

## Hot Wheels id

### Mobile Application

#### End User License Agreement

**This End User License Agreement (“EULA”) is a legal agreement between you (“You”) and Mattel, Inc. (“Company”).**

**Platform: Apple App Store**

**Platform Provider: Apple, Inc.**

**PLEASE READ THIS EULA CAREFULLY BEFORE INSTALLING OR USING THIS APPLICATION OR ANY APPLICATION UPGRADE (AS DEFINED IN SECTION 4) (TOGETHER, THE “APPLICATION”). BY INSTALLING OR USING THE APPLICATION, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS EULA AND CONSENT TO THE PRACTICES SET FORTH IN THE COMPANY [PRIVACY STATEMENT](#). IN THE EVENT OF A CONFLICT BETWEEN THIS EULA, AND ANY OF THE TERMS OF USE OF ANY COMPANY WEBSITE, THE TERMS OF THIS EULA WILL BE CONTROLLING. IF YOU DO NOT AGREE, THEN DO NOT INSTALL OR USE THE APPLICATION. If You are uncertain about Your right to use or install certain materials, You should contact legal counsel.**

FOR PURPOSES OF THE TERMS, “COMPANY BRANDS,” “THE COMPANY,” “US”, “WE” OR “OUR” MEANS AND INCLUDES THE COMPANY AND ITS INVESTORS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES AND ASSIGNS. “YOU” MEANS EACH PERSON WHO ACCESSES OR USES THE APPLICATION OR THE SERVICES (INCLUDING, BUT NOT LIMITED TO YOUR CHILDREN), WHETHER OR NOT SUCH PERSON PERSONALLY INSTALLED THE APPLICATION OR PERSONALLY UTILIZES THE APPLICATION. FURTHER, “YOUR CHILDREN” OR “YOUR CHILD” REFERS TO YOUR CHILD, YOUR CHILDREN, A CHILD OR CHILDREN UNDER YOUR GUARDIANSHIP OR SUPERVISION, OR A CHILD OR ANY OTHER USER THAT YOU ALLOW TO USE THE APPLICATION.

1. **License Grant.** Subject to Your compliance with the terms and conditions of this EULA, Company grants to You a personal, limited, non-transferable license to use the Application on one or more Platform-compatible devices that You own or control, as permitted by and in accordance with the Platform Provider’s terms of service. Your purchase, installation and use of the Application is subject to the Platform Provider’s terms of service, privacy policy and other applicable policies made available by the Platform Provider. Please review these documents carefully. In addition, You must comply with applicable third party terms and conditions governing any other products or services in connection with which You use the Application. Please be aware that the Platform may collect analytics, usage statistics, technical or other data about or through the Application and/or Your device separate from Company’s collection of data as described in Section 2.2. Company is not responsible for the Platform Provider’s collection of data or the use of data collected by the Platform Provider.

## 2. **Description of other Rights and Restrictions.**

2.1 **Use of Application.** You may use the Application only in accordance with the terms and conditions set forth in this EULA. You may use the Application solely for lawful purposes. In each instance, the use of the Application is solely for Your own personal and private non-commercial use (including printing and saving of content for personal use only) and not for any other purpose (including, without limitation, any act of electronic or physical distribution or re-distribution, making available, performance or broadcast, or any act for profit or other commercial purpose). Use of this Application may require that You update the operating system of Your device to the current version of the operating system. You are solely responsible for all use of the Application in connection with Your Account (defined in Section 2.5, below).

2.2 **Consent to Use of Data.** You consent to our data practices as described in Our [Privacy Statement](#). In the event of any conflict between Our Privacy Statement and this EULA, the terms of this EULA will be controlling.

2.3 **Data Transfers:** Your data will be transferred to the U.S. and managed in accordance with U.S. law and the Company's Privacy Statement. If You are not a resident of the U.S., by downloading the Application and setting up Your Account You expressly consent to such transfer.

