COUNTY OF HENRICO
DEPARTMENT OF FINANCE
PURCHASING DIVISION
CONTRACT EXTRACT
NOTICE OF RENEWAL

DATE:	June 30, 2025
CONTRACT COMMODITY/SERVICE: *(include contracting entity if cooperative)*	Business & Information Software for Workforce & Career Development
CONTRACT NUMBER:	iRFP 9573C
COMMODITY CODE:	924.86
CONTRACT PERIOD:	June 30, 2025 through June 30, 2026
RENEWAL OPTIONS:	None
USER DEPARTMENT:	Schools
Contact Name:	Mac Beaton-Workforce & Career Development
Phone Number:	804-781-1810
Email Address:	mrbeaton@henrico.k12.va.us
HENRICO COOPERATIVE TERMS INCLUDED:	Yes
SUPPLIER: Name:	GameSalad, Inc.
Address:	2301 W. Anderson Ln
City, State:	Austin, TX 78757
Contact Name:	Julie Froehling
Phone Number:	512-348-6697
Email address:	julie@gamesalad.com
ORACLE SUPPLIER NUMBER:	326846
BUSINESS CATEGORY:	Non-Swam
PAYMENT TERMS:	Net 45
DELIVERY:	As needed and requested
FOB:	Destination
BUYER: Name:	Eileen M. Falcone, CPPB
Title:	Purchasing Manager
Phone:	804-501-5637
Email:	Fal51@henrico.gov

This contract is the result of a competitive solicitation issued by the Department of Finance, Purchasing Division. A requisition must be generated for all purchases made against this contract and the requisition must reference the contract number.

*TOTAL SPEND FOR CONTRACTS 9573A,B and C MUST NOT EXCEED $100,000 OVER A 5-YEAR PERIOD

**See spreadsheet in Sharepoint

ATTACHMENT C
PRICING OPTIONS

Provide pricing for the scenario below based off pricing being offered

Scenario	Price
Provide pricing for an annual subscription for one site licenses for a high school for 149 Business students	$ 1,495.00 for a single site
Virtual training for 25 teachers (minimum one hour)	$ 0.00 / included

Provide pricing as it relates to the proposed solution

	Price
Price per Student (provide details if tiered pricing is offered)	$18.00 / annual subscription
Price per Teacher	$ n/a
Price per Classroom	$ n/a
Price per Site current volume pricing: for 6 or more sites	$ 829.80 per school site /annual
Price for District License 6-12	$ 14,995.00 / annual subscription
Virtual training to introduce teachers to the platform, inform how to find user instructor materials and answer questions.	$ 0.00 / included
Additional Professional Development models	$ 2,500.00 / advanced training
Printed materials – provide list of pricing for each product offered	$ n/a
Consumables – provide list of pricing for each product offered	$ n/a

COMMONWEALTH OF VIRGINIA
County of Henrico

Non-Professional Services Contract
Contract No. 9573C

This Non-Professional Services Contract (this "Contract") entered into this 30 day of September 2021, by GameSalad, Inc. (the "Contractor") and the County School Board of Henrico, Virginia (the "HCPS")

WHEREAS HCPS has awarded the Contractor this Contract pursuant to Informal Request for Proposals No. 9573, (the "Informal Request for Proposal"), for Business and Information Software for Workforce and Career Development Students.

WITNESSETH that the Contractor and HCPS, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide the services to HCPS as set forth in the Contract Documents.

COMPENSATION: The compensation HCPS will pay to the Contractor under this Contract shall be in accordance with Exhibit E.
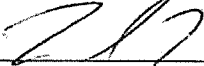
CONTRACT TERM: The Contract term shall begin on the date HCPS executes this Contract and end June 30, 2022. HCPS may renew the Contract for up to four (4) one-year terms giving 30 days' written notice before the end of the term unless Contractor has given HCPS written notice that it does not wish to renew at least 90 days before the end of the term.

CONTRACT DOCUMENTS: This Contract hereby incorporates by reference the documents listed below (the "Contract Documents") which shall control and take precedence in the following descending order:

1. This Non-Professional Services Contract between HCPS and Contractor;
2. License Agreement Addendum (Exhibit A);
3. Data Security Agreement (Exhibit B);
4. Contractor's Terms of Use Agreement (Exhibit C);
5. Contractor's Privacy Policy (Exhibit D)
6. The General Contract Terms and Conditions included in the Informal Request for Proposal;
7. Contractor's Best and Final Offer dated July 29, 2021 (Exhibit E);
8. Contractor's Original Proposal dated June 30, 2021 (Exhibit F); and
9. The Scope of Services included in the Informal Request for Proposal.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound hereby.

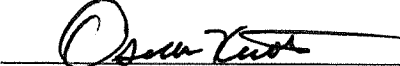GameSalad Inc.
2301W. Anderson Ln, Ste 102 #103
Austin, TX 78757

_____
Signature

Tan Thien Tran
_____
Printed Name and Title

09/30/2021
_____
Date

County School Board of Henrico, Virginia
406 Dabbs House Road
Henrico, VA 23273-0775

_____
Signature

_____
Oscar Knott, CPP, CPPO, VCO
Purchasing Director
10/20/21
_____
Date

APPROVED AS TO FORM

_____ 10/4/21
ASSISTANT COUNTY ATTORNEY

EXHIBIT A
LICENSE AGREEMENT ADDENDUM

The County School Board of Henrico County, Virginia (the "**County**") and GameSalad, Inc. ("**Supplier**"), a Texas corporation, are this day entering into an agreement for Non-Professional Services Informal Request for Proposal 9573 - for Business and Information Software for Workforce and career Development Students (the "**Agreement**") and, for their mutual convenience, the parties are using the standard form contract ("GameSalad.com Terms of Service version 8, 25 2019") provided by Supplier ("**Contract**"). This License Agreement Addendum ("**LAA**"), duly signed by the County and Supplier (each a "**Party**"), is attached to and made a part of the Agreement and the Contract by incorporation, and with the Agreement governs the use of any and all software licensed by the County under the Agreement (the "**Software**") and this LAA.

Supplier's Contract is generally acceptable to the County, with the exceptions noted in this LAA below. Despite the general acceptability of the Contract, certain standard clauses may appear in, or be incorporated by reference into, the Contract that cannot be accepted by the County. In consideration of the convenience of using Supplier's standard form contract without the necessity of specifically negotiating a separate contract document, the Parties specifically agree that any of the following provisions contained in the Contract are deemed void and will not have any effect and will not be enforceable against the County:

1. Requiring the application of the law of any state other than the Commonwealth of Virginia in interpreting or enforcing the Contract or requiring or permitting that any dispute under the Contract be resolved in any court other than the state courts located in Henrico County, Virginia;

2. Requiring any total or partial compensation or payment for lost profit or liquidated damages by the County if the Contract is terminated before the end of its ordinary term;

3. Imposing any interest charge(s) contrary to that specified by § 2.2-4347 *et seq.* of the Code of Virginia;

4. Requiring the County to maintain any type of insurance for Supplier's benefit;

5. Granting Supplier a security interest in any property of the County;

6. Requiring the County to indemnify, defend, or to hold harmless Supplier or any other entity or person for any act or omission;

7. Limiting or adding to the time period within which claims can be made or actions can be brought (Reference Tit. 8.01 of the Code of Virginia);

8. Limiting selection and approval of counsel and approval of any settlement in any claim arising under the Contract and in which the County is a named party;

9. Binding the County to any arbitration or to the decision of any arbitration board, commission, panel or other entity;

10. Obligating the County to pay costs of collection or attorney's fees;

11. Requiring any dispute resolution procedure(s) other than those in accordance with § 2.2-4363 *et seq.* of the Code of Virginia;

12. Permitting Supplier to access any of the County's records or data, except pursuant to court order;

13. Permitting Supplier to use any information provided by the County except for Supplier's own internal administrative purposes;

14. Requiring the County to limit its rights or waive its remedies at law or in equity;

15. Bestowing any right, or incurring any obligation, that is beyond the duly granted authority of the undersigned representative of the County to bestow, or incur, on behalf of the County;

16. Establishing a presumption of severe or irreparable harm to Supplier by the actions or inactions of the County;

17. Limiting the liability of Supplier for property damage, death, or personal injury;

18. Permitting Supplier to assign, subcontract, delegate or otherwise convey the Contract, or any of its rights and obligations under the Contract, to any entity without the prior written consent of the County, except as set forth in paragraph 40 below;

19. Not complying with the contractual claims provision § 2.2-4363 of the Code of Virginia, which is also incorporated into this LAA and the Contract by reference;

20. Enforcing the United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods. They are expressly disclaimed. UCITA shall apply to the Contract only to the extent required by § 59.1-501.15 of the Code of Virginia;

21. Not complying with all applicable federal, state, and local laws, regulations, and ordinances;

22. Requiring that the County waive its sovereign immunity or its immunity;

23. Requiring that the County, which is tax exempt, be responsible for payment of any taxes, duties, or penalties;

24. Requiring or construing that any provision in this Contract conveys any rights or interest in the County's data to Supplier;

25. Requiring the use of foreign currency. The currency used for the Contract will be United States Dollars;

26. Obligating the County beyond approved and appropriated funding. All payment obligations from the County under the Contract are subject to receipt of necessary appropriations from the County's Board of Supervisors. In the event of non-appropriation of funds for the items under the Contract, the County may terminate, in whole or in part, the Contract or any order, for those goods or services for which funds have not been appropriated. This may extend to the renewal of maintenance services for only some of the licenses granted by Supplier. The County shall provide written notice to the Supplier as soon as possible after legislative action is completed. There will be no time limit for termination due to termination for lack of appropriations;

27. Permitting unilateral modification of the Contract by Supplier;

28. Permitting termination by Supplier of the Contract or the licenses granted pursuant to the Contract, or permitting suspension of services by Supplier, except pursuant to an order from a court of competent jurisdiction;

29. Requiring or stating that the terms of the Supplier's standard form contract will prevail over the terms of this LAA in the event of conflict;

30. Renewing or extending the Contract beyond the term set forth in the Agreement or automatically continuing the Contract period from term to term;

31. Requiring that the Contract be "accepted" or endorsed by the home office or by any other officer subsequent to signing by an official of the County before the Contract is considered in effect;

32. Delaying the acceptance of the Contract or its effective date beyond the date of signing;

33. Defining "perpetual" license rights to have any meaning other than license rights that exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Contract;

34. Permitting modification or replacement of the Contract pursuant to any new release, update or upgrade of Software, or subsequent renewal of maintenance. If Supplier provides any update or upgrade subject to additional payment, the County will have the right to reject such update or upgrade;

35. Requiring the purchase of a new release, update, or upgrade of Software, or subsequent renewal of maintenance, in order for the County to receive or maintain the benefits of Supplier's

indemnification of the County against any claims of infringement on any third-party intellectual property rights;

36. Prohibiting the County from transferring or assigning to any entity the Contract or any license to Software granted pursuant to the Contract;

37. Granting Supplier or an agent of Supplier the right to audit or examine the books, records, or accounts of the County; or

38. Requiring the County to waive its right to a jury trial.

In addition to the provisions set forth above in this LAA, the Parties further agree as follows:

39. Supplier warrants that it is the owner of the Software or otherwise has the right to grant to the County the license to use the Software granted under the Contract without violating or infringing any law, rule, regulation, copyright, patent, trade secret, or other proprietary right of any third party.

