTIAL TREATMENT WAS REQUESTED. ALL SUCH OMITTED MATERIAL WAS FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO THE RULES APPLICABLE TO SUCH CONFIDENTIAL TREATMENT REQUEST.



GLOBAL PLAYSTATION®3 FORMAT

LICENSED PUBLISHER AGREEMENT

TAKE TWO INTERNATIONAL S.A.

Sony Computer Entertainment Europe
GLPA

CONFIDENTIAL

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GLOBAL PLAYSTATION® 3 FORMAT
LICENSED PUBLISHER AGREEMENT

This **Global PlayStation®3 Format Licensed Publisher Agreement** (the "Agreement") is entered into on May 18, 2010 by and between SONY COMPUTER ENTERTAINMENT EUROPE LIMITED, with offices at 10 Great Marlborough Street, London W1F 7LP ("the SCE Company") and TAKE TWO INTERNATIONAL S.A., with offices at 14, rue du Rhône, CH-1204 Genève, Switzerland ("Publisher").

The SCE Company's parent company, Sony Computer Entertainment Inc. ("SCEI"), has designed and developed certain core technology of or concerning the System.

The SCE Company has the right to grant non-exclusive licenses to qualified entities regarding certain intellectual property rights with respect to the System.

Publisher desires to be granted a non-exclusive license to publish, develop, have manufactured, market, advertise, distribute and sell Licensed Products in accordance with the provisions of this Agreement and the provisions of the Regional Rider that is attached hereto and incorporated herein by reference, and the SCE Company is willing, in accordance with the terms and subject to the conditions of this Agreement and the Regional Rider, to grant Publisher such a license.

In consideration of the representations, warranties and covenants contained herein and in the Regional Rider, and other good and valuable consideration, Publisher and the SCE Company hereby agree as follows:

1. Definition of Terms.

1.1 "Advertising Materials" means any advertising, marketing, merchandising, promotional, contest-related, public relations (including press releases), display, point of sale or website materials regarding or relating to the Licensed Products or depicting any of the Licensed Trademarks. Advertising Materials include any advertisements in which the System is displayed, referred to, or used, including giving away any unit(s) of the System as prizes in contests or sweepstakes and the public display of the System in product placement opportunities.

1.2 "Affiliate" means, as applicable, either Sony Computer Entertainment America Inc. ("SCEA"), Sony Computer Entertainment Inc. ("SCEI") and Sony Computer Entertainment Sony Computer Entertainment Europe GLPA Europe Ltd. ("SCEE"), any subsidiary of the foregoing, or any other entity as may be established from time to time and becomes a part of the Sony Computer Entertainment Group.

1.3 "Attribution Line" means the legal attribution line used on Advertising Materials, which shall be substantially similar to the following: "Product copyright and trademarks are the property of the respective publisher or its licensors."

1.4 "Designated Manufacturing Facility" means a manufacturing facility that is designated by the SCE Company, in its sole discretion, to manufacture Disc Products or any of their component parts.

1.5 "Development System Agreement" means an agreement entered into between the SCE Company and a Licensed Publisher or other

licensee regarding the sale, lease, loan or license of Development Tools.

1.6 "Development Tools" means the PlayStation 3 development tools sold, leased, loaned or licensed solely for use in the development of Executable Software.

1.7 "Disc Products" means the Executable Software on PS3 Format Discs, Advertising Materials, Packaging, Printed Materials and Product Information relating to any individual title which shall consist of one application software product per Unit. Disc Products may, but need not, be designed to allow Online Gameplay.

1.8 "Effective Date" is the date specified in the preamble of this Agreement.

1.9 "Executable Software" means software in final object code form that is designed for use and operation exclusively on the System which consists of Publisher Software and any SCE Materials and (except where agreed between Publisher and any Affiliate) constitutes a complete, standalone videogame.

1.10 "Guidelines" means any guidelines or specifications of the SCE Company with respect to the development, manufacture and publishing of Licensed Products, including any requirements regarding the development of Executable Software, the display of the Licensed Trademarks in any Licensed Products and related Advertising Materials, or the protection of any of the SCE Intellectual Property Rights, which may be set forth in the Technical Requirements Checklist, Corporate Identity Guidelines or in any other documentation provided to Publisher by the SCE Company. Guidelines shall be comparable to the guidelines and specifications applied by the SCE Company to its own software products for the System. All Guidelines may be modified, supplemented or amended by any Affiliate from time to time upon reasonable notice to Publisher. Guidelines are incorporated into and form a part of this Agreement.

1.11 "Licensed Developer" means an entity that has signed a Licensed Developer Agreement with any Affiliate.

1.12 "Licensed Developer Agreement" or "LDA" means a valid and current license agreement authorizing the development of software for the System, fully executed between a Licensed Developer and an Affiliate.

1.13 "Licensed Products" means Disc Products and Online Products, including any Publisher demonstration discs.

1.14 "Licensed Publisher" means an entity that has signed a Licensed Publisher Agreement with an Affiliate.

1.15 "Licensed Publisher Agreement" or "LPA" means a valid and current license agreement for the publishing, development, manufacture, marketing, advertising, distribution and sale of Licensed Products, fully executed between a Licensed Publisher and an Affiliate.

1.16 "Licensed Trademarks" means the trademarks, service marks, trade dress, logos, icons and other indicia designated in the Guidelines or otherwise for use on, in or otherwise in connection with Licensed Products. The Licensed Trademarks (or any part thereof) are subject to change during the term of this Agreement and may be modified, supplemented or amended by any Affiliate (as applicable) from time to time upon reasonable notice to Publisher.

1.17 "Master Disc" means a recordable Blu-Ray disc in the form requested by the SCE Company containing final pre-production Executable Software.

1.18 "Online Gameplay" means the capability to operate and interact with the Executable Software associated with a Licensed Product used on a System that is connected to the Internet or any other network and which may allow an end user to participate in a game or gameplay with another end user (or other end users) across the Internet or any other network.

1.19 "Online Products" means (i) enhancements, improvements, additions, patches, and updates, including characters, artifacts, scripts, levels, modifications, player statistics and gameplay data, used in conjunction with a related Disc Product or the Executable Software referred to in paragraph (ii) below and distributed electronically to any end users after sale or distribution of a Unit of such Disc Product, or such Executable Software; and (ii) Executable Software distributed electronically to end-users. Online Products may, but need not, be designed to allow Online Gameplay.

1.20 "Packaging" means, with respect to each Disc Product, the carton, containers, cases, edge labels, wrapping materials, security seals and other proprietary labels and trade dress elements and wrapping materials of or concerning the Disc Products (and all parts of any of the foregoing) but specifically excluding Printed Materials and PlayStation 3 Format Discs.

1.21 "PlayStation 3 Format Disc" means the disc media formatted for use with the System.

1.22 "Printed Materials" means all artwork and mechanicals for the disc label for each PlayStation 3 Format Disc and for the Packaging relating to any of the Disc Products, and all instructional manuals, liners, inserts, and any other materials and user information within or attached to the Packaging and distributed as part of the Disc Products.

1.23 "Product Information" means any information owned or licensed by Publisher relating to any of the Licensed Products, including demos, videos, hints and tips, artwork, depictions of Disc Product cover art and videotaped interviews.

1.24 "Product Proposal" means a written proposal prepared by a Licensed Publisher and submitted to the SCE Company under the Guidelines regarding the concept and design for a Licensed Product.

"Publisher's Group" means Take-Two Interactive Software, Inc and any subsidiary thereof or any other entity as may be established from time to time and becomes part of the Take-Two Interactive Software Group.

1.25 "Publisher Software" means any software including incorporated audio and visual material developed by Publisher under this Agreement or an L DA, and does not include any SCE Materials.

1.26 "Publisher Intellectual Property Rights" means those worldwide intellectual property rights, current or future, that are owned and/or controlled by Publisher or any member of Publisher's Group, including rights in or related to patents, inventions, designs, copyrights, databases, trademarks, service marks, trade names, trade dress, mask work rights, utility model rights, trade secret rights, technical information, know-how, and the equivalents of the foregoing under the laws of any jurisdiction and any other intellectual property rights recognized in the Territory (including all registrations, applications to register and rights to apply for registration of same), that relate to the Publisher Software, Packaging, Product Information, Printed Materials, Advertising Materials or other materials.

1.27 "Purchase Order" means a written purchase order issued by Publisher pursuant to Section 7.8.1, regarding the purchase of Disc Products that conform to the Guidelines and other terms and conditions imposed by the SCE Company or any Designated Manufacturing Facility.

1.28 "Regional Rider" means the additional set of binding terms and which are appended to and form part of this Agreement, and which are applicable to the Territory.

1.29 "SCE Confidential Information" means the term as defined in Section 13.1.1.

1.30 "SCE Intellectual Property Rights" means those worldwide intellectual property

rights, current or future, including rights in or related to patents, inventions, designs, copyrights, databases, trademarks (including the Licensed Trademarks), service marks, trade names, trade dress, mask work rights, utility model rights, trade secret rights, technical information, know-how, and the equivalents of the foregoing under the laws of any jurisdiction, and any other intellectual property rights recognized in the Territory (including all registrations, applications to register and rights to apply for registration of the same), for their full term including all renewals and extensions, that relate to the SCE Materials, the System, the design and development of Licensed Products compatible with the System, and any SCE Confidential Information.

1.31 "SCE Materials" means any data, object code, source code, firmware, documentation (or any part(s) of any of the foregoing) or information relating to the System or the development of interactive entertainment products compatible with the System, selected in the sole judgment of the SCE Company, which are directly or indirectly provided or supplied by any Affiliate to Publisher. SCE Materials shall not include any hardware portions of the Development Tools, but shall include firmware in such hardware.

1.32 "System" means the PLAYSTATION®3 computer entertainment system.

1.33 "Term" means the period from the Effective Date until March 31, 2012.

1.34 "Territory" means the term as defined in the Regional Rider.

1.35 "Unit" means an individual copy of a specific Disc Product regardless of the number of PlayStation 3 Format Discs that are contained within and are part of such Disc Product.

2. License.

2.1 **License Grant.** The SCE Company grants to Publisher, for the Term and throughout the Territory, and in accordance with the other terms, limitations and conditions referenced herein, a non-exclusive, non-transferable license under the SCE Intellectual Property Rights, without the right to sublicense (except as specifically provided herein), to use SCE Materials as follows: (i) to develop and publish Licensed Products and to enter into agreements with Licensed Developers and other approved third parties, where the SCE Company requires such approval, subject to Section 3.2, to develop Licensed Products; (ii) to have Disc Products manufactured by Designated Manufacturing Facilities; (iii) to market, advertise, promote, sell and distribute Disc Products directly to end users or to third parties for distribution to end users; (iv) to market, advertise and promote, and, pursuant to a separate online distribution agreement(s) with the SCE Company or any Affiliate, to distribute Online Products to end users over the PlayStation®Network; (v) to use the Licensed Trademarks only in connection with the manufacturing, marketing, packaging, advertising, promotion, sale and distribution of the Licensed Products; and (vi) to sublicense end-user customers the right to use the Licensed Products for personal, noncommercial purposes in conjunction with the System only, and not with other devices or for public performance.

2.2 **Separate PlayStation Agreements.** Unless specifically set forth in this Agreement, all terms used herein are specific to the System and the attendant SCE Company licensing program. Licenses relating to the original PlayStation, PS One, PlayStation 2 or PlayStation Portable game consoles are subject to separate agreements with the SCE Company (or any Affiliate, as applicable), and any license of rights to Publisher under such separate agreements shall not confer on Publisher any rights with respect to the System and vice versa.

3. Development and Distribution of Licensed Products.

3.1 **Right to Develop.** The SCE Company grants Publisher the right to purchase, lease or borrow, as applicable, certain hardware

devices and license certain software tools and utilities that comprise the Development Tools, as is appropriate, from the SCE Company or its designee, pursuant to a separate Development System Agreement with the SCE Company or a separate rider to this Agreement, which hardware and software components may be used by Publisher only in connection with the development of Licensed Products pursuant to Section 2.1. In developing Executable Software (or portions thereof), Publisher and any third-party Licensed Developers with whom Publisher contracts shall fully comply in all respects with all Guidelines, including technical specifications. In the event that Publisher uses any third-party tools to develop Executable Software or any portion thereof, Publisher shall be responsible at Publisher's sole risk and expense for ensuring that it has obtained all necessary licenses for any such use.

3.2 Subcontractors. Publisher may retain subcontractors who provide services which do not require access to SCE Materials or SCE Confidential Information without prior approval. Otherwise, Publisher may retain subcontractor(s) to assist with the development, publication and marketing of Licensed Products (or portions thereof) which have signed (i) an LPA or LDA with the SCE Company (the "PlayStation 3 Agreement") in full force and effect throughout the term of such development, publishing and marketing services or (ii) if required by the SCE Company, an SCE Company-approved subcontractor agreement ("Subcontractor Agreement"), and the SCE Company has approved such subcontractor in writing (which approval shall be in the SCE Company's sole discretion). Publisher shall not disclose to any subcontractor any of the SCE Confidential Information, including any SCE Materials, unless and until either a PlayStation 3 Agreement or any required Subcontractor Agreement has been executed and approved by the SCE Company. Publisher shall be solely responsible for verifying that all third parties that contribute to the development of any Licensed Product, or component thereof, satisfy the requirements of clause (i) or (ii) of this Section 3.2. Notwithstanding any consent which may be granted by the SCE Company for Publisher to employ any such permitted subcontractor(s), or any such separate agreement(s) that may be entered into by Publisher with any such permitted subcontractor, Publisher shall remain fully liable for its compliance with all of the provisions of this Agreement and for the compliance of any and all permitted subcontractors with the provisions of any agreements entered into by such subcontractors in accordance with this Section. Publisher shall use best efforts to cause all subcontractors that it retains in furtherance of this Agreement to comply in all respects with the terms and conditions of this Agreement, and hereby unconditionally guarantees all obligations of its subcontractors. The SCE Company may subcontract any of its rights or obligations hereunder.

3.3 Form of Distribution. Executable Software distributed physically to end users and demonstration discs shall be in the form of PlayStation 3 Format Discs only. Publisher shall not, directly or indirectly, incorporate more than one Disc Product in a single Unit, or package or bundle Units of any Disc Product with any other goods or services, without the SCE Company's prior written consent. Online Products, Online Gameplay and any services associated with Online Gameplay, including subscriptions, shall be distributed or made available electronically, including by wireless distribution, to end users over the PlayStation®Network only, unless the SCE Company gives express written consent to another manner of distribution on SCE Company standard terms or otherwise as agreed. Notwithstanding this limitation, Publisher may electronically transmit Executable Software from site to site, or from machine to machine over a computer network, for the sole purposes of facilitating development and for testing to be carried out under Section 6; provided that no right of retransmission shall attach to any such transmission, and provided further that Publisher shall use reasonable security measures customary within the high technology industry

to reduce the risk of unauthorized interception or retransmission of such transmissions.

3.4 Distribution Channels for Disc Products. Publisher may use such distribution channels to distribute Disc Products as Publisher deems appropriate, including the use of third-party distributors, resellers, dealers and sales representatives. In the event that the SCE Company permits Publisher to have any of its Disc Products published by another Licensed Publisher, Publisher must, in addition to complying with Section 3.2, provide the SCE Company with advance written notice of such arrangement, including the name of the Licensed Publisher and any additional information requested by the SCE Company regarding the nature of the distribution services that would be provided by such third-party Licensed Publisher prior to manufacture of the Disc Product.

4. Online Gameplay.

4.1 Access to and Maintenance of Online Gameplay. Publisher shall *(itself or through a subcontractor approved pursuant to section 3.2)* maintain servers hosting Online Gameplay for the periods specified in the Guidelines. Publisher, or, at the SCE Company's option, the SCE Company or its Affiliate, shall provide notice to consumers in a clear and conspicuous manner via one of the methods listed in Section 4.3 any permanent shutdown to a server hosting or supporting Online Gameplay no later than three (3) months prior to any shutdown.

4.2 Publisher Online Designee. Publisher shall appoint a dedicated contact person for its Licensed Products designed to allow Online Gameplay, who shall act as a liaison between the SCE Company and Publisher for all online matters relating to Licensed Products designed to allow Online Gameplay. Publisher's designee shall also be responsible for ensuring that all terms and conditions relating to the online elements of the Licensed Products are complied with. Publisher shall give the SCE Company ten (10) days' written notice prior to any change in designee.

4.3 Online Legal Compliance. Licensed Products designed for Online Gameplay must include a legal disclosure enumerating end user, privacy and moderation policies and age rating (collectively, "Online Terms") prior to allowing any end users to engage in Online Gameplay for the first time for a particular user or as otherwise required by law. The SCE Company reserves the right to review Publisher's Online Terms, but shall have no liability for content of Publisher's Online Terms. Online Terms shall either be coded into the applicable Licensed Product or available on the server hosting Online Gameplay in such a way that an end user must agree to it prior to accessing and engaging in Online Gameplay. Online Terms must comply with the Guidelines. Publisher must inform all end users engaging in or accessing Online Gameplay if any personally identifying information will be collected, how it will be collected, and how it will be used.

4.4 Publisher Liability for Online Gameplay. Publisher shall bear exclusively all responsibility and liability for any features or capability of Licensed Products related to Online Gameplay, including Online Gameplay between territories using different television standards, whether PAL, NTSC or otherwise.

5. Limitations on Licenses; Reservation of Rights.

5.1 Application of Council Directive 91/250/EEC. The limitations set forth in Section 5 shall be subject to Council Directive 91/250/EEC in a Territory or any part thereof in which that Directive has been implemented.

5.2 Reverse Engineering Prohibited. Publisher shall not directly or indirectly disassemble, decrypt, electronically scan, peel semiconductor components, decompile, or otherwise reverse engineer in any manner or attempt to reverse engineer or otherwise derive any source code from, all or any portion of the

SCE Materials, or permit, assist or encourage any third party to do so.

5.3 Limitation on Creation of Derivative Works. Publisher shall not use, modify, reproduce, sublicense, distribute, create derivative works from, or otherwise provide to third parties, the SCE Materials, in whole or in part, other than as expressly set forth herein without the SCE Company's prior written consent.

5.4 Limitation on Examination and Study of Tools. Publisher may study the performance, design and operation of the Development Tools solely for the limited purposes of developing and testing Publisher Software, or to develop tools to assist Publisher with the development and testing of Publisher Software. Any tools developed or derived by Publisher as a result of studying the performance, design or operation of the Development Tools shall be considered derivative works of the SCE Materials and shall be owned by the SCE Company, but may be treated as trade secrets of Publisher. This section shall govern any conflict with a similar provision in any separate agreement.

5.5 Limitations Regarding Content of Licensed Products. No rights are granted under this Agreement with respect to non-game products or products which contain significant elements of, or are a hybrid with, audio or video profile products. No rights are granted under this Agreement with respect to serving or providing in-game dynamic advertisements. Licensed Products may contain in-game static advertisements, subject to the Guidelines.

5.6 Reservation of SCE Company's Rights.

5.6.1 Limitations on Use of SCE Materials and SCE Intellectual Property Rights. This Agreement does not grant any right or license under, and Publisher shall not use, any SCE Confidential Information, the SCE Materials, or any of the SCE Intellectual Property Rights except as expressly authorized hereunder and in strict compliance with the terms and conditions of this Agreement. No other right or license is to be implied by or inferred from any provision of this Agreement or the conduct of the parties. In particular, Publisher shall not use the Executable Software, SCE Materials or SCE Confidential Information (or any portion of any of the foregoing) in connection with the development of any software for any emulator or other computer hardware or software system. In no event shall Publisher patent any tools, methods, or applications, created, developed or derived from SCE Materials. Publisher shall not make available to any third party any tools developed or derived from the study of the Development Tools without the SCE Company's express written permission. Use of such tools shall be strictly limited to the creation or testing of Licensed Products and any other use, direct or indirect, of such tools is strictly prohibited. Moreover, Publisher shall bear all risks arising from incompatibility of its Licensed Product and the System resulting from use of Publisher-created tools. The burden of proof under this Section shall be on Publisher, and the SCE Company reserves the right to require Publisher to furnish evidence satisfactory to the SCE Company that Publisher has complied with this Section.

5.6.2 Ownership and Protection of SCE Materials and SCE Intellectual Property Rights. All rights with respect to the SCE Materials and the System, including all of the SCE Intellectual Property Rights, are the exclusive property of the SCE Company or its Affiliates. Publisher shall not do or cause to be done any act or thing in any way impairing or tending to impair any of the SCE Company's rights, title or interests in or to the SCE Materials or the SCE Intellectual Property Rights. Publisher shall take all steps as the SCE Company may reasonably require for the protection and maintenance of the SCE Intellectual Property Rights, including executing licenses or obtaining registrations, *and all such steps shall be taken at SCEE's cost provided*

Publisher has not done anything which has or which may impair the relevant SCE Intellectual Property Rights. Publisher shall not register any trademark in its own name or in any other person's name, or use, or obtain rights to use Internet domain names or addresses, which are identical or similar to, or are likely to be confused with any of the Licensed Trademarks or any other trademarks of the SCE Company. All goodwill associated with the Licensed Trademarks, including any goodwill generated or arising by or through Publisher's or its sub-licensees' activities under this Agreement, accrues to the benefit of and belongs exclusively to the SCE Company. Nothing contained in this Agreement shall be deemed to grant Publisher the right to use the trademark "SONY" in any manner or for any purpose.

5.6.3 Authentication. The SCE Company reserves the right to require Publisher to utilize an authentication or authorization system to be provided, licensed or designated by the SCE Company to authenticate and verify all Licensed Products and units of the System. The SCE Company reserves the right to insert serial numbers on all PlayStation 3 Format Discs for security or authentication purposes.

5.7 Acknowledgment of Publisher's Ownership Rights. Separate and apart from the SCE Materials and other rights licensed to Publisher by the SCE Company hereunder, as between Publisher and the SCE Company, Publisher retains all rights, title and interest in and to the Publisher Software, the Product Proposals, *Printed Materials* and related Product Information, including Publisher Intellectual Property Rights therein, as well as Publisher's rights in any source code and other underlying material such as artwork and music (but specifically excluding the SCE Materials and any software provided directly or indirectly by the SCE Company), any names used as titles for Licensed Products and other trademarks used by Publisher *and any other Publisher Intellectual Property Rights and the SCE Company shall not have and shall not, pursuant to this Agreement, acquire any rights to use any of the same other than as expressly provided for under, and in accordance with the terms of, this Agreement*. Nothing in this Agreement shall restrict the right of Publisher to develop, distribute or transmit products incorporating the Publisher Software and underlying material, which do not contain or were not developed through use of the SCE Materials or the SCE Intellectual Property Rights, for any hardware platform or service other than the System, or to use Printed Materials or Advertising Materials approved by the SCE Company (excepting Printed Materials or Advertising Materials that contain any Licensed Trademarks) as Publisher determines for such other platforms.

5.8 Guidelines Requirement. The licenses granted to Publisher are expressly conditioned on Publisher's compliance with all provisions of the SCE Company's Guidelines, as and when published or within a commercially reasonable time following its receipt of a publication expressly referencing such provisions, and any and all such provisions are incorporated herein by this reference. To the extent that the Guidelines change with respect to any Licensed Product materials that Publisher submits to the SCE Company under Section 6.1, Publisher shall only be required to implement any such revised Guidelines in subsequent orders of corresponding Disc Product or subsequent publications of corresponding Online Product. Publisher shall not be required to recall or destroy previously manufactured Disc Products, unless such Disc Products do not comply with the original standards, requirements and conditions set forth in the Guidelines or unless explicitly required to do so in writing by the SCE Company.

6. Quality Standards for Licensed Products.

6.1 Product Assessment, Format Quality Assurance and Printed and Advertising Materials. Publisher shall comply with the process and requirements for assessment and format quality assurance of Licensed Products and Advertising Materials, on a product-by-product basis as specified in the

Guidelines. The SCE Company will not approve Licensed Products that are outside the PlayStation®3 format specifications in the Guidelines.

6.2 Rating Requirements. No Licensed Product may be published, sold, distributed, marketed, advertised or promoted unless each Licensed Product bears a consumer advisory age rating, consisting of a rating code and product descriptors, either as required by local law or as issued by, and following the rating display requirements of, a consumer advisory ratings system designated by the SCE Company. Any and all costs and expenses incurred in connection with obtaining such rating shall be borne solely by Publisher. No Licensed Product, Printed Materials or Advertising Materials may bear more than one consumer advisory rating code. Any Online Product that can be used with a Disc Product must bear a rating that is the same as or lower than the rating issued to the Disc Product, unless the SCE Company gives express written consent.

