
ATUS Support Terms & Conditions

This Support and Software Maintenance Agreement ("Agreement") is made and entered by and between Amino Technologies (US), LLC., a Delaware corporation having its principal place of business at 1633 Bayshore HWY, Suite 338, Burlingame, CA 94010, USA ("Amino") and the company ("Company"), and is effective on the latter of the date of the relevant quotation, order and/or order acknowledgement to which this Agreement is appended or linked ("Effective Date").

RECITALS

1. Company has purchased the Products specified in Exhibit C of this Agreement; and
2. Company wishes to have Amino provide maintenance and support services for such products and Software in accordance with the selected Service Level and pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Definitions

"Affiliates" means each and any subsidiary or holding company of either party and each and any subsidiary of a holding company of either party.

"Confidential Information" means all information which would reasonably be considered confidential, including information of commercial value, in whatever form or medium, disclosed by either party or any of its Affiliates to the other party or any of its Affiliates including commercial or technical know-how, technology, information pertaining to business operations and strategies, and information pertaining to pricing and marketing and, for clarity, including (in the case of Amino) information relating to the Covered System, Software and Services, whether or not such information is marked confidential or proprietary.

"Contract Year" means the Initial Support Period or an individual Renewal Period, whichever is current.

"Covered System" means the Products and Software operating at the Site as listed in Exhibit C.

"Documentation" means any documentation provided by Amino to Company in relation to the Covered System, Software or Services, including without limitation technical documentation, specifications and operations manuals.

"Expenses" has the meaning set out in Section 10.2.

"Fees" means the fees set forth in Exhibit C for the Services according to the Service Level and, where applicable, the fees for any requested Optional Services.

"Initial Support Period" means the period from the Effective Date until the following 31st December.

"License Agreement" means the License Agreement set forth in Exhibit A.

"Maintenance Services" means the services described in Section 5 and the Service Level.

"Optional Services" means any of the services set out in Section 6.

"Product" means the Amino product(s) set out in Exhibit C (including any embedded Software).

"Renewal Period" has the meaning set out in Section 16.

"Service Level" means the service level selected by the Company (by means of Exhibit C, or by its purchase order, or by payment of the applicable Fee, or otherwise in writing) from the set of available levels all as set forth in Exhibit B.

"Software" means the Amino software set forth in Exhibit C or otherwise comprised in the Products.

"Services" means the Support Services, the Maintenance Services, and any agreed Optional Services.

"Site" means the Company location(s) set out in Exhibit C.

"Support Period" means the Initial Support Period together with any subsequent Renewal Periods.

"Support Services" means the services described in Section 4 and the Service Level.

"Support Website" means the URL notified to Company from time to time.

"Updates" means Software updates and enhancements as described in Section 5.

2. Incorporation of Documents

The following documents are attached hereto and, by this reference, incorporated in this Agreement:

- Exhibit A: License Agreement
- Exhibit B: Services Description
- Exhibit C: Site and Covered System, Selected Service Level & Fees

3. Coverage

3.1. **Exclusions.** Covered System does not include any: hardware, operating systems and other system software, Company-developed software, and third-party software (except any third-party software embedded in the Software) other than as expressly listed as the Covered System. Support for all such items should be obtained direct from the relevant third party. Such items may be listed in Exhibit C to clarify the context in which Amino will provide the Services, but they shall not be comprised in the Covered System.

4. Description of Support Services

4.1. **Support Services.** During the Support Period, and subject to compliance by Company with the terms of this Agreement, including without limitation payment of the Fees, Amino will provide the Support Services for the Covered System.

4.2. **Web Support.** Amino will make available to Company the Support Website for Company to raise support requests for the Covered System. The Support Website is

monitored in accordance with the Service Level. Company agrees (subject to Section 4.3) that it shall use the Support Website to notify Amino of each problem associated with the Covered System and related Documentation for which it requires the Support Services.

4.3. **Telephone Support.** If it forms part of the Service Level, Amino shall also provide Company with a contact telephone number which shall be monitored by Amino within the hours specified in Exhibit B for the Service Level.

4.4. **Remedial Support Response.** Upon receipt by Amino of notice from Company through the Support Website (or by telephone if telephone support is provided) of an error, defect, malfunction or nonconformity in the Covered Systems, Amino shall use its commercially reasonable efforts to respond as set forth in Exhibit B in accordance with the Service Level. For the avoidance of doubt, the stated response times (if any) shall not apply to versions of the Software supplied as pre-release, evaluation or trial. Where no response time is stated, Amino may provide a correction in the next scheduled Update, but shall not be in default of this Agreement if no correction or Update is provided. Company agrees that a correction may include a rollback to a previously released version of the Software.

5. Description of Maintenance Services

5.1. **Maintenance Services.** During the Support Period, Amino will maintain the Covered System by providing Updates. All Updates provided to Company by Amino pursuant to the terms of this Agreement shall be subject to the terms and conditions of the License Agreement between the Parties or, if no such license agreement exists, the License Agreement set forth in Schedule A. Updates will be provided on an as-available basis and may include:

- (a) Bug fixes (corrections);
- (b) Enhancements to existing features of the Covered Systems.