2.4 **Restrictions:** Except as expressly permitted by the license grant in Section 1, You may not distribute or make the Application available over a network where it could be used by multiple devices at the same time. You may not rent, lease, lend, sell, redistribute or sublicense the Application. You may not: (a) copy, modify or create derivative works of the Application or any part thereof (including any content made available through the Application); or (b) decompile, reverse engineer, disassemble, or otherwise reduce the Application to human-perceivable form (except as and only to the extent the foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any open sourced components included with the Application). Any attempt to do so is a violation of the rights of Company and its licensors. You shall not remove any copyright, trademark or other proprietary notices contained in the Application. You shall not exploit the Application in any unauthorized way whatsoever, including but not limited to, by trespass or burdening network capacity, or by attempting to access any information in connection with the Application by hacking, unauthorized access or any other means.

2.5 **User Accounts:** In order to access or use some (or potentially all) of the features of the Application, You may have to become a registered user and open an account and/or log in to Your existing account with Company ("Your Account"), the use of which will be subject to such terms and conditions as were provided by Company in connection with the creation of Your Account ("Account Terms"). Your decision to provide this information is purely voluntary and optional; however, if You elect not to provide it, then You may not be able to access certain (or potentially all) of the features of the Application. You may be permitted to save certain information through Your

Account in connection with your use of this Application. Any information saved through Your Account will be subject to the Account Terms.

**2.6 Virtual Items and Virtual Currency:** Company may offer You the opportunity to purchase or use virtual currency, credits, points, virtual services, or virtual items (collectively, “Virtual Goods and Services”) with "real world" money. Company retains the unfettered right to modify the Application and all aspects of characters, items, points and coin, including the Virtual Goods and Services therein. Company may modify, revalue, or make the Virtual Goods and Services free at its sole discretion, and such modifications may make the Virtual Goods and Services more or less common, valuable, effective, functional, or eliminated entirely. Virtual points, credits, or currency (“Virtual Tender”) in Your account that was purchased with real money may be redeemed before Virtual Tender in Your account that was not purchased (i.e., it was earned through experiential play), no matter when that Virtual Tender was acquired. You are encouraged to use Your Virtual Goods and Services as quickly as possible because Company makes no representations about the continued availability of such Virtual Goods and Services. Except as required by law, the availability of such Virtual Goods and Services is subject to Company's right to terminate the EULA without any refund to You for any unused or unredeemed Virtual Goods and Services.

**2.6.1 Termination or Change to Virtual Goods and Services.** If Company changes, suspends, or terminates any Virtual Goods and Services, then You will forfeit the changed, suspended, or terminated Virtual Goods and Services. Likewise, except as required by applicable law, Company is not responsible for repairing or replacing Your Virtual Goods and Services, or providing You with any credit or refund or any other sum, in the event of: (a) Company's change, suspension, or termination of any Virtual Goods and Services; or (b) for loss or damage due to Application error, or any other reason. Pursuant to its right to terminate the EULA, Company reserves the right to terminate Virtual Goods and Services for cause immediately at its sole discretion without advance notice or liability. In such an event You will not be entitled to a pro rata refund or credit.

**2.6.2 No Monetary Value; Limited Right to Use; No Property, Economic, or Ownership Interest.** Once acquired, Virtual Tender can only be used to license a variety of Virtual Goods and Services offered by Company, it has no cash value. The sale of Virtual Goods and Services are final, nonrefundable, and have no monetary value (i.e., are not a cash account or equivalent), and are purchases of only a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable license to use as governed by this EULA, even if they come with a durational term (e.g., a monthly subscription). Notwithstanding any agreement by Company to provide a discretionary pro rata refund or credit in certain circumstances, You have no property, proprietary, intellectual property, ownership, economic, or monetary interest in Your Virtual Goods and Services, which remain the exclusive property of Company (subject only to the license set forth in Section 1 above). The license may be immediately suspended or terminated for any reason, in Company's sole discretion, and without advance notice or liability. Regardless of how acquired, Virtual Goods and Services do

not accrue interest, and are not insured by the Federal Deposit Insurance Corporation (FDIC). As Company deems necessary in its sole and absolute discretion, Company may limit the total amount of Virtual Goods and Services that may be purchased at one time, and/or limit the aggregate amount of Virtual Goods and Services that may be held in Your account.

