

# END USER LICENSE AGREEMENT

## Gems Defenders

### 1. GENERAL

- 1.1. Welcome to the Gems Defenders interactive video game provided to you by Tesaks Entertainment s.r.o. Before accessing and playing the game and using our related services or accessing any game related websites etc., please read this End User License Agreement (the “**EULA**”) carefully.
- 1.2. This EULA applies to the use of Gems Defenders which is a singleplayer match three game with tower defense features (the “**Game**”). By downloading, installing, browsing, accessing or using the Game and our services, you confirm that you have read this EULA and that you agree to be bound by this EULA. This EULA outlines your rights and obligations when using our Game and our services related to the Game.
- 1.3. We reserve the right to amend this EULA at any time. If you disagree with any provision of this EULA, you must immediately discontinue your access to and use of the Game or any our services. Continued use of the Game constitutes acceptance of this EULA, as may be amended from time to time.

### 2. DEFINITIONS

- 2.1. In this EULA, the following capitalized terms shall have the meanings ascribed to them below, except where the context otherwise requires:

Terms such as “**Tesaks Entertainment**”, “**we**”, “**us**” and “**our**” refer to Tesaks Entertainment s.r.o., company incorporated and existing under the laws of the Czech Republic, ID No. 09683623, registered office at Josefodolska 20, Debr, 293 01 Mlada Boleslav, Czech Republic.

“**Account**” means an account created by a User on the Game during Registration.

“**EULA**” means this End User License Agreement.

“**Privacy Policy**” means Privacy Policy available at: <https://www.tesaks.com/privacy-policy-gems-defenders/>.

“**Register**” means to create an Account on the Game and “**Registration**” means the act of creating such an Account.

“**Services**” means all the services provided by us via the Game to the Users.

“**Users**” means users of the Game including you and “**User**” means any one of them.

### 3. REGISTRATION AND ACCESS TO THE GAME

- 3.1. You may be required to register an Account with a platform or service provider (e.g., Steam, Google Play, App Store etc.), unless the Game is expressly provided in a form where an account is not required. In some cases, you may be required to provide a username or other security protection in order to access and play the Game. You shall not, under any circumstances, whether intentionally, or through negligence or inaction, allow or enable others or to access your Account. We reserve the right to disable or block accounts without any notice. You are not permitted to transfer your account, any in-game currency or characters to another person or entity, unless specifically permitted in writing by us.
- 3.2. Once you pay the respective fee (if applicable), download and install the Game, and successfully complete the Registration process, you will be able to play the Game. In

consideration of your payment of any fees (if applicable) and subject to your registering for the Account and compliance with the terms contained in this EULA, you will be provided with a limited, non-exclusive, revocable license to access the Game and enable you to access and play the Game subject to the other applicable provisions, limitations and restrictions in this EULA.

- 3.3. If we or the platform or service provider are unable to process your payment at any time, your access to the Game and the Services may be suspended or terminated at our or the platform or service provider's discretion.
- 3.4. If enabled by us, you may establish an Account with account data provided to us by a third party such as a gaming platform and social networking service in which case you may have a separate, additional account relationship with such third party.
- 3.5. You are aware of the fact that the ability to use the Game and the Services is dependent on the following conditions for which we are not responsible:
  - a) the availability of the User's internet connection (including a backup internet connection) with sufficient capacity to provide the Services;
  - b) the proper functioning of the equipment used by the User when using the Game and the Services (software, hardware, etc.); and
  - c) the proper functioning of Internet connection between the User and the data center from which the Services are provided. For the avoidance of doubt, the provision of the Services and the Game does not include the provision of a mobile telephone or handheld device or other necessary equipment (the "**Device**") to access the Game or the Services.
- 3.6. To use the Game or the Services, you will need Internet connectivity and appropriate telecommunication links. You acknowledge that the terms of agreement with your respective mobile network provider (the "**Mobile Provider**") will apply when using the Game. As a result, you may be charged by the Mobile Provider for access to network connection services for the duration of the connection while accessing the Game or any such third-party charges as may arise. You accept responsibility for any such charges that arise.
- 3.7. Your access to the Game and/or the Services may also be restricted to allow for updates, repairs, maintenance or the introduction of new features or services. We will attempt to restore such access as soon as we reasonably can. For the avoidance of doubt, we reserve the right to withdraw any information or Services from the Game at any time. We make no representation or warranty as to the completeness or accuracy of the Game nor does it represent or warrant that the Game will be available at all times or at any time.
- 3.8. You warrant that all information provided during the Registration and contained as part of your Account is true, complete and accurate and that you will promptly inform us of any changes to such information by updating the information in your Account. We are not obliged to verify the correctness, accuracy, timeliness and truthfulness of any information provided by you.
- 3.9. You acknowledge and agree that the use of the Game may in some cases require that you enable the Game to use certain services or data from your Device (for example system time and date, accelerometer, localization service, system step counter interface, etc.).