Updates do not include:

- (a) Extensions of the Covered System including to
 - (i) different hardware platforms;
 - (ii) different accessories;
 - (iii) different operating system platforms;
 - (iv) different Third Party components; and
- (b) New functions such as
 - (i) new functionality;
 - (ii) new applications; and
 - (iii) new support and diagnosis tools.

5.2. **Update Distribution.** Updates to the Covered Systems and Documentation will be provided in electronic format downloadable by Company from the Support Website. All such deliveries shall be made by a single communication to a single Company-designated distribution point or person specified in Exhibit C. Duplication, distribution and installation of Updates is the responsibility of Company.

5.3. **Legacy Support.** Amino will provide Maintenance Services for previous releases of the Software for a period of three (3) months following the general availability of a new release or Update. After this time, Amino shall have no further responsibility for supporting and maintaining any prior releases of Software.

5.4. **Unauthorized Modifications.** Amino shall have no responsibility for the correctness, performance, or any resulting incompatibilities of current or future releases of the Covered Systems if the Company has made changes to the Covered System or operating environment without prior written approval by Amino. Amino assumes no responsibility for the operation or performance of any Company-written or third party application.

5.5. **Services Not Included.** Maintenance Services do not include:

- (a) custom programming services;
- (b) on-site support, including installation of hardware or software;
- (c) support of any software other than Covered Systems;
- (d) any other activity set forth in Section 6 of this Agreement; any other activity not expressly set forth herein.

6. Optional Services

6.1. Company may request the provision of Optional Services set out in this Section 6. Acceptance of such request shall be at Amino's sole discretion. Payment for Optional Services will be in accordance with Section 11.2.

6.2. **On-Site Support.** Company may request with reasonable notice that Amino deploy personnel to the Site to provide support services beyond those covered under this Agreement ("On-Site Support"). On-Site Support may range from problem diagnosis and resolution to system administration and tuning, and/or installation of hardware and software. Company will be billed for labor, including travel time, on a time and materials basis at Amino's then current standard rates, plus Expenses.

6.3. **Telephone Support.** Company may request additional telephone support over and above that provided by the Service Level. All requests for telephone support will be documented by a work order from Company to Amino and the response by Amino will be on the basis of commercially reasonable efforts. The minimum call duration for billing purposes is two (2) hours. Company will be billed on a time and materials basis. Fees for telephone support are contained in Exhibit B.

6.4. **Training.** Amino offers a number of training options that can be tailored to the needs of Customer. Fees for training are available on request.

6.5. **Support for Non-Amino Problems.** In the event that Company notifies Amino of a problem experienced by Company in connection with the operation of the Covered Systems, Amino shall respond as provided herein. If on further investigation the cause of such problem is not an error, defect or nonconformity in the Covered Systems, Company shall compensate Amino for all work performed by Amino in connection therewith, on a time and materials basis at Amino's then current standard rates, unless otherwise agreed by the parties in writing at the time, plus Expenses.

7. Access to Company Systems & Facilities

7.1. Company acknowledges that provision of the Services is conditional upon provision by Company to Amino of access to the system(s) running the Covered Systems, including, but not limited to, passwords, system data, file transfer capabilities, and remote log-in capabilities. Amino will use such access only for the purposes of this Agreement and will comply with Company's security procedures provided to Amino in writing. Information accessed by Amino agents or employees as a result of accessing Company's systems shall be deemed Confidential Information.

7.2. Company shall provide an active voice telephone line and internet connection at each Site which is available continuously when required for the Support Services.

8. Problem Reporting and Tracking Procedures

When raising requests for use of the Services, Company shall provide Amino with the Support Agreement Number (if any) on the signature page below and/or any other information reasonably requested by Amino from time to time. All such requests must be made through the authorized individuals (up to two [2] per Site) designated by Company in Exhibit C, who may be changed by Company from time to time on written notice to Amino.

9. Data Backup.

Company acknowledges that the Services do not include data backup, and that it must maintain regular and appropriate data backups. In the event of any loss, destruction, damage or corruption of Company data caused by the Covered System or Services, Amino, as its sole obligation and liability and as Company's sole remedy, will use commercially reasonable efforts to restore the Company data from the then most current backup of such Company data made available to Amino by Company. SAVE AS SET OUT ABOVE AMINO HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION OR RECOVERY OF COMPANY DATA.

10. Fees

10.1. **Fees.** Fees for the Services provided under this Agreement are as set forth in Exhibit C. If at any time a Site or Covered System is added to or deleted from Exhibit C, Amino will automatically adjust and/or amend Exhibit C accordingly and with immediate effect. Amino is also entitled to perform a quarterly review of Exhibit C. If changes have occurred, Amino will adjust and/or amend Exhibit C, and Fees will be adjusted accordingly. Any adjustments to the Fees shall be applied pro-rata to the end of the current Contract Year. Amino may revise the Fees at the commencement of each Renewal Period subject to 30 days' notice in writing.