40. Supplier may assign all or any of its rights and obligations to a third party as a result of a merger or acquisition or sale of all or substantially all of its assets to the third party so long as Supplier's assignee agrees in writing to be bound by the terms and conditions set forth in the Contract, and provided the third party is a U.S.-based entity or maintains a registered agent and a certification of authority to do business in Virginia. Supplier may assign all or any of its rights and obligations to an affiliate of Supplier, provided Supplier remains liable for the affiliate's compliance with the terms and conditions set forth in this Contract

41. Supplier agrees to indemnify, defend and hold harmless the County of Henrico (including Henrico County Public Schools), the County's officers, agents and employees, from any claims, damages, suits, actions, liabilities and costs of any kind or nature, including attorneys' fees, to the extent the claim in any way relates to, arise out of or result from: (i) any negligent act, negligent omission, or intentional or willful conduct of any employee or subcontractor of Supplier, (ii) any breach of any representation, warranty or covenant of Supplier contained in the Contract and LAA, (iii) any defect in the Software, or (iv) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Software.

42. The County will only be liable to pay for Supplier's travel-related expenses, including transportation, meals, lodging and incidental expenses that have been authorized by the County in advance. The travel-related expenses will be reimbursable at the County's then-current per diem rates.

43. The County may require that Supplier personnel submit to a criminal background check prior to performance of any services under the Contract.

44. Payments for license fees, including subscription fees, and support services are only authorized to be made to the Supplier pursuant to the Contract.

Together with the Agreement, the Contract and this LAA constitute the entire agreement between the Parties and may not be waived or modified except by written agreement between the Parties.
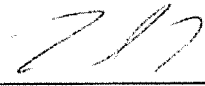
[SIGNATURE PAGE(S) TO FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this License Agreement Addendum to be duly executed as of the last date set forth below by the undersigned authorized representatives of the parties, intending thereby to be legally bound.

GameSalad, Inc.

By: _____
    (Signature)

Name: __Tan Thien Tran_____
    (Print)

Title: __CEO_____

Date: __09/30/2021_____

County School Board of Henrico County, Virginia

By: _____
    (Signature)

Name: __Oscar Krott_____
    (Print)

Title: __Purchasing Director_____

Date: __10/20/21_____

APPROVED AS TO FORM

Alyssa B Brown 10/4/21
ASSISTANT COUNTY ATTORNEY

EXHIBIT B

HENRICO COUNTY PUBLIC SCHOOLS

DATA SECURITY AGREEMENT

This Data Security Agreement ("Agreement") is agreed upon effective September 30, 2021, by and between GameSalad, Inc. ("Vendor") and the County School Board of Henrico County, Virginia ("HCPS").

I. DEFINITIONS

A.   **HCPS Data**: HCPS Data is any and all data that HCPS has disclosed to Vendor. For the purposes of this Agreement, HCPS Data does not cease to be HCPS Data solely because it is transferred or transmitted beyond HCPS's immediate possession, custody, or control.

B.   **Data Breach**: The unauthorized access and acquisition of computerized data that materially compromises the security or confidentiality of confidential or sensitive personal information maintained by HCPS as part of a database of personal information regarding multiple individuals and that causes or HCPS reasonably believes has caused or will cause loss or injury to any HCPS constituent.

C.   **System**: An assembly of components that supports an operational role or accomplishes a specific objective. This may include a discrete set of information resources (network, server, computer, software, application, operating system or storage devices) organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

D.   **Contract**. Shall mean the contract between Vendor and HCPS outlining the services to be provided.

II. DISCLOSURE OF HCPS DATA

A.   The Vendor shall not disclose HCPS Data in any manner that would constitute a violation of state or federal law or the terms of this agreement including, without limitation, by means of outsourcing, sharing, retransfer, or access, to any person or entity, except:

B.   Employees or agents who actually and legitimately need to access or use HCPS Data in the performance of Vendor's duties to HCPS;

C.   Such third parties, such as but not limited to, vendors, suppliers or subcontractors, but only `after such third party has agreed in writing and in advance of any disclosure, to be bound by confidentiality terms at least as stringent as the terms of this Agreement; or

D.   Any other third party approved by HCPS in writing and in advance of any disclosure, but only to the extent of such approval.

E.   The Vendor may also store HCPS Data on servers housed in datacenters owned and operated by third parties, provided the third parties take reasonable precautions to protect the security and confidentiality of HCPS data.
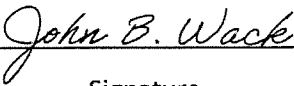
III. USE OF, STORAGE OF, OR ACCESS TO HCPS DATA

A.   Vendor shall only use, store, or access HCPS data:

1.   In accordance with, and only to the extent permissible under the contract for services; and

2.   In full compliance with any and all applicable laws and regulations, only to the extent applicable to Vendor, including the Family Educational Rights and Privacy Act (FERPA); and

B.   Vendor agrees that the use, storage, and access to HCPS Data shall be performed with that degree of skill, care, and judgment customarily accepted as sound, quality, and professional practices. Vendor shall implement and maintain safeguards necessary to ensure the confidentiality, availability, and integrity of HCPS Data. Vendor shall also implement and maintain any safeguards required to be implemented by applicable state and federal laws and regulations.

C.   HCPS reserves the right to request security information reasonably necessary to ascertain HCPS's own compliance with state and federal data privacy laws.

D.   If Vendor becomes aware that HCPS Data may have been accessed, disclosed, or acquired without proper authorization and contrary to the terms of this Agreement or the Contract, Vendor shall use reasonable efforts to alert HCPS of any Data Breach within two business days, and shall immediately take such actions as may be necessary to preserve forensic evidence and eliminate the cause of the Data Breach. Vendor shall give highest priority to immediately correcting any Data Breach and shall devote such resources as may be required to accomplish that goal. Vendor shall provide HCPS information necessary to enable HCPS to fully understand the nature and scope of the Data Breach. Upon request, Vendor shall provide HCPS information about what Vendor has done or plans to do to mitigate any deleterious effect of the unauthorized use or disclosure of, or access to, HCPS Data. In the event that a Data Breach requires Vendor's assistance for mitigation, such assistance shall be provided at no cost to HCPS. HCPS may discontinue any services or products provided by Vendor and any payments to Vendor until HCPS, in its sole discretion, determines that the cause of the Data Breach has been sufficiently mitigated.

E.   If Vendor is served with any subpoena, discovery request, court order, or other legal request or command that calls for disclosure of any HCPS Data, Vendor shall promptly notify HCPS in writing and provide HCPS sufficient time to obtain a court order or take any other action HCPS deems necessary to prevent disclosure or otherwise protect HCPS Data. In such event, Vendor shall provide HCPS prompt and full assistance in HCPS's efforts to protect HCPS Data. Where

Vendor is prohibited by law from notifying HCPS of a legal request for HCPS Data, Vendor will comply with all applicable laws and regulations with respect to the requested HCPS Data.

F.   Upon expiration or termination of the Contract, Vendor shall ensure that no Data Breach occurs and shall follow HCPS's instructions as to the preservation, transfer, or destruction of HCPS Data. The method of destruction shall be accomplished by "purging" or "physical destruction", in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88. Upon request by HCPS, Vendor shall certify in writing to HCPS that return or destruction of data has been completed. Prior to such return or destruction, Vendor shall continue to protect HCPS Data in accordance with this Agreement.

G.   This Agreement shall survive the expiration or earlier termination of the Contract. However, upon expiration or termination of the Contract, either party may terminate this Agreement.

FOR HCPS: FOR VENDOR: GameSalad Inc.

John B. Wack   Tan Thien Tran
_____   _____
Name   Name

_John B. Wack_____   _____
Signature   Signature
                                               CEO
Chief Financial Officer   _____
Title   Title
                                               09/30/2021
10/04/2021   _____
_____
Date   Date

APPROVED AS TO FORM

Alyssa Brown 10/14/21
_____
ASSISTANT COUNTY ATTORNEY

GameSalad®

GameSalad

GameSalad.com Terms Of Service

October 25 , 2019

Effective Date of these Terms: 25 October 2019

PLEASE READ THE FOLLOWING TERMS OF SERVICE ("TERMS") CAREFULLY. BY USING OR VISITING THE GAMESALAD WEBSITE OR ANY GAMESALAD SERVICES, SOFTWARE OR CONTENT, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THESE TERMS AND THE TERMS OF THE GAMESALAD PRIVACY POLICY ("PRIVACY POLICY") WHEN ACCESSING THE WEB SITE LOCATED AT THE URL: WWW.GAMESALAD.COM ("SITE") AND/OR USING ANY SERVICES, SOFTWARE OR CONTENT OFFERED BY GAMESALAD, INC. ("GAMESALAD" OR "WE" OR "OUR" OR "US") THROUGH THE SITE (COLLECTIVELY, THE "SERVICES").

IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF ANOTHER PERSON OR A COMPANY OR OTHER LEGAL ENTITY, THEN YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND THAT PERSON, COMPANY, OR LEGAL ENTITY TO THESE TERMS.

IF YOU DO NOT AGREE TO THESE TERMS OR THE TERMS OF THE PRIVACY POLICY, AND EACH AS AMENDED FROM TIME TO TIME, CLICK THE "I DO NOT AGREE" BUTTON, AND YOU MAY NOT ACCESS OR USE THE SITE OR SERVICES.

IF THESE TERMS ARE CONSIDERED AN OFFER, ACCEPTANCE IS EXPRESSLY LIMITED TO THESE TERMS.

Your privacy is important to us. Please review the terms of our Privacy Policy. In order to use the Services you will need to provide certain personally identifiable information to us. We will collect, store and use such information in accordance with the terms of our Privacy Policy as amended from time to time.

1. Changes to the Site, Services and Terms

GameSalad may, in its sole discretion, add, change, modify, discontinue, remove, or suspend any portion or feature of the Site or Services, including, without limitation, the Software and Content (each as defined below), temporarily or permanently, at any time, without notice and without liability to you. Such additions,

changes or modifications may change or delete the nature of features or other aspects of the Site, Services, Software or Content, including features that you may rely upon. You hereby agree that such activities may occur at GameSalad's sole discretion and that GameSalad may condition continued use of the Site and Services upon your complete acceptance of such additions, changes or modifications.