#### **4. PAYMENT**

- 4.1. The Game represents a "free-to-play" with advertisement where you can access and

play certain parts of the Game without paying any fees or paid Game model.

- 4.2. You agree to fully pay for the Game and its features, levels, versions, in-game purchases, products and services that you have ordered in the Game. You are responsible for providing us and/or the platform or service providers (e.g., Steam, Google Play, App Store etc.) with valid credit or debit card information to secure payment. We and/or the platform or service providers reserve the right to cancel any order of the Game or its parts if the credit or debit card information you provide is not valid.
- 4.3. Payment may be processed using a platform, such as Google Play billing system (in case of the Game being downloaded on Google Play) or third-party payment service providers, like PayPal, GoPay or similar. We or the platform or service providers may confirm any payments and send all initial login information, activation information or verification information by email once we or the platform or service provider have had the opportunity to confirm your purchase.
- 4.4. In order to access and play certain versions of the Game or access additional content or premium features you shall be required to pay additional fees. You can find the current fees and payment terms at the platform or service provider's Game access pages (e.g., Steam, Google Play, App Store etc.). We may also offer other products and services in the Game, either for free, for one-time fees or for recurring fees. We and/or the platform or service provider may amend the fees and payment terms at any time, however, such fees change will not affect your purchase price for orders that we or the platform or service provider have already actually received from you and processed, unless expressly stated otherwise in your payment terms. You are responsible for reviewing the Game for changes in the fees or payment terms.
- 4.5. When you purchase the Game or any product or service within the Game or in relation to the Game you authorize us or the platform or service provider to automatically charge your credit or debit card in accordance with our payment terms. If any fees are subject to any type of applicable taxes, we or the platform or service provider may charge you for any such taxes, in addition to any fees. You are responsible for paying all applicable taxes including those we or the platform or service provider are not required to collect and for all Devices, Internet access and other costs you incur in order to access and play the Game.
- 4.6. Unless expressly stated otherwise by us or the platform or service provider, all fees are payable in advance and are not refundable in whole or in part.

## **5. GAME UPDATES**

- 5.1. We reserve the right to change, modify, update or otherwise upgrade the Game without notice from time to time or require you to install additional updates, patches, fixes or hotfixes to the Game.
- 5.2. Updates may change the Game's terms, conditions, features, items, mechanics, or any other element of the Game. In some cases, you must install such updates before you will be allowed to proceed to play the Game. If you fail to install the new update when required, we shall not be responsible in any way for your inability to play the Game and you shall not be entitled to receive a refund or any other form of compensation, except as otherwise provided for by the platform or service provider.
- 5.3. You are not entitled to receive any new releases of the Game, or any expansion packs, updates, upgrades or similar products under this EULA, but we may in our sole discretion, but we are not obligated to, offer any or all of the foregoing to you. We may provide new releases or otherwise enhance the Game at any time, in our sole discretion,

without any obligation to the Users. You acknowledge and agree that any new release, update or other enhancement of the Game may change the Game's terms, conditions, features, items, mechanics, or any other element of the Game. We may also require the Users to migrate to new releases of the Game in order to continue to play it from time to time. If you fail to update the Game and install the new release when required by us, we will not be responsible in any way for your inability to play the Game, and you will not be entitled to receive any refund of any prepaid fees or any other form of compensation.

## **6. OBLIGATIONS OF USERS**

### **6.1. As a User you are obliged to:**

- a) use the Game and the Account only in accordance with the purpose designated by us;
- b) use the Game and the Account, including all Services, in accordance with this EULA and applicable laws;
- c) secure the Account as required and/or as appropriate (e.g., with a username, password and/or PIN code) and implement and maintain standard security processes (including adequate technical, administrative and physical safeguards) to protect all Account access data and prevent unauthorized use or unauthorized access to the Account;
- d) secure the Device against any third party and you hereby accept sole responsibility for all activities that occur under your Account on the Device;
- e) maintain the confidentiality of the information necessary to access the Account and you must not allow the use of the Account by third parties;
- f) refrain from creating a username or naming another part or parts of the Game, you may not use language that is, alludes to, or can be construed to be sexually explicit, harmful, threatening, abusive, defamatory, obscene, hateful, racially or ethnically offensive, sexist, or otherwise offensive according to of us in our sole discretion;
- g) refrain from posting, uploading or providing links to any sexually explicit, harmful, threatening, abusive, defamatory, obscene, hateful, racial or ethnical charged, or otherwise offensive imagery or content, or any other content that we deem to be inappropriate;
- h) refrain from intentionally exploiting any bug in the Game;
- i) inform us of any unauthorized use or unauthorized access to the Account and ensure timely revocation / replacement of potentially or actually compromised access data.