10.2. **Expenses.** Company agrees to reimburse Amino for reasonable expenses related to the performance of Services. Expenses may include, but are not limited to, charges for materials, freight, travel (including lodging and associated expenses), printing and documentation, and other out-of-pocket expenses reasonably required for performance. Travel and travel-related expenses and individual expenses in excess of US\$500 require the prior approval of Company.

11. Payment

11.1. Company shall pay the Fees for the Service Level in accordance with the payment schedule set forth in the latter of the relevant quotation, order and/or order acknowledgement to which this Agreement is appended or linked or, if no payment schedule is stated therein, they shall be paid annually in advance.

11.2. The Fees for any Optional Services and any associated Expenses will be payable by Company within 30 days of the end of the month in which such Optional Services are rendered whether or not a purchase order has been issued by Company.

11.3. A service charge of 1.5% per month will be applied to all invoices which are past due. Such charges shall apply from the date Company is notified that the amount is past due.

12. Taxes

Company shall, in addition to the other amounts payable under this Agreement, pay all sales and other taxes, national or otherwise, however designated, which are levied or imposed by reason of transactions contemplated by this Agreement, except those which arise as a result of income, including withholding taxes or similar deductions. Without limiting the foregoing, Company shall promptly pay to Amino an amount equal to any such items actually paid, or required to be collected or paid by Amino.

13. Confidentiality

13.1. Each party agrees to keep confidential all Confidential Information of the other party and to use such Confidential Information exclusively for the purposes of this Agreement or exercise of the rights granted under this Agreement, and to disclose the same only to those of its employees, agents, contractors and sub-contractors pursuant to this Agreement (if any) to whom and to the extent that such disclosure is strictly necessary for the purposes of this Agreement or exercise of the rights granted under this Agreement.

13.2. Without limiting the scope of the preceding clause, each party shall:

- (a) protect and safeguard the Confidential Information against unauthorized use, copying, publication or disclosure; and
- (b) comply with any other reasonable security measures notified to each party in writing from time to time.

13.3. These restrictions shall not apply to information which each party can demonstrate:

- (a) prior to receipt thereof from the other party was in its possession and at its free disposal; or
- (b) is subsequently disclosed to each party without any obligations of confidence by a third party who has not derived it directly or indirectly from the other; or
- (c) is or becomes generally available to the public through no act or default of such party or of its employees, agents, contractors or sub-contractors; or
- (d) was independently developed by it without reference to the Confidential Information; or
- (e) is required by law or a court or other competent authority to be disclosed; provided that in such case it shall promptly notify the other party in writing and in such detail as it

may reasonably require of such requirement for disclosure and shall assist the other party in any lawful efforts to prevent or limit the disclosure.

13.4. Each party shall procure that all its employees, agents, contractors and sub-contractors pursuant to this Agreement (if any) who have access to any Confidential Information shall treat such Confidential Information in a manner that is consistent with this Section 13. Without limitation, Company shall ensure that each such employee, agent, contractor and sub-contractor shall be subject to written obligations of confidentiality consistent with this Section 13.

13.5. Each party shall immediately inform the other in writing upon becoming aware of any breach or anticipated breach of this clause, or that any Confidential Information has been lost, stolen or misplaced or upon having reason to believe that an employee or another person has gained unauthorized access to any Confidential Information and shall take such steps as the other party may reasonably require in order to minimize the loss or damage which may result from such breach.

13.6. This Section 13 shall survive any termination or expiration of this Agreement.

14. Limited Warranty

14.1. Amino warrants that it will perform the Services with reasonable care and skill. If Amino is shown to be in breach of such warranty in relation to particular Services, it shall, as the Company's exclusive remedy, at its own cost and as soon as reasonably practicable, re-perform the relevant Services.

14.2. Any Software, including without limitation Updates, delivered to the Customer pursuant to this Agreement is provided subject to the warranties and remedies expressly set out in the License Agreement.

15. Disclaimer Warranty; Exclusion of Liability

15.1. Nothing in this Agreement shall exclude or restrict the liability of either party to the other for any liability that cannot be excluded or limited by law.

15.2. SUBJECT TO CLAUSE 15.1, THE LIABILITY OF AMINO TO COMPANY FOR DIRECT LOSS IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR COMPANY'S USE OF THE COVERED SYSTEM OR THE DOCUMENTATION SHALL BE LIMITED IN RESPECT OF ALL CLAIMS DURING THE CONTRACT YEAR TO THE FEES PAID OR PAYABLE BY COMPANY TO AMINO PURSUANT TO THIS AGREEMENT DURING THE RELEVANT CONTRACT YEAR.

15.3. SUBJECT TO CLAUSE 15.1, IN NO CIRCUMSTANCES SHALL AMINO BE LIABLE TO COMPANY WHETHER IN CONTRACT, TORT, NEGLIGENCE, BREACH OF STATUTORY DUTY OR OTHERWISE IN RESPECT OF:

(a) LOSS OF PROFITS, ANTICIPATED SAVINGS, REVENUE, GOODWILL OR BUSINESS OPPORTUNITY;

(b) ANY INDIRECT, CONSEQUENTIAL, FINANCIAL OR ECONOMIC LOSS OR DAMAGE, COSTS OR EXPENSES, WHATEVER OR HOWEVER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR COMPANY'S USE OF THE COVERED SYSTEM.