In addition, we may make changes to these Terms or the Privacy Policy at any time. The most current version of these Terms will supersede all previous versions. Although we may attempt to notify you when major changes are made to the Terms, your acceptance of the revised Terms or Privacy Policy, if prompted to do so, or your continued use of the Site and Services means that you agree to the revised Terms or Privacy Policy, even if you have not reviewed the changes. If you do not agree to the revised Terms or Privacy Policy, your sole and exclusive remedy is to terminate your registration to use the Services immediately and to discontinue your use of the Site and Services.

2. Requirements for Use of the Site and Services

CHILDREN UNDER 13

For Personal Accounts on gamesalad.com

To ensure compliance with The Children's Online Privacy and Protection Act ("COPPA") regulations, GameSalad recognizes the privacy interests of children, and we encourage parents and guardians to take an active role in their children's online activities and interests. GameSalad's services and the Site are not intended for children under the age of 13 without the consent of a parent or legal guardian. GameSalad endeavors not to collect any personally identifiable information from children under the age of 13. GameSalad designs its services and this Site to adults and not individuals under the age of 18. Personal Account Holders may utilize the service. Users under the age of 18 may do so only with the involvement of a parent or legal guardian.

For GameSalad for Educational Accounts

In a classroom scenario, educators can keep students' privacy protected and still use GameSalad by creating accounts owned by the educator or institution and ensuring that students do not divulge any personally identifiable information. COPPA requires that online service providers obtain parental consent before they knowingly collect personally identifiable information online from children who are under 13. Therefore, we only collect personal information through the Services from a child under 13 where that student's school, district, and/or teacher has agreed (via the terms described in the following paragraph) to obtain parental consent for that child to use the Services and disclose personal information to us or where the parent or legal guardian of a child has signed the child up to use the Services. If you are a student under 13, please do not send any personal information about yourself to us if your school, district, and/or teacher has not obtained this prior consent from your parent or guardian or if your parent or guardian has not signed you

up to use the Service, and please do not send any personal information other than what we request from you in connection with the Services. If we learn we have collected personal information from a student under 13 without parental consent being obtained by his or her parent, guardian, school, district, and/or teacher, or if we learn a student under 13 has provided us personal information beyond what we request from him or her, we will delete that information as quickly as possible. If you believe that a student under 13 may have provided us personal information in violation of this paragraph, please contact us at support@gamesalad.com.

You represent and warrant that you are of legal age to form a binding contract (or if not, you've received your parent's or guardian's permission to use the Services and gotten your parent or guardian to agree to these Terms on your behalf, as we described earlier, and also to agree to these Terms and their own behalf). If you're agreeing to these Terms on behalf of an organization or entity (for example, if you're an administrator agreeing to these Terms on behalf of your district), you represent and warrant that you are authorized to agree to these Terms on that organization or entity's behalf and bind them to these Terms. You also certify that you are legally permitted to use and access the Services and take full responsibility for the selection and use of and access to the Services. This Agreement is void where prohibited by law, and the right to access the Services is revoked in such jurisdictions.

Children Under 18

If you are 13 years of age or older, but not yet 18 years of age, you may only use the Site and Services with the consent of your parent or legal guardian. You should review these Terms with your parent or guardian to make sure that you and your parent or guardian understand the Terms. Your parent and legal guardian hereby agrees to assume full responsibility and liability for your acts and omissions in connection with your use of the Site and Services.

Compatible Devices and Access

Use of the Site and Services requires compatible devices, Internet access, and certain software (fees may apply), which may require periodic updates, and may be affected by the performance of these factors. High-speed Internet access is strongly recommended. You agree that these requirements and recommendations, which may change from time to time, are your responsibility.

3. Free Services and Fee-Based Services

The Services consist of: (i) services for which users are not required to pay any fee to GameSalad ("Free Services"); and (ii) services for which users must pay a fee to GameSalad before they can use such services ("Fee-Based Services"). Most of these Terms apply to both the Free Services and the Fee-Based Services. If different terms apply to either type of Services, we make this clear below in these Terms. GameSalad

reserves the right in the future to charge for your use of any portion of the Free Services at any time in its sole discretion, upon notice to you.

4. User Account

A user account ("Account") is required to access and use the Services. To create an Account, you must have an e-mail address. You represent and warrant that: (i) you will provide truthful, accurate, current, and complete Account registration information; (ii) you will promptly update such information if it changes to keep it accurate and complete; (iii) you are 13 years of age or older; and (iv) your use of the Site and Services does not violate any applicable law, rule or regulation. You hereby authorize GameSalad, either directly or through third parties, to make any inquiries we consider necessary to validate your Account registration data. You agree that you will not misrepresent yourself, or represent yourself as another user of the Site or the Services. Some Services may require you to create a "user name" and/or a "persona". You may not use a user name or persona that is used by someone else or that is vulgar or offensive or that otherwise violates these Terms. You are solely responsible for maintaining the confidentiality and security of your user name, persona and Account information, and for all activity occurring under your Account as a result of your failure to keep such information secure and confidential. GameSalad will not be responsible for any losses arising out of the unauthorized use of your Account. You may not allow any third party to use your Account for any purpose. You must notify GameSalad promptly in the event of any unauthorized use of your Account, user name or persona, or any other security breach. GameSalad has no liability to you or any third party for any loss or damage arising from your failure to comply with your obligations specified in this section. You agree that GameSalad may store and use the registration data you provide for use in maintaining and billing fees to your Account.

5. Fees

You must have an Account to use the Services. You can sign up for a free membership Account to access and use the basic version of the Services or any other Free Services, but to access and use the Fee-Based Services, you must pay GameSalad's then-current applicable fees for the Fee-Based Service you are purchasing (e.g. an annual subscription fee or one-time fee). Payments will be charged to your Account on the date on which the relevant Fee-Based Service is first made available to you ("Activation Date"). Thereafter, for subscription fees, on each anniversary of the Activation Date, your subscription will automatically renew and your Account will be charged for the then-current annual subscription fee, unless you cancel your subscription to the relevant Fee-Based Service before the upcoming anniversary of the Activation Date. Except as expressly stated by GameSalad in these Terms, all fees paid or owed by you are non-refundable.

You agree to pay all fees charged to your Account based on GameSalad's fees, charges, and billing terms then in effect as shown on the payment page of the Site. If you have a balance due on any Account, you agree that GameSalad may, and you hereby authorize GameSalad to, charge such unpaid fees to your PayPal account, or such other payment method accepted by GameSalad, or otherwise bill you for such unpaid fees or other applicable charges. If you do not pay any amount due on time, or if GameSalad cannot charge your PayPal account or other payment method for any reason, GameSalad, in addition to any other rights or remedies it may have, reserves the right to either immediately suspend or terminate your access to all or a portion of the Site and/or Services. All payments to your Account must be made from a source for which you are the named account holder. GameSalad is not liable for any loss caused by any unauthorized use of your PayPal account, or any other method of payment by a third party in connection with your use of the Site or Services, or the use of your Account. GameSalad reserves the right to change its fees and billing methods at any time; any changes to the fees or billing methods will be posted on the Site or through the Services. Your continued use of the Services after the changes have taken effect means that you accept such changes. You are responsible for paying any taxes that may apply, or relate to, your use of the Services (including, without limitation, any income or other taxes payable by you if you sell Executable Packages developed using the Services), in addition to the fees or other applicable charges due under these Terms.

6. Monetization Tools

GameSalad offers you various methods to generate advertising revenue through your Executable Package (as defined in Section 8 below) ("Monetization Tools"). If you are a user of our Free Services, some Monetization Tools will be automatically implemented within your Executable Package; if you are a user of our Fee-Based Services, you will have the option to utilize one or more Monetization Tools. The Monetization Tools may be provided by GameSalad or through third party vendors ("Monetization Vendors"). Whether your use of the Monetization Tools is automatic or optional, you may be required to agree to terms and conditions of the applicable Monetization Vendor(s) ("Monetization Vendor Terms"). Notwithstanding anything to the contrary in the Monetization Vendor Terms, by utilizing the Monetization Tools, you agree that:

- GameSalad or the applicable Monetization Vendor may place unique tags within your Executable Package in order to deliver advertisements or other promotions ("Ads") through your Executable Package.
- You will not attempt in any way to circumvent or interfere with the serving of Ads through your Executable Package.
- You may not, directly or indirectly, or allow any person or company to directly or indirectly, engage in or enable the use of any deceptive means, incentives, computerized, fraudulent or other invalid

means to increase the number of users, impressions, page views, click-throughs or any other measure of traffic on or in connection with an Ad embedded within your Executable Package. The foregoing restrictions include, as an example, any action by you to offer to any third person or end user of your Executable Package any inducement to click on any Ads.

- If you are a user of our Fee-Based Services, we will pay to you a percentage of revenue actually collected by us from Monetization Vendors on account of Ads served to your Executable Package ("Revenue Share") in accordance with each Monetization Vendor's terms. We will make payment to you of your Revenue Share within thirty (30) days after the end of the calendar month in which we actually collected the applicable revenue from our Monetization Vendor(s); provided, however, that if your Revenue Share does not exceed one hundred dollars ($ 100.00), we will not send you a payment but will instead accrue such amounts to your Account until your Revenue Share exceeds such minimum. We reserve the right to withhold, in our sole discretion, up to fifteen percent (15%) of your Revenue Share against chargebacks and/or other uncollectible amounts. With each payment of your Revenue Share, we will include a written report stating the revenue we collected from our Monetization Vendor(s) on account of your Executable Package and a calculation of your Revenue Share; no additional information or data will be provided to you. Payment will be sent to you via PayPal to the account designated in your Account. We will also send you applicable tax documents (e.g., Form 1099) to the address you designate in your Account. Please note that no payment will be made to you if you have not provided to us all information requested in order to process payment to you in compliance with applicable tax regulations.
- If you are a user of our Free Services, you will receive no Revenue Share or any other compensation for the use of Monetization Tools within your Executable Package.

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7. Ownership of Content and Software

GameSalad and/or its third party licensors owns all right, title and interest in and to: (i) the information, features, applications, text, content, files, advertising, graphics, images, photos, videos and video clips, screenshots, art work, icons, audio, sounds, musical works, copyrighted text, works of authorship, descriptions, user and visual interfaces, widgets, third party user Submissions and Feedback (each as defined below), and other materials or information provided on and through the Site and Services (collectively, the "Content"); and (ii) the proprietary software, algorithms and code made available by GameSalad through the Site and Services (collectively, the "Software"), including, without limitation: (a) the downloadable software tool made available to you in object code form (the "GameSalad Tool"); (b) that portion of the Executable Package (as defined below) consisting of the GameSalad engine (the "GameSalad Engine"); and/or © the software that enables embedding of GameSalad Submissions in websites (the "GameSalad Embeddable Player") and (iii) the design, appearance, structure, selection, coordination, expression, look and feel, and arrangement of the Site, Services, Software and Content; and (iv) the domain names, trademarks, service marks, proprietary logos and other distinctive brand features found on, or in, the Site, Services, Software and Content. Notwithstanding the foregoing, your Submissions (including, without limitation, to the extent your Submissions are embodied in an Executable Package) and Feedback are not "Content" or "Software" for purposes of these Terms. You agree: (1) to use the Site, Services, Software and Content solely as expressly permitted by these Terms or as otherwise expressly permitted by GameSalad, and at all times in accordance with all applicable laws, rules and regulations; and (2) that your unauthorized use of the Site, Services, Software or Content may violate copyright, trademark, trade secret or patent laws, or various other intellectual property rights of GameSalad or third parties, unfair competition laws, the laws of privacy and publicity, and civil and criminal statutes.