### **6.2. Without our express prior written consent, the Users shall not, nor allow any third party to:**

- a) decompile, disassemble or reverse engineer the Game, including any Services provided;
- b) remove, modify or obscure any copyright or proprietary notices contained in the Game or the Services;
- c) use the Game, including any Services provided, to create a similar or competitive product or service;
- d) gain unauthorized access to the Game (e.g., through another system or tool);
- e) use the Game, including any Services provided, in a manner that violates applicable law or violates any third-party privacy or intellectual property rights;

- f) publish, post, upload or otherwise transmit through the Game or the Services any data that contains viruses, Trojans, worms, time bombs, corrupted files or other computer programs or procedures that are capable of being harmed, harmed, invisibly captured or appropriate any systems, data, personal information or property of someone else;
  - g) transmit spam, chain messages or other unsolicited communications through the Game or the Services;
  - h) violate the integrity or security of the Game, including any Services provided; or
  - i) take any action that may or may impose a disproportionate or disproportionate burden on our infrastructure.
- 6.3. If you are not the bill payer for the Device being used to access the Game, you will be assumed to have received permission from the bill payer for using the Game.
- 6.4. By submitting any text, images or other data (the “**Material**”) to or via the Game, you represent that you are the owner of the Material or have proper authorization from the owner of the Material to use, reproduce and distribute it. You hereby grant us a worldwide, royalty-free, non-exclusive license to use the Material to promote any products or services. We reserve the right to block access to and/or to edit or remove any Material which in our reasonable opinion may give rise to a breach of this EULA.
- 6.5. You are solely responsible for your interactions with other Users of the Game. We reserve the right, but have no obligation, to monitor and/or resolve disputes between you and other Users.

## **7. PERSONAL DATA PROTECTION**

- 7.1. The User acknowledges and agrees that the processing of personal data by us is governed by Privacy Policy which is hereby considered as an integral part of this EULA.

## **8. AGE**

- 8.1. Our Game and Services are not intended for and we do not direct them to anyone who is under the age of 18 (eighteen) (the “**Minimum Age**”).
- 8.2. Children under the Minimum Age may not access and use the Game and our Services. If you are at least of the Minimum Age but under 18 (eighteen) years of age, you need parental or guardian consent to access and play the Game and any activities in the Game must be under the legal responsibility of your parents.
- 8.3. Any registration by, use of or access to the Game by anyone under the Minimum Age, or by anyone who is under 18 (eighteen) acting without parental consent, is unauthorized, unlicensed and in violation of this EULA.

## **9. INTELLECTUAL PROPERTY**

- 9.1. The User acknowledges and agrees that we are and remain the exclusive holder of all rights relating to the Game and the Services and that the Game and the Services are protected by copyright laws and other related regulations. The User is granted only the right to use the Game and the Services to the extent necessary for the use of the Game and the Services in accordance with their purpose and this EULA.
- 9.2. Nothing in this EULA or any other document shall be construed as granting, assigning or transferring any intellectual property rights to the Game or the Services and any parts thereof, know-how, trade secrets, documents, technologies, patents or expertise owned by us or used in operation of the Game and provision of Services by us to the User.