16. Term and Termination

16.1 This Agreement shall commence on the Effective Date and, unless terminated earlier in accordance with this Section 16, shall continue for the Initial Support Period and thereafter the Services shall be automatically renewed for successive period of 12 months (each a "Renewal Period").

16.2 This Agreement may be terminated

(a) by either party upon sixty (60) days' notice prior to the expiration of the Initial Support Period or any subsequent Renewal Period;

(b) by either party upon a default or material breach of the other party, such default remaining uncured for thirty (30) days from the date of written notice from the non-defaulting party to the other specifying such default;

(c) upon the bankruptcy or insolvency of either party; or

(e) if the License Agreement is terminated.

17. Consequences of Termination

17.1. Company shall pay to Amino, within 30 days of termination, all undisputed sums due under this Agreement.

17.2. Amino shall cease to provide the Services.

17.3. Termination of this Agreement for Services shall not affect the rights or obligations of either party under the License Agreement.

17.4. The following clauses survive termination: 11, 12, 13, 15, 17 and 18.

18. General

18.1. The relationship of the parties under this Agreement is that of independent contractors and, subject as otherwise expressly provided in this Agreement, neither party is the agent of the other for any purpose and neither party shall make any representation, give any warranty or enter into any contractual or other commitment purporting to be binding on the other.

18.2. Each party acknowledges that it is bound by the terms of this Agreement and further agrees that it is the entire agreement between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the parties relating to the subject matter of this Agreement. This Agreement may not be modified or altered except by a written instrument duly executed by both parties.

18.3. If the whole or any part of any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

18.4. The headings in this Agreement are for convenience only and are not intended to have any legal effect; all references to Sections are references to clauses in this Agreement; references to a "person" shall be deemed to include an individual, a company, a limited liability partnership or an unincorporated business or other body or legal person or group of legal persons; and words such as "in particular", "including" or other words indicating

that examples falling within more general wording follow shall not be construed as limiting in any way the scope of the corresponding more general wording.

18.5. The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times.

18.6. This Agreement shall be binding upon and inure to the benefit of the parties' respective successors and permitted assigns. Neither party may assign this Agreement and/or any of its rights and/or obligations hereunder without the prior written consent of the other party and any such attempted assignment shall be void, except that:

(a) either party may assign this Agreement and/or any of its rights and/or obligations hereunder, upon written notice to the other party to another entity in the event of that party's merger or consolidation with another entity, without the consent of the other party, provided that the assignee is capable of fulfilling and intends to fulfill the obligations of the assigning party under this Agreement; and

(b) Amino may assign this agreement to any of its Affiliates.

18.7. This Agreement shall be governed by and construed in all respects in accordance with the laws of the State of California without regard to its conflict of laws provisions and the parties submit to the exclusive jurisdiction of the courts of San Francisco County, San Francisco, California in respect of any dispute or claim arising out of or relating to this Agreement. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

18.8. This Agreement is not intended to confer a benefit on any third party and no third party shall have any right to enforce or to benefit under any of the provisions of this Agreement.

AMINO TECHNOLOGIES (US), LLC

SOFTWARE LICENSE AGREEMENT

By using the Software (as defined below) provided by **Amino Technologies (US), LLC**. A Delaware limited liability company with registered offices at 20823 Stevens Creek Boulevard, Suite 400, Cupertino, CA 95014, USA ("**Amino**") in connection with use of any Products (as defined below) the Company as a licensee below ("**Licensee**") acknowledges it has read this Software License Agreement ("**Agreement**"), understood it, and agrees to its terms.

1. Definitions

"Confidential Information" means the Software (excluding any Open Source), the Documentation, and all information which would reasonably be considered confidential, including know-how, technical data, commercial and marketing information, in all forms (physical, non-physical, human or machine readable or otherwise) obtained by Licensee directly or indirectly from Amino pursuant to or in the course of this Agreement or prior to

and in contemplation of it, together with the results of Licensee's evaluation of such information and any reproductions of any of the foregoing; whether or not such information is marked confidential or proprietary.

"Documentation" means any hard or soft copy documentation provided by Amino to Licensee in relation to the Software (including documentation pertaining to Products so far as it relates to the Software) including any updates provided by Amino from time to time, and including any part or copy thereof.

"End User" means a person who has obtained a Product, for which the Software is intended, directly or indirectly from Licensee.

"Intellectual Property Rights" means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in goodwill rights in designs, database rights, and all other intellectual property rights, in each case whether registered or unregistered and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

"Open Source" means any element of software that is distributed under an open source, public source, or freeware license, which includes

- (a) any license approved by the Open Source Initiative or any similar license,
- (b) any license that meets the "Open Source Definition" or the "Free Software Definition" of the Free Software Foundation, and
- (c) to the extent not included in the forgoing (a) and (b) any software licensed subject to terms requiring as a condition of its use that the source code of the same software be made available to each licensee thereof ("Open Source License Terms").