8. License Grant From GameSalad for Services

To the extent that you use the Services, and subject to your compliance with these Terms, including, without limitation, your payment of all fees and other amounts due in connection with your use of the Fee-Based Services, and your execution of a EULA (as defined below) with each third party end user (except for end users who access Executable Packages through the GameSalad Embeddable Player) to whom you sell or otherwise provide an Executable Package (as defined below), GameSalad hereby grants you a limited, personal, revocable, non-exclusive, non-sublicensable, and non-transferable license to: (i) publish, publicly display, publicly perform, market, sell and license each Executable Package solely for your personal or commercial use, and solely on the Site or as desktop games, or as games for mobile applications including, without limitation, Apple products, in each case for use by third party end users who license the right to play the game embodied in each Executable Package for their own personal use from you; (ii) publish, publicly

display, publicly perform, market, sell and license each Executable Package solely for your personal or commercial use on other web sites as web-based games through the GameSalad Embeddable Player; and (iii) download and use the GameSalad Embeddable Player for the sole purpose of publicly displaying and performing Executable Packages. "Executable Package" means a game that can function independently of the GameSalad platform consisting of: (a) your Submission; and (b) the GameSalad Engine in object code form only.

If any Services are subject to additional license or use terms, then those terms will apply in addition to these Terms and such additional terms, if any, will be notified to you if and when you elect to purchase or download such Services. If any Services are for third party software, content and/or other copyrighted material ("Third Party Content"), then your use of such Third Party Content is governed by the acknowledgements, licensing terms and disclaimers for such Third Party Content.

For clarity, "personal or commercial use" means that you, as an individual and/or on behalf of any person or entity other than yourself in your personal capacity (e.g., on behalf of an employer, or as a game developer or contractor), may publish, publicly display, publicly perform, market, and sell each Executable Package to third party end users for a fee or free of charge. Any fees you charge are earned solely by you in your personal capacity as an individual or by your employer.

As a condition to being permitted to use the Services, you will ensure that you execute a binding written End User License Agreement ("EULA") with each third party end user to whom you sell or otherwise provide an Executable Package (except for end users who access Executable Packages through the GameSalad Embeddable Player). Each EULA must contain terms no less protective of GameSalad than the terms set forth in these Terms, including, without limitation, the terms specified herein under the headings "Ownership of Content and Software", "Prohibitions", "Reservation of Rights", "Warranty Disclaimer", "Limitation of Liability", and "Indemnification." You will provide complete and accurate copies of all EULA's to GameSalad within five (5) calendar days after any request from GameSalad. You will enforce each such EULA with at least the same degree of diligence that a reasonable software company would use to enforce similar agreements for its own non-open source software products that it sells and distributes. You will immediately notify GameSalad if you become aware of any material breach of any EULA, and will provide GameSalad with reasonably detailed information in connection with such breach. Upon the termination of any EULA, you will use all reasonable efforts to obtain from the end user all copies of the Executable Package in such end user's possession or control.

In using the Services, you will not commit any act, or refrain from taking any action, and you will not agree to any legal or other contractual terms, that reduce or otherwise negatively affect in any way, GameSalad's and its licensors' right, title and ownership of the intellectual property and other proprietary rights applicable to,

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Without limiting any other rights or remedies of GameSalad, the limited license and the rights granted above will terminate automatically, without notice to you, if you breach, or threaten to breach any of the terms or conditions of these Terms.

9. Prohibitions

Except to the extent expressly permitted in these Terms, you may not: (i) copy, modify, adapt, translate, reverse engineer, reverse compile, decompile, disassemble, or attempt to discover the source code of any Software or Content (including any Submission) made available on or in connection with the Site, Services (including when made available through the GameSalad Embeddable Player on web sites) or Content, or make any derivative works of such Software; (ii) use any code, software, method or product to manipulate the Site, Services, Software or Content in any way that affects any user's experience in using, or ability to use, same; (iii) reproduce, publish, broadcast, transmit, download, cache, distribute, perform, display, sell, or in any way exploit any Software or Content; or (iv) remove any patent, copyright, trademark or other proprietary notices contained in any Software or Content. To the extent the prohibition specified above concerning the reverse engineering, disassembly or decompilation of Software violates applicable local law, and you wish to take any action in contravention of this prohibition to the extent you are permitted to do so under applicable local law, then you must notify GameSalad in writing not less than 90 calendar days before taking that proposed action. GameSalad will then discuss with you, the scope of any necessary reverse engineering, disassembly or decompilation that would be required in order to enable you to exercise your rights as permitted under applicable local law, and you hereby agree that GameSalad, may in its sole discretion, carry out any such reverse engineering, disassembly or decompilation on your behalf, at no cost to you.

You agree not to use or launch any automated system, including without limitation, "robots," "spiders," or "offline readers" that accesses the Site in a manner that sends more request messages to the GameSalad servers in a given period of time than a human can reasonably produce in the same period by using a conventional on-line web browser. Notwithstanding the foregoing, GameSalad grants the operators of public search engines permission to use spiders to copy materials from the site for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials. GameSalad reserves the right to revoke these exceptions either generally or in specific cases. You agree not to collect or harvest any personally identifiable information,

including account names, from the Site, nor to use the communication systems provided by the Site (e.g., comments, email) for any commercial solicitation purposes. You agree not to solicit, for commercial purposes, any users of the Site with respect to their Content or Submissions.

If you use the GameSalad Embeddable Player on your website, you may not: (i) modify, build upon, or block any portion or functionality of the GameSalad Embeddable Player, including but not limited to links back to the Site; and (ii) sell advertising, sponsorships, or promotions for placement within the GameSalad Embeddable Player.

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You acknowledge and agree that GameSalad may use the Software licensed to you hereunder to develop its own games and that GameSalad reserves the right to independently develop and publish games that may be substantially similar to your Submission(s). To the extent that any game independently developed by GameSalad appears substantially similar to any of Submissions, you hereby waive any claims you may have against GameSalad arising therefrom.

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The Site may provide links to other web sites that are not owned or operated by GameSalad ("Third Party Web Sites"). GameSalad provides these links to you as a convenience only, and GameSalad does not verify, make any representations concerning, or take responsibility for, such Third Party Web Sites, including, without limitation, the truthfulness, accuracy, quality, or completeness of the content of, or activities conducted on, such Third Party Web Sites. You should use your own independent judgment before accessing and using such Third Party Web Sites. These Terms and the Privacy Policy do not apply to such Third-Party Web Sites, and you should review such Third Party Web Sites' privacy policies, terms and conditions and business practices as they may be different to those of GameSalad and it is your sole

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12. Your Submissions

AS BETWEEN YOU AND GAMESALAD, YOU RETAIN OWNERSHIP OF ALL YOUR COPYRIGHT AND/OR OTHER INTELLECTUAL PROPERTY RIGHTS APPLICABLE TO, OR EMBODIED IN, YOUR SUBMISSIONS. You acknowledge and agree that you are solely responsible for the games, content, code, text, files, images, photos, screen shots, artwork, icons, videos, sounds, musical works, works of authorship, copyrighted text, descriptions, representations or any other materials or information that you submit, post or otherwise make available to GameSalad for publication and distribution, including, without limitation, games that you have developed and post on the Site using the Services, and games consisting of an Executable Package that you market, distribute, sell and license using the Services (each, a "Submission"), and that you, and not GameSalad, are solely and exclusively responsible for each such Submission, including, without limitation, ensuring that you have the legal right to post, provide, license, market, sell, or otherwise use, each Submission, and that such Submission does not violate these Terms, or the property or other rights of any third party. The term "Submission" does not include: (i) the GameSalad Tool; or (ii) that portion of the Executable Package consisting of the GameSalad Engine; (iii) the GameSalad Embeddable Player; or (iv) any other Software or Content.

You represent and warrant that each Submission is your own original creation, and/or that you have, or have obtained, all necessary permissions, rights, licenses, consents, and clearances to enable GameSalad to exercise the rights granted in these Terms and to use the Submissions for the foregoing purposes. To the extent you hold any rights that conflict with the rights you have granted as set forth in these Terms, you hereby waive, and agree not to assert, any moral or similar rights you may have, and which apply to your Submissions or Feedback which GameSalad uses within the scope of the licenses granted by you under these Terms.

13. Your Feedback and Support Requests

Certain areas of the Site and Services (e.g., blogs, online forums, chat rooms, games, and message boards) may permit you to provide feedback, comments, suggestions, ideas, messages, or similar information (collectively, "Feedback"). Feedback does not include any Submissions provided by you, and GameSalad's

rights to use Submissions provided by you, are solely as stated above. By submitting Feedback, and as a condition of using the Site and Services, you hereby grant GameSalad an irrevocable, perpetual, transferable, non-exclusive, fully-paid-up, royalty-free, worldwide, license (sublicensable through multiple tiers) to: (i) use, distribute, reproduce, modify, adapt, publish, translate, publicly perform, and publicly display your Feedback (or any modification thereto), in whole or in part, in any format or medium now known or later developed; and (ii) use (and permit others to use) your Feedback in any manner and for any purpose (including, without limitation, commercial purposes) that GameSalad deems appropriate in its sole discretion (including, without limitation, to incorporate your Feedback (or any modification thereto), in whole or in part, into any technology, product or service). GameSalad reserves the right to display advertisements in connection with Feedback and to use Feedback for advertising and promotional purposes. You acknowledge and agree that any Feedback provided by you is provided on a non-confidential basis. Feedback will generally be accessible by other users of the Site and Services, so be sure that any Feedback you post on any area of the Site or Services is information that you are comfortable sharing with others.

Requests for technical support should be addressed to customer support at gamesalad.com/contact for general support issues, and at gamesalad.com/bug/report for errors or bugs you want to report to GameSalad.

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request attribution as set forth below; (b) any prior notice to you of any use of your Submissions for the purposes specified in clauses (iii) or (iv) of this section; or © any fees, royalties, or other payments to you. You may remove your Executable Package from the Site by accessing your Account and following the removal procedure specified on the Site; provided however, that such removal will not affect GameSalad's continued right to use your Submissions pursuant to clauses (iii) and (iv) of this paragraph.

You acknowledge and agree that GameSalad may collect certain data arising from and regarding the use of your Submissions by users of the Site and Services, that GameSalad shall own all right, title and interest in such data, and that GameSalad has no obligation to share with you any such data.