- 9.3. The User shall not sell, license, sublicense, lease, rent, distribute, disclose, permit access to, or transfer to any third party, whether for profit or without charge the Game.
- 9.4. User shall not without a prior written approval given by us rename the Game, or remove its identifications, copyrights, logotypes, logomarks, trademarks or other intellectual property notices, information or acknowledgements. Any our logomarks and trademarks are and shall remain our sole property. The User shall always comply with our guidelines, instructions and requirements.
- 9.5. You acknowledge and agree that all content, design elements, and materials available in the Game, for example (but not limited to) graphics, logos, designs, characters, objects, environments, worlds, icons, scripts, titles, computer code, themes, objects, characters, character names, stories, dialogs, catch phrases, locations, concepts, artwork, graphics, animation, sounds, musical compositions, audio-visual effects, text, screen displays, methods of operation and service names are owned by us and/or our partners and licensors and may be protected by copyrights, trademarks, patents, trade secrets, and/or other intellectual property or proprietary rights of us and/or our partners and licensors. We and our partners and licensors retain all right, title and interest in and to the above-mentioned and you may not use, copy, reproduce, modify, republish, upload, post, transmit or distribute it in any form or for any means, unless expressly permitted in this EULA.
- 9.6. You may not upload or republish the Game or Game content on any Internet, Intranet or Extranet sites or incorporate the information in any other database or compilation, and any other use of the Game or Game content is strictly prohibited. However, you may upload recording of yourself playing the Game on streaming services (e.g., Twitch, YouTube etc.) provided that streaming is done in a good taste and shall not infringe on our intellectual property rights or reflect negative light on us or the Game. If you decide to upload recordings of yourself playing the Game, you are encouraged to attach disclaimers stating that you are posting the material without any affiliation with us or the Game.
- 9.7. When using the Game and the Services, the User is always obliged to proceed in such a way that it does not violate any our rights and acts in accordance with the laws, especially with legal norms relating to copyright. We may restrict the use of the Game or the Services if the User breaches this EULA.

## **10. LIMITATION OF LIABILITY**

- 10.1. The Game and the Services are provided to the Users AS-IS. The User expressly agrees that use of the Game and the Services is at the User's sole risk. Neither we, nor our employees, affiliates, agents, distributors, resellers, or the like, warrant that the Game and the Services will not be interrupted or error free; nor do we make any warranty as to the results that may be obtained from the use of the Services or as to the accuracy, reliability or content of any information or service contained in or provided through the Game and the Services. Because the Game and the Services are provided "as is," we are not required to provide any support services for it.
- 10.2. The User further acknowledges and agrees: (a) that the User is solely responsible for proper use of the Game, and (b) that the User shall have no remedy for any failure of the Game.
- 10.3. Under no circumstances, including negligence, shall we, our officers, agents or anyone else involved in creating, producing, or distributing the Game and the Services be liable for any direct, indirect, incidental, special or consequential damages that result from the use of or inability to use the Game and the Services; or that results from mistakes,

omissions, interruptions, deletion of files, errors, defects, delays in operation, or transmission or any failure of performance, whether or not limited to acts of God, communication failure, theft, destruction or unauthorized access to our records, programs or services.

- 10.4. In rare instances, you may experience seizures when exposed to certain light patterns or flashing lights in the Game and/or advertising related to the Game. Exposure to certain light patterns or backgrounds on a video monitor or virtual or augmented reality headset, glasses, equipment may induce an epileptic seizure, motion sickness even in persons who have no history of prior seizures or epilepsy. We take no responsibility for such effects in the Game and advertising related to the Game and end results thereof and you are accessing and playing the Game and seeing the advertising on your own risk. We shall not take any responsibility for motion sickness or any balance problem that may be introduced from playing the Game or seeing the advertising related to the Game.
- 10.5. You acknowledge that playing the Game may be a very immersive experience and, in some cases, playing the Game may also require that you move or do something else in the real world. Please note that you are solely responsible for playing the Game in a safe environment and you undertake to always check your surroundings to avoid any accidents. To the maximum extent permitted by applicable law, we shall in no event be liable to the User for any harm or damage (in particular, but not limited to physical harm) incurred by the User or any third party while playing the Game.
- 10.6. You acknowledge and agree that the Game or platforms may contain advertising and links to other games, websites or services. We shall not be held responsible or liable, directly or indirectly, for any loss or damages caused or alleged to have been caused by your use of or reliance on any advertising, content, products, goods, or services available on such games, websites, services or platforms.
- 10.7. You further acknowledge and agree that some versions of the Game or related Services may contain personalized advertisement provided by third-party advertisement providers (e.g., Unity Ads). The collection of any data for the purpose of provision of such personalized advertisement and the provision of such personalized advertisement are done exclusively by the respective advertisement providers and are not under our control. If you do not wish to receive personalized advertisement or wish to know what data the respective advertisement provider collects, please check the respective terms and conditions of the respective advertisement provider regarding your options for opting-out of personalized advertisement and requesting information on collected data. We shall not be held responsible or liable, directly or indirectly, for any loss or damages caused or alleged to have been caused by the third-party advertisement providers.
- 10.8. EXCEPT AS EXPRESSLY SET FORTH IN THIS EULA, WE MAKE NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, RELATING TO ANYTHING WITHIN THE SCOPE OF THE CONTRACT BETWEEN YOU AND US. WE SPECIFICALLY DISCLAIM AND EXCLUDE ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHETHER BY STATUTE, COMMON LAW, CUSTOM OR USAGE OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMPATIBILITY, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, WE MAKE NO WARRANTY OF ANY KIND THAT THE GAME, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET THE USER'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE

COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEMS, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED. THIS DISCLAIMER APPLIES TO, BUT IS NOT LIMITED TO, ALL SOFTWARE, GOODS, IMPROVEMENTS, EQUIPMENT, AND SERVICES PROVIDED BY US TO THE USER.

