## **END USER SOFTWARE LICENSE AGREEMENT**

## CALL OF DUTY 4: MODERN WARFARE MAP MAKING TOOLS

**IMPORTANT - READ CAREFULLY:** These files contain certain design, programming and processing utilities, tools, assets and other resources (the "Program Utilities") for use with the *Call of Duty 4: Modern Warfare* map editor that allow you to customize or create new maps, missions, game levels, environments and/or other related game materials for personal use in and with *Call of Duty 4: Modern Warfare* (the "New Game Materials"). The use of the Program Utilities shall be subject to the Software License Agreement contained within the *Call of Duty 4: Modern Warfare* manual, as well as the following additional license terms and restrictions:

**LIMITED USE LICENSE:** Activision grants you the non-exclusive, non-transferable, limited right and license to use the Program Utilities solely for your own personal, non-commercial use in order to create the New Game Materials. All rights not specifically granted under this Agreement are reserved by Activision and, as applicable, Activision's licensors. The Program Utilities are licensed, not sold. This license confers no title or ownership in the Program Utilities and should not be construed as a sale of any rights in the Program Utilities.

## LICENSE CONDITIONS:

- You agree that, as a condition to your using the Program Utilities, you will not use or allow third parties to use the Program Utilities and/or the New Game Materials created by you for any commercial purposes, including, but not limited to, selling, renting, leasing, licensing, distributing, or otherwise transferring the ownership of the Program Utilities or the New Game Materials, whether on a stand alone basis or packaged in combination with the New Game Materials created by others, through any and all distribution channels, including, without limitation, retail sales and on-line electronic distribution. You agree not to solicit, initiate or encourage any proposal or offer from any person or entity to create any New Game Materials for commercial distribution. You agree to promptly inform Activision in writing of any instances of your receipt of any such proposal or offer.
- If you decide to make available the use of the New Game Materials created by you to other gamers, you agree to do so solely without charge.
- New Game Materials may be created only if such New Game Materials can be used exclusively in combination with the retail version of *Call of Duty 4: Modern Warfare*. New Game Materials may not be designed to be used as a stand-alone product.
- New Game Materials must not contain any illegal, obscene or defamatory materials, materials that
  infringe rights of privacy and publicity of third parties or (without appropriate irrevocable licenses granted
  specifically for that purpose) any trademarks, copyright-protected works or other properties of third
  parties.
- New Game Materials must contain prominent identification at least in any on-line description and with reasonable duration on the opening screen: (a) the name and E-mail address of the New Game Materials' creator(s) and (b) the words "THIS MATERIAL IS NOT MADE OR SUPPORTED BY ACTIVISION."
- You agree not to export or re-export the Program Utilities or New Game Materials or any copy or adaptation thereof in violation of any applicable laws or regulations.

**OWNERSHIP.** All title, ownership rights and intellectual property rights in and to the Program Utilities and any and all copies thereof are owned by Activision or its licensors. The Program Utilities are protected by the copyright laws of the United States, international copyright treaties and conventions and other laws. The Program Utilities may contain certain licensed materials and, in that event, Activision's licensors may protect their rights in the event of any violation of this Agreement. You agree not to remove, disable or circumvent any proprietary notices or labels contained on or within the Program Utilities. All New Game Materials created by you shall be exclusively owned by Activision and/or its licensors as a derivative work (as such term is described under U.S. copyright law) of the Program Utilities and *Call of Duty 4: Modern Warfare* and Activision and its licensors may use any New Game Materials made publicly available by you for any purpose whatsoever, including but not limited to, for purpose of advertising and promoting *Call of Duty 4: Modern Warfare*.

NO WARRANTIES/NO SUPPORT. THERE ARE NO WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND NO OTHER REPRESENTATIONS OR CLAIMS

OF ANY KIND SHALL BE BINDING ON OR OBLIGATE ACTIVISION. THE PROGRAM UTILITIES ARE PROVIDED TO YOU "AS IS." ACTIVISION DOES NOT PROVIDE TECHNICAL OR CUSTOMER SUPPORT FOR THE PROGRAM UTILITIES OR THE NEW GAME MATERIALS CREATED BY USING THE PROGRAM UTILITIES. ALL USE OF SUCH MATERIALS IS AT YOUR OWN RISK.

LIMITATION ON DAMAGES. IN NO EVENT WILL ACTIVISION BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM POSSESSION, USE OR MALFUNCTION OF THE PROGRAM UTILITIES, INCLUDING DAMAGES TO PROPERTY, LOSS OF GOODWILL, COMPUTER FAILURE OR MALFUNCTION AND, TO THE EXTENT PERMITTED BY LAW, DAMAGES FOR PERSONAL INJURIES, EVEN IF ACTIVISION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACTIVISION'S LIABILITY SHALL NOT EXCEED THE ACTUAL PRICE PAID BY YOU TO ACTIVISION FOR THE LICENSE TO USE THE PROGRAM UTILITIES. SOME STATES/COUNTRIES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS AND/OR THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS AND/OR EXCLUSION OR LIMITATION OF LIABILITY MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

**TERMINATION.** Without prejudice to any other rights of Activision, this Agreement will terminate automatically if you fail to comply with its terms and conditions. In such event, you must destroy all copies of the Program Utilities and New Game Materials created by you or in your possession.

**U.S. GOVERNMENT RESTRICTED RIGHTS.** The Program Utilities and documentation have been developed entirely at private expense and are provided as "Commercial Computer Software" or "restricted computer software." Use, duplication or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clauses in DFARS 252.227-7013 or as set forth in subparagraph (c)(1) and (2) of the Commercial Computer Software Restricted Rights clauses at FAR 52.227-19, as applicable. The Contractor/Manufacturer is Activision, Inc., 3100 Ocean Park Boulevard, Santa Monica, California 90405.

**INJUNCTION.** Because Activision would be irreparably damaged if the terms of this Agreement were not specifically enforced, you agree that Activision shall 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 Activision may otherwise have under applicable laws.

**INDEMNITY.** You agree to indemnify, defend and hold Activision, its partners, licensors, affiliates, contractors, officers, directors, employees and agents harmless from all damages, losses and expenses arising directly or indirectly from your acts and omissions to act in using the Program Utilities and creating the New Game Materials pursuant to the terms of this Agreement

MISCELLANEOUS. This Agreement represents the complete agreement concerning this license between the parties and supersedes all prior agreements and representations between them. It may be amended only by a writing executed by both parties. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable and the remaining provisions of this Agreement shall not be affected. This Agreement shall be construed under California law as such law is applied to agreements between California residents entered into and to be performed within California, except as governed by federal law and you consent to the exclusive jurisdiction of the state and federal courts in Los Angeles, California.

If you have any questions concerning this license, you may contact Activision at 3100 Ocean Park Boulevard, Santa Monica, California 90405, USA, (310) 255-2000, Attn. Business and Legal Affairs, legal@activision.com.