6.3 Compatibility of Licensed Products with Peripherals. Publisher shall be solely responsible for functionality and operational compatibility of its Licensed Products with any third-party peripherals (e.g., controllers, memory storage devices, etc.). The SCE Company shall have no responsibility to test or otherwise evaluate the compatibility of Publisher's Licensed Products with any third party peripherals. The SCE Company shall not be held responsible for any actual, incidental or consequential damages that may result from any use or inability to use any third-party peripherals with any Licensed Products or the System. If the SCE Company elects, at its sole discretion, to test or otherwise evaluate the compatibility of Publisher's Licensed Products with any third party peripheral device then, (i) any such testing or evaluation shall not obligate the SCE Company to test or evaluate any other third-party peripherals; (ii) any such testing or evaluation shall not shift to the SCE Company any responsibility to ensure or assess the functionality or compatibility of any third-party peripheral or require the SCE Company to report any third-party peripheral incompatibilities; and (iii) Publisher shall provide the SCE Company, upon request and at no additional cost or expense to the SCE Company, with a reasonable number of samples of any such third-party peripheral products for testing and review in a timely manner. In the event that any Licensed Product fails to perform to the SCE Company's satisfaction with any third-party peripheral that it is

intended to support, the SCE Company shall have the right to require that Publisher modify or remove such portions of the Executable Software as are intended to support the affected third-party peripheral.

6.4 Publisher's Additional Quality Assurance Obligations. If at any time or times subsequent to the approval of any part of a Licensed Product, the SCE Company identifies any material defects (such materiality to be determined by the SCE Company in its sole discretion) with respect to the Licensed Product, or in the event that the SCE Company identifies any improper use of its Licensed Trademarks or the SCE Materials, or any material defects or improper use are brought to the attention of the SCE Company, Publisher shall, at no cost to the SCE Company, promptly correct any such material defects, or improper use, to the SCE Company's commercially reasonable satisfaction, which may include, in the SCE Company's judgment, the recall and re-release of Units of the affected Disc Product or publication of an update, upgrade or technical fix to an Online Product. In the event any Licensed Products create any risk of loss or damage to any property or injury to any person, Publisher shall immediately take effective steps, at Publisher's sole liability and expense, to recall and remove such Licensed Products from any affected channels of distribution; provided, however, that if Publisher is not acting as the distributor or seller for the Licensed Products, its obligation shall be to use its best efforts to arrange removal of all affected Licensed Products from the relevant distribution channels. Publisher shall provide all end-user support for Licensed Products. Publisher and the SCE

Group Company may enter into a separate agreement to have Publisher provide all end-user support for Online Gameplay of Publisher's Licensed Products that is provided through the PlayStation®Network. The SCE Company expressly disclaims any obligations or liability to provide end-user support with respect to Licensed Products. by the SCE Company or the Designated Manufacturing Facility, of producing the reproducible masters of any and all Executable Software.

7. Manufacture of Disc Products.

7.1 Manufacture of Units. Upon approval of Executable Software and associated Printed Materials pursuant to Section 6, and subject to Sections 7.4 — 7.7, the Designated Manufacturing Facility will, in accordance with the terms and conditions set forth in this Section 7, and at Publisher's request and sole expense (a) manufacture PlayStation 3 Format Discs for Publisher; (b) manufacture Publisher's Packaging and Printed Materials; and (c) assemble the PlayStation 3 Format Discs with the related Printed Materials and Packaging. Publisher shall comply with all Guidelines relating to the production of Units of Disc Products. The SCE Company reserves the right to insert or require Publisher to make arrangements for the insertion of certain Printed Materials relating to the System into each Unit.

7.2 Designated Manufacturing Facilities. To insure compatibility of PlayStation 3 Format Discs with the System, consistent quality of the Disc Products and incorporation of anti-piracy security measures, the SCE Company shall designate and license a Designated Manufacturing Facility or Facilities to reproduce PlayStation 3 Format Discs. Publisher shall purchase XXXX for PlayStation 3 Format Discs, including demonstration discs, from such Designated Manufacturing Facility. Any Designated Manufacturing Facility shall be entitled to enforce the terms of this Agreement.

7.3 Creation of Master PlayStation 3 Format Disc. Using one of the fully approved Master Discs provided by Publisher under the Guidelines, the SCE Company or the Designated Manufacturing Facility shall create an encrypted, reproducible master of the Executable Software (formatted as a PlayStation 3 Format Disc) from which all other copies of the Executable Software for the corresponding Disc Product are to be replicated. Publisher shall be responsible for the costs, as determined.

7.4 Manufacture of Printed Materials by Designated Manufacturing Facility. If Publisher elects to order Printed Materials from a Designated Manufacturing Facility, Publisher shall deliver all SCE Company-approved Printed Materials to that Designated Manufacturing Facility, at Publisher's sole risk and expense, and the Designated Manufacturing Facility will manufacture such Printed Materials in accordance with this Section 7. In order to insure against loss or damage to the copies of the Printed Materials furnished to the SCE Company, Publisher shall retain duplicates of all Printed Materials, and neither the SCE Company nor any Designated Manufacturing Facility shall be liable for any loss of or damage to any Printed Materials.

7.5 Manufacture of Printed Materials by Alternate Source. Subject to the Guidelines, Publisher may elect to be responsible for manufacturing its own Printed Materials (other than artwork which is to be reproduced or otherwise displayed on any PlayStation 3 Format Discs, which Publisher will supply to the Designated Manufacturing Facility for incorporation within the Disc Products), at Publisher's sole risk and expense. The SCE Company shall have the right to disapprove any Printed Materials that do not comply with the applicable Guidelines. If Publisher elects to supply its own Printed Materials, neither the SCE Company nor any Designated Manufacturing Facility shall be responsible for any delays arising from use of Publisher's own Printed Materials.

7.6 Manufacture of Packaging by Designated Manufacturing Facility. To

ensure consistent quality of the Disc Products, the SCE Company may designate and license a Designated Manufacturing Facility to reproduce all or part of the proprietary Packaging for the Disc Products. If so, then Publisher shall purchase XXXX for such Packaging from a Designated Manufacturing Facility during the Term.

7.7 Assembly Services. Publisher may either procure assembly services from a Designated Manufacturing Facility or, with the SCE Company's prior written consent, from an alternate source. If Publisher elects to be responsible for assembling the Disc Products, then the Designated Manufacturing Facility shall ship the component parts of the Disc Product to a destination designated by Publisher, at Publisher's sole risk and expense. The SCE Company shall have the right to inspect any assembly facilities that Publisher proposes to use in order to determine if the component parts of the Disc Products are being assembled in accordance with the SCE Company's quality standards. The SCE Company may require Publisher to recall any Units of any Disc Products that fail to comply with the Guidelines. If Publisher elects to use alternate assembly facilities, neither the SCE Company nor any Designated Manufacturing Facility shall be responsible for any delays or other production issues, including missing component parts, arising from use of alternate assembly facilities. Publisher shall comply with all applicable labor laws and, in accordance with the provisions of Section 16.8, shall not employ child labor, slave labor or forced labor in connection with the assembly of the Licensed Products.

7.8 Orders and Delivery.

7.8.1 Orders. Publisher shall issue Purchase Order(s) to a Designated Manufacturing Facility in the form set forth and containing the information required in the Guidelines, with a copy to the SCE Company. No Purchase Orders will be processed for any Disc Product unless that Disc Product is fully compliant with the Guidelines. All Purchase Orders shall be subject to approval by the SCE Company not to be unreasonably withheld and to acceptance by the Designated Manufacturing Facility pursuant to the Guidelines. Purchase Orders issued by Publisher to a Designated Manufacturing Facility for each Licensed Product approved by the SCE Company shall be non-cancelable and are subject to the order requirements of the Designated Manufacturing Facility.

7.8.2 General Terms. Neither the SCE Company nor any Designated Manufacturing Facility shall be responsible for shortage or breakage with respect to any order if component parts or assembly services are obtained from alternate sources.

7.9 Delivery of Disc Products. The Designated Manufacturing Facility will deliver Disc Products to Publisher at Publisher's sole expense, except where otherwise provided under this Agreement. Publisher shall have no right to have completed Units of Disc Products stored after manufacture.

7.10 Ownership of Original Master Discs. Due to the proprietary and confidential nature of the mastering and encryption process, neither the SCE Company nor any Designated Manufacturing Facility shall under any circumstances release any original Master Discs, reproducible masters created under section 7.3 or other in-process materials to Publisher. All such materials shall be and remain the sole property of the SCE Company or the Designated Manufacturing Facility (as applicable). Notwithstanding the foregoing, the Publisher Intellectual Property Rights contained in the Publisher Software that is contained in any such in-process materials is, as between the SCE Company and Publisher, the sole and exclusive property of Publisher or its licensors.

8. Marketing of Licensed Products.

8.1 Marketing Generally. At no expense to the SCE Company, Publisher shall, and shall direct its distributors to, diligently market, sell

and distribute the Licensed Products, and shall use commercially reasonable efforts to stimulate demand for such Licensed Products throughout the Territory and to supply any resulting demand. Publisher shall use reasonable efforts to protect the Licensed Products from and against illegal reproduction or copying by end users or by any other persons.

8.2 Samples. Publisher shall provide sample Units of each Disc Product to the SCE Company in the quantities and per the terms specified in the Guidelines. In the event that Publisher assembles any Disc Product using an alternate source, Publisher shall be responsible for shipping such sample Units to the SCE Company, at Publisher's cost and expense, promptly following the commercial release of such Disc Product. Units shall not be shipped to the SCE Company prior to the commercial release of such Disc Product. The SCE Company assumes no liability for release of samples prior to commercial release. The SCE Company shall not directly or indirectly resell any such sample Units of the Disc Products without Publisher's prior written consent. The SCE Company may distribute sample Units to its employees, provided that it uses its reasonable efforts to ensure that such Units are not sold into the retail market. In addition, subject to availability, Publisher shall sell to the SCE Company additional Units at cost.

8.3 Marketing Programs. From time to time, the SCE Company may invite Publisher to participate in promotional or advertising opportunities that may feature one or more Licensed Products from one or more Licensed Publishers. Participation shall be voluntary and subject to terms to be determined at the time of the opportunity. In the event Publisher elects to participate, all materials submitted by Publisher to the SCE Company shall be submitted subject to the Guidelines and delivery of such materials to the SCE Company shall constitute acceptance by Publisher of the terms of the offer. Each Affiliate shall display *or* otherwise use the Attribution Line on its multi-product marketing materials *(created pursuant to this section 8.3)*, unless otherwise agreed in writing.

8.4 PlayStation Website. Publisher shall provide the SCE Company with Product Information for a web page for each of its Licensed Products for display on the PlayStation promotional website, or other website(s) operated by the SCE Company from time to time in connection with the promotion of the PlayStation brand. Specifications for Product Information for such web pages shall be as provided in the Guidelines. Publisher shall provide the SCE Company with such Product Information for each Licensed Product upon submission of Printed Materials to the SCE Company for approval pursuant to the Guidelines. Publisher shall also provide updates for any such web page in a timely manner as may be required in the Guidelines.

8.5 Demonstration Disc Programs. The SCE Company may, from time to time, provide opportunities for Publisher to contribute Licensed Product content for distribution as part of a demonstration disc published by any Affiliate, or permit Publisher to publish its own demonstration disc pursuant to a third party demonstration disc program. The specifications with respect to the approval, creation, manufacture, marketing, distribution and sale of any such demo disc programs shall be set forth in the Guidelines. The SCE Company reserves the right to choose from products submitted from other Licensed Publishers and first party products to determine the specific products that will be included in any SCE Company demonstration discs, and Publisher's Licensed Products will not be guaranteed prominence or preferential treatment on any SCE demonstration disc. The SCE Company has no obligation to publish, advertise or promote any demonstration disc.

8.6 Contests and Sweepstakes of Publisher. Publisher may conduct contests, sweepstakes, competitions and promotions, as permitted by law (collectively, "Contest" or "Contests"), to promote Licensed Products. The

SCE Company shall permit Publisher to include Contest materials in Printed Materials and Advertising Materials, subject to compliance with the provisions of Sections 10.2 and 11.2, and subject to the Guidelines.

9. Payments.

9.1 Payments for Licensed Products. Publisher shall pay the SCE Company either directly or through its designee, for Licensed Products, including Licensed Products in any "Greatest Hits," "Platinum" or any other program, and demonstration discs, at the rates and in the manner specified in the Regional Riders and the terms of this Section 9. Publisher shall be required in all cases to make payments to the SCE Company, in accordance with this Section 9 and the Regional Rider, with respect to any and all of Publisher's products that are developed utilizing any SCE Materials or SCE Intellectual Property Rights or any derivative works based on or otherwise derived from the same. The burden of proof under this Section shall be on Publisher. The SCE Company reserves the right to require Publisher to furnish evidence satisfactory to the SCE Company that Publisher has complied with any or all of its obligations pursuant to this Section. Payment terms are subject to change in the SCE Company's discretion upon reasonable notice to Publisher.

9.2 Payment for Units of Disc Products. Payments shall be made to the SCE Company through its Designated Manufacturing Facility concurrent with the placement of any Purchase Order for Units of any Disc Product in accordance with the terms and conditions set forth in this Agreement unless otherwise agreed in writing with the SCE Company. Payment shall be made prior to manufacture unless the SCE Company has agreed in writing to extend credit terms to Publisher under Section 9.3.

9.3 Credit Terms. The SCE Company is not required to extend any credit terms to Publisher, but may do so in the SCE Company's sole discretion. Credit terms and limits shall be subject to revocation or extension at the SCE Company's sole discretion. If credit terms are extended to Publisher, Purchase Orders will be invoiced upon shipment of Disc Products and each invoice will be payable within 30 days of the date of the invoice. Publisher shall be additionally liable for all costs and expenses of collection, including without limitation, reasonable fees for lawyers and court costs.

9.4 Charges and Deductions. The amounts that Publisher must pay under this Agreement are exclusive of all taxes, duties, charges or assessments which the SCE Company or the Designated Manufacturing Facility may have to collect or pay and for which Publisher is solely responsible. No costs incurred in the development, manufacture, marketing, sale or distribution of any Licensed Products shall be deducted from any amounts payable under this Agreement. Similarly, there shall be no deduction from any amounts owed hereunder as a result of any uncollectible accounts owed to Publisher, or for any credits, discounts, allowances or returns which Publisher may credit or otherwise grant to any third-party customer of any Licensed Products, or for any taxes, fees, assessments or expenses of any kind which may be incurred by Publisher in connection with its sale or distribution of any Licensed Products or arising with respect to the payment of royalties. Publisher may not assert any credit, set-off or counterclaim to justify withholding payment under this Agreement. Publisher shall be solely responsible for and bear any costs relating to any withholding taxes or other such assessments which may be imposed by any governmental authority with respect to the payments to the SCE Company. Publisher shall provide the SCE Company with official tax receipts or other such documentary evidence issued by the applicable tax authorities sufficient to substantiate that any such taxes or assessments have in fact been timely paid. Deductions may only be made after issuance of an approved credit memo from the SCE Company or a Designated Manufacturing Facility.

9.5 General Terms. Each shipment to Publisher shall constitute a separate sale, whether said shipment constitutes the whole or partial fulfillment of any Purchase Order. Title to Units shall pass to Publisher only upon payment in full of the amounts due under this Agreement for those Units. The receipt and deposit by the SCE Company of any moneys payable under this Agreement shall be without prejudice to any rights or remedies the SCE Company has and shall not restrict or prevent the SCE Company from challenging the basis for calculation or payment accuracy. Nothing in this Agreement shall excuse or be construed as a waiver of Publisher's obligation to timely provide any and all payments owed to the SCE Company or any Designated Manufacturing Facility.

10. Representations and Warranties.

10.1 Representations and Warranties of SCE Company. The SCE Company represents and warrants solely for the benefit of Publisher that *(i)* the SCE Company has the right, power and authority to enter into this Agreement and to fully perform its obligations hereunder; *(ii) neither the SCE Company nor any Affiliate shall make any representation or give any warranty to any person or entity expressly or impliedly on Publisher's behalf; and (iii) neither the SCE Company's policies and practices, nor those of any Designated Manufacturing Facility, shall reflect adversely upon the name, reputation or goodwill of the Publisher, where such policies or practices are directly relevant to the performance by the SCE Company of this Agreement.*

10.2 Representations and Warranties of Publisher. Publisher represents and warrants that:

(i) There is no threatened or pending action, suit, claim or proceeding alleging that the use or possession by Publisher or its affiliates of all or any part of the Publisher Software, Product Proposals, Product Information, Printed Materials, Advertising Materials, Packaging not provided by the Designated Manufacturing Facility, or any underlying work or content embodied in any of the foregoing, including any name, designation or trademark used in conjunction with any of the Licensed Products, infringes or otherwise violates any intellectual property right or other right or interest of any kind whatsoever anywhere in the world of any third party, or otherwise contesting any right, title or interest of Publisher in or to the Publisher Software, Product Proposals, Product Information, Printed Materials, Advertising Materials, Packaging not provided by the Designated Manufacturing Facility, or any underlying work or content embodied in any of the foregoing, including any name, designation or trademark used in conjunction with any of the Licensed Products;

(ii) The Publisher Software, Product Proposals, Product Information, Printed Materials, Advertising Materials, Packaging not provided by the Designated Manufacturing Facility, and their contemplated disclosure or use under this Agreement do not and shall not infringe any person's rights including patents, copyrights (including rights in a joint work), trademarks, trade dress, trade secret, rights of publicity, privacy, performance, moral rights, literary rights or any other right or interest anywhere in the world of any third party. Publisher has obtained the consent of all holders of intellectual property rights necessary for the SCE Company's or its Affiliates' use of any Publisher Software, Product Proposals, Product Information, Printed Materials, Advertising Materials and Packaging not provided by the Designated Manufacturing Facility provided by Publisher, which may be reproduced, published, publicly displayed, publicly performed, marketed, sold and otherwise distributed by the SCE Company and any Affiliates in accordance with this Agreement. Publisher has made all payments required to any person having any legal rights arising from such disclosure or use so that the SCE Company will not incur any obligation to pay any royalty, residual, union, guild or other fees or expenses;

(iii) Publisher has the right, power and authority to enter into this Agreement, to grant the SCE Company the rights granted hereunder and to fully perform its obligations hereunder;

(iv) The making of this Agreement by Publisher does not violate any separate agreement, rights or obligations existing between Publisher and any other person, and, throughout the Term, Publisher shall not make any separate agreement with any third party that is inconsistent with any of the provisions of this Agreement;

(v) Publisher has not previously taken any action that could be interpreted as having sold, assigned, leased, licensed or in any other way disposed of or encumbered any of the rights granted to Publisher hereunder. Publisher will not sell, assign, lease, license or in any other way dispose of or encumber any of such rights except as expressly consented to by the SCE Company in writing;

(vi) Neither Publisher nor its affiliates shall make any representation or give any warranty to any person or entity expressly or on the SCE Company's behalf, or to the effect that the Licensed Products are connected in any way with the SCE Company other than that the Executable Software and Licensed Products have been developed, marketed, sold and distributed under license from the SCE Company;

(vii) In the event that any Executable Software is delivered by Publisher to any other Licensed Publishers or Licensed Developers in source code form, Publisher will take all precautions consistent with the protection of valuable trade secrets by companies in high technology industries to ensure that such third parties protect and maintain the confidentiality of such source code;

(viii) The Executable Software, excepting any SCE Materials, and any Product Information shall be in a commercially acceptable form, free of significant bugs, defects, time bombs or viruses or unauthorized content that is inconsistent with the age rating applicable to the corresponding Licensed Product, which could disrupt, delay, or destroy the Executable Software or System, or render any of such items less than fully useful, and shall be fully compatible with the System and all peripherals listed on the Printed Materials as compatible with the Licensed Product, *and Publisher shall notify the SCE Company, within a reasonable period prior to publication, of any Licensed Product content* that could cause the SCE Company to suffer public disrepute, contempt, scandal or ridicule, or which insults or offends the community or any substantial organized group thereof or which could tend to adversely affect the SCE Company's name, reputation or goodwill associated with the System;

(ix) Each of the Licensed Products shall be developed, marketed, sold and distributed by or at the direction of Publisher in an ethical manner and in a responsible manner with respect to the protection of children in the online environment, and in full compliance with all applicable laws, including federal, state, provincial, local and foreign laws, and any rules, regulations and standards promulgated thereunder, including lottery laws and labor laws, and will not contain content that violates applicable laws, including those relating to privacy or any obscene or defamatory matter;

(x) Publisher's policies and practices with respect to the development, marketing, sale, and distribution of the Licensed Products shall in no manner reflect adversely upon the name, reputation or goodwill of the SCE Company or any Affiliate;

(xi) To the extent Publisher wishes to utilize a Licensed Developer to assist in development of Licensed Products, Publisher has contracted, or will contract, with a Licensed Developer for the technical expertise and resources necessary to fulfill its obligations under this Agreement; and

(xii) Publisher shall make no false, misleading or inconsistent representations or claims with respect to the System, any Licensed Products, or the SCE Company or any Affiliate.

11. Indemnities; Limited Liability.

11.1 Indemnification by SCE Company. The SCE Company shall indemnify and hold Publisher harmless from and against any and all third-party claims, demands, losses, liabilities, damages, expenses and costs, including reasonable fees for lawyers, expert witnesses and litigation costs, and costs incurred in the settlement or avoidance of any such claim, in connection with or which result from a breach of any of the SCE Company's representations or warranties set forth in Section 10.1 (collectively "SCE-Indemnified Claim(s)"); provided that: (i) Publisher shall give prompt written notice to the SCE Company of the assertion of any SCE-Indemnified Claim; (ii) the SCE Company shall have the right to select counsel and control the defense and settlement of any SCE-Indemnified Claim and Publisher shall not agree to the settlement of any SCE-Indemnified Claim without the SCE Company's prior written consent; and (iii) Publisher shall provide the SCE Company reasonable assistance and cooperation concerning any SCE-Indemnified Claim, except that Publisher need not incur any out-of-pocket costs in rendering such assistance and cooperation. The SCE Company shall have the exclusive right, at its discretion, to commence and prosecute at its own expense any lawsuit or to take such other action with respect to SCE-Indemnified Claims as shall be deemed appropriate by the SCE Company.

11.2 Indemnification By Publisher. Publisher shall indemnify and hold the SCE Company harmless from and against any and all claims, demands, losses, liabilities, damages, expenses and costs, including reasonable fees for lawyers, expert witnesses and litigation costs, and costs incurred in the settlement or avoidance of any such claim, in connection with or which result from (i) a breach of any of the provisions of this Agreement; (ii) any claim of infringement of a third party's intellectual property rights or any consumer claim, with respect to Publisher's Licensed Products, including claims related to Publisher's support of unauthorized or unlicensed peripherals or software that are not part of the PlayStation 3 format specifications as set forth in the Guidelines; (iii) any claim related to any Licensed Product features or capability related to cross-regional Online Gameplay; (iv) any claims of or in connection with any personal or bodily injury (including death or disability) or property damage arising out of, in whole or in part, the development, marketing, advertising, sale, distribution or use of any of the Licensed Products (or portions thereof) unless due directly and solely to the breach of the SCE Company in performing any of the specific duties or providing any of the specific services required of it hereunder; or (v) any federal, state or foreign civil or criminal investigations or actions relating to the development, marketing, advertising, sale or distribution of Licensed Products (all subsections collectively, "Publisher-Indemnified Claim(s)"), provided that (a) the SCE Company shall give prompt written notice to Publisher of the assertion of any Publisher-Indemnified Claim; (b) Publisher shall have the right to select counsel and control the defense and settlement of any Publisher-Indemnified Claim, except that with respect to any Publisher-Indemnified Claims made by a third party against the SCE Company, the SCE Company shall have the right to select counsel for the SCE Company and reasonably control the defense and settlement of the Publisher-Indemnified Claim against the SCE Company; and (c) the SCE Company shall provide Publisher with reasonable assistance and cooperation concerning any Publisher-Indemnified Claim, except that the SCE Company need not incur any out-of-pocket costs in rendering such assistance and cooperation. Subject to the foregoing, Publisher shall have the exclusive right, at its discretion, to commence and prosecute at its own expense any lawsuit or to take such other action with respect to Publisher-Indemnified Claims as shall be deemed appropriate by Publisher.

11.3 LIMITATIONS OF LIABILITY.

11.3.1 SCE Limitation of Liability for Financial Losses. In no event shall the SCE Company or any Affiliates, or the officers, directors, employees, agents, licensors or suppliers of any of such entities, be liable for loss of revenue, loss of actual or prospective profits, loss of contracts, loss of anticipated savings, loss of business opportunity, reputation or goodwill or loss of, damage to or corruption of data (whether such loss or damages are direct, indirect, special, incidental or consequential) arising out of, relating to, or in connection with this Agreement or any collateral contract (including the breach of this Agreement by the SCE Group Company), whether known, foreseen or foreseeable and whether in contract, tort (including negligence), product liability, under indemnity, or otherwise.

11.3.2 SCE Limitation of Liability for Other Consequential Losses. In no event shall the SCE Company, its Affiliates or the officers, directors, employees, agents, licensors or suppliers of any of such entities, be liable for any indirect, special, incidental or consequential loss or damage of any kind arising out of or in connection with this Agreement or any collateral contract (including the breach of this Agreement by the SCE Group Company), whether known, foreseen or foreseeable and whether in contract, tort (including negligence), product liability, under an indemnity or otherwise.

11.3.3 SCE Limitation of Liability for Representations. Publisher shall have no remedy with respect to any representation made to it upon which it relied in entering into this Agreement and the SCE Company and its Affiliates and the officers, directors, employees, agents, licensors or suppliers of any of such entities shall have no liability to Publisher other than under the express terms of this Agreement. In this Section 11.3.3, "representation" means any undertaking, promise, assurance, statement, representation, warranty or understanding, whether in writing or otherwise, of any person (whether a party to this Agreement or not), relating to the subject matter of this Agreement.