**2.6.3 Transfers Prohibited.** Company will not recognize the transfer of Virtual Goods and Services (including for “real” money or any other consideration or items of value whether inside our outside of the Application). Accordingly, You may not purchase, sell, barter, gift, or trade any Virtual Goods and Services, or offer to purchase, sell, barter, gift, or trade any Virtual Goods and Services. Any such attempted transfer will be null and void.

**2.6.4 Unused Balances.** If You leave a balance of Virtual Goods and Services unused for a period of time set forth by Your state, country, or other governing body in its unclaimed property laws, or if Your account is closed, whether voluntarily or involuntarily, Company may process Your Virtual Goods and Services balance in accordance with our legal obligations, including by submitting funds associated with Your Virtual Goods and Services balance to the appropriate governing body where required by law.

### **3. Linked Websites; Advertisements; Dealings with Third Parties.**

**3.1 Company Websites; Linked Websites; Advertisements.** The Application may contain links to or enable access to websites owned or operated by Company (“Company Websites”) and/or to third party services and websites not affiliated with the Company (“Linked Websites”). All use of Company Websites and Linked Websites is governed by the terms and conditions and privacy statements posted on such sites. Use of the Company Websites and Linked Websites may require Internet or mobile services access through your Internet or mobile service provider and is subject to their terms of service. Company has no control over the content, operations, privacy policies, terms, or other elements of Linked Websites, does not endorse, approve or sponsor Linked Websites, and does not assume any obligation to review any Linked Websites. Company disclaims all liability in connection with Your use of Linked Websites.

**3.2 Dealings with Third Parties.** Any interactions, correspondence, transactions, and other dealings that You have with any third parties found on or through the Application (including on or via Linked Websites or advertisements) are solely between You and the third party (including issues related to the content of third party advertisements, payments, delivery of goods, warranties (including product warranties), privacy and data security, and any other matter). Company disclaims all liability in connection therewith.

**4. Application Upgrades.** The terms of this EULA apply to any upgrades, supplements, add-on components, or Internet or mobile-based services components that Company may provide or make available to You in connection with the Application (“Application Upgrades”), unless superseded by a new license or additional terms accompanying such upgrade, supplement, add-

on component, or Internet or mobile-based services component, in which case the new license will govern.

5. **Ownership; Reservation of Rights.** This Application contains copyrighted material, trademarks and other intellectual property that is owned by Company (“Company Licensed Elements”) or that is provided by and belongs to third parties (“Third Party Providers”). Company and its Third Party Providers own and will retain all title, interest, ownership rights and intellectual property rights in and to the Application and all parts thereof (including content made available through the Application), and reserve all rights not expressly granted to You in this EULA. The Application is licensed, not sold.

6. **Representations and Warranties By End User:** You represent and warrant that You (a) are the age of majority in Your state of residence (which is typically 18 years of age in most states) and have the legal capacity to enter into this EULA, (b) that You expressly authorize Your Children to use the Application and acknowledge that Your Children are bound by this EULA when setting up Your Account, (c) that You will use the Application only for lawful purposes and in accordance with this EULA, and (d) that You will not use the Application to violate any law, regulation or ordinance or any right of Company, its licensors or any third party, including without limitation, any right of privacy, publicity, copyright, trademark, or patent.

7. **Termination:** This EULA is effective until terminated. Without prejudice to any other rights, Your rights under this EULA will terminate automatically without notice from Company should You fail to comply with any of the terms of the EULA. Upon termination, You agree to cease all use of the Application, uninstall it and destroy all copies of the Application. Sections 2.3, 5, 7-11, 15 and 16 shall survive termination of this EULA.

8. **Disclaimer of Warranties:** YOUR USE OF THE APPLICATION AND ANY ASSOCIATED PRODUCTS IS AT YOUR SOLE RISK.