"Product" means the products purchased by Licensee from Amino, as listed in the relevant quote, Exhibit, Support and Software Maintenance Agreement, or other contract documentation (as applicable) agreed by the parties.

"Software" means the software licensed to Licensee under this Agreement, as listed in the relevant quote, Exhibit, Support and Maintenance Agreement, or other contract documentation (as applicable) agreed by the parties.

"Update" means any updates, enhancements or new releases of the Software issued to Licensee.

2. Grant of Limited License.

2.1. Amino hereby grants to Licensee, on and subject to the terms of this Agreement, a limited, non-transferable, non-assignable, non-sublicensable, non-exclusive license to use the Software solely in connection with the Products for the purposes set out in Section 2.4. Use of the Software in conjunction with non-Amino products is not permitted.

2.2. The Software is licensed not sold. All Intellectual Property Rights whatsoever subsisting in or in relation to the Software are and shall remain the property of Amino or its licensors, and nothing in this Agreement shall transfer to Licensee any right, title, license or interest in or to any such Intellectual Property Rights unless expressly granted herein. All rights not expressly granted herein are reserved by Amino and its licensors.

2.3. Licensee acknowledges that the Software may contain Open Source subject to Open Source License Terms. Such Open Source is provided to Licensee on and subject to the terms of the applicable Open Source License Terms.

2.4. By accepting the terms of this Agreement and/or downloading the Software, Licensee shall acquire only such non-exclusive license (as set out in Section 2.1) as is strictly necessary for it to:

(a) use the Software in connection with the specific Product for which it is intended, and for the purpose for which it is designed and intended by Amino, and in accordance with the Documentation;

(b) distribute the Software to End Users for use as permitted by (a) above and in accordance with Section 4.2;

(c) install and use the Software on Licensee's network as necessary to use the Software in accordance with (a) and (b) above.

3. **Term.** The term of this Agreement shall begin on the Effective Date written below or the date on which Software is first used by Licensee, whichever is the earlier. The term shall continue initially for a period of one (1) year, and shall automatically renew for successive one (1) year periods unless terminated in accordance with Section 12.

4. **Restrictions.**

4.1. Except as expressly permitted by this Agreement (and, in the case of Open Source, the applicable Open Source License Terms), Licensee shall not:

(a) remove, delete, obscure or copy any Intellectual Property Rights contained on or in the Software or the Documentation as provided by Amino or access or use the Software in any manner or for any purpose that infringes, misappropriates or otherwise violates any Intellectual Property Rights or other right of any third party, or that violates any applicable law;

(b) reproduce, modify, adapt, reverse assemble, reverse engineer or decompile any Software, or copy thereof, in whole or in part (except as provided by applicable law);

(c) input, upload, transmit or otherwise provide to or through the Software, any information or materials that are unlawful or injurious, or contain, transmit or activate any harmful code;

(d) damage, destroy, disrupt, disable, impair, interfere with or otherwise impede or harm in any manner the Software or Amino's provision of the Software to any third party, in whole or in part;

(e) sell, lease, transfer or otherwise make available to others the Software, or any copy thereof;

(f) apply any techniques to derive any trade secrets embodied in the Software; or

(g) otherwise access or use, or permit any other person to access or use, the Software beyond the scope of the license granted by this Agreement.

4.2. Licensee shall ensure that access by End Users to the Software is only provided on terms consistent with the End User License Agreement set out in Schedule 1 to this Agreement.

4.3. Licensee shall take all appropriate actions to ensure that:

- (a) the Software is not copied by Licensee (except as allowed herein) or by any third parties, and
- (b) the Software is not used in any equipment other than the Products.

4.4. Licensee shall secure and protect the Software and copies thereof from disclosure. In the event that Licensee becomes aware that any Software or copies are being used in a manner not permitted by this Agreement, Licensee shall immediately notify Amino in writing of such fact. Licensee will fully cooperate with Amino so as to enable Amino to enforce its proprietary and property rights in the Software.

4.5. Licensee agrees that it shall keep secure and maintain confidential any key or materials intended for the purposes of securing the Products or Software, and that it shall promptly implement any Update to the Software or recommendation provided by Amino for the purposes of security.

4.6. Licensee agrees that it shall not use the Software, or supply the Software for use in, any aircraft or spacecraft, or in any military or naval missile, or in any guidance or control or air traffic control system relating to any aircraft, spacecraft, military or naval missile. Licensee shall indemnify and hold Amino harmless from and against all actions, claims, losses, costs, damages and expenses whatsoever arising out of or in connection failure to comply with this Section.

5. Confidentiality

5.1. Licensee agrees to keep confidential all Confidential Information and to use such Confidential Information exclusively only for the purposes of this Agreement or for exercise of the rights granted under this Agreement, and to disclose the same only to those of its employees, agents, contractors and sub-contractors (if any) to whom and to the extent that such disclosure is strictly necessary for the purposes of this Agreement or exercise of the rights granted under this Agreement.