11.3.4 SCE Limitation of Liability for SCE Materials and Publisher's Materials. Except as expressly set forth herein, neither the SCE Company, nor its Affiliates, nor the officers, directors, employees, agents, licensors or suppliers of any of such entities, shall bear any risk, or have any responsibility or liability of any kind to Publisher or to any third parties with respect to the quality, functionality, operation or performance of, or the use or inability to use, all or any part of the SCE Materials, the System, the Licensed Products or Units of Disc Products, or for any software errors or "bugs" in Product Information included on SCE Company demonstration discs.

11.3.5 SCE Limitation of Financial Liability. In no event shall the SCE Company's liability arising under, relating to, or in connection with this Agreement, or any collateral contract, exceed the total amount paid by Publisher under Section 9 within the 48 month period immediately prior to the date of the first occurrence of the event or circumstances giving rise to the claimed liability.

11.3.6 Publisher Limitation of Liability. In no event shall Publisher, its officers, directors, employees, agents, licensors or suppliers be liable to the SCE Company for loss of revenue, loss of actual or prospective profits, loss of contracts, loss of anticipated savings, loss of business opportunity, reputation or goodwill or loss of, damage to or corruption of data (whether such loss or damage is direct, indirect, special, incidental or consequential), arising out of or in connection with this Agreement or any collateral contract (including the breach of this Agreement by Publisher) provided that such limitations shall not apply to damages resulting from Publisher's breach of Sections 2, 3, 5, 11.2, or 13 of this Agreement, or to any amounts which Publisher may be required to pay pursuant to Sections 11.2 or 16.10.

11.3.7 Disclaimer of Warranty. Except as expressly provided in Section 10.1, neither the SCE Company, nor any of its officers, directors, employees, agents or suppliers, make, nor does Publisher receive, any warranties (express, implied or statutory) regarding all or part of the SCE Materials, the SCE Confidential Information, the SCE Intellectual Property Rights, the System, Units manufactured hereunder or Product Information included on demonstration discs. Without limiting the generality of the foregoing, the SCE Company disclaims any warranties, conditions or other terms implied by any law (including as to merchantability, satisfactory quality or fitness for a particular purpose and warranties against infringement, and the equivalents thereof under the laws of any jurisdiction) to the fullest extent permitted by applicable l aw.

11.3.8 Law Applicable to Liabilities. Nothing in this Agreement shall exclude or limit any liability of either party which may not be excluded or limited under applicable l aw.

12. Infringement of SCE Intellectual Property Rights By Third Parties.

In the event that Publisher discovers or otherwise becomes aware that any of the SCE Intellectual Property Rights have been or are being infringed by any third party, Publisher shall promptly notify the SCE Company. The SCE Company shall have the sole right, in its discretion, to institute and prosecute lawsuits against third parties regarding infringement of SCE Intellectual Property Rights. Any lawsuit shall be prosecuted solely at the cost and expense of the SCE Company and all sums recovered in any such lawsuits, whether by judgment, settlement or otherwise, shall belong solely to the SCE Company. Upon the SCE Company's request and cost, Publisher shall execute all papers, testify on all matters and otherwise cooperate in every way necessary or desirable for the prosecution of any such lawsuit. The SCE Company shall reimburse Publisher for the reasonable expenses incurred as a result of such cooperation, but unless authorized by other provisions of this Agreement, not costs and expenses attributable to any cross-claim, counterclaim or third party action.

13. Confidentiality.

13.1 SCE Confidential Information.

13.1.1 Definition of SCE Confidential Information. "SCE Confidential Information" shall mean:

(i) The SCE Materials, the Development Tools, the Guidelines, the Regional Riders and this Agreement, including all exhibits and schedules attached to any of the foregoing and all information related to these items;

(ii) other information, documents and materials developed, owned, licensed or under the control of the SCE Company or any Affiliate, including all processes, data, hardware, software, inventions, trade secrets, ideas, creations, improvements, designs, discoveries, developments, research and know-how, including SCE Intellectual Property Rights relating to the SCE Materials and the Development Tools; and

(iii) information, documents and other materials regarding the SCE Company's or any Affiliate's finances, business and business methods, marketing and technical plans, and development and production plans; and

(iv) third-party information and documents licensed to or under the control of the SCE Company or any Affiliate.

The SCE Confidential Information consists of information in any medium, whether oral, printed, in machine-readable form or otherwise, provided to Publisher before or during the Term, including information subsequently reduced to tangible or written form. In addition, the existence of a relationship between Publisher and the SCE Company shall be deemed to be the SCE Confidential Information unless otherwise agreed to in writing by the parties or until

publicly announced by the SCE Company or any Affiliate.

13.1.2 Term of Protection of the SCE Confidential Information. The term for the protection of the SCE Confidential Information shall commence on the Effective Date and shall continue in full force and effect for as long as any of the SCE Confidential Information continues to be maintained as confidential and proprietary by the SCE Company or any Affiliate.

13.1.3 Preservation of SCE Confidential Information. Publisher shall, with respect to the SCE Confidential Information:

(i) not disclose SCE Confidential Information to any person, other than those employees, directors or officers of the Publisher or subcontractors expressly approved under Section 3.2, whose duties justify a "need-to-know" and who have executed a confidentiality agreement in which such employees, directors, officers or subcontractors have agreed not to disclose and to protect and maintain the confidentiality of all confidential information and materials inclusive of those of third parties which may be disclosed to them or to which they may have access during the course of their duties. At the SCE Company's request, Publisher shall provide the SCE Company with a copy of such confidentiality agreement between Publisher and its employees, directors, officers, or subcontractors and shall also provide the SCE Company with a list of employee, director, officer, and subcontractor signatories. Publisher shall not disclose any of the SCE Confidential Information to third parties, other than expressly approved subcontractors under section 3.2, including to consultants or agents without the SCE Company's prior written consent. Any employees, directors, officers, subcontractors, authorized consultants and agents who obtain access to or copies of the SCE Confidential Information shall be advised by Publisher of the confidential or proprietary nature of the SCE Confidential Information, and Publisher shall be responsible for any breach of this Agreement by all such persons.

(ii) hold all of the SCE Confidential Information in confidence and take all measures necessary to preserve the confidentiality of the SCE Confidential Information in order to avoid disclosure, publication, or dissemination, using as high a degree of care and scrutiny, but at least reasonable care, as is consistent with the protection of valuable trade secrets by companies in high technology industries.

(iii) ensure that all written materials relating to or containing the SCE Confidential Information be maintained in a restricted access area and plainly marked to indicate the proprietary and confidential nature thereof.

(iv) at the SCE Company's request, return promptly to the SCE Company any and all portions of the SCE Confidential Information, together with all copies thereof.

(v) not use, copy, reproduce, modify, create derivative works from, sublicense, distribute, or otherwise disseminate the SCE Confidential Information, or any portion thereof, except as expressly authorized, nor shall Publisher remove any proprietary legend set forth on or contained within any of the SCE Confidential Information.

13.1.4 Exceptions. The foregoing restrictions shall not apply to any portion of the SCE Confidential Information which:

(i) was previously known by Publisher without restriction on disclosure or use, as proven by written documentation of Publisher;

(ii) is or legitimately becomes part of the public domain through no fault of Publisher or any of its employees, directors, officers, consultants or agents;

(iii) is independently developed by Publisher's employees or consultants who have not had access to or otherwise used the SCE Confidential Information (or any portion

thereof), as proven by written documentation of Publisher;

(iv) is required to be disclosed by court, administrative or governmental order; provided that Publisher must use all reasonable efforts prior to issuance of any such order to maintain the confidentiality of the SCE Confidential Information, including asserting in any action or investigation the restrictions set forth in this Agreement, and, immediately after receiving notice of any such action, investigation, or threatened action or investigation, Publisher must notify the SCE Company of such action, investigation, or threatened action or investigation, unless Publisher is ordered by a court not to so notify; or

(v) is approved for release by written authorization of the SCE Company.

13.1.5 No Obligation to License. Disclosure of the SCE Confidential Information to Publisher shall not (i) constitute any option, grant or license from the SCE Company to Publisher under any SCE Intellectual Property Rights now or after owned or controlled by the SCE Company; (ii) result in any obligation on the part of the SCE Company to approve any materials of Publisher; (iii) give Publisher any right to, directly or indirectly, develop, manufacture, sell or otherwise distribute any product derived from or which uses or was developed with the use of the SCE Confidential Information (or any portion thereof), other than as expressly set forth in this Agreement.

13.1.6 Publisher's Obligations Upon Unauthorized Disclosure. If at any time Publisher becomes aware of any unauthorized duplication, access, use, possession or knowledge of any of the SCE Confidential Information, it shall notify the SCE Company as soon as reasonably practicable, and shall promptly act to recover any such information and prevent further breach of the confidentiality obligations herein. Publisher shall provide any and all reasonable assistance to the SCE Company to protect the SCE Company's proprietary rights in any of the SCE Confidential Information that Publisher or its employees, directors, officers, or permitted subcontractors, consultants, or agents may have directly or indirectly disclosed or made available, and that may be duplicated, accessed, used, possessed or known in any manner or for any purpose not expressly authorized by this Agreement, including enforcement of confidentiality agreements, commencement and prosecution in good faith (alone or with the SCE Company) of legal action, and reimbursement for all reasonable lawyers' fees, costs and expenses incurred by the SCE Company to protect the SCE Company's proprietary rights in the SCE Confidential Information. Publisher shall take all steps *reasonably* requested by the SCE Company to prevent the recurrence of any unauthorized duplication, access, use, possession or knowledge of the SCE Confidential Information.

13.2 Publisher's Confidential Information.

13.2.1 Definition of Publisher's Confidential Information. "Publisher's Confidential Information" shall mean:

(i) any Publisher Software provided to the SCE Company pursuant to this Agreement and all documentation and information relating thereto, including Product Proposals, Printed Materials and Advertising Materials (other than documentation and information intended for release to and use by end users, the general public or the trade);

(ii) other documents and materials developed, owned, licensed or under the control of Publisher, including all processes, data, hardware, software, inventions, trade secrets, ideas, creations, improvements, designs, discoveries, developments, research and know-how; and

(iii) information and documents regarding Publisher's *or any member of Publisher's Group's* finances, business, marketing and

technical plans, business methods and production plans.

Publisher's Confidential Information may consist of information in any medium, whether oral, printed, in machine-readable form or otherwise, provided to the SCE Company before or during the Term, including information subsequently reduced to tangible or written form.

13.2.2 Term of Protection of Publisher's Confidential Information. The term for the protection of Publisher's Confidential Information shall commence on the Effective Date and shall continue in full force and effect for as long as any of Publisher's Confidential Information continues to be maintained as confidential and proprietary by Publisher.

13.2.3 Preservation of Confidential Information of Publisher. The SCE Company shall, with respect to Publisher's Confidential Information:

(i) hold all Publisher's Confidential Information in confidence and take all reasonable steps to preserve the confidentiality of Publisher's Confidential Information, and to prevent it from falling into the public domain or into the possession of persons other than those persons to whom disclosure is authorized hereunder.

(ii) not disclose Publisher's Confidential Information to any person other than the SCE Company's or a Designated Manufacturing Facility's employees, directors, agents, consultants and subcontractors who need to know or have access to Publisher's Confidential Information for the purposes of this Agreement, and only to the extent necessary for such purposes.

(iii) ensure that all written materials relating to or containing Publisher's Confidential Information be maintained in a secure area and plainly marked to indicate the proprietary and confidential nature thereof.

(iv) at Publisher's request, return promptly to Publisher any and all portions of Publisher's Confidential Information, together with all copies thereof.

(v) not use Publisher's Confidential Information, or any portion thereof, except as provided herein, nor shall the SCE Company remove any proprietary legend set forth on or contained within any of Publisher's Confidential Information.

13.2.4 Exceptions. The foregoing restrictions shall not apply to any portion of Publisher's Confidential Information which:

(i) was previously known by the SCE Company without restriction on disclosure or use, as proven by written documentation of the SCE Company;

(ii) comes into the possession of the SCE Company from a third party which is not under any obligation to maintain the confidentiality of such information;

(iii) is or legitimately becomes part of information in the public domain through no fault of the SCE Company, or any of its employees, directors, agents, consultants or subcontractors;

(iv) is independently developed by the SCE Company's employees, consultants or subcontractors who have not had access to or otherwise used Publisher's Confidential Information (or any portion thereof), as proven by written documentation of the SCE Company;

(v) is required to be disclosed by court, administrative, or governmental order; provided that the SCE Company attempts, prior to the issuance of any such order, to maintain the confidentiality of Publisher's Confidential Information, including asserting in any action or investigation the restrictions set forth in this Agreement, and immediately after receiving

notice of any such action, investigation, or threatened action or investigation, notifies Publisher of such action, investigation, or threatened action or investigation, unless the SCE Company is ordered by a court not to so notify; or

(vi) is approved for release by written authorization of Publisher.

13.2.5 SCE Company's Obligations Upon Unauthorized Disclosure. If at any time the SCE Company becomes aware of any unauthorized duplication, access, use, possession or knowledge of Publisher's Confidential Information, it shall notify Publisher as soon as is reasonably practicable. The SCE Company shall provide any and all reasonable assistance to Publisher to protect Publisher's proprietary rights in any of Publisher's Confidential Information that it or its employees or permitted subcontractors may have directly or indirectly disclosed or made available and that may be duplicated, accessed, used, possessed or known in a manner or for a purpose not expressly authorized by this Agreement, including enforcement of confidentiality agreements, commencement and prosecution in good faith (alone or with Publisher) of legal action, and reimbursement for all reasonable lawyers' fees, costs and expenses incurred by Publisher to protect Publisher's proprietary rights in Publisher's Confidential Information. The SCE Company shall take all reasonable steps requested by Publisher to prevent the recurrence of any unauthorized duplication, access, use, possession or knowledge of Publisher's Confidential Information.

13.3 Confidentiality of Agreement. While the terms of this Agreement and the Regional Rider shall be treated as SCE Confidential Information, Publisher may disclose their terms and conditions:

(i) to legal counsel;

(ii) in confidence, to accountants, banks and financing sources and their advisors;

(iii) in confidence, in connection with the enforcement of this Agreement or rights arising under or relating to this Agreement; and

(iv) if required, in the opinion of its counsel, to file publicly or otherwise disclose the terms of this Agreement under applicable securities or other laws, Publisher shall promptly notify the SCE Company of such obligation so that the SCE Company has a reasonable opportunity to contest or limit the scope of such required disclosure, and Publisher shall request, and shall use best efforts to obtain, confidential treatment for such sections of this Agreement as the SCE Company may designate.

14. Term Renewal and Termination.

14.1 Term Renewal. The Term shall be automatically extended for additional one-year terms, unless either party provides the other with written notice of its election not to extend on or before January 31 of the year in which the Term would renew. Notwithstanding the foregoing, the term for the protection of SCE Confidential Information and Publisher's Confidential Information shall be as set forth in Sections 13.1.2 and 13.2.2 respectively.

14.2 Termination by SCE Company. The SCE Company shall have the right to terminate the Agreement immediately, on written notice to Publisher, upon the occurrence of any of the following:

(i) If Publisher is in material breach of any of its obligations under the Agreement or under any other agreement entered into between the SCE Company or any Affiliate, on the one hand, and Publisher on the other hand;

(ii) A statement of intent by Publisher to no longer exercise any of the rights granted by the SCE Company to Publisher hereunder or Publisher failing to submit materials under section 6.1 or failing to issue any Purchase Orders during any period of twelve consecutive calendar months;

(iii) If Publisher (a) is unable to pay its debts when due; (b) makes an assignment for the benefit of any of its creditors; (c) files or has filed against it a petition, or an order of bankruptcy or insolvency is made, under the bankruptcy or insolvency laws of any jurisdiction (and such petition is not discharged within 60 days) or becomes or is adjudicated bankrupt or insolvent; (d) is the subject of an order for, or applies for or notices its intent to apply for, the appointment of an administrator, receiver, administrative receiver, manager, liquidator, trustee or similar officer to be appointed over any of its business or property; (e) ceases to do business or enters into liquidation; or (f) takes or suffers any similar or analogous action in any jurisdiction as a consequence of debt;

(iv) If a controlling interest in Publisher or in an entity which directly or indirectly has a controlling interest in Publisher is transferred to a party that (a) is in breach of any agreement with the SCE Company or any Affiliate; (b) directly or indirectly holds or acquires a controlling interest in a third party which designs, develops or markets any of the core components for an interactive device or product which is directly or indirectly competitive with the System, or itself develops any product that is directly or indirectly competitive with the System; or (c) is in litigation or in an adversarial administrative proceeding with the SCE Company or any Affiliate concerning the SCE Confidential Information or any SCE Intellectual Property Rights, including challenging validity of any SCE Intellectual Property Rights;

(v) If Publisher or any entity that directly or indirectly has a controlling interest in Publisher (a) enters into a business relationship with a third party related to the design or development of any core components for an interactive device or product which is directly or indirectly competitive with the System; or (b) acquires an interest in or otherwise forms a strategic business relationship with any third party which has developed or owns or acquires intellectual property rights in any such device or product;

(vi) If Publisher or any of its affiliates initiates any legal or administrative action against the SCE Company or any Affiliate or challenges the validity of any SCE Intellectual Property Rights;

(vii) If Publisher fails to pay any sums owed to the SCE Company on the date due and such default is not fully corrected or cured within ten (10) business days of the date on which such payment was originally due; or

(viii) If Publisher or any of its officers or employees engage in "hacking" of any software for any PlayStation format or in activities which facilitate the same by any third party.

As used hereinabove, "controlling interest" means, with respect to any form of entity, sufficient power to control the decisions of such entity. Publisher shall immediately notify the SCE Company in writing in the event that any of the events or circumstances specified in this Section 14.2 occur. In the event of termination under 14.2(viii), the SCE Company shall have the right to terminate any other agreements entered into between the SCE Company and Publisher.

14.3 Product-by-Product Termination. In addition to the events of termination described in Section 14.2, the SCE Company, at its option, shall be entitled to terminate, with respect to a particular Licensed Product, the licenses and related rights herein granted to Publisher immediately on written notice to Publisher, in the event that (a) Publisher fails to notify the SCE Company promptly in writing of any material change to any materials previously approved by the SCE Company in accordance with Sections 6 and the relevant Guidelines, and such breach is not corrected or cured within 30 days after receipt of written notice of such breach; (b) Publisher uses a third party that fails to comply with the requirements of Section 3.2 in connection with the development of any Licensed Product; (c) any third party with whom Publisher has contracted for the development of Licensed Products breaches any of its material

obligations to the SCE Company pursuant to such third party's agreement with the SCE Company with respect to any such Licensed Product; (d) Publisher cancels a Licensed Product or fails to provide the SCE Company, in accordance with the provisions of Section 6 and the relevant Guidelines, with the final version of the Executable Software for any Licensed Product within three months of the scheduled release date (as referenced in the Product Proposal or as otherwise mutually agreed by the parties in writing), fails to provide work in progress to the SCE Company in strict compliance with the review process set forth in the Guidelines, fails to provide fully tested final Executable Software in strict conformance with the Guidelines; or (e) Publisher otherwise fails materially to conform to the Guidelines with respect to any particular Licensed Product.

14.4 Options in Lieu of Termination. As alternatives to terminating the Agreement or all licensed rights with respect to a particular Licensed Product as set forth in Sections 14.2 and 14.3, the SCE Company may, at its option and upon written notice to Publisher, suspend this Agreement, entirely or with respect to a particular Licensed Product or program, for a set period of time which shall be specified in writing to Publisher upon the occurrence of any breach of this Agreement. Election of suspension shall not constitute a waiver of or compromise with respect to any of the SCE Company's rights under this Agreement and the SCE Company may elect to terminate this Agreement with respect to any breach.

14.5 No Refunds. In the event that this Agreement expires or is terminated under any of Sections 14.2 through 14.4, no portion of any payments of any kind whatsoever previously provided hereunder shall be owed or be repayable or refunded to Publisher.

15. Effect of Expiration or Termination.

15.1 Inventory Statement. Within 30 days of the date of expiration or the effective date of termination with respect to any or all Licensed Products or this Agreement, Publisher shall provide the SCE Company with an itemized statement, certified to be accurate by an officer of Publisher, specifying the number of unsold Units of the Licensed Products as to which such termination applies, on a title-by-title basis, which remain in its inventory or under its control at the time of expiration or the effective date of termination. The SCE Company shall be entitled to conduct at its expense a physical inspection of Publisher's inventory and work in process upon reasonable written notice during normal business hours in order to ascertain or verify such inventory and inventory statement.

15.2 Reversion of Rights. Upon expiration or termination and subject to Section 15.3, the licenses and related rights herein granted to Publisher shall immediately revert to the SCE Company, and Publisher shall cease from any further use of the SCE Confidential Information, Licensed Trademarks and the SCE Materials and any SCE Intellectual Property Rights therein, and, subject to the provisions of Section 15.3, Publisher shall have no further right to continue the development, publication, manufacture, marketing, advertising, sale or other distribution of any Licensed Products, or to continue to use any Licensed Trademarks; provided, however, that for a period of one year after the effective date of termination, and subject to all the terms of Section 13, and provided this Agreement is not terminated due to any breach or default by Publisher, Publisher may retain such portions of the SCE Materials and the SCE Confidential Information as the SCE Company in its sole discretion agrees are required to support end users who possess Licensed Products but must return all these materials at the end of such one year period. Upon expiration or termination, the licenses and related rights herein granted to the SCE Company by Publisher shall immediately revert to Publisher, and the SCE Company shall cease from any further use of Product Information and any Publisher Intellectual Property Rights therein; provided that the SCE Company may continue the manufacture, marketing, advertising, sale and other such distribution of

any SCE Company demonstration discs containing Publisher's Product Information which Publisher had previously approved.

15.3 Disposal of Unsold Units Upon Termination. In the event of termination of this Agreement under sections 14.2(ii), (iv), or (v), Publisher may sell off existing inventories of Units of the Disc Products, on a non-exclusive basis, and strictly in accordance with this Agreement, for a period of 90 days from the date of expiration or effective date of termination of this Agreement, and provided such inventories have not been manufactured solely or principally for sale during such period. Subsequent to the expiration of such 90 day period, or in the event this Agreement is terminated under Sections 14.2(i), (iii), (vi), (vii), or (viii), any and all Units of the Disc Products remaining in Publisher's inventory or otherwise under its control shall be destroyed by Publisher within five (5) business days of such expiration or termination date. Within five (5) business days after such destruction, Publisher shall provide the SCE Company with an itemized statement, certified to be accurate by an officer of Publisher, indicating the number of Units of the Licensed Products which have been destroyed (on a title-by-title basis), the location and date of such destruction, and the disposition of the remains of such destroyed materials.

15.4 Disposal of Unsold Units Upon Non-Renewal. In the event that the Term expires and this Agreement is not renewed, Publisher may continue to publish those Licensed Products containing Executable Software whose development was completed before or during the Term, and to use the Licensed Trademarks strictly, only and directly in connection with such publication, until the Term expires or, if later, until the second anniversary of the 31 January next following such completion. Upon expiration of the Term or, the extended period for publishing Licensed Products, Publisher may sell off existing inventories of such Licensed Products on a non-exclusive basis for a period of 180 days from the applicable expiration date; provided that such inventory is not manufactured solely or principally for sale within such sell-off period.

15.5 Return of the SCE Materials and the SCE Confidential Information. Upon the expiration or earlier termination of this Agreement or following either the 180 day period or the 90 day period referenced in Sections 15.4 and 15.3 and subject to Section 15.2, Publisher shall immediately deliver to the SCE Company, or if and to the extent requested by the SCE Company, destroy, all SCE Materials and any and all copies thereof, and Publisher and the SCE Company shall, upon the request of the other party, immediately deliver to the other party, or to the extent requested by such party destroy, all Confidential Information of the other party, including any and all copies thereof, which the other party previously furnished to it in furtherance of this Agreement. Within five (5) working days after any such destruction, Publisher or the SCE Company, as appropriate, shall provide the other party with a certificate of destruction and an itemized statement, each certified to be accurate by an officer of Publisher, indicating the number of copies or units of the SCE Materials or SCE Confidential Information which have been destroyed, the location and date of such destruction and the disposition of the remains of such destroyed materials. In the event that Publisher fails to return or certify the destruction of the SCE Materials or SCE Confidential Information and the SCE Company must resort to legal means (including any use of lawyers) to recover the SCE Materials or SCE Confidential Information or the value thereof, all costs, including the SCE Company's reasonable lawyers' fees, shall be borne by Publisher, and the SCE Company may, in addition to the SCE Company's other remedies, withhold such amounts from any payment otherwise due from the SCE Company to Publisher under any agreement between the SCE Company and Publisher.