As we explain here, GameSalad may collect certain data arising from and regarding the use of Submissions. If you upload applications built with GameSalad to the iOS App Store, then you will need to comply with the iOS Developer Program License Agreement's provision regarding the collection and use of user data. GameSalad strives to ensure that the collection of any user data from your applications does comply with the iOS Developer Program License Agreement. As the agreement allows, we collect user data for the limited purpose of providing a service or function that is directly relevant to the use of your iOS applications (such as ensuring the proper functioning of features such as leaderboards and achievements), or to serve advertising in connection with such applications.

However, for you to comply with the iOS Developer Program License Agreement, you also need to notify users of your iOS application that you, or your third party service providers such as GameSalad, may collect such user data for the purposes described above. In connection with this notification requirement, we suggest that you include specific language in any privacy policies applicable to your application that you, or your third party service providers, may collect user or device data for such limited purposes.

You may deliver to GameSalad your own EULA for any Submission at the time that you provide your Submission to GameSalad; provided, however, that your EULA must comply with applicable laws. GameSalad will notify each end user that the end user's use of that Submission is subject to the terms and conditions of your EULA (if any) and allow each end user to review your EULA at the time that GameSalad provides access to your Submission. If you do not furnish your own EULA for any Submission, then you acknowledge and agree that each end user's use of that Submission will be subject to GameSalad's standard EULA.

You hereby acknowledge that the EULA for each of your Submissions is solely between you and the end user, and neither GameSalad nor its distributors or agents will be responsible for, and/or have any liability whatsoever under, any EULA or any breach by you or any end user of any of the terms and conditions of any EULA.

15. Attribution

When posting a Submission to the Site through the Services, you will have the ability to select one of the following options with respect to each Submission: (i) not to share your Submission with other users of the Site and Services; (ii) to share your Submission with other users of the Site and Services under the licenses granted above, without requiring any kind of attribution to you; or (iii) to share your Submission with other users of the Site and Services under the licenses granted above, and requiring attribution to you (in such form as reasonably determined by GameSalad). If you opt to require attribution, you hereby grant GameSalad an irrevocable, perpetual, non-exclusive, worldwide, fully paid-up, royalty-free, transferable, sublicensable (with the right to sublicense through multiple tiers) license (in any media, whether now known or hereafter developed) to use your name, user name and/or persona for the purposes of attributing you as the source of the Submission in connection with GameSalad exercising the rights granted by you above in connection with your Submission. If you select no option at the time you post your Submission, the default option will be that no attribution of any kind is required to be displayed with your Submission, and your Submission will not be shared with other users of the Site and Services. You represent and warrant that the use of your name, user name and/or persona in connection with your Submissions will not violate the right of any third party, including, without limitation, the right of privacy or publicity of any third party. You hereby waive all rights, and release and discharge GameSalad and its agents from, and will neither sue nor bring any proceeding against GameSalad or any third party for any claims, losses, demands, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees, at law or in equity, whether for libel, violation of the right of privacy or right of publicity, infringement of copyright or other intellectual property or other proprietary right, or any other claim that you may now have, or may hereafter have, by reason of GameSalad's use of your name, user name and/or persona in connection with your Submissions.

16. Submission Rating and Content Restrictions

If requested by GameSalad, you will use the content rating tool set forth in the GameSalad Tool or otherwise provided as part of the submission process to supply information regarding each of the Submissions delivered by you to GameSalad in order to assign a rating to each such Submission. For purposes of assigning a rating to each of the Submissions, you will use your best efforts to provide correct and complete information about the content of that Submission with the content rating tool. Furthermore, you authorize GameSalad to correct the rating of any Submission of yours that has been assigned an incorrect rating; and you agree to any such corrected rating.

You represent and warrant that your Submission will not contain, or contain links to, content which is unlawful, libelous, pornographic, offensive, defamatory, contrary to public policy, GameSalad's stated policies, or otherwise violates any law or any right of any third party (including intellectual property rights, publicity rights, privacy rights, or other legally recognized rights).

You agree that you will not upload, post, submit or otherwise make available on the Site or through the Services any Submissions or Feedback protected by copyright, trademark, patent, trade secret, or any other intellectual property or other proprietary right without the express prior permission of the legal owner of such right, and the burden of determining whether any material is protected by, or infringes, misappropriates or violates, any such right is your sole and exclusive responsibility. As between you and GameSalad and the other Indemnified Parties (as defined below), you will be solely liable for any claims, losses, or damage resulting from any such infringement, misappropriation or violation of such rights, or any other harm resulting from any Submissions or Feedback that you provide.

You represent and warrant that: (i) you have the right to enter into this Agreement; (ii) you own all Submissions and Feedback provided by you on or through the Site or Services or you otherwise have the legal right to grant the licenses to GameSalad as set forth in these Terms; (iii) you have the right to reproduce and distribute each of the Submissions, and to authorize GameSalad to permit end users to download and use each of the Submissions; (iv) none of the Submissions or Feedback, or GameSalad's or end users' permitted uses of those Submissions and Feedback, violate or infringe, or will violate or infringe, any patent, copyright, trademark, trade secret, privacy, or publicity rights, or other intellectual property, proprietary or contractual rights, of any other person, firm, corporation or other entity; and (v) all information you provided to GameSalad in your Account and using the GameSalad Tool and, including any information relating to the Submissions, is accurate and that, if any such information ceases to be accurate, you will promptly update it to be accurate.

GameSalad reserves the right to limit the number of Submissions and amount of Feedback that you can upload or provide (in total or simultaneously) to the Site or through the Services, at any time, and without notice.

If you submit an Executable Package to Apple, Inc. ("Apple") or any third party web site or product provider, GameSalad is not responsible, and has no liability to you, if Apple or any third party web site or product provider rejects, fails to approve, and/or fails to make any game embodied in such Executable Package available for use on or with the relevant Apple or third party web site or product. Furthermore, you acknowledge and agree that your interactions and dealings with any third party in connection with your use of the Site and/or Services (including, without limitation, Apple, other web site and product providers, and other users of the Site and Services) are solely between you and such third party. GameSalad is not responsible for any loss or damage of any sort incurred by you, or any third party, as a result of any third

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17. Rules of Conduct

GameSalad requires that you respect the GameSalad online community, including other individuals who use the Site and Services. Your conduct should be guided by common sense and basic etiquette. To further these common goals, when posting and providing Submissions and Feedback to, or otherwise using, the Site and Services, you agree not to do any of the following:

(i) post or provide Submissions, Feedback or any other content that is false, harmful or illegal;

(ii) harass, threaten, abuse, stalk, troll or flame other users of the Site or Services or any other person;

(iii) post or provide Submissions, Feedback or any other content that is racially or ethnically offensive, vulgar, obscene, pornographic, sexually explicit, disparaging, defamatory, tortious, libelous, infringing or that otherwise violates the legal rights of others (including, without limitation, the intellectual property rights, privacy or publicity rights of third parties);

(iv) impersonate another person or attempt to mislead users by indicating that you represent GameSalad;

(v) attempt to illicitly obtain a password, account information, or other private information from anyone else who uses the Services;

(vi) collect user names, personas, street addresses, e-mail addresses, or other personal information from, or of, other users of the Services for any purpose other than your personal use in your interactions on the Site, and at all times with the permission of the relevant users;

(vii) provide or upload files or other content that contain a virus, corrupted data, Trojan horses or other harmful, disruptive or destructive files, or post material that interferes with any third party's uninterrupted use and enjoyment of the Site or the Services;

(viii) post or disseminate any unsolicited or unauthorized advertising or promotional messaging, junk mail, chain letters, pyramid schemes, or other commercial activities (except when and where such commercial activities are expressly authorized by GameSalad);

(ix) reveal any other Services user's real-world personal information, including, without limitation, such user's first and last name, telephone number or street address; or

(x) post any materials that are subject to third party rights, including without limitation, third party copyright, trademark, patent, trade secret, or other intellectual property rights without the express prior permission from the legal owner of such rights.

This list of prohibitions provides examples of prohibited conduct, and is not intended to be a complete or exclusive list of all prohibitions. Without limiting the rights and remedies available to it, GameSalad reserves the right in its sole discretion, to: (a) suspend or terminate access to your Account, the Site and/or the Services or your ability to post to the Site or the Services; and (b) refuse, delete, remove, move or edit the

content, in whole or in part, of any Submissions or Feedback provided by you; with or without cause, and with or without notice, for any reason or no reason, and to take any other action that GameSalad determines in its sole discretion is necessary as a result of any behavior by you that is illegal, inappropriate, disruptive to the Site, Services, or to any other user of the Site or the Services, or which otherwise breaches these Terms. GameSalad may report to law enforcement authorities any actions that may be illegal, and any reports it receives of such conduct. When legally required, or otherwise in GameSalad's sole discretion, GameSalad will cooperate with law enforcement agencies in any investigation of alleged illegal activity conducted using the Site and/or the Services. GameSalad does not, and cannot, review all Feedback posted to the Site or through the Services, or review every Submission for compliance with these Terms. These prohibitions do not require GameSalad to monitor, police, remove or reject any Submissions, Feedback or other information submitted by you or any other user.

18. Electronic Communications

By using the Site and Services, you consent to receive electronic communications from GameSalad, its parents, affiliates, subsidiaries and third party service providers. These electronic communications may include notices about applicable fees and other charges, transactional information and other information concerning the Site and Services. These electronic communications are part of your relationship with GameSalad and you receive them as a condition to you being permitted to use the Site and Services. You agree that any notices, agreements, disclosures or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing.

19. Termination of Services and Your Account

GameSalad reserves the right to do any of the following, at any time, without notice: (i) modify, interrupt, suspend or terminate operation of or access to the Site and/or Services, or any portion of the Site and/or Services, for any reason; and (ii) terminate your Account, and block your future access to the Site and Services, for any reason at any time, including, without limitation, because of your violation or threatened violation of these Terms, the Privacy Policy, or any other applicable GameSalad terms or policies that apply to your use of the Site or Services, (e.g., sharing your Account information with a third party, illegal or improper use of your Account, the Services, Software, or any other products or services of GameSalad, or your infringement, misappropriation or violation of GameSalad's or a third party's intellectual property or other proprietary rights). You may lose your user name and/or persona as a result of Account termination. If you have more than one Account, GameSalad may terminate all of your Accounts, user names and personas. GameSalad may, but is not required to, provide you with notice before terminating your Account. If your

Account is terminated for any reason, no refunds or credits of any Fee-Based Services fees, or other fees will be paid to you.

All of GameSalad's obligations hereunder, will terminate upon the expiration or termination of these Terms.

In the event that you no longer have the legal right to distribute the Submissions, or to authorize GameSalad to allow access to those Submissions by end users, you will promptly withdraw those Submissions from the Site; provided, however, that such withdrawal by you under will not relieve you of any of your obligations to GameSalad under these Terms, or any liability to GameSalad and/or any end user with respect to those Submissions.