5.2. Without limiting the scope of Section 5.1, Licensee shall:

- (a) protect and safeguard the Confidential Information against unauthorized use, copying, publication or disclosure;
- (b) ensure that all its employees, agents, contractors and sub- contractors who have access to any Confidential Information shall treat such Confidential Information in a manner that is consistent with this Section 5 and shall be subject to written obligations of confidentiality; and
- (c) comply with any other reasonable security measures notified to Licensee by Amino in writing from time to time.

5.3. Section 5.1 shall not apply to information which Licensee can demonstrate by documentary evidence:

- (a). prior to receipt thereof from Amino was in the possession of Licensee and at its free disposal; or
- (b). is subsequently disclosed to Licensee without any obligations of confidence by a third party who has not derived it directly or indirectly from Amino; or
- (c). is or becomes generally available to the public through no act or default of Licensee or of its employees, agents, contractors or sub-contractors; or
- (d). was independently developed by Licensee without reference to the Confidential Information; or
- (e). is required by law or a court or other competent authority to be disclosed; provided that in such case Licensee shall promptly notify Amino in writing and in such detail as Amino may reasonably require of such requirement for disclosure and shall assist Amino in any lawful efforts to prevent or limit the disclosure.

5.4. Licensee shall immediately inform Amino in writing upon becoming aware of any breach of Section 5.1 or 5.2 or that any Confidential Information has been lost, stolen or misplaced or upon having reason to believe that an employee or another person has gained unauthorized access to any Confidential Information and shall at its own cost and at Amino's direction take such steps as Amino may require in order to minimize the loss which Amino may otherwise suffer as a result of such breach.

5.5. Licensee understands and acknowledges that any disclosure or misuse of any Confidential Information may cause Amino irreparable harm, the amount of which may be difficult to ascertain and that damages may not be an adequate remedy for any breach by the Licensee of the provisions of this Agreement. Accordingly, without prejudice to any other rights or remedy Amino may have, Licensee acknowledges that Amino shall be entitled to apply for the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of the provisions of this Agreement.

6. Limited Warranty.

6.1. Amino does not warrant that the Software will meet the Licensee's requirements, or that the operation of the Software will be uninterrupted or error free. Licensee is responsible for determining the appropriate use of the Software and its associated Documentation as well as the results obtained by use thereof. Amino warrants only that the media containing the Software will be free from damage or physical defects when distributed to Licensee. The sole, exclusive remedy for breach of this warranty is that Amino will replace the defective media if returned to Amino within ninety (90) days after delivery to Licensee.

6.2. **Evaluation or Pre-Release Software.** In the case of Software which is identified as "evaluation", "engineering", "test", "pre-release" or words of similar meaning: SUCH SOFTWARE IS PROVIDED 'AS IS' WITHOUT ANY WARRANTY WHATSOEVER, THE WARRANTY IN SECTION 6.1 SHALL NOT APPLY AND AMINO HEREBY EXCLUDES ALL LIABILITIES IN RELATION TO SUCH SOFTWARE TO THE MAXIMUM EXTENT PERMITTED BY LAW.

6.3. **Disclaimer of warranties for third party software.** Amino may deliver third party software required by Licensee in conjunction with the Software. AMINO DOES NOT

WARRANT AS TO THE OPERATION OF SUCH THIRD- PARTY SOFTWARE: SUCH THIRD-PARTY SOFTWARE IS PROVIDED 'AS IS' WITHOUT EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF NON- INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ANY WARRANTY IN RELATION TO SUCH THIRD-PARTY SOFTWARE SHOULD BE OBTAINED DIRECT FROM THE RELEVANT THIRD PARTY.

6.4. **General warranty disclaimer.** UNLESS EXPRESSLY AGREED IN WRITING, SOFTWARE IS PROVIDED WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES THAT IT WILL OPERATE IN CONNECTION OR COMBINATION WITH ANY SOFTWARE, OR SYSTEM OR EQUIPMENT NOT PROVIDED BY AMINO.

6.5. **Information Security.** AMINO DOES NOT WARRANT THAT THE SOFTWARE, AND/OR ANY APPLICATION RELIANT ON THE SOFTWARE, SHALL BE SECURE AGAINST ANY THEFT OR PIRACY OF CONTENT, OR AGAINST ANY LOSS OR THEFT OF THE PERSONAL INFORMATION (INCLUDING SENSITIVE PERSONAL INFORMATION) OF LICENSEE OR OF ANY END USER AND AMINO HEREBY DISCLAIMS ALL LIABILITIES IN RELATION TO THE FOREGOING TO THE MAXIMUM EXTENT PERMITTED BY LAW.

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9.1. SUBJECT TO SECTION 8 THE LIABILITY OF AMINO TO LICENSEE FOR ANY LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR LICENSEE'S USE OF THE SOFTWARE OR THE DOCUMENTATION SHALL BE LIMITED WITH RESPECT TO ALL CLAIMS TO THE TOTAL AMOUNT IN FEES PAID BY LICENSEE FOR THE SOFTWARE HEREUNDER.