15.6 Extension of this Agreement; Termination Without Prejudice. The SCE Company shall be under no obligation to extend

this Agreement notwithstanding any actions taken by either of the parties prior to the expiration of this Agreement. Upon the expiration of this Agreement, neither party shall be liable to the other for any damages (whether direct, indirect, consequential or incidental, and including any expenditures, loss of profits or prospective profits) sustained or arising out of or alleged to have been sustained or to have arisen out of such expiration. The expiration or termination of this Agreement shall be without prejudice to any rights or remedies which one party may otherwise have against the other party, and shall not excuse either party from liability with respect to any events occurring prior to expiration or the effective date of termination.

16. Miscellaneous Provisions.

16.1 Notices. All notices or other communications required or desired to be sent to either of the parties shall be in writing and shall be sent by registered or certified mail, postage prepaid, or sent by recognized international courier service, or facsimile, with charges prepaid. The address for all notices or other communications required to be sent to the SCE Company or Publisher, respectively, shall be the mailing address stated in the preamble hereof, or such other address as may be provided by written notice from one party to the other on at least ten (10) days' prior written notice. Any such notice shall be effective upon the date of actual receipt, as confirmed by the receiving party.

16.2 Audit Provisions. Publisher shall keep full, complete, and accurate books of accounts and records covering all transactions relating to this Agreement. Publisher shall preserve such books of accounts, records, documents, and materials for a period of 24 months after the expiration or earlier termination of this Agreement. Acceptance by the SCE Company of any accounting statement, purchase order, or payment hereunder will not preclude the SCE Company from challenging or questioning the accuracy thereof at a later time. In the event that the SCE Company reasonably believes that the pricing information provided by Publisher with respect to any Licensed Product is not accurate, the SCE Company shall be entitled to request additional documentation from Publisher to support the pricing information provided for such Licensed Product. In addition, during the Term and for a period of two (2) years thereafter and upon the giving of reasonable prior written notice to Publisher, at the SCE Company's expense, representatives of the SCE Company shall be given access to, and the right to inspect, audit, and make copies and summaries of and take extracts from, such portions of all books and records of Publisher, and Publisher's affiliates and branch offices, as pertain to the Licensed Products and any payments due or credits received hereunder. Any such audit shall take place during normal business hours and shall, at the SCE Company's sole election, be conducted either by an independent certified accountant or by an appropriately professionally qualified SCE Company employee. In the event that such inspection reveals any under-reporting of any payment due to the SCE Company, Publisher shall immediately pay the SCE Company such amount. In the event that any audit conducted by the SCE Company reveals that Publisher has under-reported any payment due to the SCE Company hereunder by XXXX or more for the relevant audit period, then in addition to the payment of the appropriate amount due to the SCE Company, Publisher shall reimburse the SCE Company for all reasonable audit costs for that audit and any and all collection costs to recover any unpaid amounts.

16.3 Force Majeure. Neither the SCE Company nor Publisher shall be liable for any loss or damage or be deemed to be in breach of this Agreement if its failure to perform or failure to cure any of its obligations under this Agreement results from any event or circumstance beyond its reasonable control, including any natural disaster, fire, flood, earthquake or other Act of God; shortage of equipment, materials, supplies or transportation facilities; strike or other industrial dispute; war

or rebellion; shutdown or delay in power, telephone or other essential service due to the failure of computer or communications equipment or otherwise; provided, however, that the party interfered with gives the other party written notice thereof promptly, and, in any event, within fifteen (15) business days of discovery of any such Force Majeure condition. If notice of the existence of any Force Majeure condition is provided within such period, the time for performance or cure shall be extended for a period equal to the duration of the Force Majeure event or circumstance described in such notice, except that any such cause shall not excuse the payment of any sums owed to the SCE Company prior to, during or after the occurrence of any such Force Majeure condition. In the event that the Force Majeure condition continues for more than 60 days, the SCE Company may terminate this Agreement for cause by providing written notice to Publisher to such effect.

16.4 No Agency, Partnership or Joint Venture. The relationship between the SCE Company and Publisher, respectively, is that of licensor and licensee. Both parties are independent contractors and neither party is the legal representative, agent, joint venturer, partner or employee of the other party for any purpose whatsoever. Neither party has any right or authority to assume or create any obligations of any kind or to make any representation or warranty on behalf of the other party, whether express or implied, or to bind the other party in any respect whatsoever.

16.5 Assignment. The SCE Company has entered into this Agreement based upon the particular reputation, capabilities and experience of Publisher and its officers, directors and employees. Except as provided in this Agreement, Publisher may not assign, sublicense, subcontract, encumber or otherwise transfer this Agreement or any of its rights hereunder, nor delegate or otherwise transfer any of its obligations hereunder, to any third party unless the prior written consent of the SCE Company shall first be obtained. Any attempted or purported assignment, delegation or other such transfer, directly or indirectly, without the required consent of the SCE Company shall be void and a material breach of this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of the parties and their respective successors and permitted assigns (other than in connection with any of the events referenced in Section 14.2(iv).) The SCE Company shall have the right to assign any and all of its rights and obligations hereunder to any Affiliate(s) or to any company in the Sony family group of companies.

16.6 Non-solicitation. Neither Publisher nor any of its affilates, by itself, its officers, employees or agents, or indirectly, shall during the Term, induce or seek to induce, on an individually targeted basis, the employment or the engagement of the services of, any

employee of the SCE Company or any of its Affiliates, whose services are (a) specifically engaged in product development or directly related functions or (b) otherwise reasonably deemed by his or her employer to be of material importance to the protection of its legitimate business interests, and (c) with whom Publisher or any of its affiliates shall have had contact or dealings during the Term. The foregoing provisions shall continue to apply for a period of 12 months after this Agreement expires or is terminated.

16.7 Compliance with Applicable Laws. The parties shall at all times comply with all applicable laws and regulations and all conventions and treaties to which their countries are a party or relating to or in any way affecting this Agreement and the performance by the parties of this Agreement, including the US Children's Online Privacy Protection Act and all other laws and regulations relating to the gathering, handling and dissemination of all data from or concerning end users of Online Products. Each party, at its own expense, shall negotiate and obtain any approval, license or permit required in the performance of its obligations, and shall declare, record or take such steps to render this Agreement binding, including the recording of this Agreement with

any appropriate governmental authorities (if required).

16.8 Legal Costs and Expenses. In the event it is necessary for either party to retain the services of a lawyer to enforce the provisions of this Agreement or to file or defend any action arising out of this Agreement, then the prevailing party in any such action shall be entitled, in addition to any other rights and remedies available to it at law or in equity, to recover from the other party its reasonable fees for lawyers and expert witnesses, plus such court costs and expenses as may be fixed by any court of competent jurisdiction. The term "prevailing party" for the purposes of this Section shall include a defendant who has by motion, judgment, verdict or dismissal by the court, successfully defended against any claim that has been asserted against it.

16.9 Remedies. Unless expressly set forth to the contrary, either party's election of any remedies provided for in this Agreement shall not be exclusive of any other remedies at law or equity, and all such remedies shall be deemed to be cumulative. Any breach of Sections 2, 3, 5, 6, 7.1 — 7.7, 13 or 15 of this Agreement would cause significant and irreparable harm to the SCE Company, the extent of which would be difficult to ascertain and for which damages might not be an adequate remedy. Accordingly, in addition to any other remedies, including damages to which the SCE Company may be entitled, in the event of a breach or threatened breach by Publisher, or any of its directors, officers, employees, agents or permitted consultants or subcontractors, of any such Section or Sections of this Agreement, the SCE Company shall be entitled to the immediate issuance without bond or other security, of ex parte equitable relief, including injunctive relief, or, if a bond is required under applicable l aw, on the posting of a bond in an amount not to exceed USD XXXX, enjoining any breach or threatened breach of any or all of such provisions. Such remedy shall be in addition to and not in limitation of any injunctive relief or other remedies to which the SCE Company may be entitled under this Agreement or otherwise at law or in equity.

16.10 Severability. In the event that any provision of this Agreement or portion thereof is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, such provision or portion shall be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, while the remainder of this Agreement shall continue in full force and remain in effect according to its stated terms and conditions.

16.11 Sections Surviving Expiration or Termination. The following Sections shall survive the expiration or earlier termination of this Agreement for any reason: 5, 6.2, 6.3, 6.4, 7.10, 9, 10, 11, 13, 14.5, 15 and 16 and any terms in any Regional Rider that are expressly designated as surviving termination.

16.12 Waiver. No failure or delay by either party in exercising any right, power or remedy under this Agreement shall operate as a waiver of any such right, power or remedy. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. Any waiver by either party of any provision of this Agreement shall not be construed as a waiver of any other provision of this Agreement, nor shall such waiver operate or be construed as a waiver of such provision respecting any future event or circumstance.

16.13 Modification and Amendment. The SCE Company reserves the right, at any time upon reasonable notice to Publisher, to amend the relevant provisions of this Agreement or the Guidelines, to take account of or in response to any decision, order, or objection of any court or governmental or other competition authority of competent jurisdiction, or any statutory or similar measures that give effect to any such decision (from which this Agreement and the Guidelines are not exempt) or to reflect any

undertaking by the SCE Company to any such authority. Any such amendment shall be of prospective application only and shall not be applied to any Licensed Products submitted to the SCE Company pursuant to Section 6 prior to the date of the SCE Company's notice of amendment. In the event that Publisher is unwilling to accept any such amendment, then Publisher shall have the right to terminate this Agreement by providing written notice to the SCE Company no more than 90 days following the date of the SCE Company's notice of amendment. The provisions of Section 15.3 shall come into effect upon any such termination by Publisher. Subject to the remainder of this Section 16.13 and except as otherwise provided in this Agreement, no modification or amendment of any provision of this Agreement shall be effective unless in writing and signed by both of the parties.

16.14 Interpretation. The section headings used in this Agreement are intended primarily for reference and shall not by themselves determine the construction or interpretation of this Agreement or any portion hereof. Any reference to section numbers are to the sections of this Agreement. Any reference to persons includes natural persons as well as organizations, including firms, partnerships, companies and corporations. Any phrase introduced by the terms "including," "include," "in particular," or any similar expression shall be construed as illustrative and shall not limit the category preceding those terms.

16.15 Integration. This Agreement, together with the Guidelines, constitutes the entire agreement between the SCE Company and Publisher and supersedes all prior or contemporaneous agreements, proposals, representations, understandings and communications between the SCE Company and Publisher, whether oral or written, with respect to the subject matter hereof, including any PlayStation 3 Confidentiality and Nondisclosure Agreement between the SCE Company and Publisher. Publisher is not relying upon any statement, representation, warranty or understanding, whether negligently or innocently made, of any person other than as expressly set out in this Agreement.

16.16 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and together shall constitute one and the same instrument.

16.17 Construction. This Agreement shall be fairly interpreted in accordance with its terms and without any strict construction in favor of or against either of the parties.

THIS AGREEMENT HAS BEEN ENTERED INTO ON THE DATE STATED AT THE BEGINNING OF IT.

SONY COMPUTER ENTERTAINMENT EUROPE LIMITED		**TAKE TWO INTERNATIONAL S.A.**	
By:	/s/Jim Ryan	By:	/s/Sebastian Belcher
Print Name:	Jim Ryan	Print Name:	Sebastian Belcher
Title:	EVP & Co-COO	Title:	Director
Date:	May 18, 2010	Date:	May 13, 2010

NOT AN AGREEMENT UNTIL
EXECUTED BY BOTH PARTIES

GLOBAL PLAYSTATION®3 FORMAT

LICENSED PUBLISHER AGREEMENT

Sony Computer Entertainment Europe Limited
Regional Rider

1. Incorporation

This Rider's terms and conditions are incorporated into and read in conjunction with the terms and conditions of the Global PlayStation 3 Format Licensed Publisher's Agreement signed by Publisher ("Global Terms").

2. Definitions and Interpretation

All capitalized words and phrases referenced in this Rider that are not expressly defined herein shall have the meanings set forth in the Definitions section of the Global Terms.

3. Territory

3.1 The Territory is expressly limited to the countries and territories specified in the Schedule to this Rider.

3.2 SCEE shall be entitled to modify and amend the Territory from time to time during the Term by providing written notice of any such changes to Publisher. In the event a country is excluded from the Territory, SCEE shall deliver to Publisher a written notice stating the number of days within which Publisher must cease the marketing, sale or distribution of Licensed Products there (or authorizing others to do so) and any further use of the SCE Materials or any SCE Intellectual Property Rights.

4. License

4.1 The rights granted to Publisher under Section 2 of the Global Terms shall not be exercised in respect of any Executable Software or Licensed Products outside of the Territory unless and until Publisher shall be authorized to do so pursuant to a current L PA with the applicable Affiliate.

4.2 All sums paid by Publisher after the Effective Date under any Development System Agreement entered into by Publisher shall be treated as license fees and SCEE shall have no obligation to refund all or any portion of any such sums.

5. SCEE Intellectual Property Rights

Nothing in Section 5 of the Global Terms shall be taken to prevent Publisher from challenging the validity of the SCE Intellectual Property Rights.

6. Quality Standards for Licensed Products

6.1 The testing and verification for conformity to the Guidelines under Section 6.1 of the Global Terms may be conducted, at Publisher's election, by an independent external testing service (if and when such service becomes available). In those cases, the parties acknowledge and agree that Publisher

will require each such independent external testing service to conduct such testing and verification in place of SCEE and will assume all the obligations of SCEE under Section 6.1 of the Global Terms, including responsibility for advising Publisher of the results of such reviews, specifying the reasons for any failure and stating what revisions are required, re-testing and for providing written confirmation that any software or materials submitted conform to the Guidelines. The timeframes within which an independent external testing service must carry out each stage of any testing or verification shall be agreed between such service and Publisher and SCEE shall have no responsibility or liability whatsoever arising from a failure by such service to meet such timeframes. Where Publisher elects to use an independent external testing service to test Executable Software that service shall be responsible for delivering Master Discs to SCEE or the Designated Manufacturing Facility.

6.2 Where any software or materials submitted under Section 6.1 of the Global Terms are not approved, as an alternative to making required corrections or improvements, or to providing any additional information requested by SCEE, or in the event that Publisher wishes to contest the outcome of SCEE's testing or verification in relation to any specific product, Publisher may have recourse to the appeals process specified in the Guidelines.

7. Manufacture of Disc Products

7.1 In no circumstances shall SCEE or the Designated Manufacturing Facility treat any of Publisher's Licensed Products in any way more or less favourably, in terms of production turnaround times or otherwise, than the Licensed Products of any other Licensed Publisher of SCEE or than Executable Software games published by SCEE itself.

7.2 Publisher shall purchase all of its requirements for the following items and services from the Designated Manufacturing Facility (and the terms of Section 7 of the Global Terms shall be construed accordingly):

(i) PlayStation 3 Format Discs (including demo discs);
(ii) Artwork of mechanical s to be reproduced or otherwise displayed on any PlayStation 3 Format Discs;
(iii) Cases for all Disc Products; and
(iv) Assembly of all components of Disc Products.

8. Delivery of Disc Products

8.1 Delivery of Disc Products shall be made ex-factory the Designated Manufacturing Facility and the Designated Manufacturing Facility shall use reasonable endeavours, subject to available manufacturing capacity, to fulfil Publisher's Purchase Orders by the Publisher's requested ex-factory delivery date but does not, in any event, guarantee to do so. All risk of loss or damage in transit to any and all Disc Products manufactured pursuant to the Publisher's Purchase Orders shall pass to Publisher immediately upon first handling by Publisher's carrier.

8.2 SCEE offers free delivery to EEA countries (only) by regular road (and/or, where applicable, sea) services, with airfreight or other expedited delivery available but the incremental costs thereof for Publisher's account. The minimum quantity per game per drop is 300 Units.

9. Charges Applicable to Licensed Products

9.1 In accordance with Section 9 of the Global Terms, Publisher shall pay the Designated Manufacturing Facility the following charge for each finished Unit ("Platform Charge"):

For Units distributed on Blu-ray Disc 25GB	XXXX% of Price to Trade plus €XXXX
For Units distributed on Blu-ray Disc 50GB	XXXX% of Price to Trade plus €XXXX

Where the Publisher has a direct distribution presence in any country, "Price to Trade" means Publisher's average net price to trade weighted by revenue across those countries within the Territory where Publisher has a direct distribution presence. Price is defined as gross invoice value to retail net of on-invoice trade margins and net of volume rebates properly attributable to sales of Units, but prior to any credit, deduction, or rebate for co-op advertising or other marketing or merchandising support. Allowances, credits or discounts for returns, price protection and prompt payment are specifically excluded. Barter, or other offsets, are not permissible as deductions.

A Publisher shall be deemed to have a direct distribution presence in any country where XXXX% or more of Publisher's Unit turnover is transacted direct by either Publisher or Publisher's wholly owned subsidiaries with retail customers, and the trade price in each case is the price to retail.

Where the Publisher has an indirect distribution presence in any country, "Price to Trade" means Publisher's average net price to trade weighted by revenue across those countries within the Territory where Publisher has an indirect distribution presence, grossed up by XXXX%. Price is defined as gross invoice value to retail (where Publisher makes any sales direct to retail in a country where it has an indirect distribution presence) and/or distributor (as applicable) net of on-invoice trade margins and net of volume rebates properly attributable to sales of Units, but prior to any credit, deduction, or rebate for co-op advertising or other marketing or merchandising support, divided by XXXX. Where Publisher does not have responsibility for marketing costs, then an agreed uplift to "Price to Trade" for the marketing cost is to be agreed with SCEE and added. Allowances, credits or discounts for returns, price protection and prompt payment are specifically excluded. Barter, or other offsets, are not permissible as deductions.

A Publisher shall be deemed to have an indirect distribution presence in any country where XXXX% or more of Publisher's Unit turnover is transacted via non-wholly owned or third party distributors, and the trade price in each case is the Publisher's price to its distributor. Accordingly, for the purpose of computing the Platform Charge, Publisher's Price to Trade for indirect distribution shall be grossed up by XXXX%.

The Platform Charge is calculated, for each Disc Product, in each year of the Term (for the period 1 April to 31 March) by reference to Publisher's average net weighted Price to Trade as at day one launch of the relevant Disc Product. For the first year in which Units of a particular Disc Product are sold, the Price to Trade calculation will be made by reference to the Publisher's projected day one prices to trade and annual sales to trade for the relevant Disc Product For each subsequent year (for the period 1 April to 31 March), Price to Trade will be calculated in accordance with Publisher's actual day one prices to trade and actual sales to trade in the prior annual period.

Where the SCE Company grants consent to bundling Units pursuant to Section 3.3 of the Global Terms, then any Units incorporated into any such bundle shall be excluded from both the units and the Price to Trade calculations detailed above.

The Price to Trade for each Disc Product shall be independently verified on signature of this Agreement and thereafter on an annual basis (on, or as soon as possible after, 1 April in each year in which Units of the Disc Product are sold) for the purpose of calculating the correct Platform Charge.

The base currency for the Platform Charge is the Euro, based on revenue-weighted averages of all relevant currencies in the Territory. For non-Euro currencies, the FT mid day spot-rate as of January 31 in each year of the Term will be used. In the event at the end of any calendar quarter any non-Euro currency has moved against the Euro by more than 10% from the January 31 base rate, the base rate will reset from the first of the following quarter.

The exercise of agreeing Publisher's calculation for the Platform Charge will be independently conducted.

There will be no retrospective adjustment of Platform Charges, notwithstanding SCEE's right to audit under the Global Terms.

9.2 The Platform Charge assumes a standard 1-disc product and covers mastering, disc, 4-colour disc label, standard box and automated assembly of all components, but excludes the cost of Printed Materials other than disc label. Platform Charge is €XXXX/unit for publisher promotional discs. Publisher promotional discs will have a standard 4-colour disc label and be supplied in a jewel case (included in Platform Charge). An inlay may be provided as Printed Materials. The charge for manual insertion of inlays for promotional discs shall be as individually quoted in each case. Shrink Wrap is available as an option subject to incremental charges (i n addition to the otherwise applicable Platform Charge specified above) of €XXXX/unit (or as individually quoted in each case for products in non-standard packaging). The Platform Charge and minimum order and reorder quantities for other "non-standard" products and/or production processes (subject to availability) shall be as individually quoted in each case. Further details relating to the Platform Charge, including minimum order quantities, will be specified in Guidelines.

9.3 **Migration.** Subject to all the terms and conditions of this paragraph 9.3, from 1 September 2008, Publisher may opt to migrate the Price to Trade of a particular Disc Product to any nominated Price to Trade for the purposes of calculating the Platform Charge for the relevant Units of such Disc Product under this paragraph 9. The option permits only a single new nominated Price to Trade in respect of each Disc Product and may only take effect nine months after submission of the first order for the relevant Units. For the purposes of calculating the Platform Charge only, the nominated new Price to Trade is deemed to be no lower than €XXXX . There is no requirement for Publisher to migrate the Price to Trade in every country in which it sells Units for the relevant Disc Product, or to do so at the same time, subject to SCEE's prior approval in each case and to any conditions imposed by SCEE from time to time in respect of such arrangements.

9.4 **Platinum.** From 1 August 2008, Units of a particular Disc Product may carry Platinum branding (as specified in the Guidelines) provided that publisher has ordered more than XXXX Units of the relevant Disc Product, the original Price to Trade for the Disc Product was in excess of €XXXX, and that Publisher has opted to migrate the Price to Trade for that Disc Product, in accordance with paragraph 9.3 of this Rider, to a sum not exceeding €XXXX. SCEE reserves the right to change the qualifying criteria for Platinum branding from time to time.

9.5 In addition to the Platform Charge, Publisher shall also pay to SCEE:

9.5.1 Indirect Income. XXXX% of all direct or indirect revenue, income or other monetary value earned, recognized or otherwise derived from Licensed Products, including in connection with the online distribution and Online Gameplay of Licensed Products, and all websites or networks on which they are published or may be played, including revenue sharing or advertising revenue; and

9.5.2 Publishing off PLAYSTATION Network. Where SCEE consents, pursuant to Section 3.3 of the Global Terms, to Publisher distributing Online Products, Online Gameplay or any services associated with Online Gameplay other than over the PlayStation®Network, Publisher shall also pay to SCEE XXXX% of all direct or indirect revenue, income or other monetary value earned, recognized or otherwise derived from any such distribution of Online Products, Online Gameplay or services associated with Online Gameplay, including one-off payments and subscription income (comprising total value of receipts from subscriptions and the total value of retail sales of vouchers for Online Gameplay).

Publisher shall provide SCEE with reports of the gross revenues actually received by Publisher (or otherwise credited to its benefit), and shall make all payments due to SCEE, pursuant to this paragraph 9.3, in accordance with the Guidelines or as otherwise notified to Publisher. SCEE shall have the right to adopt and implement online revenue accounting verification mechanisms at its sole discretion.

9.6 The Platform Charge for products developed utilising SCE Materials and/or SCE Intellectual Property Rights and/or, subject to Council Directive 91/250/EEC ("the Directive"), SCE Confidential Information, but manufactured in reliance on Article 6 of the Directive, shall be the otherwise applicable Platform Charge less only such sum as represents from time to time the costs of raw materials and for production services (including for utilisation of Sony's proprietary disc mastering technology) for the products concerned which would otherwise have been deducted from SCEE's receipts from the Designated Manufacturing Facility ("the Article 6 Platform Charge"). If Publisher has products so manufactured in reliance on Article 6 of the Directive, then Publisher shall furnish SCEE, within 28 days following the close of each calendar month: (i) a written reporting of the number of inventory units (by product title) of products so manufactured during such calendar month; (ii) an external auditor's certificate (or similar independent certificate reasonably acceptable to SCEE) confirming the completeness and accuracy of such reporting; (iii) Publisher's remittance for the Article 6 Platform Charge multiplied by the number of inventory units reflected in such reporting. Any failure fully and promptly to comply with the foregoing reporting and payment obligations shall constitute a breach of this Agreement not capable of remedy, entitling SCEE forthwith to terminate this Agreement, and upon termination by SCEE for such cause, the provisions of Section 15.2 of the Global Terms shall come into effect. SCEE shall upon reasonable written request provide Publisher with details of the aforementioned costs of raw materials and production services if Publisher has legitimately exercised its rights under Article 6 of the Directive or genuinely intends to exercise and rely upon such rights. However, SCEE reserves the right to require Publisher to execute a separate Non-Disclosure Agreement before making such information available.

9.7 No claim for credit due to shortage of Disc Products as delivered to carrier will be allowed unless it is made within four working days from the date of receipt at Publisher's receiving destination.

9.8 If Publisher fails to pay any amount payable by it under this Agreement, SCEE may charge Publisher interest on the overdue amount. Publisher shall pay the interest immediately on demand,

from the due date up to the date of actual payment, after as well as before judgment, at the rate of 4% per annum above the base rate for the time being of National Westminster Bank Plc.