THIS APPLICATION AND SUPPORT SERVICES (IF ANY) ARE PROVIDED ON AN “AS IS”, “AS AVAILABLE”, AND “WITH ALL FAULTS” BASIS. Therefore, to the fullest extent permissible by law, Company and its subsidiaries and each of their respective employees, directors, members, managers, shareholders, agents, vendors, licensors (including the Platform Provider), licensees, contractors, customers, successors, and assigns (collectively, “Company Parties”) hereby disclaim and make no representations, warranties, endorsements, or promises, express or implied as to:

- The Application;
- The functions, features, or any other elements in, or made accessible through, the Application;
- Any products, services, or instructions offered or referenced at or linked through the Application (except for any specific warranties provided in additional terms provided by a Company Party who is also a product manufacturer that are included with a product that You purchase from Us);

- Whether the Application is free from any harmful components (including viruses, Trojan horses, and other technologies that could adversely affect Your device);
- Whether the information (including any instructions) in the Application is accurate, complete, correct, adequate, useful, timely, or reliable;
- Whether any defects to the Application will be repaired; and
- Whether Your use of the Application is lawful in any particular jurisdiction.

EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, COMPANY PARTIES FURTHER HEREBY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSES, NON-INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, SYSTEM INTEGRATION, AND FREEDOM FROM COMPUTER VIRUS. FURTHER, COMPANY MAKES NO WARRANTIES OF ANY KIND WITH RESPECT TO ANY THIRD PARTY SOFTWARE INCLUDED WITH THE APPLICATION. TO THE EXTENT A WARRANTY MAY NOT BE DISCLAIMED AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM REQUIRED UNDER SUCH LAW.

NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY COMPANY, ITS DISTRIBUTORS, AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY.

## 9. **Limitation of Liability:**

9.1 UNDER NO CIRCUMSTANCES WILL ANY COMPANY PARTIES BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGES OF ANY KIND, including personal injury or death or for any direct, indirect, economic, exemplary, special, punitive, incidental, or consequential losses or damages that are directly or indirectly related to:

- a. the Application;
- b. Your use of or inability to use Application, or the performance of the Application;
- c. any action taken in connection with an investigation by Company or law enforcement authorities regarding Your access to or use of the Application;
- d. any action taken in connection with copyright or other intellectual property owners or other rights owners;
- e. any errors or omissions in the Application's technical operation; or
- f. any damage to Your device, computer, hardware, software, modem, or other equipment or technology, including damage from any security breach or from any virus, bugs, tampering, fraud, error, omission, interruption, defect, delay in operation or transmission, computer line, or

network failure or any other technical or other malfunction, including losses or damages in the form of lost profits, loss of goodwill, loss of data, work stoppage, accuracy of results, or equipment failure or malfunction.

9.2 The foregoing limitations of liability will apply even if any of the foregoing events or circumstances were foreseeable and even if Company was advised of or should have known of the possibility of such losses or damages, regardless of whether You bring an action of contract, negligence, strict liability, or tort (including whether caused, in whole or in part, by negligence, acts of God, telecommunications failure, or destruction of the Application).

9.3 Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages of the sort that are described above, so the above limitation or exclusion may not apply to You.

9.4 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE TOTAL LIABILITY OF COMPANY TO YOU, FOR ALL POSSIBLE DAMAGES, LOSSES, AND CAUSES OF ACTION IN CONNECTION WITH YOUR ACCESS TO AND USE OF THE APPLICATION AND YOUR RIGHTS UNDER THIS EULA, EXCEED \$50; PROVIDED, HOWEVER, THIS PROVISION WILL NOT APPLY IF A TRIBUNAL WITH APPLICABLE JURISDICTION FINDS SUCH TO BE UNCONSCIONABLE. FOR PURPOSES OF CLARITY, THE PRIOR SENTENCE DOES NOT EXPAND OR LIMIT ANY PRODUCT WARRANTY THAT IS PROVIDED BY A MANUFACTURER OF A PHYSICAL PRODUCT.

9.5 With respect to any electronic commercial service on a Company website, residents of California are entitled to the following specific consumer rights information: if You have a complaint, You may contact the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs by mail at 400 R St., Suite 1080, Sacramento, California, 95814, or by telephone at 916.445.1254. See also: <http://www.dca.ca.gov>.

