

## **PRAXAL LLC**

### **TERMS OF USE**

**LAST MODIFIED ON MARCH 07, 2024**

**IMPORTANT: PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE CONTINUING TO USE THIS GAME SOFTWARE.**

**SECTION 15 OF THIS TERMS OF USE AGREEMENT CONTAINS A BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER. IF YOU LIVE IN THE UNITED STATES, THIS SECTION AFFECTS YOUR RIGHTS ABOUT HOW TO RESOLVE DISPUTES THAT YOU MAY HAVE WITH US. PLEASE READ IT CAREFULLY.**

This Terms of Use (the “Agreement”) applies to Praxal LLC’s (“Praxal”) video game software applications and the Praxal website located at [www.praxal.com](http://www.praxal.com) (collectively, the “Service”).

### **1. Acceptance of Terms**

By continuing to use the Service, you agree as follows:

- 1.1. You understand and intend that this Agreement is a legally binding agreement and the equivalent of a signed, written contract;
- 1.2. You will use the Service in a manner consistent with applicable laws and regulations and in accordance with the terms and conditions in this Agreement as it may be amended by Praxal from time to time; and
- 1.3. You understand, accept, and have received this Agreement and its terms and conditions, and acknowledge and demonstrate that you can access this Agreement.

If you do not agree with the terms and conditions in this Agreement, please discontinue all further use of the Service.

### **2. Praxal’s License to You**

Praxal grants you a single, non-exclusive, non-transferable and limited personal license to access and use the Service. This license is conditioned on your continued compliance with the terms and conditions in this Agreement. You may not rent, lease, lend, sell, transfer, redistribute, or sublicense the Service and, if you sell or otherwise transfer a device on which any part of the Service is installed to a third party, you must remove the Service from such device before doing so. You may not copy, decompile, reverse-engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Service, any updates, or any part thereof (except as and only to the extent that any 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 Service).

### **3. Messages from Praxal**

You understand that you may receive business-related communications from Praxal through the Service or through email, such as product and other announcements, and administrative notices. You agree that these communications are not “unsolicited commercial email advertisements” and you agree to receive them. Email messages will be accompanied by instructions for opting out.

## **4. Modification, Termination, and Monitoring of the Service**

Praxal reserves the right to modify or discontinue, temporarily or permanently, the Service (or any part of the Service) with or without notice at any time. You agree that Praxal will not be liable to you or any third party for any modification, suspension, or discontinuance of the Service.

Praxal reserves the right to monitor use of the Service to determine compliance with this Agreement, as well as the right to edit, refuse to add, or remove or refuse to remove any content, information, or materials, in whole or in part, at our sole discretion. We reserve the right to refuse access to the Service to anyone, for any reason, at any time.

Praxal may monitor your use of the Service to evaluate the quality of service you receive, your compliance with the Agreement, the security of the Service, or for other reasons. You agree that such monitoring activities will not entitle you to any cause of action or other right with respect to the manner in which Praxal or its affiliates or agents monitor your use of the Service and enforces or fails to enforce the terms of the Agreement. In no event will Praxal or any of its affiliates or agents be liable for any costs, damages, expenses, or any other liabilities incurred by you as a result of monitoring activities by Praxal or its affiliates or agents.

## **5. Security of Data Transmission and Storage**

Electronic communications using the Service may not always be encrypted. You acknowledge that there is a risk that data, including email, electronic communications, and personal data, may be accessed by unauthorized third parties when communicated between you and Praxal or between you and other parties.

Praxal and its affiliates and agents are permitted, but not obligated, to review or retain your Content and other communications.

## **6. Support Services**

Praxal may, in its sole discretion, provide you with customer and technical support services related to the Service (“Support Services”). Praxal is not required to provide Support Services unless otherwise required by applicable law. No failure to provide, or to continue to provide, Support Services will be a default of Praxal under this Agreement. Any supplemental software code provided to you as part of the Support Services will be treated as part of the Service, and as between you and Praxal will be and remain the sole property of Praxal and will be subject to the terms and conditions of this Agreement.