10. Representations and Warranties

SCEE warrants that all PlayStation 3 Format Discs manufactured by the Designated Manufacturing Facility for Publisher pursuant to Section 7 of the Global Terms shall be free from defects in materials and workmanship under normal use and service at time of delivery in accordance with Section 7.9 of the Global Terms. The sole obligation of SCEE under this warranty shall be, for a period of 90 days from the date of delivery of such PlayStation 3 Format Discs in accordance with Section 7.9 of the Global Terms, at SCEE's election, either (i) to replace such defective PlayStation 3 Format Discs or (ii) to issue credit for, or to refund to Publisher the Platform Charge of such defective PlayStation 3 Format Discs and to reimburse Publisher its reasonable return shipping costs. Such warranty is the only warranty applicable to Licensed Products manufactured by the Designated Manufacturing Facility for Publisher pursuant to Section 7 of the Global Terms. This warranty shall not apply to damage resulting from accident, fair wear and tear, wilful damage, alteration, negligence, abnormal conditions of use, failure to follow directions for use (whether given in instruction manuals or otherwise howsoever) or misuse of Licensed Products, or to PlayStation 3 Format Discs comprising less than 1% (or, if greater, 100 units) in the aggregate of the total number of Disc Products manufactured by the Designated Manufacturing Facility for Publisher per Purchase Order of any Executable Software game. If, during such 90 (ninety) day period, defects appear as aforesaid, Publisher shall notify SCEE and, upon request by SCEE (but not otherwise), return such defective PlayStation 3 Format Discs, with a written description of the defect claimed, to such location as SCEE shall designate. SCEE shall not accept for replacement, credit or refund as aforesaid any Licensed Products except factory defective PlayStation 3 Format Discs (i.e. PlayStation 3 Format Discs that are not free from defects in materials and workmanship under normal use and service). All returns of defective PlayStation 3 Format Discs shall be subject to prior written authorisation by SCEE, not unreasonably to be withheld. If no defect exists or the defect is not such as to be covered under the above warranty, Publisher shall reimburse SCEE for expenses incurred in processing and analysing the PlayStation 3 Format Discs.

11. Limitations of Liability

Nothing in this Agreement shall exclude or limit SCEE's liability in relation to claims arising from deceit, fraud, the injury or death of any person resulting from the proven negligence of SCEE.

12. Notices

All notices sent to SCEE under Section 16.1 of the Global Terms shall be directed to its Senior Vice President, Third Party Relations & Business Affairs.

13. Governing Law

This Agreement shall be governed by and interpreted in accordance with English Law. The parties irrevocably agree for the exclusive benefit of SCEE that the English Courts shall have jurisdiction to adjudicate any proceeding, suit or action arising out of or in connection with this Agreement. However, nothing contained in this paragraph 13 shall limit the right of SCEE to take any such proceeding, suit or action against Publisher in any other court of competent jurisdiction, nor shall the taking of any such proceeding, suit or action in one or more jurisdictions preclude the taking of any other such proceeding, suit or action in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of

such other jurisdiction. Publisher shall have the right to take any such proceeding, suit or action against SCEE only in the English Courts.

SCHEDULE

Territory

Albania	Algeria	Andorra
Angola	Armenia	Australia
Austria	Azerbaijan	Bahrain
Bangladesh	Belgium	Belorussia
Bosnia Herzegovina	Botswana	Bulgaria
Cameroon	Croatia	Cyprus
Czech Republic	Denmark	Djibouti
Egypt	Estonia	Ethiopia
Fiji	Finland	France
Georgia	Germany	Ghana
Gibraltar	Greece	Hungary
Iceland	India	Italy
Ireland	Israel	Kenya
Jordan	Kazakhstan	Kyrgyzstan
Kosovo	Kuwait	Liechtenstein
Latvia	Lebanon	Macedonia
Lithuania	Luxembourg	Malta & Gozo
Madagascar	Malawi	Monaco
Mauritius	Moldova	Mozambique
Montenegro	Morocco	New Zealand
Namibia	Netherlands	Oman
Nigeria	Norway	Poland
Pakistan	Papua New Guinea	Romania
Portugal	Qatar	Saudi Arabia
Russian Federation	San Marino	Slovenia
Senegal	Slovakia	Spain
Somalia	South Africa	Switzerland
Swaziland (South Africa)	Sweden	Tunisia
Tajikistan	Tanzania	Uganda
Turkey	Turkmenistan	United Kingdom
Ukraine	United Arab Emirates	Yemen
Uzbekistan	Vatican	Zimbabwe
Zaire	Zambia	

Such countries in addition to those specified above in which the PAL television standard obtains and which SCEE, in its sole discretion as representative of Sony Computer Entertainment worldwide, determines from time to time to include within the Territory by notice to Publisher.

Exhibit 10.3

XXXX INDICATES MATERIAL THAT WAS OMITTED AND FOR WHICH CONFIDENTIAL TREATMENT WAS REQUESTED. ALL SUCH OMITTED MATERIAL WAS FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO THE RULES APPLICABLE TO SUCH CONFIDENTIAL TREATMENT REQUEST.

CONTRACT NO. 149237

XBOX 360 PUBLISHER LICENSE AGREEMENT

This Xbox 360 Publisher License Agreement ("Agreement") is entered into and effective as of the later of the two signature dates below (the "Effective Date") by and between Microsoft Licensing, GP, a Nevada general partnership ("Microsoft"), and Take-Two Interactive Software, Inc. a Delaware corporation ("Publisher").

RECITALS

A. Microsoft and its affiliated companies develop and license a computer game system known as the Xbox 360 game system and a proprietary online service accessible via the Xbox 360 game system known as Xbox Live.

B. Publisher wishes to develop and/or publish one or more software products running on the Xbox 360 game system, which software products may also be made available to subscribers of Xbox Live, and to license proprietary materials from Microsoft on the terms and conditions set forth herein.

Accordingly, for and in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, receipt of which each party hereby acknowledges, Microsoft and Publisher agree as follows:

1. Exhibits

The following exhibits are hereby incorporated to this Agreement (some require completion and/or execution by one or both parties):

Exhibit 1:	Payments
Exhibit 2:	Xbox 360 Royalty Tier Selection Form
Exhibit 3:	Xbox 360 Publisher Enrollment Form
Exhibit 4:	Authorized Subsidiaries
Exhibit 5:	Non-Disclosure Agreement
Exhibit 6:	Japan/Asian Royalty Incentive Program
Exhibit 7:	Xbox Live Incentive Program

2. Definitions

As further described in this Agreement and the Xbox 360 Publisher Guide (defined below), the following terms have the following respective meanings:

2.1 "**Asian Manufacturing Region**" means the region for manufacturing comprising Taiwan, Hong Kong, Singapore, Korea, Japan and any other countries that are included by Microsoft from time to time as set forth in the Xbox 360 Publisher Guide.

2.2 "**Asian Sales Territory**" means the territory for sales distribution comprising Taiwan, Hong Kong, Singapore, Korea, and any other countries that are included by Microsoft from time to time as set forth in the Xbox 360 Publisher Guide. The Asian Sales Territory does not include Japan.

2.3 "**Authorized Replicator**" means a software replicator certified and approved by Microsoft for replication of FPUs (defined below) that run on the Xbox 360.

2.4 "**Branding Specifications**" means the specifications as provided by Microsoft from time to time for using the Licensed Trademarks in connection with a Software Title and/or Online Content and on Marketing Materials as set forth in the Xbox 360 Publisher Guide.

2.5 "**BTS**" means a Microsoft designed break-the-seal sticker that will be issued to the Authorized Replicator for placement on the Packaging Materials (defined below) as specified in the Xbox 360 Publisher Guide.

2.6 "**Certification**" means the final stage of the approval process by which Microsoft approves or disapproves of a Software Title or Online Content for manufacture and/or distribution. Certification is further defined in this Agreement and the Xbox 360 Publisher Guide.

2.7 "**Commercial Release**" with respect to a Software Title means the first commercial distribution of an FPU that is not designated as a Demo Version. With respect to Online Content, Commercial Release means its first availability via Xbox Live to Xbox Live Users.

2.8 "**Concept**" means the detailed description of Publisher's proposed Software Title and/or Online Content in each case including such information as may be requested by Microsoft.

2.9 "**Demo Versions**" means a small portion of an applicable Software Title that is provided to end users to advertise or promote a Software Title.

2.10 "**European Sales Territory**" means the territory for sales distribution comprising the United Kingdom, France, Germany, Spain, Italy, Netherlands, Belgium, Sweden, Denmark, Norway, Finland, Austria, Switzerland, Ireland, Portugal, Greece, Australia, New Zealand and any other countries that are included by Microsoft from time to time as set forth in the Xbox 360 Publisher Guide.

2.11 "**European Manufacturing Region**" means the region for manufacturing comprising the United Kingdom, France, Germany, Spain, Italy, Netherlands, Belgium, Sweden, Denmark, Norway, Finland, Austria, Switzerland, Ireland, Portugal, Greece, Australia, New Zealand and any other countries that are included by Microsoft from time to time as set forth in the Xbox 360 Publisher Guide.

2.12 "**FPU**" or"**Finished Product Unit**" means a copy of a Software Title in object code form that has passed Certification, has been affixed to a DVD disk and approved by Microsoft for release and manufacturing. Once the Packaging Materials have been added, and the BTS has been assigned or affixed to the FPU or its packaging, the FPU also includes its accompanying BTS and Packaging Materials.

2.13 "**Japan Sales Territory**" means the territory for sales distribution comprising the country of Japan.

2.14 "**Licensed Trademarks**" means the Microsoft trademarks identified in the Xbox 360 Publisher Guide.

2.15 "**Marketing Materials**" collectively means the Packaging Materials and all press releases, marketing, advertising or promotional materials related to the Software Title, FPUs and/or Online Content (including without limitation Web advertising and Publisher's Web pages to the extent they refer to the Software Title(s), FPU(s) and/or Online Content) that will be used and distributed by Publisher in the marketing of the Software Title(s), FPU(s) and/or Online Content.

2.16 "**Manufacturing Region**" means the Asian Manufacturing Region, European Manufacturing Region, and/or North American Manufacturing Region.

2.17 "**North American Sales Territory**" means the territory for sales distribution comprising the United States, Canada, Mexico, Colombia and any other countries that may be included by Microsoft from time to time as set forth in the Xbox 360 Publisher Guide.

2.18 "**North American Manufacturing Region**" means the region for manufacturing comprising the United States, Canada, Mexico, Colombia and any other countries that may be included by Microsoft from time to time as set forth in the Xbox 360 Publisher Guide.

2.19 "**Online Content**" means any content, feature, or access to software or online service that is distributed by Microsoft pursuant to this Agreement. Online Content includes, but is not limited to, Online Game Features, Title Updates, Demo Versions, trailers, "themes," "gamer pictures" or any other category of online content or service approved by Microsoft from time to time. Trailers, "themes," "gamer pictures" and any other approved Online Content will be further described in the Xbox 360 Publisher Guide.

2.20 "**Online Game Features**" means a Software Title's content, features and/or services that are available to Xbox Live Users via Xbox Live, whether included in the Software Title's FPU or otherwise distributed via Xbox Live.

2.21 "**Packaging Materials**" means art and mechanical formats for a Software Title including the retail packaging, end user instruction manual with end user license agreement and warranties, end user warnings, FPU media label, and any promotional inserts and other materials that are to be included in the retail packaging.

2.22 "**Pre-Certification**" means the first stage of the approval process wherein Microsoft tests to provide feedback and/or identify any issues that may prevent the Software Title from being approved during the Certification phase. Pre-Certification is further described in this Agreement and the Xbox 360 Publisher Guide.

2.23 "**Sales Territory**" means the Asian Sales Territory, European Sales Territory, Japan Sales Territory, and/or North American Sales Territory.

2.24 "**Software Title**" means the single software product as approved by Microsoft for use on Xbox 360, including any Title Updates thereto (if and to the extent approved by Microsoft) and all Online Game Features for such Software Title. If Microsoft approves one or more additional single software product(s) proposed by Publisher to run on Xbox 360, this Agreement, and the term "Software Title," will be broadened automatically to cover the respective new software product(s) as additional Software Title(s) under this Agreement.

2.25 "**Subscriber**" means an Xbox Live User that establishes an account with Xbox Live.

2.26 "**Sub-Publisher**" means an entity that has a valid Xbox 360 publisher license agreement with Microsoft or a Microsoft affiliate and with whom Publisher has entered an agreement to allow such entity to publish a Software Title or Online Content in specific Sales Territories.

2.27 "**Suggested Retail Price**" means the highest per unit price that Publisher or its agent recommends the FPU be made commercially available to end-users in a particular Sales Territory. If the Suggested Retail Price of a particular Software Title varies among the countries in a single Sales Territory, then the highest Suggested Retail Price established for any of the countries will be used to determine the appropriate royalty fees for the entire Sales Territory.

2.28 "**Title Update**" means an update, upgrade, or technical fix to a Software Title that Xbox Live Users can automatically download to the Xbox Live User's Xbox 360.

2.29 "**Wholesale Price**" means the highest per unit price that Publisher charges retailers and/or distributors in bona fide third party transactions for the right to distribute and sell the Software Title within a Sales Territory, it being agreed that (i) any transactions involving affiliates of Publisher (entities controlling, controlled by or under common control of, Publisher) are not to be considered in determining the Wholesale Price; (ii) if Publisher enters into an agreement with a third party (such as a Sub-Publisher) providing the third party with the exclusive right to distribute the Software Title in a Sales Territory, the Wholesale Price is governed by the price charged by the third party rather than the terms of the exclusive distribution agreement between Publisher and such third party; and (iii) if the Wholesale Price varies among countries in a single Sales Territory, the highest Wholesale Price used in the Sales Territory will be used to determine the appropriate royalty fees for the entire Sales Territory.

2.30 "**Xbox 360**" means the second version of Microsoft's proprietary game system, successor to the Xbox game system, including operating system software and hardware design specifications.

2.31 **"Xbox 360 Publisher Guide"** means a document (in physical, electronic or Web site form) created by Microsoft that supplements this Agreement and provides detailed requirements regarding the Pre-Certification and Certification approval process, Branding Specifications, replication requirements, royalty payment process, marketing guidelines, technical specifications and certification requirements, Demo Version requirements, packaging requirements and other operational aspects of the Xbox 360 and Xbox Live. Microsoft may supplement, revise or update the Xbox 360 Publisher Guide from time to time in its reasonable discretion as set forth in this Agreement.

2.32 **"Xbox Live"** means the proprietary online service offered by Microsoft to Xbox Live Users.

2.33 **"Xbox Live User"** means any individual that accesses and uses Xbox Live.

2.34 **Other Terms**. All other capitalized terms have the definitions set forth with the first use of such term as described in this Agreement.

3. Xbox 360 Development Kit License

Publisher shall enter into one or more development kit license(s) for the applicable territory(ies) to which Xbox 360 game development kits will be shipped for use by Publisher (each an "XDK License") pursuant to which Microsoft or its affiliate may license to Publisher software development tools and hardware to assist Publisher in the development and testing of Software Titles, including redistributable code that Publisher must incorporate into Software Titles pursuant to the terms and conditions contained in the XDK License.

4. Approval Process

4.1.1 **Standard Approval Process**. The standard approval process for a Software Title is divided into four phases comprised of Concept approval, Pre-Certification, Certification, and Marketing Materials approval. Unless Publisher elects the EU Approval Option for a European FPU (described below), Publisher is required to submit its Software Title to Microsoft for evaluation at all four phases. Each phase is identified belowand further described in the Xbox 360 Publisher Guide. Additional or alternate approval processes for Online Content may be further described in the Xbox 360 Publisher Guide. Microsoft shall not unreasonably withhold or delay its testing and/or approval under any of the four approval stages.

4.1.2 **Concept**. For each Software Title, Publisher shall deliver to Microsoft a completed Concept submission form (in the form provided by Microsoft to Publisher) that describes the Software Title. In the event that Publisher desires to host or have a third party host or provide to Xbox Live Users any of Publisher's Online Game Features, Publisher shall so indicate on the Concept submission form and must execute an addendum to this Agreement, which addendum is available upon request and will be incorporated into this Agreement upon execution. Following evaluation of Publisher's Concept submission, Microsoft will notify Publisher of whether the Concept is approved or rejected. If approved, the Concept submission form, in the form submitted and approved by Microsoft, is incorporated herein by reference and adherence to its terms is a requirement for Certification. Publisher may propose Online Content at any time after a Concept has been approved, in which case Publisher shall deliver to Microsoft a separate Concept submission for each proposed piece of Online Content.

4.1.3 **Pre-Certification**. If the Concept is approved, Publisher shall deliver to Microsoft a code-complete version of the Software Title or Online Content that includes all current features of the Software Title and such other content as may be required under the Xbox 360 Publisher Guide. Upon receipt, Microsoft shall conduct technical screen and/or other testing of the Software Title or Online Content consistent with the Xbox 360 Publisher Guide and will subsequently provide Publisher with advisory feedback regarding such testing.

4.1.4 **Certification**. Following Pre-Certification, Publisher shall deliver to Microsoft the proposed final release version of the applicable Software Title that is complete, ready for access via Xbox Live (if applicable), release, manufacture, and commercial distribution. Such version must include the final content rating certification required by Section 4.4, have identified program errors corrected, and have any and all changes previously required by Microsoft implemented. Microsoft shall conduct compliance, compatibility, functional and other testing consistent with the Xbox 360 Publisher Guide ("Certification Testing") and shall subsequently provide Publisher with the results of such testing, including any required fixes required prior to achieving Certification. Release from Certification for a Software Title (and for Online Content as applicable) is based on (1) passing the Certification Testing; (2) conformance with the approved Concept and any required submission materials as stated in the Xbox 360 Publisher Guide; (3) Packaging Materials approval; (4) consistency with the goals and objectives of the Xbox 360 console platform and Xbox Live; and (5) continuing and ongoing compliance with all Certification requirements and other requirements as set forth in the Xbox 360 Publisher Guide and this Agreement, subject to Section 5 below.

4.1.5 **Marketing Materials Approval**. Publisher shall submit all Marketing Materials to Microsoft and shall not distribute such Marketing Materials unless and until Microsoft has approved them in writing. Prior to use or publication of any Marketing Materials, Publisher agrees to incorporate all changes relating to use of the Licensed Trademarks that Microsoft may request and will use its commercially reasonable efforts to incorporate other changes reasonably suggested by Microsoft (provided, however, that in any event Publisher shall at all times comply with the Branding Specifications).

4.2 **EU Approval Option**. For a Software Title that Publisher intends to distribute solely in the European Sales Territory (a "European FPU"), Publisher may choose to forego Concept approval (Section 4.1.1), Pre-Certification (Section 4.1.3) and/or Marketing Materials approval (Section 4.1.5) and submit such Software Title to Microsoft only for Certification approval. This option is referred to herein as the "EU Approval Option." The EU Approval Option applies solely to distribution of European FPUs, and is not available for Online Content intended to be available in the European Sales Territory. If Publisher chooses the EU Approval Option, Publisher shall not use the Licensed Trademarks on the European FPU and the license grant set forth in Section 12.1 is withdrawn as to such European FPU. In addition, Publisher shall make no statements in advertising, marketing materials, packaging, Web sites or otherwise that the European FPU is approved or otherwise sanctioned by Microsoft or is an official Xbox 360 Software Title. The European FPU may not be distributed outside the European Sales Territory without complying with all terms of this Agreement concerning approvals and the release of the FPU as deemed relevant by Microsoft. Microsoft may provide additional information in the Xbox 360 Publisher Guide regarding the European Approval Option. Notwithstanding Publisher's choice of the EU Approval Option, all other portions of this Agreement other than those specifically identified above shall remain in effect.

4.3 **Resubmissions and Additional Review.** If a Software Title or Online Content fails Certification, and if Publisher has made good faith efforts to address any issues raised by Microsoft, Microsoft will give Publisher the opportunity to resubmit such Software Title or Online Content for Certification. Microsoft may charge Publisher a reasonable fee designed to offset the costs associated with testing upon resubmission. Publisher may request the ability to submit versions of the Software Title or Online Content at stages of development other than as identified above for review and feedback by Microsoft. Such review is within the discretion of Microsoft and may require the payment of reasonable fees by Publisher to offset the costs associated with the review of such Software Titles or Online Content.

4.4 **Content Rating**. For those Sales Territories that utilize a content rating system, Microsoft will not accept submission of a Software Title for Certification approval unless and until Publisher has obtained, at Publisher's sole cost, a rating not higher than "Mature (17+)" or its equivalent from the appropriate rating bodies and/or any and all other independent content rating authority/authorities for the applicable Sales Territory(ies) reasonably designated by Microsoft (such as ESRB, ELSPA, CERO, *etc.*). Publisher shall include the applicable rating(s) prominently on FPUs and Marketing Materials, in accordance with the applicable rating body guidelines, and shall include the applicable rating in a header file of the Software Title and in Online Content, as described in the Xbox 360 Publisher Guide. For those Sales Territories that do not utilize a content rating system, Microsoft will not approve any Software Title or Online Content that, in its opinion, contains excessive sexual content or violence, inappropriate language or other elements deemed unsuitable for the Xbox 360 platform. If, after Commercial Release, a Software Title is determined as suitable for adults only or otherwise as indecent, obscene or otherwise prohibited by law, the Publisher shall at its own costs recall all FPUs. Publisher hereby represents and warrants that any Online Game Features and other game-related Online Content not included in the initial Software Title FPU will not be inconsistent with the content rating (or, in those countries that do not utilize a content rating system, with the overall nature of the content) of the underlying Software Title. Content rating information and requirements may be further described in the Xbox 360 Publisher Guide.

4.5 **Publisher Testing**. Publisher shall perform its own testing of the Software Title and FPUs and shall keep written or electronic records of such testing during the term of this Agreement and for no less than XXXX thereafter ("Test Records"). Upon Microsoft's request, Publisher shall provide Microsoft with copies of, or reasonable access to inspect, the Test Records, FPUs and Software Title (either in pre-Commercial Release or Commercial Release versions, as Microsoft may request).

4.6 **Mutual Approval Required**. Publisher shall not distribute the Software Title, nor manufacture any FPU intended for distribution, unless and until Microsoft has given its final approval and release from Certification version of the Software Title and both parties have approved the FPU in writing.

4.7 **Title Updates**

4.7.1 All Title Updates for Software Titles are subject to approval by Microsoft. Publisher may release one Title Update per Software Title free of charge. Any additional Title Updates proposed by Publisher may be subject to a reasonable charge.

4.7.2 Microsoft may require Publisher to develop and provide a Title Update if (a) a Software Title or Online Content adversely affects Xbox Live (b) if a change to the Xbox 360 Publisher Guide requires a Title Update, (c) if Certification is revoked for Online Content, or (d) for any other reason at Microsoft's reasonable discretion. Microsoft will not charge Publisher for the Certification, hosting, and distribution of Title Updates to Xbox Live Users for the first Title Update (if any) per Software Title or Online Content required by a specific change in the Xbox 360 Publisher Guide (which such first free Title Update shall be in addition to, and not in lieu of, the Title Update that may be released free of charge as per Section 4.7.1); provided that Microsoft will never charge Publisher for the Certification, hosting and distribution of Title Updates to Xbox Live Users for any Title Update required by Microsoft pursuant to clause (d) of the preceding sentence. Microsoft reserves the right to charge Publisher a reasonable fee to offset the costs associated with the Certification, hosting, and distribution of Title Updates to Xbox Live Users that are required because of revocation of Certification or a Software Title or Online Content adversely affecting Xbox Live.

5. Xbox 360 Publisher Guide

Publisher acknowledges that the Xbox 360 Publisher Guide is an evolving document and subject to change during the term of this Agreement. Publisher agrees to be bound by all provisions contained in the then-applicable version of the Xbox 360 Publisher Guide, unless otherwise provided in this Section 5. Publisher agrees that upon Publisher's receipt of notice of availability of the applicable supplement, revision, or updated version of the Xbox 360 Publisher Guide (which may be via a publisher newsletter or other electronic notification), Publisher automatically is bound by all provisions of the Xbox 360 Publisher Guide as supplemented, revised, or updated, unless otherwise provided in this Section 5. Publisher's continued distribution of FPUs after a notice of supplement, revision or update is included in the Xbox 360 Publisher Guide or made available to Publisher constitutes Publisher's agreement to the then-current Xbox 360 Publisher Guide as supplemented, revised or updated, unless otherwise provided in this Section 5. Microsoft will specify in each such supplement, revision or update a reasonable effective date of each change if such change is not required to be effective immediately. Anything contained herein to the contrary notwithstanding, only with respect to a Software Title that has passed Pre-Certification prior to the applicable revision or update, Publisher will not be obligated to comply with any changes made to the technical or content requirements for Software Titles in the Xbox 360 Publisher Guide, except in circumstances where (a) such change is deemed by Microsoft to be vitally important to the success of the Xbox 360 platform (e.g. changes due to piracy, technical failure) or (b) solely with respect to Software Titles that have passed Pre-Certification but not Certification, will not add significant expense to the Software Title's development. In addition, changes made in Branding Specifications or other Marketing Materials requirements will be effective as to a Software Title that has passed Certification only on a "going forward" basis (*i.e.*, only to such Marketing Materials and/or FPUs as are manufactured after Microsoft notifies Publisher of the change). Notwithstanding the foregoing, Publisher shall comply with such changes to the Xbox 360 Publisher Guide related to Branding Specifications or other Marketing Materials requirements retroactively only if Microsoft agrees to pay for Publisher's direct, out-of-pocket expenses necessarily incurred as a result of its retrospective compliance with the change.