GameSalad reserves the right to cease marketing, displaying, posting, publishing and distributing your Submissions at any time, with or without cause, by providing notice of termination to you. Without limiting the generality of this paragraph, you acknowledge that GameSalad may cease the marketing, displaying, posting, publishing and distributing of some or all of the Submissions if GameSalad reasonably believes that: (i) those Submissions are not authorized for export to one or more countries, in accordance with the Export Administration Regulations; (ii) those Submissions and/or GameSalad's publication of those Submissions and/or any end user's possession and/or use of those Submissions, infringe patent, copyright, trademark, trade secret or other intellectual property rights of any third party; or (iii) the publication, distribution, sale and/or use of those Submissions violates any applicable law in any country. An election by GameSalad to cease marketing, displaying, posting, publishing and distributing any Submissions, pursuant to this paragraph, will not relieve you of your obligations under these Terms.

20. Cancellation of Your Account

You may stop using the Services at any time by cancelling your Account by following the Account cancellation procedure specified on the Site, and ceasing to access the Site and Services. You may also cancel any Fee-Based Services at any time by following the cancellation procedure specified on the Site, however, you will not receive a refund of any amounts paid or owed by you before the effective date of cancellation or expiration of any Fee-Based Services. If you do not agree to the then-current version of these Terms or the Privacy Policy, your sole and exclusive remedy is not to use, or in the event of changes to these Terms or the Privacy Policy, to stop using, the Site and Services, and to cancel your Account.

21. Consequences of Termination

Upon termination of your use of the Site and Services for any reason, you will have no recourse against GameSalad, its parents, affiliates, and subsidiaries, and its and their officers, directors, employees,

contractors, licensors, licensees, third party service providers, or agents, for your inability to use the Site and Services, and you must destroy any copies of Software (including, without limitation, the GameSalad Tool) or Content in your possession, including, without limitation, any Software or Content downloaded, or otherwise obtained by you, through the Site or Services. GameSalad has no obligation to return any Submissions to you, or to provide you with any Software, technology, materials or services to enable you to re-use all or part of your Submission. Any obligations that apply to you under these Terms, which by their nature are intended to survive the termination of your use of the Site or Services, will continue to apply to you after you stop using the Site and Services. Without limiting the foregoing, your obligations to enforce the terms of your EULA with respect to end users to whom you sold or otherwise provided an Executable Package before the termination of your use of the Site and Services, will continue to apply until such end users no longer use the relevant Executable Package.

22. Digital Millennium Copyright Act

GameSalad respects the intellectual property and other proprietary rights of others and has a policy of removing content that infringes third party copyrights and suspending and/or terminating the Account of any user who uses the Site or Services in violation of copyright law, and where appropriate, blocking such user's access to the Site and Services. If you are a copyright owner, or an agent thereof, and believe that your work is the subject of copyright infringement and appears on our Site, you may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing our copyright agent (designated below) with the following information in writing: (i) your physical or electronic signature; (ii) identification of the copyrighted work claimed to have been infringed; (iii) identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit GameSalad to locate such material; (iv) information reasonably sufficient to permit GameSalad to contact you, such as an address, telephone number, and, if available, an e-mail address; (v) a statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (vi) a statement that the information in the notification is accurate, and under penalty of perjury, that you are, or that you are authorized to act on behalf of, the owner of an exclusive right that is allegedly infringed. GameSalad's designated copyright agent to receive notifications of claimed infringement under the DMCA is:

Legal
GameSalad, Inc.
6836 Austin Center Blvd Suite 165
Austin, TX 78731
E-mail: dmca@gamesalad.com

Only DMCA or other intellectual property rights-related notices should be sent to the copyright agent. Requests for technical support should be addressed to customer support at gamesalad.com/contact for general support issues and at gamesalad.com/bug/report for errors or bugs you want to report to GameSalad. Any feedback, comments, questions, or other communications should be directed to GameSalad at the address specified at the end of these Terms.

23. Responsibility and Liability

GameSalad will have no responsibility for the installation and/or use of any of the Submissions or Executable Packages by any end user. You will be solely responsible for any and all product warranties, end user assistance and product support with respect to each of your Submissions and Executable Packages.

You will be solely responsible for, and GameSalad will have no responsibility or liability whatsoever with respect to, any and all claims, suits, liabilities, losses, damages, costs and expenses arising from, or attributable to, the Submissions and Executable Packages and/or the publication and distribution of those Submissions and Executable Packages and/or the use of those Submissions and Executable Packages by any end user, including, without limitation: (i) claims of breach of warranty, whether specified in the EULA or established under applicable law; (ii) product liability claims; and (iii) claims that any of the Submissions and Executable Packages and/or publication and distribution of those Submissions and Executable Packages and/or the end user's possession or use of those Submissions and Executable Packages infringes the copyright or other intellectual property rights of any third party.

GameSalad reserves the right to take steps which GameSalad believes are reasonably necessary or appropriate to enforce and/or verify compliance with any part of these Terms. You agree that GameSalad has the right, without liability to you, to disclose any registration data and/or Account information to law enforcement authorities, government officials, and/or a third party, as GameSalad believes is reasonably necessary or appropriate to enforce and/or verify compliance with any part of these Terms (including without limitation GameSalad's right to cooperate with any legal process relating to your use of the Services or Site, and/or a third-party claim that your use of the Services or Site is unlawful or infringes such third party's rights.

24. Warranty Disclaimer

GAMESALAD DOES NOT GUARANTEE, REPRESENT, OR WARRANT THAT YOUR USE OF THE SERVICES OR SITE WILL BE UNINTERRUPTED OR ERROR-FREE, AND YOU AGREE THAT FROM TIME TO TIME GAMESALAD MAY REMOVE THE SERVICES OR SITE FOR INDEFINITE PERIODS OF TIME, OR CANCEL THE SERVICES OR SITE AT ANY TIME, WITHOUT NOTICE TO YOU.

YOU AGREE THAT YOUR USE OF, OR INABILITY TO USE, THE SITE, SERVICES, SOFTWARE, AND CONTENT IS SOLELY AT YOUR OWN DISCRETION AND RISK. THE SITE, SERVICES, SOFTWARE AND CONTENT ARE FURNISHED TO YOU "AS IS" AND WITHOUT WARRANTIES OR CONDITIONS, STATUTORY OR OTHERWISE, OF ANY KIND, AND ARE SUBJECT TO CHANGE WITHOUT NOTICE. NEITHER THE SOFTWARE NOR CONTENT HAS BEEN VERIFIED OR AUTHENTICATED IN WHOLE OR IN PART BY GAMESALAD, AND THEY MAY INCLUDE INACCURACIES OR TYPOGRAPHICAL OR OTHER ERRORS. GAMESALAD, ITS PARENTS, AFFILIATES, AND SUBSIDIARIES, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, LICENSORS, LICENSEES, THIRD PARTY SERVICE PROVIDERS, AND AGENTS DO NOT WARRANT THAT THE SITE, SERVICES, SOFTWARE OR CONTENT WILL MEET YOUR REQUIREMENTS, OR THAT THEY WILL BE UPDATED, OR THAT THE OPERATION OF THE SERVICES, SITE, OR SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ANY DEFECTS WILL BE CORRECTED.

GAMESALAD, ITS PARENTS, AFFILIATES, AND SUBSIDIARIES, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, LICENSORS, LICENSEES, THIRD PARTY SERVICE PROVIDERS, AND AGENTS, MAKE NO, AND HEREBY EXPRESSLY DISCLAIM, ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY AND ALL OTHER REPRESENTATIONS, WARRANTIES, OR GUARANTEES IN CONNECTION WITH THE SITE, SERVICES, SOFTWARE AND CONTENT, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR ANY WARRANTIES ARISING THROUGH COURSE OF DEALING OR TRADE. GAMESALAD DOES NOT PROVIDE ANY WARRANTIES AGAINST VIRUSES, SPYWARE OR MALWARE THAT MAY BE INSTALLED ON YOUR COMPUTER AS A RESULT OF USING THE SITE, SERVICES, SOFTWARE OR CONTENT.

Some jurisdictions may not allow the exclusion and/or limitation of implied warranties or conditions, or allow limitations on how long an implied warranty lasts, so the above limitations or exclusions may not apply to you. In such event, GameSalad's warranties and conditions with respect to the Site, Services, Software and Content will be limited to the greatest extent permitted by applicable law in such jurisdiction.

25. Limitation of Liability

IN NO EVENT WILL GAMESALAD'S, ITS PARENT'S, AFFILIATES', AND SUBSIDIARIES', AND ITS AND THEIR OFFICERS', DIRECTORS', EMPLOYEES', CONTRACTORS', LICENSORS', LICENSEES', THIRD PARTY SERVICE PROVIDERS', AND AGENTS' TOTAL, AGGREGATE LIABILITY TO YOU UNDER THESE TERMS OR OTHERWISE RELATING TO THE SITE, SERVICES, SOFTWARE OR CONTENT, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING WITHOUT LIMITATION, STRICT LIABILITY OR NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE GREATER OF: (i) ANY AMOUNT THAT YOU PAID TO GAMESALAD FOR THE SPECIFIC FEE-BASED SERVICE FROM WHICH THE CAUSE OF ACTION OR CLAIM AROSE IN THE TWELVE-

MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT THAT GAVE RISE TO THE LIABILITY; OR (ii) ONE HUNDRED U.S. DOLLARS (US$100).

IN NO EVENT WILL GAMESALAD, ITS PARENT, AFFILIATES, AND SUBSIDIARIES, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, LICENSORS, LICENSEES, THIRD PARTY SERVICE PROVIDERS, AND AGENTS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE, EXTRAORDINARY, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING FROM THE SITE, SERVICES, SOFTWARE OR CONTENT OR ANY OTHER THIRD PARTY SERVICES OR PRODUCTS OFFERED ON OR THROUGH THE SITE, OR YOUR DISPLAYING, COPYING, DOWNLOADING, PERFORMING OR USING ANY OF THE FOREGOING (INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) HOWSOEVER ARISING, EVEN IF GAMESALAD KNOWS THERE IS A POSSIBILITY OF SUCH DAMAGE.

GAMESALAD DOES NOT ENDORSE, WARRANT OR GUARANTEE, AND WILL NOT, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY FOR, ANY THIRD PARTY GOODS, PRODUCTS, SERVICES OR CONTENT AVAILABLE THROUGH THE SITE, SERVICES, SOFTWARE OR CONTENT OR THIRD PARTY WEB SITES AND WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD PARTIES.

You agree that fees hereunder are based in part on the limitation of warranty, limitation of liability and remedies set forth in these Terms.

Some jurisdictions may not allow the exclusion or limitation of incidental, special, consequential, or other damages, so the above limitations or exclusions may not apply to you. In such event, the liability of GameSalad, its parent, affiliates, and subsidiaries, and its and their officers, directors, employees, contractors, licensors, licensees, third party service providers, and agents, for such damages with respect to the Site and Services will be limited to the greatest extent permitted by applicable law in such jurisdiction.