**10. Indemnity: You agree to, and You hereby, defend, indemnify, and hold Company Parties from and against any and all claims, damages, losses, costs, investigations, liabilities, judgments, fines, penalties, settlements, interest, and expenses (including attorneys' fees) that directly or indirectly arise from or are related to any claim, suit, action, demand, or proceeding made or brought by a third party (including any person who accesses or uses the Application whether or not such person personally installed or used the Application) against any Company Party, or on account of the investigation, defense, or settlement thereof, arising out of or in connection with (A) Your use of the Application and Your activities in connection with the Application, (B) Your breach or anticipatory breach of this EULA, (C) Your violation or anticipatory violation of any laws, rules, regulations, codes, statutes, ordinances, or orders of any governmental and quasi-governmental authorities in connection with Your use of the Applications or Your activities in connection with the Application, and (D) any misrepresentation made by You (all of the foregoing, "Claims and Losses"). You will cooperate as fully required by Company in the**

defense of any Claim and Losses. Notwithstanding the foregoing, Company Parties retain the exclusive right to settle, compromise, and pay any and all Claims and Losses. Company Parties reserve the right to assume the exclusive defense and control of any Claims and Losses. You will not settle any Claims and Losses without, in each instance, the prior written consent of an officer of a Company Party.

11. **Injunctive Relief:** Because Company would be irreparably injured in the event of Your breach of any terms of this EULA or Your use of the Application beyond the scope permitted hereunder, You agree that: (a) Company will be entitled to seek and obtain, on an expedited basis from any court of competent jurisdiction, immediate injunctive relief to enjoin any breach or prospective breach of this EULA, and (b) You will not object to any such application for injunctive relief on the grounds that Company's losses may be compensated by monetary damages.

12. **U.S. Government Restricted Rights and Export Provisions:**

12.1 The Application is "commercial computer software" or "commercial computer software documentation." The United States Government's rights with respect to the Application are limited by the terms of this License Agreement, pursuant to FAR § 12.212(a) and/or DFARS § 227.7202-1(a), as applicable.

12.2 You agree by installing or otherwise using the Application that:

- a. You do not reside in and are not a national or resident of a country or other jurisdiction to which the U.S. Government has embargoed goods, software, technology or services;
- b. You are not on the U.S. Treasury Department's List of Specifically Designated Nationals or the U.S. Commerce Department's Table of Deny Orders;
- c. You are not on the U.S. Department of Commerce's Bureau of Industry and Security Entities List as published in the Export Administration Regulations (including entities engaged in weapons of mass destruction proliferation in various countries and persons and entities that are suspected of diverting U.S. origin items to embargoed countries or terrorist end-users; and
- d. You will not use the Application for any illegal purpose.

12.3 Because the Application and related technical data may be subject to United States export controls, You agree that You shall not export or "re-export" (transfer) the Application unless You have complied with all applicable U.S. export controls.

13. **Wireless Features**

13.1 The Application may offer certain features and services that are available to You via Your device. These features and services may include the ability to access the

Application's features and upload content to the Application, receive messages from the Application, make in-app purchases, and download content to Your device (collectively, "Wireless Features"). Standard messaging, data, and other fees may be charged by Your carrier to participate in Wireless Features. Fees and charges may appear on Your wireless bill or be deducted from Your pre-paid balance. Your carrier may prohibit or restrict certain Wireless Features and certain Wireless Features may be incompatible with Your carrier or wireless Internet device. You should check with Your carrier to find out what plans are available and how much they cost. Contact Your carrier with questions regarding these issues.

13.2 You agree that as to the Wireless Features for which You are registered, We may send communications to Your device regarding Us or other parties – unless You cancel Your registration or opt-out in accordance with any procedure established by Company or by law. Further, We may collect information related to Your use of the Wireless Features.

14. **Terms Applicable for the Platform:** The following additional terms and conditions are applicable to You and are incorporated into this EULA by this reference:

14.1 To the extent that You are accessing the Application through an Apple device, You acknowledge that this EULA is entered into between You and Company and, that Platform Provider is not a party to this EULA other than as third-party beneficiary as contemplated below.

14.2 The license granted to You in Section 1 of these Terms is subject to the permitted Usage Rules set forth in the Platform Terms of Service (see: <http://www.apple.com/legal/itunes/us/terms.html>) and any third party terms of agreement applicable to the Application.