6. Post-Release Compliance

6.1 **Correction of Bugs or Errors**. Notwithstanding Microsoft's Certification and subject to the provisions of Section 5 above, all Software Titles must remain in compliance with all Certification requirements and requirements set forth in the Xbox 360 Publisher Guide on a continuing and ongoing basis. Publisher must correct any material program bugs or errors in conformance with the Xbox 360 Publisher Guide whenever discovered and Publisher agrees to correct such material bugs and errors as soon as possible after discovery. With respect to such material bugs or errors discovered after Commercial Release of the applicable Software Title, Publisher will, at Microsoft's request or allowance, correct the bug or error in all FPUs manufactured after discovery and Microsoft may charge a reasonable amount to cover the costs of Certifying the Software Title again.

6.2 **Online Content; Minimum Commitment**

6.2.1 Publisher agrees that each Online Game Feature of a Software Title will be made available via Xbox Live for at least XXXX following the respective Commercial Release of the FPUs of the Software Title in each Sales Territory in which Xbox Live is available (the "Minimum Commitment"). Publisher is obligated to provide all necessary support for such Online Game Feature during its availability and for XXXX after discontinuation . Following the Minimum Commitment period, Publisher may terminate Microsoft's license associated with such Online Game Feature upon XXXX prior written notice to Microsoft; and/or Microsoft may discontinue the availability of any or all such Online Game Feature via Xbox Live upon XXXX prior written notice to Publisher. Publisher is responsible for communicating the duration of Online Game Feature availability to Xbox Live Users, and for providing reasonable advance notice to Xbox Live Users of any discontinuation of such Online Game Feature.

6.2.2 Subject to Section 10.3, Publisher agrees that Microsoft has the right to make Online Content other than Online Games Features submitted by Publisher available to Xbox Live Users for the Term of this Agreement. Publisher agrees to provide all necessary support for such Online Content as long as such Online Content is made available to Xbox Live Users and for XXXX thereafter.

6.2.3 **Archive Copies.** Publisher agrees to maintain, and to possess the ability to support, copies in object code, source code and symbol format, of all Online Content available to Xbox Live Users during the term of this Agreement and for no less than XXXX thereafter.

7. Manufacturing

7.1 **Authorized Replicators**. Publisher will use only an Authorized Replicator to produce FPUs. Prior to placing an order with a replicator for FPUs, Publisher shall confirm with Microsoft that such entity is an Authorized Replicator. Microsoft will endeavor to keep an up-to-date list of Authorized Replicators in the Xbox 360 Publisher Guide. Publisher will notify Microsoft in writing of the identity of the applicable Authorized Replicator and the agreement for such replication services shall be as negotiated by Publisher and the applicable Authorized Replicator, subject to the requirements in this Agreement. Publisher acknowledges that Microsoft may charge the Authorized Replicator fees for rights, services or products associated with the manufacture of FPUs and that the agreement with the Authorized Replicator grants Microsoft the right to instruct the Authorized Replicator to cease the manufacture or FPU and/or prohibit the release of FPU to Publisher or its agents in the event Publisher is in breach of this Agreement or any credit arrangement entered into by Microsoft and Publisher or Publisher affiliates. Microsoft does not guarantee any level of performance by the Authorized Replicators, and Microsoft will have no liability to Publisher for any Authorized Replicator's failure to perform its obligations under any applicable agreement between Microsoft and such Authorized Replicator and/or between Publisher and such Authorized Replicator. Microsoft has no responsibility for ensuring that FPUs are free of all defects.

7.2 **Submissions to the Authorized Replicator**. Microsoft, and not Publisher, will provide to the applicable Authorized Replicator the final release version of the Software Title and all specifications required by Microsoft for the manufacture of the FPUs including, without limitation, the Security Technology (as defined in Section 7.9 below). Publisher is responsible for preparing and delivering to the Authorized Replicator all other items required for manufacturing FPUs including approved Packaging Materials associated with the FPUs. Subject to the prior written approval of Publisher (which approval shall not be unreasonably withheld), Microsoft has the right to have include in the packaging of FPUs promotional materials for Xbox, Xbox 360, Xbox Live, and/or other Xbox or Xbox 360 products or services as Microsoft may determine in its reasonable discretion.. Microsoft will be responsible for delivering to the Authorized Replicator all such promotional materials as it desires to include with FPUs, and, unless otherwise agreed by the parties, any incremental insertion costs relating to such marketing materials will be borne by Microsoft.

7.3 **Verification Versions**. Publisher shall cause the Authorized Replicator to create several test versions of each FPU ("Verification Version(s)") that will be provided to both Microsoft and Publisher for evaluation. Prior to full manufacture of a FPU by the Authorized Replicator, both Publisher and Microsoft must approve the applicable Verification Version. Throughout the manufacturing process and upon the request of Microsoft, Publisher shall cause the Authorized Replicator to provide additional Verification Versions of the FPU for evaluation by Microsoft. Microsoft's approval is a condition precedent to manufacture, however Publisher shall grant the final approval and shall work directly with the Authorized Replicator regarding the production run. Publisher agrees that all FPUs must be replicated in conformity with all of the quality standards and manufacturing specifications, policies and procedures that Microsoft requires of its Authorized Replicators, and that all Packaging Materials must be approved by Microsoft prior to packaging. Publisher shall cause the Authorized Replicator to include the BTS on each FPU.

7.4 **Samples**. For each Software Title sku, at Publisher's cost, Publisher shall provide Microsoft with XXXX FPUs and accompanying Marketing Materials per Sales Territory in which the FPU will be released. Such units may be used in marketing, as product samples, for customer support, testing and for archival purposes. Publisher will not have to pay a royalty fee for such samples nor will such samples count towards the Unit Discounts under Exhibit 1.

7.5 Minimum Order Quantities

7.5.1 Within XXXX after the date on which both Microsoft and Publisher have authorized the Authorized Replicator to begin replication of FPUs for distribution to a specified Sales Territory, (receipt of both approvals is referred to as "Release to Manufacture"), Publisher must place orders to manufacture the minimum order quantities ("MOQs") as described in the Xbox 360 Publisher Guide. Microsoft may update and revise the MOQs XXXX which will be effective starting the following XXXX. Currently, the MOQs are as follows:

	XXXX	XXXX
XXXX	XXXX	XXXX
XXXX	XXXX	XXXX
XXXX	XXXX	XXXX
XXXX	XXXX	XXXX

7.5.2 For the purposes of this section, a "Disc" shall mean an FPU that is signed for use on a certain defined range of Xbox 360 hardware, regardless of the number of languages or product skus contained thereon. The MOQs per Software Title are cumulative per Sales Territory. For example, if an FPU is released in both the North American Sales Territory and the European Sales Territory, the cumulative MOQ per Software Title would be XXXX . The MOQ per Software Title and the MOQ per Disc, however, are not cumulative. For example, a single Disc FPU released only in the North America Sales Territory will have a total minimum order quantity of XXXX , which would cover the XXXX MOQ per Software Title and the XXXX MOQ per Disc (rather than XXXX which would have been the total minimum order quantity if the MOQ per Software Title and the MOQ per Disc had been cumulative).

7.5.3 If Publisher fails to place orders to meet any applicable minimum order quantity within XXXX of Release to Manufacture, Publisher shall immediately pay Microsoft the applicable royalty fee for the number of FPUs represented by the difference between the applicable MOQ and the number of FPUs of the Software Title actually ordered by Publisher.

7.6 **Manufacturing Reports.** Subject to any limitations and/or restrictions imposed by applicable law (including, without limitation, federal and state securities laws), for purposes of assisting in the scheduling of manufacturing resources, on a XXXX basis, or as otherwise requested by Microsoft in its reasonable discretion, Publisher shall use its commercially reasonable efforts to provide Microsoft with forecasts showing manufacturing projections by Sales Territory XXXX out for each Software Title. Publisher will use commercially reasonable efforts to cause the Authorized Replicator to deliver to Microsoft true and accurate XXXX statements of FPUs manufactured in each XXXX, on a Software Title-by-Software Title basis and in sufficient detail to satisfy Microsoft, XXXX.

7.7 **New Authorized Replicator**. If Publisher requests that Microsoft certify and approve a third party replicator that is not then an Authorized Replicator, Microsoft will consider such request in good faith. Publisher acknowledges and agrees that Microsoft may condition certification and approval of such third party on the execution of an agreement in a form satisfactory to Microsoft pursuant to which such third party agrees to strict quality standards, non-disclosure requirements, license fees for use of Microsoft intellectual property and trade secrets, and procedures to protect Microsoft's intellectual property and trade secrets. Notwithstanding anything contained herein, Publisher acknowledges that Microsoft is not required to certify, maintain the certification or approve any particular third party as an Authorized Replicator, and that the certification and approval process may be time-consuming.

7.8 **Alternate Manufacturing in Europe**. Publisher may, solely with respect to FPUs manufactured for distribution in the European Sales Territory, utilize a different process or company for the combination of a FPU with Packaging Materials provided that such packaging process incorporates the BTS and otherwise complies with the Xbox 360 Publisher Guide. Publisher shall notify Microsoft regarding its use of such process or company so that the parties may properly coordinate their activities and approvals. To the extent that Microsoft is unable to accommodate such processes or company, Publisher shall modify its operations to comply with Microsoft's requirements.

7.9 **Security**. Microsoft has the right to add to the final release version of the Software Title delivered by Publisher to Microsoft, and to all FPUs, such digital signature technology and other security technology and copyright management information (collectively, "Security Technology") as Microsoft may determine to be necessary, and/or Microsoft may modify the signature included in any Security Technology included in the Software Title by Publisher at Microsoft's discretion. Additionally, Microsoft may add Security Technology that prohibits the play of Software Titles on Xbox 360 units manufactured in a region or country different from the location of manufacture of the respective FPUs or that have been modified in any manner not authorized by Microsoft.

7.10 **Demo Versions.** If Publisher wishes to distribute a Demo Version in FPU format, Publisher must obtain Microsoft's prior written approval and Microsoft may charge a reasonable fee to offset costs of the Certification. Subject to the terms of the Xbox 360 Publisher Guide, such Demo Version(s) may be placed on a single disc, either as a stand-alone or with other Demo Versions and the price of such units must be XXXX or its equivalent in local currency. Unless separately addressed in the Xbox 360 Publisher Guide, all rights, obligations and approvals set forth in this Agreement as applying to Software Titles shall separately apply to any Demo Version. XXXX If Publishers wishes to distribute a Demo Versions in an online downloadable format, such downloadable Demo Version shall be distributed via Microsoft Xbox Live in accordance with Section 10.3, and such downloadable Demo Version will be subject to all other terms and policies applicable to Online Content set forth herein and in the Xbox 360 Publisher Guide.

8. Payments

The Parties shall make payments to each other under the terms of Exhibit 1.

9. Marketing, Sales and Support

9.1 **Publisher Responsible.** As between Microsoft and Publisher, Publisher is solely responsible for the marketing and sales of the Software Title. Publisher is also solely responsible for providing technical and all other support relating to the FPUs (including for Xbox Live Users of Online Content). Publisher shall provide all appropriate contact information (including without limitation Publisher's address and telephone number, and the applicable individual/group responsible for customer support), and shall also provide all such information to Microsoft for posting on http://www.xbox.com, or such successor or related Web site identified by Microsoft or in Xbox Live. Customer support shall at all times conform to the Customer Service Requirements set forth in the Xbox 360 Publisher Guide and industry standards in the console game industry.

9.2 **Warranty.** Publisher shall provide the original end user of any FPU a minimum warranty in accordance with local laws and industry practices. For example, in the United States, Publisher shall, as of the Effective Date, provide a minimum XXXX limited warranty that the FPU will perform in accordance with its user documentation or Publisher will provide a replacement FPU at no charge. Publisher may offer additional warranty coverage consistent with the traditions and practices of video game console game publishers within the applicable Sales Territory or as otherwise required by local law.

9.3 **Recall.** Notwithstanding anything to the contrary contained in this Agreement, if there is a material defect in a Software Title and/or any FPUs, which defect in the reasonable judgment of Microsoft would significantly impair the ability of an end user to play such Software Title or FPU or would materially and adversely affect the gameplay of the Xbox 360 or Xbox Live, Microsoft may require Publisher to undertake prompt repair or replacement of such Software Title and/or FPUs and, if Publisher is not able to repair or replace such defective Software Title and/or FPU within a reasonable time after exercising its best efforts to do the same, then Microsoft may require Publisher to recall such defective Software and/or FPU.

9.4 **No Bundling with Unapproved Peripherals, Products or Software.** Except as expressly stated in this section, Publisher shall not market or distribute a FPU bundled with any other product or service, nor shall Publisher knowingly permit or assist any third party in such bundling, without Microsoft's prior written consent. Publisher may market or distribute (i) FPU bundled with a Software Title(s) that has been previously certified and released by Microsoft for manufacturing; or (ii) FPU bundled with a peripheral product (e.g. game pads) that has been previously licensed as an "Xbox 360 Licensed Peripheral" by Microsoft, without obtaining the written permission of Microsoft. Publisher shall contact Microsoft in advance to confirm that the peripheral or Software Title to be bundled has previously been approved by Microsoft pursuant to a valid license.

9.5 **Software Title License**. Publisher grants Microsoft a fully-paid, royalty-free, worldwide, non-exclusive license (in each case subject to Publisher's prior written approval) (i) to publicly perform the Software Titles at conventions, events, trade shows, press briefings, public interactive displays and the like; (ii) to use the title of the Software Title, and screen shots from the Software Title, in advertising and promotional material relating to Xbox 360 and related Microsoft products and services, as Microsoft may reasonably deem appropriate; (iii) distribute Demo Versions with the *Official Xbox Magazine*, as a standalone product with other demo software; and (iv) distribute Software Title trailers via xbox.com. Publisher may also select Online Content for inclusion in public interactive displays and/or compilation demo discs published by Microsoft (subject to Publisher's prior written approval), in which case Publisher grants Microsoft a fully-paid, royalty-free, worldwide, transferable, sublicenseable license to broadcast, transmit, distribute, host, publicly display, reproduce and manufacture such selected Online Content as part of public interactive displays and compilation demo discs, and to distribute and permit end users to download and store (and, at Publisher's discretion, to make further copies) such Online Content via public interactive displays, The rights granted in the preceding sentence are in addition to any rights that Microsoft may have for uses of Publisher Software Titles under the applicable law, such as uses that are "referential," "fair use" or "reasonable use."

10. Grant of Distribution License, Limitations

10.1 **Distribution License**. Upon Certification of the Software Title, approval of the Marketing Materials and the FPU test version of the Software Title by Microsoft, and subject to the terms and conditions contained within this Agreement, Microsoft grants Publisher a non-exclusive, non-transferable, license to market, sell and distribute FPUs containing Redistributable and Sample Code (as defined in the XDK License) and Security Technology (as defined above) within the Sales Territoriesapproved in the Software Title's Conceptin FPU form to third parties for distribution to end users and/or directly to end users. The license to distribute the FPUs is personal to Publisher and except for transfers of FPU through normal channels of distribution (e.g. wholesalers, retailers), absent the written approval of Microsoft, Publisher may not sublicense or assign its rights under this license to other parties. For the avoidance of doubt, without the written approval of Microsoft, Publisher may not sublicense, transfer or assign its right to distribute Software Titles or FPU to another entity that will brand, co-brand or otherwise assume control over such products as a "publisher" as that concept is typically understood in the console game industry. Publisher may only grant end users the right to make personal, non-commercial use of Software Titles and may not grant end users any of the other rights reserved to a copyright holder under US Copyright Law, Japanese Copyright Law, or its international equivalent. Publisher's license rights do not include any license, right, power or authority to subject Microsoft's software or derivative works thereof or intellectual property associated therewith in whole or in part to any of the terms of an Excluded License. "Excluded License" means any license that requires as a condition of use, modification and/or distribution of software subject to the Excluded License, that such software or other software combined and/or distributed with such software be (a) disclosed or distributed in source code form; (b) licensed for the purpose of making derivative works; or (c) redistributable at no charge.

10.2 **No Distribution Outside the Sales Territory**. Publisher shall distribute FPUs only in Sales Territories for which the Software Title has been approved by Microsoft. Publisher shall not directly or indirectly export any FPUs from an authorized Sales Territory to an unauthorized territory nor shall Publisher knowingly permit or assist any third party in doing so, nor shall Publisher distribute FPUs to any person or entity that it has reason to believe may re-distribute or sell such FPUs outside authorized Sales Territories.

10.3 **Online Features**. In consideration of the royalty payments as described in Exhibit 1, Publisher grants to Microsoft (i) a worldwide, transferable, sublicensable license to broadcast, transmit, distribute, host, publicly display, reproduce, and license Online Content for use on Xbox 360s, and (ii) a worldwide, transferable license solely to distribute to end users and permit end users to download and store Online Content (and, at Publisher's discretion, to make further copies). Publisher agrees that the license grants set forth in this section applicable to Online Content are exclusive, meaning that except as expressly permitted under this Agreement, the Xbox 360 Publisher Guide and/or as agreed by the Parties, Publisher shall not directly or indirectly permit or enable access to Online Content by any means, methods, platforms or services other than through Xbox Live, or as otherwise set forth in this Agreement. Notwithstanding the foregoing, this Section 10.3 does not prevent Publisher from making other platform versions of its Software Titles or Online Content available via other platform-specific online services. This Section 10.3 shall survive expiration or termination of this Agreement solely to the extent and for the duration necessary to effectuate Section 17.3 below.

10.4 **No Reverse Engineering**. Publisher may utilize and study the design, performance and operation of Xbox 360 or Xbox Live solely for the purposes of developing the Software Title or Online Content. Notwithstanding the foregoing, Publisher shall not, directly or indirectly, reverse engineer or aid or assist in the reverse engineering of all or any part of Xbox 360 or Xbox Live except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. In the event applicable law grants Publisher the right to reverse engineer the Xbox 360 or Xbox Live notwithstanding this limitation, Publisher shall provide Microsoft with written notice prior to such reverse engineering activity, information regarding Publisher's intended method of reverse engineering, its purpose and the legal authority for such activity and shall afford Microsoft a reasonable period of time before initiating such activity in order to evaluate the activity and/or challenge the reverse engineering activity with the appropriate legal authorities. Publisher shall refrain from such reverse engineering activity until such time as any legal challenge is resolved in Publisher's favor. Reverse engineering includes, without limitation, decompiling, disassembly, sniffing, peeling semiconductor components, or otherwise deriving source code. In addition to any other rights and remedies that Microsoft may have under the circumstances, Publisher shall be required in all cases to pay royalties to Microsoft in accordance with and Exhibit 1 with respect to any games or other products that are developed, marketed or distributed by

Publisher, and derived in whole or in part from the reverse engineering of Xbox 360, Xbox Live or any Microsoft data, code or other material.

10.5 **Reservation of Rights.** Microsoft reserves all rights not explicitly granted herein.

10.6 **Ownership of the Software Titles**. Except for the intellectual property supplied by Microsoft to Publisher (including without limitation the Licensed Trademarks hereunder and the licenses in certain software and hardware granted by an XDK License), ownership of which is retained by Microsoft, insofar as Microsoft is concerned, Publisher will own all rights in and to the Software Titles and Online Content.

10.7 **Sub-Publishing.** Notwithstanding Section 10.1, Publisher may enter into independent agreements with other publishers to distribute Software Titles in multiple approved Sales Territories (a "Sub-Publishing Relationship"), so long as:

10.7.1 Publisher provides written notice to Microsoft, at least XXXX prior to authorizing a Sub-Publisher to manufacture any Software Title(s), of the Sub-Publishing relationship, along with (i) a summary of the scope and nature of the Sub-Publishing relationship including, without limitation, as between Publisher and Sub-Publisher, (ii) which party will be responsible for Certification of the Software Title(s) and/or any Online Content, (iii) a list of the Software Title(s) for which Sub-Publisher has acquired publishing rights, (iv) the geographic territory(ies) for which such rights were granted, and (v) the term of Publisher's agreement with Sub-Publisher; and

10.7.2 The Sub-Publisher has signed an Xbox 360 publisher license agreement ("Xbox 360 PLA") and both Publisher and Sub-Publisher are and remain at all times in good standing under each of their respective Xbox 360 PLAs. Publisher is responsible for making applicable royalty payments for the FPUs for which it places manufacturing orders, and Sub-Publisher is responsible for making royalty payments for the FPUs for which it places manufacturing orders.

10.8 **Authorized Affiliates**. If Publisher and an affiliate execute the "Publisher Affiliate Agreement" provided in Exhibit 4, then Publisher's authorized affiliate may exercise the rights granted to Publisher under this Agreement. The foregoing shall not apply to any Publisher affiliate which pays or intends to pay royalties from a European billing address. Any such European affiliate shall instead execute an Xbox 360 Publisher Enrollment with MIOL, a copy of which is attached hereto as Exhibit 3.

11. Usage Data

Publisher acknowledges that the operation of the Xbox Live service requires that Microsoft collect and store Xbox Live User usage data, including, without limitation, Xbox Live User statistics, scores, ratings, and rankings (collectively, "Xbox Live User Data"), as well as personally-identifiable Xbox Live User data (e.g., name, email address) ("Personal Data"). Microsoft reserves the right, in its discretion, to use such Xbox Live User Data for any purpose, including without limitation, posting the Xbox Live User Data on Xbox.com or other Microsoft Web sites. Microsoft agrees to use commercially reasonable efforts to periodically make certain Xbox Live User Data and Personal Data available to Publisher; provided that Publisher's use of such data is in accordance with the then-current Xbox Live Privacy Statement and such other reasonable restrictions as Microsoft may require. Without limiting the foregoing, Publisher agrees that any disclosure of Personal Data to Publisher is only used by Publisher and may not be shared with any other third parties, and any permitted email communications with Xbox Live Users includes instructions for opting out of receiving any further communications from Publisher.

12. Trademark Rights and Restrictions

12.1 **Licensed Trademarks License**. In each Software Title, FPU, Online Content and on all Marketing Materials, Publisher shall incorporate the Licensed Trademarks and include credit and acknowledgement to Microsoft as set forth in the Xbox 360 Publisher Guide in effect at the time of Certification of such Software Title, FPU or Online Content or approval of such Marketing Materials. Microsoft grants to Publisher a non-exclusive, non-transferable, personal license to use the Licensed Trademarks in connection with Software Titles, FPUs, Online Content and Marketing Materials according to the Xbox 360 Publisher Guide and other conditions herein, and solely in connection with marketing, sale, and distribution in the approved Sales Territories or via Xbox Live.

12.2 **Limitations**. Publisher is granted no right, and shall not purport, to permit any third party to use the Licensed Trademarks in any manner without Microsoft's prior written consent. Publisher's license to use Licensed Trademarks in connection with the Software Title, FPUs and/or Online Content does not extend to the merchandising or sale of related or promotional products.

12.3 **Branding Specifications**. Publisher's use of the Licensed Trademarks (including without limitation in FPUs, Online Content and Marketing Materials) must comply with the Branding Specifications set forth in the Xbox 360 Publisher Guide, subject to the provisions of Section 5 hereof. Publisher shall not use Licensed Trademarks in association with any third party trademarks in a manner that might suggest co-branding or otherwise create potential confusion as to source or sponsorship of the Software Title, Online Content or FPUs or ownership of the Licensed Trademarks, unless Microsoft has otherwise approved such use in writing. Upon notice or other discovery of any non-conformance with the requirements or prohibitions of this section, Publisher shall promptly remedy such non-conformance and notify Microsoft of the non-conformance and remedial steps taken.

12.4 **Protection of Licensed Trademarks**. Publisher shall assist Microsoft in protecting and maintaining Microsoft's rights in the Licensed Trademarks, including preparation and execution of documents necessary to register the Licensed Trademarks or record this Agreement, and giving immediate notice to Microsoft of potential infringement of the Licensed Trademarks. Microsoft shall have the sole right to and in its sole discretion may, commence, prosecute or defend, and control any action concerning the Licensed Trademarks, either in its own name or by joining Publisher as a party thereto. Publisher shall not during the term of this Agreement contest the validity of, by act or omission jeopardize, or take any action inconsistent with, Microsoft's rights or goodwill in the Licensed Trademarks in any country, including attempted registration of any Licensed Trademark, or use or attempted registration of any mark confusingly similar thereto.

12.5 **Ownership and Goodwill**. Publisher acknowledges Microsoft's ownership of all Licensed Trademarks, and all goodwill associated with the Licensed Trademarks. Use of the Licensed Trademarks shall not create any right, title or interest therein in Publisher's favor. Publisher's use of the Licensed Trademarks shall inure solely to the benefit of Microsoft.

13. Non-Disclosure; Announcements

13.1 **Non-Disclosure Agreement**. The information, materials and software exchanged by the parties hereunder or under an XDK License, including the terms and conditions hereof and of the XDK License, are subject to the Non-Disclosure Agreement between the parties attached hereto as Exhibit 5 (the "Non-Disclosure Agreement"), which is incorporated herein by reference; provided, however, that for purposes of the foregoing, Section 2(a)(i) of the Non-Disclosure Agreement shall hereinafter read, "The Receiving Party shall: (i)] Refrain from disclosing Confidential Information of the Disclosing Party to any third parties for as long as such remains undisclosed under 1(b) above except as expressly provided in Sections 2(b) and 2(c) of this [Non-Disclosure] Agreement." In this way, all Confidential Information provided hereunder or by way of the XDK License in whatever form (e.g. information, materials, tools and/or software exchanged by the parties hereunder or under an XDK License), including the terms and conditions hereof and of the XDK License, unless otherwise specifically stated, will be protected from disclosure for as long as it remains Confidential.