26. Indemnification

You hereby agree to defend, indemnify and hold harmless GameSalad, its parent, affiliates, and subsidiaries, and its and their officers, directors, employees, contractors, licensors, licensees, third party service providers, and agents (each an "Indemnified Party") from and against any and all claims, actions, proceedings, demands, losses, costs, damages, liabilities, and expenses (including, without limitation, fees of attorneys and experts and costs of defense) incurred by the Indemnified Party in connection with any actual or alleged claim arising out of or related to: (i) your use or misuse of the Site, Services, Software or Content, or the use or misuse of the Site, Services, Software or Content by any person using your Account, user name or

persona; (ii) any breach by you of these Terms or any other terms applicable to your use of the Site, Services, Software or Content in any manner; (iii) any actual or alleged violation or non-compliance by you with any applicable local, state, federal or international law, rule or regulation, including, without limitation, the infringement, misappropriation or violation of the intellectual property rights or other proprietary rights, privacy rights, publicity rights, or any other rights of a third party; (iv) any interactions or dealings by you with other users of the Site and Services or any other third party in connection with your use of the Site and/or Services (including, without limitation, Apple and other web site and product providers); (v) any damage caused or alleged to have been caused by you to the Site, Service, Software or Content; and (vi) any use of the Submissions, Feedback or other materials you provide to GameSalad in connection with your use of the Site and Services, or any Submissions or Feedback provided by any person using your Account, user name or persona.

Counsel you select for defense or settlement of a claim must be reasonably acceptable to GameSalad and/or the other affected Indemnified Party(s) before such counsel can be engaged to represent you and GameSalad and/or the other Indemnified Party(s). You and your counsel will cooperate as fully as reasonably required, and provide such information as reasonably requested, by the relevant GameSalad and/or the other Indemnified Party(s) in the defense or settlement of any claim. GameSalad and/or the other Indemnified Party(s) reserves the right, at its own expense, to assume the exclusive defense or settlement, and control of any matter otherwise subject to indemnification by you. You agree that you will not, in any event, consent to any judgment, settlement, attachment, or lien, or any other act adverse to the interest of GameSalad or any other Indemnified Party(s) without the prior written consent of GameSalad and/or the other affected Indemnified Party(s).

By using the Services and Site, you agree to indemnify and hold harmless GameSalad, its parent, affiliates, and subsidiaries, and its and their officers, directors, employees, contractors, licensors, licensees, third party service providers, and agents with respect to any claims arising out of any action taken by GameSalad as part of its investigation of a suspected violation of these Terms or as a result of its finding or decision that a violation of these Terms has occurred. This means that you cannot sue or recover any damages from GameSalad, its parent, affiliates, and subsidiaries, and its and their officers, directors, employees, contractors, licensors, licensees, third party service providers, and agents as a result of its decision to remove or refuse to process any information or content, to warn you, to suspend or terminate your access to the Services or Site, or to take any other action during the investigation of a suspected violation or as a result of GameSalad's conclusion that a violation of these Terms has occurred. This waiver and indemnity provision applies to all violations described in or contemplated by these Terms.

27. General Terms

Governing Law. The laws of the State of Texas, or where applicable the federal laws of the U.S.A., excluding conflicts of law rules, govern these Terms. Your use of the Services and Site may also be subject to other laws. Unless otherwise elected by GameSalad in writing for a particular instance (which GameSalad may do at its sole option), the state and federal courts seated in Austin, Texas, will have exclusive jurisdiction in respect of any and all matters relating to these Terms, including, without limitation, any claim arising from, or relating to, your use of the Site, Services, Software, Content, and your provision of Submissions and Feedback, and any claim involving GameSalad, its parent, affiliates, and subsidiaries, and its and their officers, directors, employees, contractors, licensors, licensees, third party service providers, or agents, and you hereby irrevocably submit to the exclusive personal jurisdiction of such courts. You acknowledge that any actual or threatened breach of these Terms by you may result in immediate, irreparable harm to GameSalad for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach or threatened breach, and notwithstanding the provisions of this paragraph, GameSalad may seek injunctive or other equitable relief in any court of competent jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms or to any activities carried out by either party pursuant to these Terms. Furthermore, these Terms (including, without limitation, the use of the Site, Services, Software and Content) will not be governed or interpreted in any way by referring to any law based on the Uniform Computer Information Transactions Act (UCITA) or any other act derived from or related to UCITA.

Jury Trial Waiver. TO THE EXTENT NOT OTHERWISE PROHIBITED BY APPLICABLE LAW, THE PARTIES HERETO HEREBY AGREE TO WAIVE TRIAL BY JURY WITH RESPECT TO ANY MATTERS ARISING UNDER OR RELATING TO THESE TERMS. Any claim or cause of action arising under, or relating to, these Terms must be commenced by you within one (1) year after the claim or cause of action arises.

Local Laws; Export Control. GameSalad controls and operates the Site from its headquarters in the United States of America and the Site, Services, Software, Content, Submissions and Feedback may not be appropriate or available for use in other locations. If you choose to access the Site or use the Services from outside the United States of America, you do so on your own initiative, and you are solely responsible for complying with all local, state, federal, and national laws, statutes, ordinances, and regulations that apply to your use of the Site and Services. Any offer for any services made on the Site or through the Services is void where prohibited. You agree to comply with all export and re-export restrictions and regulations of the U.S. Department of Commerce and any other U.S. or foreign agencies and authorities in connection with your use of the Site and Services and to not transfer, or authorize the transfer, of any Software to a prohibited country or otherwise, in violation of any applicable laws, rules or regulations. In particular, but without limitation, the Software may not, in violation of any applicable laws, rules or regulations be exported or re-

exported: (i) into any U.S. embargoed countries; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders.

U.S. Government Customers. Any Software provided by GameSalad through the Site or Services is a "Commercial Item" as that term is defined in 48 C.F.R. Sec. 2.101, consisting of "Commercial Computer Software" (as defined in 48 C.F.R. Sec. 2.101) and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. Sec. 12.212 or 48 C.F.R. Sec. 227.7202, as applicable. Consistent with 48 C.F.R. Sec. 12.211 and 12.212, and 48 C.F.R. Sec. 227.7202-1 through Sec. 227.7202-4, as applicable, Software is being provided to U.S. Government Customers: (i) only as a Commercial Item; and (ii) with only those license rights as are granted to all other users pursuant to the terms and conditions of these Terms. This U.S. Government Customers clause is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in computer software or computer software documentation.

Assignment. GameSalad may freely assign these Terms or any of its rights or obligations hereunder to any third party. Neither these Terms nor any obligations or rights hereunder may be assigned, delegated, or otherwise transferred by you without GameSalad's prior written consent, which consent may be withheld in GameSalad's sole discretion. Any attempted assignment in violation of this provision will be void. Subject to the foregoing, these Terms will inure to the benefit of the parties' permitted successors and assigns.

Third Party Beneficiaries. These Terms will not be interpreted or construed to confer any rights or remedies on any third parties, except that each Indemnified Party will be deemed to be a third party beneficiary for purposes of these Terms. Therefore, each Indemnified Party will be entitled to directly enforce and rely upon any provision(s) of these Terms that confers a right or remedy in favor of such Indemnified Party.

Severability. If any part of these Terms is held invalid or unenforceable, that portion will be interpreted in a manner consistent with applicable law to reflect, as nearly as possible, the original intention of these Terms, and the remaining portions of the Terms will remain in full force and effect.

Waiver. Any waiver by GameSalad of any right or provision of these Terms must in a writing signed by GameSalad. The failure of GameSalad to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. These Terms will be interpreted without application of any strict construction in favor of or against you or GameSalad.

Independent Contractors. GameSalad and you are independent contractors, and nothing in these Terms is intended to create, or will be construed as creating, any employment, partnership, joint venture or comparable relationship.

Force Majeure. GameSalad will have no liability to you or any third party for any failure by GameSalad to perform its obligations under these Terms in the event that such non-performance arises as a result of the occurrence of an event beyond the reasonable control of GameSalad, including without limitation an act of war or terrorism, natural disaster, failure of electricity supply, failure or delay in transportation, civil commotion or other event of force majeure.

Entire Agreement. These Terms, any additional terms and conditions posted on the Site, and the Privacy Policy, together constitute the entire agreement between you and GameSalad with respect to the Site, Services, Software and Content (excluding any Services or Software that GameSalad may provide to you under a separate written agreement), and supersede, cancel and replace any and all other oral or written negotiations, discussions or agreements between you and GameSalad in respect of the Site, Services, Software and Content. No GameSalad employee or agent has the authority to vary these Terms. GameSalad may notify you with respect to the Services and Site by sending an email message to your Account email address or a letter via postal mail to your Account mailing address, or by a posting on the Services or Site. Notices will become effective immediately.

Trademarks. GameSalad, the GameSalad logo, and other GameSalad trademarks, service marks, graphics, and logos used in connection with the Site and Services are trademarks or registered trademarks of GameSalad, Inc. in the U.S. and/or other countries. Other trademarks, service marks, graphics, and logos used in connection with the Services may be the trademarks of their respective owners. You are granted no right or license with respect to any of the aforesaid trademarks and any use of such trademarks.

Questions. If you have any questions concerning these Terms, you may contact us by writing to the address below. However, as you are aware, Internet transmissions are never completely private or secure, and you should understand that any communication or other information you send to us may be read or intercepted by others, unless there is a special notice that a particular message (for example, credit card information) is encrypted (sent in code). Also, sending a message to GameSalad does not create any special relationship between us, or cause us to have any special responsibility to you. We cannot, and do not, commit to respond to all questions or communications that we receive.

GameSalad, Inc.
6836 Austin Center Blvd
Suite 165

Austin, TX 78731

Attn: Legal

Email: legal@gamesalad.com

28. Legacy User Rights and Migration to New Terms of Use

If you have a current annual subscription to GameSalad's Services and Software which you purchased before the effective date of these Terms, then you may continue to use the Services and Software for the remainder of your current paid subscription term pursuant to the terms of service in effect immediately before the effective date of these Terms, including the right to continue distributing Executable Packages. When your current paid subscription for the Services and Software expire, you will no longer be able to use the Services and Software for any purpose except pursuant to these Terms.

END

GameSalad.com Terms of Service (version 8, 25 October 2019)

About Us

GameSalad is the revolutionary game development platform that allows anyone to create the game of their dreams with a sophisticated visual programming interface. It's also the best way to introduce programming concepts, game design, and digital media creation to your students.

Launched in 2010, GameSalad has been used by over one million aspiring game developers and has powered over 75 games that reached the top 100 in the App Store, including multiple #1 games.

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Physical Address:

GameSalad, Inc.