14.3 You acknowledge that Company, and not Platform Provider, is responsible for providing the Application and content thereof.

14.4 You acknowledge that Platform Provider has no obligation whatsoever to furnish any maintenance or any support services to You with respect to the Application.

14.5 Notwithstanding anything to the contrary herein, and subject to the terms in these Terms, You acknowledge that, solely as between Platform Provider and Company, Company, and not Platform Provider is responsible for addressing any claims You or any third party may have relating to the Application, or Your possession and/or use thereof, including, but not limited, to: (i) product liability claims, (ii) any claim that the Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

14.6 You agree that if the Application, or Your possession and use of the Application, infringes on a third party's intellectual property rights, You will not hold Platform Provider responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claims.

14.7 You acknowledge and agree that Platform Provider, and its subsidiaries, are third-party beneficiaries of these Terms, and that, upon Your acceptance of the terms and conditions of these Terms, Platform Provider will have the right (and will be deemed to have accepted the right) to enforce this EULA against You as a third-party beneficiary thereof.

14.8 When using the Application, You agree to comply with any and all third-party terms that are applicable to any platform, website, technology or service that interacts with the Application.

14.9 IN THE EVENT THE APPLICATION FAILS TO CONFORM TO ANY APPLICABLE WARRANTY, YOU MAY NOTIFY PLATFORM PROVIDER AND PLATFORM PROVIDER WILL REFUND THE PURCHASE PRICE FOR THE APPLICATION TO YOU, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, PLATFORM PROVIDER WILL HAVE NO OTHER WARRANTY OBLIGATION WHATSOEVER WITH RESPECT TO THE APPLICATION OR ANY OTHER CLAIMS, LOSSES, LIABILITIES, DAMAGES, COSTS OR EXPENSES ATTRIBUTABLE TO ANY FAILURE TO CONFORM TO SUCH WARRANTY. The foregoing limitations will apply even if any remedy under this EULA fails of its essential purpose.

15. **Dispute Resolution:** Certain portions of this Section 15 are deemed to be a “written agreement to arbitrate” pursuant to the Federal Arbitration Act. You and Company agree that we intend that this Section 15 satisfies the “writing” requirement of the Federal Arbitration Act.

15.1 **First -- Try to Resolve Disputes and Excluded Disputes.** If any controversy, allegation, or claim arises out of or relates to the Application or this EULA (collectively, “Dispute”), or to any of Company’s actual or alleged intellectual property rights (an “Excluded Dispute”, which includes those actions set forth in Section 15.4 below), then You and Company agree to send a written notice to the other providing a reasonable description of the Dispute or Excluded Dispute, along with a proposed resolution of it. Our notice to You will be sent to You based on the most recent contact information that You provide us. But if no such information exists or if such information is not current, then we have no obligation under this Section 15.1. Our notice to You will be sent to the email address You used to set up Your Account. Your notice to us must be sent to: Mattel, Inc., 333 Continental Boulevard, El Segundo, California, 90245, U.S.A., Attention: General Counsel. For a period of 60 days from the date of receipt of notice from the other party, Company and You will engage in a dialogue in order to attempt to resolve the Dispute or Excluded Dispute, though nothing will require either You or Company to resolve the Dispute or Excluded Dispute on terms with respect to which You and Company, in each party’s sole discretion, are not comfortable.

15.2 **Forums for Alternative Dispute Resolution.**

a. **Arbitration.**

If we cannot resolve a Dispute as set forth in Section 15.1 above within 60 days of receipt of the notice, then either You or Company may submit the Dispute to formal arbitration in accordance with this Section 15.2. If we cannot resolve an Excluded Dispute as set forth in Section 15.1 above within 60 days of receipt of the notice, then either You or Company may submit the Excluded Dispute to formal arbitration only if You and Company consent, in a writing signed by You and Company's Vice President of Legal and Business Affairs, to have that Excluded Dispute subject to arbitration. In such a case (and only in such a case), that Excluded Dispute will be deemed a "Dispute" for the remainder of this Section 15.2.