Praxal customer support may be reached by contacting us through our website contact form located at <https://praxal.com/contact>. You agree that you will look solely to Praxal in connection with Support Services.

## **7. Hyperlinks**

The Service may contain links to other sites and software applications, including through display advertisements (the “Linked Services”). Praxal does not control the Linked Services, and Praxal and its affiliates and agents make no representations whatsoever concerning the content, accuracy, security or privacy of those Linked Services. The fact that Praxal has provided a link to an external location is not an endorsement, authorization, sponsorship, or affiliation with respect to such Linked Services, its owners, or its providers. There are risks in using any information, software, or products found on the Internet, and Praxal cautions you to make sure you understand these risks before retrieving, using, relying upon, or

purchasing anything via the Internet. You agree that under no circumstances will you hold Praxal or its affiliates or agents liable for any loss or damage caused by use of or reliance on any content, goods, or services available on Linked Services.

## **8. Trademarks and Copyrights**

The Service is owned by Praxal and is protected by United States copyright laws and international treaty provisions. All Service content, trademarks, services marks, trade names, logos, and icons are proprietary to Praxal. Nothing contained in the Service should be construed as granting any license or right to use any trademark displayed in the Service without the written permission of Praxal or such third party that may own the trademarks displayed in the Service. Your use of the trademarks displayed in the Service, or any other content in the Service, except as provided in this Agreement, is strictly prohibited.

Intellectual property displayed through the Service is either the property of, or used with permission by, Praxal. You are prohibited from using or authorizing the use of this intellectual property unless specifically permitted under the Agreement. Any unauthorized use of this intellectual property may violate copyright laws, trademark laws, the laws of privacy and publicity, or other regulations and statutes.

## **9. Disclaimer of Warranties**

YOUR USE OF THE SERVICE IS ENTIRELY AT YOUR OWN RISK. THE SERVICE IS PROVIDED BY PRAXAL ON AN AS-IS BASIS. PRAXAL EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. PRAXAL MAKES NO WARRANTY THAT (I) THE SERVICE WILL MEET YOUR REQUIREMENTS, (II) THAT OPERATION OF THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, OR (III) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM PRAXAL, OR THROUGH THE SERVICE CREATES ANY WARRANTY REGARDING THE SERVICE NOT EXPRESSLY STATED IN THIS AGREEMENT.

Because some states or jurisdictions do not allow the disclaimer of implied warranties, the foregoing disclaimer may not apply to you.

## **10. Limitation of Liability**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT PRAXAL IS NOT LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES (EVEN IF PRAXAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM THE USE OR THE INABILITY TO USE THE SERVICE OR ANY OTHER MATTER RELATING TO THE SERVICE.

Because some states or jurisdictions do not allow the exclusion or the limitation of liability for consequential or incidental damages, in such states or jurisdictions, the liability of Praxal and its affiliates will be limited to the fullest extent permitted by law.

## 11. Indemnification

You agree to indemnify and hold Praxal and its affiliates, officers, agents, and employees harmless from any claim, demand, loss, costs, or expense, including attorneys' fees, made by any person or entity arising out of your violation of this Agreement, state or federal securities laws or regulations, or any other person's rights, including infringement of any copyright or violation of any proprietary or privacy right. Under no circumstances, including any negligent act, will Praxal or its affiliates or agents be liable for any damages of any kind that result from the use of, or the inability to use, the Service.

## 12. Your Personal Information

Personal and certain other information is subject to our Privacy Policy. As a condition of using the Service you agree to the terms of the Privacy Policy, as it may be changed from time to time. Our Privacy Policy, which is incorporated here by reference, is located at <https://praxal.com/privacy-policy>. You agree that your use of the Service is subject to the Privacy Policy.

## 13. Disclosures Required by Law

Praxal reserves the right to disclose any information, including personally identifiable information about you, as necessary to satisfy any applicable law, regulation, legal process or governmental request. Praxal reserves the right to fully cooperate with any law enforcement authorities or court order requesting or directing Praxal to disclose the identity of any user believed to be in violation of this Agreement.