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12. Termination

12.1. Amino may terminate this Agreement with effect from the expiry of the then current term by providing at least ninety (90) days prior notice to Licensee in writing.

12.2. Licensee may terminate this Agreement at any time by providing notice to Amino in writing that it has ceased to use the Software and Documentation. This Agreement will terminate:

- (a) at any time that Licensee no longer uses the Software or
- (b) if Licensee violate any of the terms of this Agreement. Upon termination, Licensee agrees to destroy or return to Amino all copies of the Software and Documentation under its control and, upon Amino’s request, to certify in writing that all known copies, including backup copies, have been destroyed.

12.3. The following Sections shall survive termination: 1, 4, 5, 7, 8, 11 and 13.

13. General.

13.1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in all respects in accordance with the laws of the State of California without regard to its conflict of laws provisions and the parties submit to the exclusive jurisdiction of the courts of San Francisco County, San Francisco, California.

13.2. Amino may modify the Software at any time in its sole discretion upon notice to Licensee. Licensee agrees that such notification shall constitute sufficient notice of any change to the Software. Licensee’s continued use of the Software following notice of such change shall be deemed to be its acceptance of any such change. If Licensee does not agree to any such change, it must immediately stop using the Software and notify Amino that Licensee is terminating this Agreement.

13.3. Subject to the foregoing, any notice given hereunder by either party to the other shall be in writing and shall be served by sending it by registered or recorded delivery post to the address of the other party given in this Agreement, or by facsimile transmission or email. Unless the contrary is proved, notices so sent by post shall be deemed received two

(2) working days after posting and notices so sent by facsimile transmission or email and so confirmed shall be deemed received the next working day.

13.4. Other than as expressly set forth herein, this Agreement shall not be assigned, transferred, subcontracted, sublicensed or delegated in whole or in part by the Licensee without the prior written consent of Amino. Amino may assign, transfer, subcontract, sublicense or delegate its rights and obligations under this Agreement, whether in whole or in part, without Licensee's consent.

13.5. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein.

13.6. If the whole or any part of any provision of this Agreement is determined to be illegal, void or unenforceable under any law that is applicable to this Agreement, or if any competent authority or court of competent jurisdiction in a final decision so determines, this Agreement shall continue in force save that such provision (or the relevant part of it) shall be deemed to be deleted from this Agreement with effect from the date of such agreement or decision or such earlier date as the parties may in writing agree.

13.7. The headings in this Agreement are for convenience only and are not intended to have any legal effect; all references to Sections are references to Sections in this Agreement; references to a "person" shall be deemed to include an individual, a company, a limited liability partnership or an unincorporated business or other body or legal person or group of legal persons; and words such as "in particular", "including" or other words indicating that examples falling within more general wording follow shall not be construed as limiting in any way the scope of the corresponding more general wording.

13.8. A failure by either party hereto to exercise or enforce any rights conferred upon it by this Agreement shall not be deemed to be a waiver of any such rights or operate so as to bar the exercise or enforcement thereof at any subsequent time or times. No waiver shall be effective unless it is made in writing and is signed by an authorized representative of the waiving party.

13.9. This Agreement (including the Schedules and the latter of any quotation, order and/or order acknowledgement to which this Agreement is appended or linked) constitutes the entire understanding between the parties in relation to the subject-matter of this Agreement. The Licensee confirms that it has not been induced to enter into this Agreement by any representation made by or on behalf of Amino.

13.10. This Agreement is not intended to confer a benefit on any third party, and no third party shall have any right under any of the provisions of this Agreement.

13.11. The relationship of the parties under this Agreement is that of independent contractors and, subject as otherwise expressly provided in this Agreement, neither party is the agent of the other for any purpose and neither party shall make any representation, give any warranty or enter into any contractual or other commitment purporting to be binding on the other

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 - (b) reverse engineer, disassemble, decompile or translate the Software, or otherwise attempt to derive the source code, architectural framework or the data records of the Software, or authorize any third party to do any of the foregoing;
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 - (b) THE SOFTWARE WILL BE ERROR-FREE; OR
 - (c) THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE WILL BE ACCURATE OR RELIABLE.
 6. **LIMITATION OF LIABILITY.** YOU ACKNOWLEDGE AND AGREE THAT WE SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES ARISING FROM ANY TYPE OR MANNER OF COMMERCIAL, BUSINESS OR FINANCIAL LOSS, EVEN IF WE HAD ACTUAL OR CONSTRUCTIVE KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE. IN NO EVENT SHALL OUR TOTAL LIABILITY TO YOU FOR ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT OR YOUR USE OF THE SOFTWARE EXCEED THE AMOUNT YOU HAVE PAID FOR THE SOFTWARE. NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR RESTRICT THE LIABILITY OF US TO YOU FOR ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED BY LAW.
 7. **U.S. Government-Restricted Rights.** This section applies to use of the Software by a branch or agency of the United States Government. The Software and any accompanying documentation consist of "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction release, performance, display or disclosure of the Software and accompanying documentation by the United States Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.
 8. **Export Restrictions.** You may not export, or re-export the Software
 - (a) into, or to a national or resident of, any country to which the United States has embargoed goods, or

(b) to anyone on the United States Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. By using the Software, you are representing and warranting that you are not located in, under the control of, or a national or resident of any such country or on any such list.