Upon expiration of the applicable 60-day period and to the fullest extent permitted by applicable law, a Dispute will be resolved solely by binding arbitration in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association ("AAA"). If the Dispute has a claimed value of not more than \$250,000, then the arbitration will be heard and determined by a single neutral arbitrator who is a retired judge or a lawyer with not less than 15 years' experience as a practicing member of the bar in the substantive practice area related to the Dispute, who will administer the proceedings in accordance with the AAA's Supplementary Procedures for Consumer Related Disputes. If the Dispute has a claimed value of more than \$250,000, or if Company elects in its sole discretion to bear the costs of arbitration in excess of those that would occur for a proceeding before a single neutral arbitrator, then the arbitration will be heard and determined by a three member panel, with one member to be selected by each party and the third (who will be chair of the panel) selected by the two party appointed members or by the AAA in accordance with the Commercial Arbitration Rules. The arbitrator or arbitration panel, as the case may be, will apply applicable law and the provisions of this User Agreement and any Additional Terms, will determine any Dispute according to the applicable law and facts based upon the record and no other basis, and will issue a reasoned award. If You and Company do not both consent to the arbitration of an Excluded Dispute as set forth in the immediately preceding paragraph of this Section 15.2(a), then this paragraph and the remainder of this Section 15.1 will not apply to the Excluded Dispute.

If a party properly submits the Dispute to the AAA for formal arbitration and the AAA is unwilling or unable to set a hearing date within 60 days of the filing of a "demand for arbitration," then either party can elect to have the arbitration administered by the Judicial Arbitration and Mediation Services Inc. ("JAMS") using JAMS' streamlined Arbitration Rules and Procedures, or by any other arbitration administration service that You and a legal officer of Company consents to in writing. The substantive practice area requirements for the arbitrator and the \$250,000 threshold for the number of arbitrators assigned to the Dispute set forth in the paragraph above for the AAA arbitration will also apply to any such arbitration under JAMS or another arbitration service.

You can obtain AAA and JAMS procedures, rules, and fee information as follows:

AAA:  
800.778.7879  
<http://www.adr.org/>

JAMS:  
949.224.1810  
<http://www.jamsadr.com>

b. **Nature, Limitations, and Location of Alternative Dispute Resolution.** In arbitration, as with a court, the arbitrator must honor the terms of this EULA and can award the prevailing party damages and other relief (including attorneys' fees). However, WITH ARBITRATION (A) THERE IS NO JUDGE OR JURY, (B) THE ARBITRATION PROCEEDINGS AND ARBITRATION OUTCOME ARE SUBJECT TO CERTAIN CONFIDENTIALITY RULES, AND (C) JUDICIAL REVIEW OF THE ARBITRATION OUTCOME IS LIMITED. All parties to the arbitration will have the right, at their own expense, to be represented by an attorney or other advocate of their choosing. If an in-person arbitration hearing is required, then it will be conducted in New York, New York. You and Company will pay the administrative and arbitrator's fees and other costs in accordance with the applicable arbitration rules; but if applicable arbitration rules or laws require Company to pay a greater portion or all of such fees and costs in order for this Section 15 to be enforceable, then Company will have the right to elect to pay the fees and costs and proceed to arbitration. Discovery will be permitted pursuant to the applicable arbitration rules. The arbitrator's decision must consist of a written statement stating the disposition of each claim of the Dispute, and must provide a statement of the essential findings and conclusions on which the decision and any award (if any) is based. Judgment on the arbitration decision and award (if any) may be entered in or by any court that has jurisdiction over the parties pursuant to Section 9 of the Federal Arbitration Act.

**15.3 Limited Time to File Claims.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IF YOU OR COMPANY WANT TO ASSERT A DISPUTE (BUT NOT AN EXCLUDED DISPUTE) AGAINST THE OTHER, THEN YOU OR WE MUST COMMENCE IT (BY DELIVERY OF WRITTEN NOTICE AS SET FORTH IN SECTION 15.1 ABOVE) WITHIN 1 YEAR AFTER THE DISPUTE ARISES -- OR IT WILL BE FOREVER BARRED.