By accepting this Agreement, you waive all rights and agree to hold Praxal harmless from any claims resulting from any action taken by Praxal during or as a result of its investigations or from any actions taken as a consequence of investigations by either Praxal or law enforcement authorities.

## 14. Governing Law; Mediation; Jurisdiction

The Agreement, and all future agreements you enter into with Praxal, unless otherwise indicated on such other agreement, will be governed by the laws of the State of Delaware, without regard to its conflicts of law principles. This is the case regardless of whether you reside or transact business with Praxal, or any of its affiliates or agents, in the State of Delaware or elsewhere. Unless a dispute would be governed by the terms of Section 15 below, you agree to submit to the personal and exclusive jurisdiction of the courts located within the city of Dover, Delaware, USA.

**For EU users only:** In the event of a dispute relating to the interpretation, performance, or validity of this Agreement, an amicable solution can be sought before any legal action. You can file your complaint with Praxal by sending a message via email to [support@praxal.com](mailto:support@praxal.com). In case of failure to resolve the dispute, you can, within one year of the failed request, have recourse to an Alternative Dispute Resolution procedure by filing an online complaint on the European Commission's Online Dispute Resolution website: <https://webgate.ec.europa.eu/odr/main/index.cfm?event=main.home.chooseLanguage>. In the event that out-of-court dispute resolutions fail, the dispute may be brought before the competent courts.

## 15. Binding Arbitration

- 15.1. **Arbitration Procedures.** Unless you live in the EU, you and Praxal agree that, except as provided in Section 15.4 below, all disputes, controversies, and claims related to this Agreement (each a "Claim"), will be finally and exclusively resolved by binding arbitration,

which may be initiated by either party by sending a written notice requesting arbitration to the other party. Any election to arbitrate by one party will be final and binding on the other. The arbitration will be conducted under the Streamlined Arbitration Rules and Procedures of JAMS that are in effect at the time the arbitration is initiated (the "JAMS Rules") with a single arbitrator and under the terms set forth in this Agreement. In the event of a conflict between the terms set forth in this Binding Arbitration Section and the JAMS Rules, the terms in this Binding Arbitration Section will control and prevail.

Except as otherwise set forth in Section 15.4 below, you may seek any remedies available to you under federal, state, or local laws in an arbitration action. As part of the arbitration, both you and Praxal will have the opportunity for discovery of non-privileged information that is relevant to the Claim. The arbitrator will provide a written statement of the arbitrator's decision regarding the Claim, the award given and the arbitrator's findings and conclusions on which the arbitrator's decision is based. The determination of whether a Claim is subject to arbitration will be governed by the Federal Arbitration Act and determined by a court rather than an arbitrator. Except as otherwise provided in this Agreement, (i) you and Praxal may litigate in court to compel arbitration, stay proceedings pending arbitration, or confirm, modify, vacate or enter judgment on the award entered by the arbitrator; and (ii) the arbitrator's decision will be final, binding on all parties and enforceable in any court that has jurisdiction, provided that any award may be challenged if the arbitrator fails to follow applicable law.

BY AGREEING TO THIS ARBITRATION PROVISION, YOU UNDERSTAND THAT YOU AND PRAXAL WAIVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL.