13.2 **Public Announcements**. Neither party shall issue any such press release or make any such public announcement(s) related to the subject matter of this Agreement or any XDK License without the express prior consent of the other party, which consent will not be unreasonably withheld or delayed. Nothing contained in this Section 13.2 will relieve Publisher of any other obligations it may have under this Agreement, including without limitation its obligations to seek and obtain Microsoft approval of Marketing Materials.

13.3 **Required Public Filings**. Notwithstanding Sections 13.1 and 13.2, the parties acknowledge that this Agreement, or portions thereof, may be required under applicable law to be disclosed, as part of or an exhibit to a party's required public disclosure documents. If either party is advised by its legal counsel that such disclosure is required, it will notify the other in writing and the parties will jointly seek confidential treatment of this Agreement to the maximum extent reasonably possible, in documents approved by both parties and filed with the applicable governmental or regulatory authorities, and/or Microsoft will prepare a redacted version of this Agreement for filing.

14. Protection of Proprietary Rights

14.1 **Microsoft Intellectual Property**. If Publisher learns of any infringement or imitation of the Licensed Trademarks, a Software Title, Online Content or FPU, or the proprietary rights in or related to any of them, it will promptly notify Microsoft thereof. Microsoft may take such action as it deems advisable for the protection of its rights in and to such proprietary rights, and Publisher shall, if requested by Microsoft, cooperate in all reasonable respects therein at Microsoft's expense. In no event, however, shall Microsoft be required to take any action if it deems it inadvisable to do so. Microsoft will have the right to retain all proceeds it may derive from any recovery in connection with such actions.

14.2 **Publisher Intellectual Property**. Publisher, without the express written permission of Microsoft, may bring any action or proceeding relating to infringement or potential infringement of a Software Title, Online Content or FPU, to the extent such infringement involves any proprietary rights of Publisher (provided that Publisher will not have the right to bring any such action or proceeding involving Microsoft's intellectual property). Publisher shall make reasonable efforts to inform Microsoft regarding such actions in a timely manner. Publisher will have the right to retain all proceeds it may derive from any recovery in connection with such actions. Publisher agrees to use all commercially reasonable efforts to protect and enforce its proprietary rights in the Software Title or Online Content.

14.3 **Joint Actions**. Publisher and Microsoft may agree to jointly pursue cases of infringement involving the Software Titles or Online Content (since such products will contain intellectual property owned by each of them). Unless the parties otherwise agree, or unless the recovery is expressly allocated between them by the court (in which case the terms of Sections 14.1 and 14.2 will apply), in the event Publisher and Microsoft jointly prosecute an infringement lawsuit under this provision, any recovery will be used first to reimburse Publisher and Microsoft for their respective reasonable attorneys' fees and expenses, *pro rata*, and any remaining recovery shall also be given to Publisher and Microsoft *pro rata* based upon the fees and expenses incurred in bringing such action.

15. Warranties

15.1 **Publisher**. Publisher warrants and represents that:

15.1.1 It has the full power to enter into this Agreement;

15.1.2 It has obtained and will maintain all necessary rights and permissions for its and Microsoft's use of the Software Title, FPUs, Marketing Materials, Online Content, all information, data, logos, and software or other materials provided to Microsoft and/or made available to Xbox Live Users via Xbox Live (excluding those portions that consist of the Licensed Trademarks, Security Technology and redistributable components of the so-called "XDK" in the form as delivered to Publisher by Microsoft pursuant to an XDK License) (collectively, the "Publisher Content"), and that all Publisher Content complies with all laws and regulations, and does not and will not infringe upon or misappropriate any third party trade secrets, copyrights, trademarks, patents, publicity, privacy or other proprietary rights.

15.1.3 It shall comply with all laws, regulations, industry content rating requirements and administrative orders and requirements within any applicable Sales Territory relating to the distribution, sale and marketing of the Software Title, and shall keep in force all required and necessary licenses, permits, registrations, approvals and/or exemptions throughout the term of this Agreement and for so long as it is distributing, selling or marketing the Software Title in any applicable Sales Territory.

15.1.4 The Software Title, Online Content and/or information, data, logos and software or other materials provided to Microsoft and /or made available to Xbox Live Users via Xbox Live, do not and shall not contain any messages, data, images or programs that are, by law, defamatory, obscene or pornographic, or in any way violate any applicable laws or industry content rating requirements (including without limitation laws of privacy) of the applicable Sales Territory(ies) where the Software Title is marketed and/or distributed.

15.1.5 The Online Content shall not harvest or otherwise collect information about Xbox Live Users, including e-mail addresses, without the Xbox Live Users' express consent; and the Online Content shall not link to any unsolicited communication sent to any third party.

15.2 **Microsoft**. Microsoft warrants and represents that it has the full power to enter into this Agreement and it has not previously and will not grant any rights to any third party that are inconsistent with the rights granted to Publisher herein.

15.3 DISCLAIMER. EXCEPT AS EXPRESSLY STATED IN THIS SECTION 15, MICROSOFT PROVIDES ALL MATERIALS (INCLUDING WITHOUT LIMITATION THE SECURITY TECHNOLOGY) AND SERVICES HEREUNDER ON AN "AS IS" BASIS, AND MICROSOFT DISCLAIMS ALL OTHER WARRANTIES UNDER THE APPLICABLE LAWS OF ANY COUNTRY, EXPRESS OR IMPLIED, REGARDING THE MATERIALS AND SERVICES IT PROVIDES HEREUNDER, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTY OF FREEDOM FROM COMPUTER VIRUSES. WITHOUT LIMITATION, MICROSOFT PROVIDES NO WARRANTY OF NON-INFRINGEMENT.

15.4 EXCLUSION OF INCIDENTAL, CONSEQUENTIAL AND CERTAIN OTHER DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MICROSOFT, ITSAFFILIATES, LICENSORS OR ITSSUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOST GOODWILL AND WHETHER BASED ON BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR STRICT LIABILITY, REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR IF SUCH DAMAGE COULD HAVE BEEN REASONABLY FORESEEN.

15.5 LIMITATION OF LIABILITY. THE MAXIMUM LIABILITY OF MICROSOFT TO PUBLISHER OR TO ANY THIRD PARTY ARISING OUT OF THIS AGREEMENT WILL BE XXXX. FURTHERMORE, UNDER NO CIRCUMSTANCES SHALL MICROSOFT BE LIABLE TO PUBLISHER FOR ANY DAMAGES WHATSOEVER WITH RESPECT TO ANY CLAIMS RELATING TO THE SECURITY TECHNOLOGY AND/OR ITS EFFECT ON ANY SOFTWARE TITLE OR FOR ANY STATEMENTS OR CLAIMS MADE BY PUBLISHER, WHETHER IN PUBLISHER'S MARKETING MATERIALS OR OTHERWISE, REGARDING THE AVAILABILITY OR OPERATION OF ANY ONLINE FEATURES.

16. **Indemnity; Insurance**. A claim for which indemnity may be sought hereunder is referred to as a "Claim."

16.1 **Mutual Indemnification**. Each party hereby agrees to indemnify, defend, and hold the other party harmless from any and all third party claims, demands, costs, liabilities, losses, expenses and damages (including reasonable attorneys' fees, costs, and expert witnesses' fees) arising out of or in connection with any claim that, taking the claimant's allegations to be true, would result in a breach by the indemnifying party of any of its representations, warranties or covenants set forth in Section 15.

16.2 **Additional Publisher Indemnification Obligation**. Publisher further agrees to indemnify, defend, and hold Microsoft harmless from any and all third party claims, demands, costs, liabilities, losses, expenses and damages (including reasonable attorneys' fees, costs, and expert witnesses' fees) arising out of or in connection with any claim regarding any Software Title or FPU including without limitation any claim relating to quality, performance, safety thereof, or arising out of Publisher's use of the Licensed Trademarks in breach of this Agreement.

16.3 **Notice and Assistance**. The indemnified party shall: (i) provide the indemnifying party reasonably prompt notice in writing of any Claim and permit the indemnifying party to answer and defend such Claim through counsel chosen and paid by the indemnifying party; and (ii) provide information, assistance and authority to help the indemnifying party defend such Claim. The indemnified party may participate in the defense of any Claim at its own expense. The indemnifying party will not be responsible for any settlement made by the indemnified party without the indemnifying party's written permission, which will not be unreasonably withheld or delayed. In the event the indemnifying party and the indemnified party agree to settle a Claim, the indemnified party agrees not to publicize the settlement without first obtaining the indemnifying party's written permission.

16.4 **Insurance**. Prior to distribution of any Software Title, Publisher at its sole cost and expense shall have endorsed Microsoft as an additional insured on Publisher's media perils errors and omissions liability policy for claims arising in connection with production, development and distribution of each Software Title in an amount no less than XXXX on a per occurrence or per incident basis. Coverage provided to Microsoft under the policy shall be primary to and not contributory with any insurance maintained by Microsoft. Upon request, Publisher agrees to furnish copies of the additional insured endorsement and/or a certificate of insurance evidencing compliance with this requirement.

17. Term and Termination

17.1 **Term**. The term of this Agreement shall commence on the Effective Date and shall continue until three (3) years after such date that the Xbox 360 is first commercially released by Microsoft in the United States. Unless one party gives the other notice of non-renewal within XXXX of the end of the then-current term, this Agreement shall automatically renew for successive one-year terms.

17.2 **Termination for Breach**. If either party materially fails to perform or comply with this Agreement or any provision thereof, and fails to remedy the default within XXXX after the receipt of notice to that effect, then the other party has the right, at its sole option and upon written notice to the defaulting party, to terminate this Agreement upon written notice; provided that if Publisher is the party that has materially failed to perform or comply with this Agreement, then Microsoft has the right, but not the obligation, to suspend availability of the Online Content during such XXXX period. Any notice of default hereunder must be prominently labeled "NOTICE OF DEFAULT" provided, however, that if the default is of Sections 10, 12 or Sections 1 or 2 of Exhibit 1, the Non-Disclosure Agreement, or an XDK License, then the non-defaulting party may terminate this Agreement immediately upon written notice, without being obligated to provide a XXXX cure period. The rights and remedies provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or this Agreement. If the uncured default is related to a particular Software Title or particular Online Content, then the party not in default has the right, in its discretion, to terminate this Agreement its entirety or with respect to the applicable Software Title or the particular Online Content. If Microsoft reasonably determines, at any time prior to the Commercial Release of a Software Title or Online Content, that such Software Title or Online Content does not materially comply with the requirements set forth in the applicable Xbox 360 Publisher Guide then in effect or to any applicable laws, then Microsoft has the right, in Microsoft's sole discretion and notwithstanding any prior approvals given by Microsoft, to terminate this Agreement without cost or penalty, as a whole or on a Software Title by Software Title, or Sales Territory by Sales Territory basis upon written notice to Publisher with respect to such Software Title or Sales Territory.

17.3 **Effect of Termination; Sell-off Rights**. Upon termination or expiration of this Agreement, Publisher has no further right to exercise the rights licensed hereunder or within the XDK License and shall promptly cease all manufacturing of FPU through its Authorized Replicators and, other than as provided below, cease use of the Licensed Trademarks. Publisher shall have a period of XXXX , to sell-off its inventory of FPUs existing as of the date of termination or expiration, after which sell-off period Publisher shall immediately return all FPUs to an Authorized Replicator for destruction. Publisher shall cause the Authorized Replicator to destroy all FPUs and issue to Microsoft written certification by an authorized representative of the Authorized Replicator confirming the destruction of FPUs required hereunder. All of Publisher's obligations under this Agreement shall continue to apply during such XXXX sell-off period. If this Agreement is terminated due to Publisher's breach, at Microsoft's option, Microsoft may require Publisher to immediately destroy all FPUs not yet distributed to Publisher's distributors, dealers and/or end users and shall require all those distributing the FPU over which it has control to cease distribution. Upon termination or expiration of this Agreement, Publisher shall continue to support existing Online Game Features for FPUs that have already been sold until the end of the Minimum Commitment term.

17.4 **Cross-Default.** If Microsoft has the right to terminate this Agreement, then Microsoft may, at its sole discretion also terminate the XDK License. If Microsoft terminates the XDK License due to a breach by Publisher, then Microsoft may, at its sole discretion also terminate this Agreement.

17.5 **Survival.** The following provisions shall survive expiration or termination of this Agreement: Sections 2, 6.2.2 (as to the Minimum Commitment), 6.2.3, 8 and Sections 1, 2 and 5 of Exhibit 1, 9.1, 9.2, 9.3, 10.3, 10.4, 11, 13.1, 14, 15, 16, 17.3, 17.5 and 18.

18. General

18.1 **Governing Law; Venue; Attorneys Fees.** This Agreement is to be construed and controlled by the laws of the State of Washington, U.S.A., and Publisher consents to exclusive jurisdiction and venue in the federal courts sitting in King County, Washington, U.S.A., unless no federal jurisdiction exists, in which case Publisher consents to exclusive jurisdiction and venue in the Superior Court of King County, Washington, U.S.A. Publisher waives all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on either party in the manner authorized by applicable law or court rule. The English version of this Agreement is determinative over any translations thereof. If either party employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party is entitled to recover its reasonable attorneys' fees, costs and other expenses. This choice of jurisdiction provision does not prevent Microsoft from seeking injunctive relief with respect to a violation of intellectual property rights or confidentiality obligations in any appropriate jurisdiction.

18.2 **Notices; Requests.** All notices and requests in connection with this Agreement are deemed given on the XXXX after they are deposited in the applicable country's mail system XXXX, postage prepaid, certified or registered, return receipt requested; or XXXX sent by overnight courier, charges prepaid, with a confirming fax; and addressed as follows:

Publisher:

Take-Two Interactive Software, Inc.

622 Broadway, 6th Floor

New York, NY 10012

Attention: Paul Eibeler, President and CEO

Fax: (646) 536-2928

Phone: (646) 536 3010

Email: paul.eibeler@take2games.com

Microsoft:

MICROSOFT LICENSING,GP

6100 Neil Road, Suite 100

Reno, NV 89511-1137

Attention: Xbox Accounting Services, with a cc to:

MICROSOFT CORPORATION

One Microsoft Way

Redmond, WA 98052-6399

Attention: Law & Corporate Affairs Department

Assoc. General Counsel, Consumer Legal Group (H&ED)

Fax: (425) 936-7329

or to such other address as the party to receive the notice or request so designates by written notice to the other.

18.3 **No Delay or Waiver**. No delay or failure of either party at any time to exercise or enforce any right or remedy available to it under this Agreement, and no course of dealing or performance with respect thereto, will constitute a waiver of any such right or remedy with respect to any other breach or failure by the other party. The express waiver by a party of any right or remedy in a particular instance will not constitute a waiver of any such right or remedy in any other instance. All rights and remedies will be cumulative and not exclusive of any other rights or remedies.

18.4 **Assignment**. Publisher may not assign this Agreement or any portion thereof, to any third party unless Microsoft expressly consents to such assignment in writing. Microsoft will have the right to assign this Agreement and/or any portion thereof as Microsoft may deem appropriate and/or authorize its affiliates or partners to perform this Agreement in whole or part on its behalf. For the purposes of this Agreement, a merger, consolidation, or other corporate reorganization, or a transfer or sale of a controlling interest in a party's stock, or of all or substantially all of its assets is to be deemed to be an assignment. This Agreement will inure to the benefit of and be binding upon the parties, their successors, administrators, heirs, and permitted assigns.

18.5 **No Partnership**. Microsoft and Publisher are entering into a license pursuant to this Agreement and nothing in this Agreement is to be construed as creating an employer-employee relationship, a partnership, a franchise, or a joint venture between the parties.

18.6 **Severability**. if any provision of this Agreement is found invalid or unenforceable pursuant to judicial decree or decision, the remainder of this Agreement shall remain valid and enforceable according to its terms. The parties intend that the provisions of this Agreement be enforced to the fullest extent permitted by applicable law. Accordingly, the parties agree that if any provisions are deemed not enforceable, they are to be deemed modified to the extent necessary to make them enforceable.

18.7 **Injunctive Relief.** The parties agree that Publisher's threatened or actual unauthorized use of the Licensed Trademarks or other Microsoft proprietary rights whether in whole or in part, may result in immediate and irreparable damage to Microsoft for which there is no adequate remedy at law. Either party's threatened or actual breach of the confidentiality provisions may cause damage to the non-breaching party, and in such event the non-breaching party is entitled to appropriate injunctive relief from any court of competent jurisdiction without the necessity of posting bond or other security.

18.8 **Entire Agreement; Modification; No Offer**. This Agreement (including the Concept, the Non-Disclosure Agreement, the Xbox 360 Publisher Guide, written amendments thereto, and other incorporated documents) and the XDK License constitute the entire agreement between the parties with respect to the subject matter hereof and merges all prior and contemporaneous communications. This Agreement shall not be modified except by a written agreement dated subsequent hereto signed on behalf of Publisher and Microsoft by their duly authorized representatives. Neither this Agreement nor any written or oral statements related hereto constitute an offer, and this Agreement is not legally binding until executed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date on the dates indicated below.

MICROSOFT LICENSING, GP	**TAKE-TWO INTERACTIVE SOFTWARE, INC.**
/s/ Roxanne V. Spring	/s/ Paul Eibeler
By (sign)	By (sign)
Roxanne V. Spring	Paul Eibeler
Name (Print)	Name (Print)
SPM	President and CEO
Title	Title
November 17, 2005	November 11, 2005
Date	Date

EXHIBIT 1

PAYMENTS

1. Platform Royalty

a. For each FPU manufactured during the term of this Agreement, Publisher shall pay Microsoft nonrefundable royalties in accordance with the royalty tables set forth below (Tables 1 and 2) and the "Unit Discount" table set forth in Section 1.d of this Exhibit 1 (Table 3).

b. The royalty fee is determined by the "Threshold Price" (which is the Wholesale Price (WSP) or Suggested Retail Price (SRP) at which Publisher intends to sell the Software Title in the applicable Sales Territory). To determine the applicable royalty rate for a particular Software Title in a particular Sales Territory, the applicable Threshold Price from Table 1 below will determine the correct royalty "Tier." The royalty fee is then as set forth in Table 2 based on the Manufacturing Region in which the FPUs will be manufactured. For example, assume the Wholesale Price of a Software Title to be sold in the European Sales Territory is XXXX . According to Table 1, XXXX royalty rates will apply to that Software Title and the royalty rate is determined in Table 2 by the Manufacturing Region. If the Software Title were manufactured in the European Manufacturing Region, the royalty fee would be XXXX per FPU. If the Software Title were manufactured in Asian Manufacturing Region, the royalty fee would be XXXX per FPU.

XXXX

c. Setting the Royalty. Publisher shall submit to Microsoft, at least XXXX for a Software Title, a completed and signed "Royalty Tier Selection Form" in the form attached to this Agreement as Exhibit 2 for each Sales Territory. The selection indicated in the Royalty Tier Selection Form will only be effective once the Royalty Tier Selection Form has been accepted by Microsoft. If Publisher does not submit a Royalty Tier Selection Form as required hereunder, the royalty fee for such Software Title will default to XXXX , regardless of the actual Threshold Price. The selection of a royalty tier for a Software Title in a Sales Territory is binding for the life of that Software Title even if the Threshold Price is reduced following the Software Title's Commercial Release.

d. Unit Discounts. Publisher is eligible for a discount to FPUs manufactured for a particular Sales Territory (a "Unit Discount") based on the number of FPUs that have been manufactured for sale in that Sales Territory as described in Table 3 below. Except as provided in Section 4 below, units manufactured for sale in a Sales Territory are aggregated only towards a discount on FPUs manufactured for that Sales Territory; there is no worldwide or cross-territorial aggregation of units for a particular Software Title. The discount will be rounded up to the nearest Cent, Yen or hundredth of a Euro.

XXXX

i. For North American Sales Territory:

XXXX

ii. For Japan Sales Territory:

XXXX

2. Payment Process

a. XXXX. Publisher shall not authorize its Authorized Replicators to begin production until such time as XXXX . Depending upon Publisher's credit worthiness, Microsoft may, but is not obligated to, offer Publisher credit terms for the payment of royalties due under this Agreement within XXXX of receipt of invoice. All payments will be made by wire transfer only, in accordance with the payment instructions set forth in the Xbox 360 Publisher Guide.

b. Publisher will pay royalties for FPUs manufactured in the North American Manufacturing Region in US Dollars, for FPUs manufactured in the Asian Manufacturing Region in Japanese Yen and for FPUs manufactured in the European Manufacturing Region in Euros.

3. Billing Address

a. Publisher may have only two "bill to" addresses for the payment of royalties under this Agreement, one for the North American Manufacturing Region and one for the Asian Manufacturing Region. If Publisher desires to have a "bill-to" address in a European country, Publisher (or a Publisher Affiliate) must execute an MIOL Enrollment Form in the form attached to this Agreement as Exhibit 3.

Publisher's billing address(es) is as follows:

North America Manufacturing Region:		Asian Manufacturing Region (if different):	
Name:	Take-Two Interactive Software, Inc.	Name:	_____
Address:	622 Broadway New York, NY 10012	Address:	_____ _____ _____
Attention:		Attention:	_____
Email address:		Email address:	_____
Fax:		Fax:	_____
Phone:		Phone:	_____

4. Asia Simship Program

The purpose of this program is to encourage Publisher to release Japanese FPUs or North American FPUs, that have been multi-region signed to run on NTSC-J boxes (hereinafter collectively referred to as "Simship Titles"), in Hong Kong, Singapore and Taiwan (referred to as "Simship Territory") at the same time as Publisher releases the Software Title in the Japan and/or North American Sales Territories. In order for a Software Title to qualify as a Simship Title, Publisher must release the Software Title in the Simship Territory on the same date as the Commercial Release date of such Software Title in the Japan and/or North American Sales Territories, wherever the Software Title was first Commercially Released (referred to as "Original Territory"). To the extent that a Software Title qualifies as a Simship Title, the applicable royalty tier (under Section 1.b of this Exhibit 1 above) and Unit Discount (under Section 1.d of this Exhibit 1 above) is determined as if all FPUs of such Software Title manufactured for distribution in both the Original Territory and the Simship Territory were manufactured for distribution in the Original Territory. For example, if a Publisher initially manufactures XXXX FPUs of a Software Title for the Japan Sales Territory and simships XXXX of those units to the Simship Territory, the royalty fee for all of the FPUs is determined by XXXX . In this example, Publisher would also receive a XXXX Unit Discount on XXXX units for having exceeded the Unit Discount level specified in Section 1. d of this Exhibit 1 above applicable to the Japan Sales Territory. Publisher must provide Microsoft with written notice of its intention to participate in the Asian Simship Program with respect to a particular Software Title at least XXXX prior to manufacturing any FPUs it intends to qualify for the program. In its notice, Publisher shall provide all relevant information, including total number of FPUs to be manufactured, number of FPUs to be simshipped into the Simship Territory, date of simship, etc. Publisher remains responsible for complying with all relevant import, distribution and packaging requirements as well as any other applicable requirements set forth in the Xbox 360 Publisher Guide, subject to Section 5 of the Agreement.

XXXX

5. Online Content

a. For the purpose of this Section 5, the following capitalized terms have the following meanings: XXXX

b. Publisher may, from time to time, submit Online Content to Microsoft for Microsoft to distribute via Xbox Live. XXXX.

c. XXXX

d. XXXX

e. Within XXXX after the end of XXXX with respect to which Microsoft owes Publisher any Royalty Fees, Microsoft shall furnish Publisher with a statement, together with payment for any amount shown thereby to be due to Publisher. The statement will contain information sufficient to discern how the Royalty Fees were computed.