10.9. To the maximum extent permitted by applicable law, we shall in no event be liable to the User for any claim to the extent that the same is a claim for:

- a) loss of revenue or profits;
- b) loss of business opportunity or business interruption;
- c) loss of goodwill or injury to reputation;
- d) indirect financial loss or damage;
- e) loss of expected savings;
- f) increase in debt or failure to reduce debt; or
- g) reduction in the value of an asset;
- h) damage to your computer hardware, data or software;
- i) special, incidental, punitive or consequential damages;

regardless of the form of action or theory of liability, whether in contract, strict liability, product liability, or tort (including negligence) and regardless of whether the first named party knew or had reason to know of the possibility of the loss, injury or damage in question.

10.10. In any event, our maximum liability to the User under this EULA or otherwise for any cause whatsoever (whether in the form of the additional cost of remedial services or otherwise) will be for direct costs and damages only due to our provable breach of its obligations under this EULA and will be in aggregate limited to the sum actually paid by the USER to us in connection with the Game.

## **11. TERMINATION**

11.1. Without prejudice to any other rights, we may terminate this EULA immediately without notice if you fail to comply with the terms and conditions of this EULA. In the event of termination, you must destroy all copies of the Game and all of its component parts including any Game software or data stored on the hard disk of any Device. You may also terminate the EULA at any time by destroying the Game and uninstalling it from your hard drive or other applicable hardware.

11.2. All provisions of this EULA relating to disclaimers or warranties, limitations of liability, remedies, or damages and our proprietary rights, choice of law and jurisdiction, indemnity and miscellaneous shall survive the termination.

## **12. MISCELLANEOUS**

12.1. To the extent permitted by law, this EULA, as well as provision of our Services, are governed and construed in line with the laws of the Czech Republic and the European Union, and any dispute arising in connection with this EULA and our services shall be settled exclusively at the competent court in the Czech Republic.

- 12.2. If you acquired the Game in the United States of America, you undertake not to export or re-export it except as authorized and permitted by the laws and regulations of the United States of America.
- 12.3. If any part of this EULA becomes invalid, legally ineffective or non-binding, the other parts of this EULA shall survive. In such a case, the invalid provision shall be enforced in full in accordance with the applicable law, and you shall adopt measures with an effect similar to the invalid, legally ineffective or non-binding measure, in accordance with the content and purpose of this EULA.
- 12.4. When you play the Game or send e-mails to us, you are communicating with us electronically. You hereby consent to receiving communications from us electronically and communicate with us electronically. We will communicate with you by e-mail or by posting notices in the Game or by any other means we find appropriate. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically (whether by email, posting notice in the Game or otherwise) satisfy any legal requirement that such communications be in writing.
- 12.5. We reserve the right to amend or update this EULA at any time and at our sole discretion by publishing the amended or updated EULA via the Game, on our website and/or by otherwise communicating such changes to you. Any and all amendments or updates of this EULA shall apply and become effective from the date of their publication. You acknowledge that such changes may be required to take account of, for example, changes to any digital rights management system used, or, where applicable, changes in the services provided by the respective platform or service provider (e.g., Steam, Google Play, App Store etc.). If any such future changes to this EULA are unacceptable to you or cause you to no longer be in compliance with this EULA, you may terminate this EULA in accordance with the above Termination clause. By log-in and using the Game, as well as using any of the Services, you agree with the current wording of our EULA and you undertake to follow them. Similarly, your installations and use of any updates or modifications to the Game or your continued use of the Game following notice of changes to this EULA will constitute your acceptance of any and all such changes to the terms of this EULA.
- 12.6. This EULA constitutes the entire agreement between us and the User with respect to the subject matter hereof and supersedes all previous written or oral agreements between the parties with respect to such subject matter. We may unlimitedly assign our rights under this EULA to third parties. The User may not assign any rights or obligations towards us to any third party without our prior written consent.
- 12.7. Nothing in this EULA confers or purports to confer on any third party any benefit or any right to enforce any term of this EULA.

This EULA was last updated on: [04.02.2021].