- 15.2. **Location.** The arbitration will be conducted in the city of Dover, Delaware, USA, unless the parties agree to video, phone, or internet connection appearances.
- 15.3. **Limitations.** You and Praxal agree that any arbitration will be limited to the Claim between Praxal and you individually. YOU AND PRAXAL AGREE THAT (I) THERE IS NO RIGHT OR AUTHORITY FOR ANY DISPUTE TO BE ARBITRATED ON A CLASS-ACTION BASIS OR TO UTILIZE CLASS ACTION PROCEDURES; (II) THERE IS NO RIGHT OR AUTHORITY FOR ANY DISPUTE TO BE BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY OR AS A PRIVATE ATTORNEY GENERAL; AND (III) NO ARBITRATION MAY BE JOINED WITH ANY OTHER ARBITRATION.
- 15.4. **Exceptions to Arbitration.** You and Praxal agree that the following Claims are not subject to the above provisions concerning negotiations and binding arbitration: (i) any Claim seeking to enforce or protect, or concerning the validity of, any of your or Praxal's intellectual property rights; (ii) any Claim related to, or arising from, allegations of theft, piracy, invasion of privacy or unauthorized use; and (iii) any claim for equitable relief. In addition to the foregoing, either party may assert an individual action in small claims court for Claims that are within the scope of such court's jurisdiction in lieu of arbitration.
- 15.5. **Arbitration Fees.** If you initiate arbitration for a Claim, you will need to pay the JAMS arbitration initiation fee. If we are initiating arbitration for a Claim, we will pay all costs

charged by JAMS for initiating the arbitration. All other fees and costs of the arbitration will be apportioned pursuant to the JAMS Rules.

- 15.6. **Severability.** You and Praxal agree that if any portion of this Section is found illegal or unenforceable (except any portion of Section 15.4), that portion will be severed and the remainder of the Section shall be given full force and effect. If Section 15.4 is found to be illegal or unenforceable, then neither you nor Praxal will elect to arbitrate any Claim falling within that portion of Section 15.4 found to be illegal or unenforceable and such Claim will be exclusively decided by a court of competent jurisdiction within the city of Dover, Delaware, USA, and you and Praxal agree to submit to the personal jurisdiction of that court.

## 16. Miscellaneous Terms

- 16.1. **Agreement Revisions.** This Agreement may only be revised in writing by Praxal, or by Praxal's publication of a new version on the Service.
- 16.2. **Force Majeure.** Praxal is not liable for any delay or failure to perform resulting from causes outside the reasonable control of Praxal, including without limitation any failure to perform hereunder due to unforeseen circumstances or cause beyond Praxal's control such as acts of God, war, terrorism, riots, embargoes, acts of civil or military authorities, fire, floods, accidents, strikes, or shortages of transportation facilities, fuel, energy, labor, or materials.
- 16.3. **No Partnership.** You agree that no joint venture, partnership, employment, or agency relationship exists between you and Praxal as a result of this Agreement or your use of the Service.
- 16.4. **Assignment.** Praxal may assign this Agreement, in whole or in part, to any person or entity at any time with or without your consent. You may not assign the Agreement without Praxal's prior written consent, and any unauthorized assignment by you will be null and void.
- 16.5. **Severability.** If any part of this Agreement is determined to be void, invalid or unenforceable, then that portion will be severed, and the remainder of the Agreement will be given full force and effect.
- 16.6. **Attorneys' Fees.** In the event any litigation is brought by either party in connection with this Agreement, the prevailing party in such litigation will be entitled to recover from the other party all the reasonable costs, attorneys' fees and other expenses incurred by such prevailing party in the litigation.
- 16.7. **No Waiver.** Our failure to enforce any provision of this Agreement will in no way be construed to be a present or future waiver of such provision, nor in any way affect the right of any party to enforce every such provision thereafter. The express waiver by us of any provision, condition or requirement of this Agreement will not constitute a waiver of any future obligation to comply with such provision, condition or requirement.
- 16.8. **Equitable Remedies.** You hereby agree that Praxal would be irreparably damaged if the terms of this Agreement were not specifically enforced, and therefore you agree that we will be entitled, without bond, other security, or proof of damages, to appropriate equitable remedies with respect to breaches of this Agreement, in addition to such other remedies as we may otherwise have available to us under applicable laws.

16.9. **Entire Agreement.** This Agreement, including the documents expressly incorporated by reference, constitutes the entire agreement between you and Praxal with respect to the Service and supersedes all prior or contemporaneous communications, whether electronic, oral or written, between you and Praxal with respect to the Service.