9. **Termination.** This Agreement is effective until terminated by you or by us. You may terminate this Agreement at any time by destroying or returning to us all copies of the Software and associated documentation. Your rights under this Agreement shall terminate automatically without notice from us if you violate any of the terms of this Agreement. Upon termination of this Agreement, all rights granted to you under this Agreement shall immediately terminate, but all other provisions shall survive termination.

10. **Changes to the Software.** We reserve the right to modify or discontinue, temporarily or permanently, the Software or any documentation related to the Software and may amend or modify this Agreement at any time in its sole discretion upon notice to you. Your continued use of the Software following notice of such change shall be deemed to be its acceptance of any such change. If you do not agree to any such change, you must immediately stop using the Software and notify us that you are terminating this Agreement.

11. **Governing Law.** This Agreement, its subject matter and formation, is governed by and construed and enforced in accordance with the laws of the State of California, without reference to conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.

12. **Jurisdiction.** Any dispute or claim (including non-contractual disputes or claims) arising out of or relating in any way to this Agreement, its subject matter or formation, or your use of the Software shall be subject to the exclusive jurisdiction of the Courts of San Francisco County, San Francisco, CA.

13. General

13.1. This Agreement is the entire agreement between you and us concerning use of the Software. It supersedes any prior or contemporaneous oral or written negotiations or any agreements between you and us with respect to the Software and any supporting documentation.

13.2. You may not assign any of your rights or obligations under this Agreement to another party.

13.3. Any failure by us to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.

13.4. If any provision of this Agreement is held to be invalid or unenforceable under applicable law, then such provision shall be construed, limited, modified, or if necessary, severed to the extent necessary to eliminate its invalidity or unenforceability without in any way affecting the remaining parts of this Agreement.

Exhibit B – Service Level Features

Support Tier Features:

Features	Bronze	Silver	Gold
Access to Amino OS Updates and Maintenance Releases	•	•	•
Access to knowledge base, documentation and FAQs	•	•	•
Access to Trouble Ticket System	•	•	•
Access to Live Online Chat	•	•	•
Active Open Ticket Tracking	•	•	•
Active NPS Score Tracking	•	•	•
Business Hours Support (8x5)	•	•	•
Response / Fix SLA Commitment (refer to response/fix tables)		•	•
Access to Phone Support Hotline (business hours)		•	•
Customer Success Training (8 hr max per year) **		•	•
Customized Software/Engineering time 15% discount (max 5k/year)		•	•
Access to 24x7 Support Hotline			•
Designated Account Manager ¹			•
Support for Customized Software	no	Subj. to Quote	Subj. to Quote

** hours do not accumulate and will be lost if they are not used during the year.

First Response & Fix Delivery Times 2,3,4,5,6,7

(Applicable to Silver & Gold Service Levels Only)

	Silver		Gold	
Severity of Reported Issue	Response	Fix	Response	Fix
1 – Urgent	8 hr	1 wk	2 hr	2 d
2 – High	1 d	1 m	4 hr	1 wk
3 – Normal	—	—	1 d	—
4 – Low	—	—	2 d	—

1 Availability of named account manager is subject to planned absences, working hours limitations, illness etc. Suitable alternative resource will be allocated whenever the named account manager is unavailable.

2 d is “working day” unless otherwise specified

3 Fix Times do not include the time required for certification by Google in Android OS.

4 Response and Fix times commence when the issue is reported in the support portal and will be extended for any time during which customer does not provide necessary information concerning the fault.

5 Fix Times are targets and priority but are not a commitment.

6 Excluding Federal Holidays

7 Eastern Daylight Time when in effect

Definitions of Severity

Urgent* – Produces an emergency situation in which the Covered Systems are inoperable, or fail catastrophically, and affects at least 100 subscribers or 10% of the site, whichever is greater.

High* – Produces a detrimental situation in which performance (throughput or response) of the Covered Systems degrades substantially under reasonable loads, such that there is a severe impact on use; the Covered Systems are usable, but materially incomplete; one or more mainline functions or commands is inoperable; or the use is otherwise materially impacted and affects at least 50 subscribers or 5% of the site, whichever is greater.

Normal* – Produces an inconvenient situation in which the Covered Systems are usable, but do not provide a function in the most convenient or expeditious manner, and the user suffers little or no significant impact or the problem affects less than 1% of the site.

Low – Produces a noticeable situation in which the use is affected in some way which is reasonably correctable by a documentation change or by a future, regular software release.

*Reference to numbers of subscribers or percentage of site impacted does not apply to tickets opened for H-Series media players, software and/or managed services designed for use in digital signage environments.

Regional Working Days and Hours

	Americas
Working Days	Monday – Friday (5)
Working Hours	9am – 5pm EST (6)
Holidays	USA