6. Xbox Live Billing and Collection

Microsoft is responsible for billing and collecting all fees associated with Xbox Live, including fees for subscriptions and/or any Online Content for which a Xbox Live User may be charged. XXXX

7. Taxes

a. The amounts to be paid by either party to the other do not include any foreign, U.S. federal, state, local, municipal or other governmental taxes, duties, levies, fees, excises or tariffs, arising as a result of or in connection with the transactions contemplated under this Agreement including, without limitation, (i) any state or local sales or use taxes or any value added tax or business transfer tax now or hereafter imposed on the provision of any services to the other party under this Agreement, (ii) taxes imposed or based on or with respect to or measured by any net or gross income or receipts of either party, (iii) any franchise taxes, taxes on doing business, gross receipts taxes or capital stock taxes (including any minimum taxes and taxes measured by any item of tax preference), (iv) any taxes imposed or assessed after the date upon which this Agreement is terminated, (v) taxes based upon or imposed with reference to either parties' real and/or personal property ownership and (vi) any taxes similar to or in the nature of those taxes described in (i), (ii), (iii), (iv) or (v) above, now or hereafter imposed on either party (or any third parties with which either party is permitted to enter into agreements relating to its undertakings hereunder) (all such amounts, together with any penalties, interest or any additions thereto, collectively "Taxes"). Neither party is liable for any of the other party's Taxes incurred in connection with or related to the sale of goods and services under this Agreement, and all such Taxes are the financial responsibility of the party obligated to pay such taxes as determined by the applicable law, provided that both parties shall pay to the other the appropriate Collected Taxes in accordance with subsection 7.b below. Each party agrees to indemnify, defend and hold the other party harmless from any Taxes (other than Collected Taxes, defined below) or claims, causes of action, costs (including, without limitation, reasonable attorneys' fees) and any other liabilities of any nature whatsoever related to such Taxes to the extent such Taxes relate to amounts paid under this Amendment.

b. Any sales or use taxes described in 7.a above that (i) are owed by either party solely as a result of entering into this Agreement and the payment of the fees hereunder, (ii) are required to be collected from that party under applicable law, and (iii) are based solely upon the amounts payable under this Agreement (such taxes the "Collected Taxes"), will be stated separately as applicable on payee's invoices and will be remitted by the other party to the payee, upon request payee shall remit to the other party official tax receipts indicating that such Collected Taxes have been collected and paid by the payee. Either party may provide the other party an exemption certificate acceptable to the relevant taxing authority (including without limitation a resale certificate) in which case payee shall not collect the taxes covered by such certificate. Each party agrees to take such commercially reasonable steps as are requested by the other party to minimize such Collected Taxes in accordance with all relevant laws and to cooperate with and assist the other party, in challenging the validity of any Collected Taxes or taxes otherwise paid by the payor party. Each party shall indemnify and hold the other party harmless from any Collected Taxes, penalties, interest, or additions to tax arising from amounts paid by one party to the other under this Agreement, that are asserted or assessed against one party to the extent such amounts relate to amounts that are paid to or collected by one party from the other under this section. If any taxing authority refunds any tax to a party that the other party originally paid, or a party otherwise becomes aware that any tax was incorrectly and/or erroneously collected from the other party, then that party shall promptly remit to the other party an amount equal to such refund, or incorrect collection as the case may be plus any interest thereon.

c. If taxes are required to be withheld on any amounts otherwise to be paid by one party to the other, the paying party shall deduct such taxes from the amount otherwise owed and pay them to the appropriate taxing authority. At a party's written request and expense, the parties shall use reasonable efforts to cooperate with and assist each other in obtaining tax certificates or other appropriate documentation evidencing such payment, provided, however, that the responsibility for such documentation shall remain with the payee party. If Publisher is required by any non-U.S.A. government to withhold income taxes on payments to Microsoft, then Publisher may deduct such taxes from the amount owed Microsoft and shall pay them to the appropriate tax authority, provided that XXXX of such payment, Publisher delivers to Microsoft an official receipt for any such taxes withheld or other documents necessary to enable Microsoft to claim a U.S.A. Foreign Tax Credit.

d. This Section 7 shall govern the treatment of all taxes arising as a result of or in connection with this Agreement notwithstanding any other section of this Agreement.

8. Audit

During the term of this Agreement and for XXXX thereafter each party shall keep all usual and proper records related to its performance under this Agreement, including but not limited to audited financial statements and support for all transactions related to the ordering, production, inventory, distribution and billing/invoicing information. Such records, books of account, and entries will be kept in accordance with generally accepted accounting principles. Either party (the "Auditing Party") may audit and/or inspect the other party's (the "Audited Party") records no more than XXXX in any XXXX period in order to verify compliance with the terms of this Agreement. The Auditing Party may, upon reasonable advance notice, audit the Audited Party's records and consult with the Audited Party's accountants for the purpose of verifying the Audited Party's compliance with the terms of this Agreement and for a period of XXXX . Any such audit will be conducted during regular business hours at the Audited Party's offices. Any such audit will be paid for by Auditing Party unless Material discrepancies are disclosed. As used in this section, "Material" means XXXX . If Material discrepancies are disclosed, the Audited Party agrees to pay the Auditing Party XXXX.

EXHIBIT 2

XBOX 360 ROYALTY TIER SELECTION FORM

PLEASE COMPLETE THE BELOW INFORMATION, SIGN THE FORM, AND FAX IT TO MICROSOFT AT +1 (425) 708-2300 TO THE ATTENTION OF MICROSOFT LICENSING, GP (MSLI) AND YOUR ACCOUNT MANAGER.

NOTES:

1. THIS FORM MUST BE SUBMITTED AT LEAST XXXX. IF THIS FORM IS NOT SUBMITTED ON TIME, THE ROYALTY RATE WILL DEFAULT TO XXXX FOR THE APPLICABLE SALES TERRITORY.

2. A SEPARATE FORM MUST BE SUBMITTED FOR EACH SALES TERRITORY

1. Publisher Name:_____

2. Xbox 360 Software Title Name:_____

3. XeMID Number:

_____

4. Manufacturing Region (check o

- ☐ North American
- ☐ European
- ☐ Asian

5. Sales Territory (check one):

- ☐ North American Sales Territory
- ☐ Japan Sales Territory
- ☐ European Sales Territory
- ☐ Asian Sales Territory

6. Final Certification Date: _____

7. Select Royalty Tier: (check one): XXXX

The undersigned represents that he/she has authority to submit this form on behalf of the above publisher, and that the information contained herein is true and accurate.

By (sign)

Name, Title (Print)

E-Mail Address (for confirmation of receipt)

Date (Print mm/dd/yy)

EXHIBIT 3

XBOX 360 PUBLISHER ENROLLMENT FORM

PLEASE COMPLETE THIS FORM, SIGN IT, AND FAX IT TO MICROSOFT AT +1 (425) 708-2300 TO THE ATTENTION OF YOUR ACCOUNT MANAGER.

NOTE: PUBLISHER MUST COMPLETE, SIGN AND SUBMIT THIS ENROLLMENT FORM XXXX

This Xbox 360 Publisher License Enrollment ("Enrollment") is entered into between Microsoft Ireland Operations Ltd. ("MIOL") and Take-Two Interactive Software Europe Ltd. ("Publisher"), and is effective as of the latter of the two signatures identified below. The terms of that certain Xbox 360 Publisher License Agreement signed by Microsoft Licensing GP and Take-Two Interactive Software, Inc. dated on or about (the "Xbox 360 PLA") are incorporated herein by reference.

1. Term. This Enrollment will expire on the date on which the Xbox 360 PLA expires, unless it is terminated earlier as provided for in that agreement.

2. Representations and Warranties. By signing this Enrollment, the parties agree to be bound by the terms of this Enrollment and Publisher represents and warrants that: (i) it has read and understood the Xbox 360 PLA, including any amendments thereto, and agree to be bound by those; (ii) it is either the entity that signed the Xbox 360 PLA or its affiliate; and (iii) the information that provided herein is accurate.

3. Notices; Requests. All notices and requests in connection with this Enrollment are deemed given on (i) the XXXX after they are deposited in the applicable country's mail system XXXX if sent internationally), postage prepaid, certified or registered, return receipt requested; or (ii) XXXX after they are sent by overnight courier, charges prepaid, with a confirming fax; and addressed as follows:

Publisher: Take-Two Interactive Software Europe Ltd.
Address: Saxon House, 2-4 Victoria Street

Windsor, Berkshire, Sl4 1EN, UK

Attention: Simon Little
Fax: +44 1753 496669
Phone: +44 1753 496600

Email: slittle@take2europe.com

Microsoft: MICROSOFT IRELAND OPERATIONS LTD.
Microsoft European Operations Centre,

Atrium Building Block B,

Carmenhall Road,

Sandyford Industrial Estate

Dublin 18

Ireland

Fax: 353 1 706 4110

Attention: MIOL Xbox Accounting Services

with a cc to: MICROSOFT CORPORATION

One Microsoft Way

Redmond, WA 98052-6399

Attention: Law & Corporate Affairs Department Consumer

Legal Group, H&ED (Xbox)

Fax: +1 (425) 706-7329

or to such other address as the party to receive the notice or request so designates by written notice to the other.

[remainder of page intentionally left blank]

4. Billing Address. For purposes of the Xbox 360 PLA, Exhibit 1, Section 3, Publisher's billing address for the European Manufacturing Region is as follows:

Name:	Take-Two Interactive Software Europe Ltd
Address:	Saxon House, 2-4 Victoria Street Windsor, Berkshire, Sl4 1EN, UK
VAT number:	GB578 51 51 11
Attention:	Simon Little
Email address:	slittle@take2europe.com
Fax:	+44 1753 496669
Phone:	+44 1753 496600

MICROSOFT IRELAND OPERATIONS LTD.	**PUBLISHER:Take-Two Interactive Software Europe Ltd.**
By (sign)	By (sign)
Name (Print)	Name (Print)
Title	Title
Date (Print mm/dd/yy)	Date (Print mm/dd/yy)

EXHIBIT 4

AUTHORIZED AFFILIATES

Publisher affiliates authorized to perform the rights and obligations under this Agreement are:

I.	Name:	II.	Name:
	Address:		Address:
	Telephone:		Telephone:
	Fax:		Fax:

Publisher will provide Microsoft at least XXXX written notice of the name and address of each additional Publisher affiliate that Publisher wishes to add to this Exhibit 4. Any additional Publisher affiliate may not perform any rights or obligations under this Agreement until it has signed and submitted a Publisher Affiliate Agreement (attached below) to Microsoft

PUBLISHER AFFILIATE AGREEMENT

For good and valuable consideration, , a corporation of ("Publisher Affiliate ") hereby covenants and agrees with Microsoft Licensing, GP, a Nevada general partnership that Publisher Affiliate will comply with all obligations of ("Publisher") pursuant to that certain Xbox 360 Publisher License Agreement between Microsoft and Publisher dated , 200 (the "Xbox 360 PLA") and to be bound by the terms and conditions of this Publisher Affiliate Agreement. Capitalized terms used herein and not otherwise defined will have the same meaning as in the Agreement.

Publisher Affiliate acknowledges that its agreement herein is a condition for Publisher Affiliate to exercise the rights and perform the obligations established by the terms of the Xbox 360 PLA. Publisher Affiliate and Publisher will be jointly and severally liable to Microsoft for all obligations related to Publisher Affiliate's exercise of the rights, performance of obligations, or receipt of Confidential Information under the Xbox 360 PLA. This Publisher Affiliate Agreement may be terminated in the manner set forth in the Xbox 360 PLA. Termination of this Publisher Affiliate Agreement does not terminate the Xbox 360 PLA with respect to Publisher or any other Publisher Affiliates.

IN WITNESS WHEREOF, Publisher Affiliate has executed this agreement as of the date set forth below. All signed copies of this Publisher Affiliate Agreement will be deemed originals.

Signature

Title

Name (Print)

Date

EXHIBIT 5
MICROSOFT CORPORATION NON-DISCLOSURE AGREEMENT
(STANDARD RECIPROCAL)

This Non-Disclosure Agreement (the "Agreement") is made and entered into as of the later of the two signature dates below by and between MICROSOFT CORPORATION, a Washington corporation ("Microsoft"), and Take Two, a New York corporation ("Company").

IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS CONTAINED IN THIS AGREEMENT AND THE MUTUAL DISCLOSURE OF CONFIDENTIAL INFORMATION, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Definition of Confidential Information and Exclusions.

(a) "Confidential Information" means nonpublic information that a party to this Agreement ("Disclosing Party") designates as being confidential to the party that receives such information ("Receiving Party") or which, under the circumstances surrounding disclosure ought to be treated as confidential by the Receiving Party. "Confidential Information" includes, without limitation, information in tangible or intangible form relating to and/or including released or unreleased Disclosing Party software or hardware products, the marketing or promotion of any Disclosing Party product, Disclosing Party's business policies or practices, and information received from others that Disclosing Party is obligated to treat as confidential. Except as otherwise indicated in this Agreement, the term "Disclosing Party" also includes all Affiliates of the Disclosing Party and, except as otherwise indicated, the term "Receiving Party" also includes all Affiliates of the Receiving Party. An "Affiliate" means any person, partnership, joint venture, corporation or other form of enterprise, domestic or foreign, including but not limited to subsidiaries, that directly or indirectly, control, are controlled by, or are under common control with a party. Prior to the time that any Confidential Information is shared with an Affiliate who has not signed this Agreement, the Receiving Party that executed this Agreement below (the "Undersigned Receiving Party") shall have entered into an appropriate written agreement with that Affiliate sufficient to enable the Disclosing Party and/or the Undersigned Receiving Party to enforce all of the provisions of this Agreement against such Affiliate.

(b) Confidential Information shall not include any information, however designated, that: (i) is or subsequently becomes publicly available without Receiving Party's breach of any obligation owed Disclosing Party; (ii) became known to Receiving Party prior to Disclosing Party's disclosure of such information to Receiving Party pursuant to the terms of this Agreement; (iii) became known to Receiving Party from a source other than Disclosing Party other than by the breach of an obligation of confidentiality owed to Disclosing Party; (iv) is independently developed by Receiving Party; or (v) constitutes Feedback (as defined in Section 5 of this Agreement).

2. Obligations Regarding Confidential Information

(a) Receiving Party shall:

(i) Refrain from disclosing any Confidential Information of the Disclosing Party to third parties for five (5) years following the date that Disclosing Party first discloses such Confidential Information to Receiving Party, except as expressly provided in Sections 2(b) and 2(c) of this Agreement.

(ii) Take reasonable security precautions, at least as great as the precautions it takes to protect its own confidential information, but no less than reasonable care, to keep confidential the Confidential Information of the Disclosing Party;

(iii) Refrain from disclosing, reproducing, summarizing and/or distributing Confidential Information of the Disclosing Party except in pursuance of Receiving Party's business relationship with Disclosing Party, and only as otherwise provided hereunder; and

(iv) Refrain from reverse engineering, decompiling or disassembling any software code and/or pre-release hardware devices disclosed by Disclosing Party to Receiving Party under the terms of this Agreement, except as expressly permitted by applicable law.

(b) Receiving Party may disclose Confidential Information of Disclosing Party in accordance with a judicial or other governmental order, provided that Receiving Party either (i) gives the undersigned Disclosing Party reasonable notice prior to such disclosure to allow Disclosing Party a reasonable opportunity to seek a protective order or equivalent, or (ii) obtains written assurance from the applicable judicial or governmental entity that it will afford the Confidential Information the highest level of protection afforded under applicable law or regulation. Notwithstanding the foregoing, the Receiving Party shall not disclose any computer source code that contains Confidential Information of the Disclosing Party in accordance with a judicial or other governmental order unless it complies with the requirement set forth in sub-section (i) of this Section 2(b).

(c) The undersigned Receiving Party may disclose Confidential Information only to Receiving Party's employees and consultants on a need-to-know basis. The undersigned Receiving Party will have executed or shall execute appropriate written agreements with its employees and consultants sufficient to enable Receiving Party to enforce all the provisions of this Agreement.

(d) Receiving Party shall notify the undersigned Disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information or any other breach of this Agreement by Receiving Party and its employees and consultants, and will cooperate with Disclosing Party in every reasonable way to help Disclosing Party regain possession of the Confidential Information and prevent its further unauthorized use or disclosure.

(e) Receiving Party shall, at Disclosing Party's request, return all originals, copies, reproductions and summaries of Confidential Information and all other tangible materials and devices provided to the Receiving Party as Confidential Information, or at Disclosing Party's option, certify destruction of the same.

3. Remedies

The parties acknowledge that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information and that Disclosing Party shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

4. Miscellaneous

(a) All Confidential Information is and shall remain the property of Disclosing Party. By disclosing Confidential Information to Receiving Party, Disclosing Party does not grant any express or implied right to Receiving Party to or under any patents, copyrights, trademarks, or trade secret information except as otherwise provided herein. Disclosing Party reserves without prejudice the ability to protect its rights under any such patents, copyrights, trademarks, or trade secrets except as otherwise provided herein.

(b) In the event that the Disclosing Party provides any computer software and/or hardware to the Receiving Party as Confidential Information under the terms of this Agreement, such computer software and/or hardware may only be used by the Receiving Party for evaluation and providing Feedback (as defined in Section 5 of this Agreement) to the Disclosing Party. Unless otherwise agreed by the Disclosing Party and the Receiving Party, all such computer software and/or hardware is provided "AS IS" without warranty of any kind, and Receiving Party agrees that neither Disclosing Party nor its suppliers shall be liable for any damages whatsoever arising from or relating to Receiving Party's use of or inability to use such software and/or hardware.

(c) The parties agree to comply with all applicable international and national laws that apply to (i) any Confidential Information, or (ii) any product (or any part thereof), process or service that is the direct product of the Confidential Information, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information on exporting Microsoft products, see http://www.microsoft.com/exporting/.

(d) The terms of confidentiality under this Agreement shall not be construed to limit either the Disclosing Party or the Receiving Party's right to independently develop or acquire products without use of the other party's Confidential Information. Further, the Receiving Party shall be free to use for any purpose the residuals resulting from access to or work with the Confidential Information of the Disclosing Party, provided that the Receiving Party shall not disclose the Confidential Information except as expressly permitted pursuant to the terms of this Agreement. The term "residuals" means information in intangible form, which is retained in memory by persons who have had access to the Confidential Information, including ideas, concepts, know-how or techniques contained therein. The Receiving Party shall not have any obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of residuals. However, this sub-paragraph shall not be deemed to grant to the Receiving Party a license under the Disclosing Party's copyrights or patents.

(e) This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. It shall not be modified except by a written agreement dated subsequent to the date of this Agreement and signed by both parties. None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of Disclosing Party, the Receiving Party, their agents, or employees, but only by an instrument in writing signed by an authorized employee of Disclosing Party and the Receiving Party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion.

(f) If either Disclosing Party or the Receiving Party employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs. This Agreement shall be construed and controlled by the laws of the State of Washington, and the parties further consent to exclusive jurisdiction and venue in the federal courts sitting in King County, Washington, unless no federal subject matter jurisdiction exists, in which case the parties consent to the exclusive jurisdiction and venue in the Superior Court of King County, Washington. Company waives all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on either party in the manner authorized by applicable law or court rule.

(g) This Agreement shall be binding upon and inure to the benefit of each party's respective successors and lawful assigns; provided, however, that neither party may assign this Agreement (whether by operation of law, sale of securities or assets, merger or otherwise), in whole or in part, without the prior written approval of the other party. Any attempted assignment in violation of this Section shall be void.

(h) If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

(i) Either party may terminate this Agreement with or without cause upon ninety (90) days prior written notice to the other party. All sections of this Agreement relating to the rights and obligations of the parties concerning Confidential Information disclosed during the term of the Agreement shall survive any such termination.

5. Suggestions and Feedback

The Receiving Party may from time to time provide suggestions, comments or other feedback ("Feedback") to the Disclosing Party with respect to Confidential Information provided originally by the Disclosing Party. Both parties agree that all Feedback is and shall be given entirely voluntarily. Feedback, even if designated as confidential by the party offering the Feedback, shall not, absent a separate written agreement, create any confidentiality obligation for the receiver of the Feedback. Receiving Party will not give Feedback that is subject to license terms that seek to require any Disclosing Party product, technology, service or documentation incorporating or derived from such Feedback, or any Disclosing Party intellectual property, to be licensed or otherwise shared with any third party. Furthermore, except as otherwise provided herein or in a separate subsequent written agreement between the parties, the receiver of the Feedback shall be free to use, disclose, reproduce, license or otherwise distribute, and exploit the Feedback provided to it as it sees fit, entirely without obligation or restriction of any kind on account of intellectual property rights or otherwise.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

COMPANY: TAKE-TWO INTERACTIVE SOFTWARE, INC.	MICROSOFT CORPORATION
Address: 622 Broadway New York, NY 10012	One Microsoft Way Redmond, WA 98052-6399
By: /s/ Ken Selterman	By: /s/ Dean Lester
Name: Ken Selterman	Name: Dean Lester
Title: General Counsel	Title: General Manager Windows Graphics/Gaming/Workstation
Date: 06/19/03	Date: 06/24/03

EXHIBIT 6

JAPAN AND ASIA ROYALTY INCENTIVE PROGRAM

1. Overview

To encourage Publisher to release localized Software Titles in the Japan and Asian Sales Territories during XXXX , Publisher may qualify for a special incentive payment equal to XXXX according to the terms of this Exhibit 6 (the "Royalty Incentive Program").

2. Qualified FPUs

In order to qualify for the Royalty Incentive Program, the following requirements must be met.

a. Approved Concept Submission Form. Publisher must send Microsoft a completed Concept submission form (in a format to be provided by Microsoft) for any Software Titles Publisher intends to qualify for the Royalty Incentive Program no later than XXXX. In order for FPUs to qualify for the Royalty Incentive Program, Publisher's Concept for the Software Title must be received on time and approved by Microsoft.

b. J-signed. Only FPUs that are "J-signed" (as defined in the Xbox 360 Publisher Guide) to technically restrict their operation to Xbox consoles made for the Japan and Asian Sales Territories will qualify for the Royalty Incentive Program.

c. XXXX

d. XXXX

e. Public Relations. In order to qualify for the Royalty Incentive Program, Publisher must allow Microsoft to publicly disclose that the Software Title will be released on Xbox 360 in the Japan or Asian Sales Territories.

f. Timely Payment. Publisher must pay royalty fees on time in accordance with this Agreement or its credit arrangement with Microsoft in order to qualify for the Royalty Incentive Program.

3. Payment

a. Manufacturing Periods. The Royalty Incentive Program will only apply to qualified FPUs manufactured XXXX (as applicable for the FPU).

b. Incentive Payments. Microsoft will make royalty incentive payments within XXXX in which qualified FPUs were manufactured.

c. Limit. Subject to the terms of this Exhibit 6, Publisher's royalty incentive payment will XXXX Publisher acknowledges that the Royalty Incentive Payment will only apply to XXXX.

EXHIBIT 7

XBOX 360 LIVE INCENTIVE PROGRAM

1. Xbox 360 Live Incentive Program

To encourage Publisher to support functionality for Xbox Live in its Xbox 360 Software Titles and to drive increased usage of Xbox Live via Xbox 360, Publisher may qualify for certain payments based on the amount of Xbox Live Market Share (defined in Section 2.a. of this Exhibit 7 below) created by Publisher's Multiplayer Software Titles (defined in Section 2.c. of this Exhibit 7 below). Each Accounting Period (defined in Section 3.c. of this exhibit below), Microsoft will calculate Publisher's Xbox Live Market Share. If it is above XXXX , then Microsoft will pay Publisher an amount XXXX The basic equation for calculating the Publisher's payment under this program is:

XXXX

The following sections define the elements of this basic equation.

Notwithstanding anything herein to the contrary, use of or revenue derived from online games for which an end user pays a subscription separate from any account established for basic use of Xbox Live, are excluded from this Xbox 360 Live Incentive Program.

2. Xbox Live Market Share

a. "**Xbox Live Market Share**" = XXXX

b. "XXXX**Unique User Market Share**" means XXXX

c. "**Multiplayer Software Titles**" means a Software Title for Xbox 360 that supports real-time multiplayer game play.

d. "XXXX**Unique Users**" means XXXX

e. "**Paying Subscriber**" means XXXX

f. "XXXX**Unique User Market Share**" means XXXX

g. "XXXX**Unique Users**" means the XXXX

h. "**New Subscriber Market Share**" means XXXX

i. "**New Subscriber**" means a Paying Subscriber who pays for an Xbox Live account for the first time. A New Subscriber is attributed to the first Multiplayer Software Title he or she plays, even if such play was during a free-trial period which was later converted into a paying subscription. Each Paying Subscriber can only be counted as a New Subscriber once.

3. Participation Pool

a. "**Participation Pool**" means XXXX

b. "**Subscription Revenue**" means XXXX

c. "**Accounting Period**" means a XXXX, within the Term (defined below); provided that if the Effective Date of this Agreement or the expiration date of this program falls within such XXXX , then the applicable payment calculation set forth below shall be made for a partial Accounting Period, as appropriate.

4. Example

XXXX

5. Term

This Xbox 360 Live Incentive Program will be available for XXXX . Microsoft reserves the right to change the weights for averaging set forth in Section 2.a. of this exhibit upon written notice to Publisher, but no more frequently than XXXX .

6. Payments

In the event Publisher qualifies for a payment under this program during an Accounting Period, Microsoft shall furnish Publisher with a statement, together with payment for any amount shown thereby to be due to Publisher within XXXX.

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Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

Section 302 Certification

I, Strauss Zelnick, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2011 of Take-Two Interactive Software, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

November 8, 2011

/s/ STRAUSS ZELNICK

Strauss Zelnick
Chairman and Chief Executive Officer

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Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER

Section 302 Certification

I, Lainie Goldstein, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2011 of Take-Two Interactive Software, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

November 8, 2011

/s/ LAINIE GOLDSTEIN

Lainie Goldstein
Chief Financial Officer

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Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U. S. C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Take-Two Interactive Software, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2011 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Strauss Zelnick, as Chairman and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934: and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

November 8, 2011

/s/ STRAUSS ZELNICK

Strauss Zelnick
Chairman and Chief Executive Officer

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CERTIFICATION PURSUANT TO 18 U. S. C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Exhibit 32.2

CERTIFICATION PURSUANT TO
18 U. S. C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Take-Two Interactive Software, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2011 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Lainie Goldstein, as Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934: and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

November 8, 2011

/s/ LAINIE GOLDSTEIN

Lainie Goldstein
Chief Financial Officer

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Exhibit 32.2

CERTIFICATION PURSUANT TO 18 U. S. C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002