**15.4 Injunctive Relief.** The foregoing provisions of this Section 15 will not apply to any legal action taken by Company to seek an injunction or other equitable relief in connection with any loss, cost, or damage (or any potential loss, cost, or damage) relating to the Application and/or Company's intellectual property rights (including such Company may claim that may be in dispute), Company's operations, and/or Company's products or services.

**15.5 Small Claims Matters Are Excluded from Arbitration Requirement.** Notwithstanding the foregoing, either of us may bring a qualifying claim of Disputes (but not Excluded Disputes) in small claims court.

**15.6 No Class Action Matters.** Disputes will be arbitrated only on an individual basis and will not be consolidated with any other arbitrations or other proceedings that involve any claim or controversy of any other party. But if, for any reason, any court with competent jurisdiction or any arbitrator selected pursuant to Section 15.2(a) above holds that this restriction is unconscionable or unenforceable, then our agreement in Section 15.2 above to arbitrate will not apply and the Dispute must be brought exclusively in court pursuant to Section 15.7 below.

**15.7 Federal and State Courts in New York.** Except to the extent that arbitration is required in Section 15.2 above, and except as to the enforcement of any arbitration decision or award, any action or proceeding relating to any Dispute or Excluded Dispute may only be instituted in state or federal court in New York County, New York. Accordingly, You and Company consent to the exclusive personal jurisdiction and venue of such courts for such matters.

**16. Third Party Software:** Installing the Application may require the installation of Third Party Software. Without such Third Party Software, the Application may not function properly. Installation and use of any such Third Party Software may require agreement to separate licensing terms provided by the Third Party Software. Usage of any such Third Party Software, and collection of any personal information by such Third Party Software, will also be governed by the licensing terms provided with such Third Party Software. The developer of the Third Party Software retains all title, interest and ownership of all intellectual property rights in and to the Third Party Software. Software licensed under an open source license is governed solely by the terms of that open source license. You agree that no title or ownership rights in the Third Party Software are transferred to You by virtue of this EULA. By agreeing to this EULA, You also agree to the licensing terms for such Third Party Software.

**17. Hazards of Using a Camera Based Application:** The Application may allow you to use the camera on your device. You have been advised and understand and agree that it can be hazardous to use a camera based application while driving, walking, or otherwise by being distracted or disoriented from a real world situation.

**18. Miscellaneous Provisions:**

18.1 You are responsible for obtaining and maintaining Your device and other equipment and software, and all Internet service providers, mobile service, and other services needed for Your access to and use of the Application and You will be responsible for all charges related to them.

18.2 If You acquired the Application in the United States, this EULA will be governed by and construed in accordance with, and any Dispute and Excluded Dispute will be resolved in accordance with, the laws of the State of New York, without regard to its

conflicts of law provisions. If You acquired the Application elsewhere, unless expressly prohibited by local law, this EULA is governed by and construed in accordance with, and any Dispute and Excluded Dispute will be resolved in accordance with, the laws of the State of New York, without regard to its conflicts of law provisions.

18.3 If any provision of this EULA is for any reason deemed invalid, unlawful, void, or unenforceable by a court of competent jurisdiction, then that provision will be deemed severable from this EULA and the invalidity of the provision will not affect the validity or enforceability of the remainder of this EULA (which will remain in full force and effect). To the extent permitted by applicable law, You agree to waive, and You hereby waive any applicable statutory and common law that may permit a contract to be construed against its drafter.

18.4 Company reserves the right to discontinue any services provided to You or made available to You through the use of the Application.

18.5 This EULA constitutes the entire agreement between the parties with respect to the use of the Application licensed hereunder and supersedes all prior or contemporaneous understandings regarding such subject matter. This EULA may be changed from time to time by Company. Changes to this EULA will be provided with Application updates. You agree that Your continued use of the Application after any such change has first been promulgated by Company shall constitute Your agreement to the updated EULA containing the changed terms.

19. **Consumer Contact:** If You have any questions regarding this EULA, You may contact Us:

Via phone: 1-800-524-8697; or

Via mail: Mattel, Inc.  
Business & Legal Affairs, MS M1-1516  
333 Continental Blvd  
El Segundo, CA 90245.