2301 W Anderson Ln

102-#133

Austin, TX 78757

Mailing Address:

PO Box 80288

Austin TX 78708

GameSalad

Privacy Policy

last updated on 14th May 2021

GameSalad, Inc. ("GameSalad") respects your privacy and is committed to protecting your personal data.

This **Privacy Policy ("Privacy Policy")** tells you the types of information we collect about you when you visit https://gamesalad.com **and any other site provided by GameSalad (collectively the "Site"),** use our products and services (collectively the "Platform") or which we otherwise obtain directly from you or from a third party, how we use that information, and the instances in which we share your information. This Privacy Policy may change from time to time so please check this policy periodically.

GameSalad has two major product lines, one aimed at developers **("GameSalad")**, and one aimed for educational use in schools and school districts **("GameSalad for Education")**. All of our GameSalad developer focused products and services, such as the forums, are not intended for children without the knowledge and consent of a parent or guardian, and does not knowingly collect data relating to children.

Our products and services that make up **GameSalad for Education** do collect student data, but fully within the bounds of COPPA compliance. Refer to the Children's Privacy section below.

For the purposes of this Privacy Policy, the term "personal data" means any information which identifies you or which allows you to be identified when combined with other information.

Important information and who we are

Controller

GameSalad Inc. (a company incorporated in the United States of America) is the controller and responsible for your personal data (referred to as "we", "us" or "our" in this Privacy Policy).

We have appointed a data privacy manager who is responsible for overseeing questions in relation to this Privacy Policy. If you have any questions about this Privacy Policy, including any requests to exercise your legal rights, please contact the data privacy manager using the details set out below.

Contact Details

Our full details are:

Full name of legal entity: GameSalad Inc.

Title of data privacy manager: Data Protection Representative

Email address: privacy@gamesalad.com

Mailing address: PO Box 80288, Austin TX, 78708

You have the right to make a complaint at any time to the proper authorities. We would, however, appreciate the chance to deal with your concerns before you approach any authorities so please contact us in the first instance.

Changes to the Privacy Policy and your duty to inform us of changes

This version was last updated on 14th May 2021.

It is important that the personal data we hold about you is accurate and current. Please keep us informed if your personal data changes during your relationship with us.

Third-party links

The Site may include links to third-party websites, plug-ins and applications. Clicking on those links or enabling those connections may allow third parties to collect or share data about you. We do not control these third-party websites and are not responsible for their privacy statements. When you leave our Site, we encourage you to read the Privacy Policy of every website you visit.

The data we collect about you

Data You Provide to Us

We may collect different data from or about you depending on how you use the Site. Below are some examples to help you better understand the data we collect.

When you create an account and use the Site, including through a third-party platform, we collect any data you provide directly, including:

Account Data	In order to use certain features (like the GameSalad Creator software), you need to create a user account. When you create or update your account, we collect and store the data you provide, like your email address, password, username, and occupation, and assign you a unique identifying number (**"Account Data"**). GameSalad for Education student accounts for students under the age of 13 will automatically generate anonymized 'false' email addresses for the purposes of login. If an account administrator requests the usage of real email addresses for students under the age of 13, it will be the responsibility of the school district or teacher to either request permission from the student's parent or guardian or to ensure the email cannot be used to contact the student by parties outside the school network.
Profile Data	You can also choose to provide profile information like a photo, headline, website link, social media profiles, or other data. Your Profile Data will be publicly viewable by others. GameSalad for Education student users are discouraged from providing any information that may personally identify them.
User Content	We store all published projects, but only access them when requested to in conjunction with providing quality assurance or support or if they are generally available when published to the GameSalad Arcade platform. GameSalad for Education students are discouraged from embedding personally identifiable information in any created content. GameSalad

	GameSalad for Education student users are discouraged from providing any information that may personally identify them. GameSalad will make reasonable efforts to remove such information upon request by a student's parents, guardians, or school representatives.
Course Data	When you enroll in and take courses, we collect certain data including which courses, assignments and quizzes you've started and completed; your exchanges with instructors, teaching assistants, and other students; and essays, answers to questions, and other items submitted to satisfy course requirements.
Payment Data	If you make purchases, we collect certain data about your purchase (such as your name and zip code) as necessary to process your order. You must provide certain payment and billing data directly to our payment processing partners, including your name, credit card information, billing address, and zip code. For security, GameSalad stores sensitive cardholder data, such as full credit card numbers and card authentication data, with trusted secure processor partners, and has no access to such data.
Data About Your Accounts on Other Services	We may obtain certain information through your social media or other online accounts if they are connected to your GameSalad account. If you login to GameSalad via Google or another third-party platform or service, we ask for your permission to access certain information about that other account. For example, depending on the platform or service we may collect your name, profile picture, account ID number, login email address, location, physical location of your access devices, gender, birthday, and list of friends or contacts.
	Those platforms and services make information available to us through their APIs. The information we receive depends on what information you (via your privacy settings) or the platform or service decide to give us.
	If you access or use our Site through a third-party platform or service, or click on any third-party links, the collection, use, and sharing of your data will also be subject to the privacy policies and other agreements of that third party.
Sweepstakes, Promotions, and Surveys	We may invite you to complete a survey or participate in a promotion (like a contest, sweepstakes, or challenge), either through the Site or a third-party platform. If you participate, we will collect and store the data you provide as part of participating, such as your name, email address,

	date of birth, or phone number. That data is subject to this Privacy Policy unless otherwise stated in the official rules of the promotion or in another privacy policy. The data collected will be used to administer the promotion or survey, including for notifying winners and distributing rewards. To receive a reward, you may be required to allow us to post some of your information publicly (like on a winner's page). Where we use a third-party platform to administer a survey or promotion, the third party's privacy policy will apply.
Communications and Support	If you contact us for support or to report a problem or concern (regardless of whether you have created an account), we collect and store your contact information, messages, and other data about you like your name, email address, location, operating system, IP address, and any other data you provide or that we collect through automated means (which we cover below). We use this data to respond to you and research your question or concern, in accordance with this Privacy Policy.

How is your personal data collected?

Cookies and Data Collection Tools

GameSalad and service providers acting on our behalf (like Google Analytics and third party advertisers) use server log files and automated data collection tools like cookies, tags, scripts, customized links, device or browser fingerprints, and web beacons (together, "Data Collection Tools") when you access and use the Site. These Data Collection Tools automatically track and collect certain System Data and Usage Data (as detailed in The data we collect about you) when you use the Site. In some cases, we tie data gathered through those Data Collection Tools to other data that we collect as described in this Privacy Policy.

We use cookies (small files that websites send to your device to uniquely identify your browser or device or to store data in your browser) for things like analyzing your use of the Site, personalizing your experience, making it easier to log into the Site, and recognizing you when you return. We use web beacons (small objects that allow us to measure the actions of visitors and users using the Site) for things like identifying whether a page was visited, identifying whether an email was

opened, and advertising more efficiently by excluding current users from certain promotional messages or identifying the source of a new mobile app download.

GameSalad uses the following types of cookies:

Preferences: cookies that remember data about your browser and preferred settings that affect the appearance and behavior of the Site (like your preferred language).

Security: cookies used to enable you to log in and access the Site; protect against fraudulent logins; and help detect and prevent abuse or unauthorized use of your account.

Functional: cookies that store functional settings (like the volume level you set for video playback).

Session State: cookies that track your interactions with the Site to help us improve the Site and your browsing experience, remember your login details, and enable processing of your course purchases. These are strictly necessary for the Site to work properly, so if you disable them then certain functionalities will break or be unavailable.

You can set your web browser to alert you about attempts to place cookies on your computer, limit the types of cookies you allow, or refuse cookies altogether. If you do, you may not be able to use some or all features of the Site, and your experience may be different or less functional.

Some of the third-party partners who provide certain features on our site may also use Local Storage Objects (also known as flash cookies or LSOs) to collect and store data.

Analytics

We use third-party browser and mobile analytics services like Google Analytics, and Freshdesk on the Site. These services use Data Collection Tools to help us analyze your use of the Site, including information like the third-party website you arrive from, how often you visit, events within the Site, usage and performance data, and where the application was downloaded from. We use this data to improve the Site, better understand how the Site performs on different devices, and provide information that may be of interest to you.

How we use your personal data

We use your data to do things like provide our Site, communicate with you, troubleshoot issues, secure against fraud and abuse, improve and update our Site, analyze how people use our Site, serve personalized advertising, and as required by law or necessary for safety and integrity. GameSalad for Education student accounts are specifically addressed in the second paragraph below.

We use the data we collect through your use of the Site to:

- Provide and administer the Site, including to display customized content and facilitate communication with other users;
- Process your requests and orders for products, specific services, information, or features;
- Communicate with you about your account by:
    - Responding to your questions and concerns;
    - Sending you administrative messages and information, notifications about changes to our Site, and updates to our agreements;
    - Sending you information and in-app messages about new services, new features, promotions, and newsletters (which you can opt out of at any time);
- Manage your account preferences;
- Facilitate the Sites' technical functioning, including troubleshooting and resolving issues, securing the Site, and preventing fraud and abuse;
- Solicit feedback from users;
- Market and administer surveys and promotions administered or sponsored by GameSalad;
- Learn more about you by linking your data with additional data through third-party data providers or analyzing the data with the help of analytics service providers;
- Identify unique users across devices;
- Tailor advertisements across devices;
- Improve our Site and develop new products, services, and features;
- Analyze trends and traffic, track purchases, and track usage data;
- Advertise the Site on third-party websites and applications;
- As required or permitted by law; or
- As we, in our sole discretion, otherwise determine to be necessary to ensure the safety or integrity of our users, employees, third parties, the public, or our Site.

GameSalad for Education student account personal data will only be used as necessary for provided requested services. For GameSalad for Education student accounts, we:

- Will not communicate with you about your account, except for a possibly reply that all communications should be managed through the account administrator / representative teacher;
- Will not solicit feedback from users;
- Will not market and administer surveys and promotions administered or sponsored by GameSalad;
- Will not learn more about you by linking your data with additional data through third-party data providers or analyzing the data with the help of analytics service providers;
- Will not tailor advertisements across devices;
- Will not advertise the Site on third-party websites and applications;

Marketing

We strive to provide you with choices regarding certain personal data uses, particularly around marketing and advertising.

We may use your Identity, Contact, Technical, Usage and Profile Data to form a view on what we think you may want or need, or what may be of interest to you. This is how we decide which products, services and offers may be relevant for you.

You will receive marketing communications from us if you have requested information from us or purchased products or services from us or if you provided us with your details when you entered a competition or registered for a promotion and, in each case, you have not opted out of receiving that marketing.

GameSalad for Education student accounts will not receive any marketing communications.

Opting out

You can ask us to stop sending you marketing messages at any time by following the opt-out links on any marketing message sent to you or by contacting us at any time.

Children's Privacy

We do not reach out directly to educational accounts for marketing or otherwise. All technical

divulge any personally identifiable information. COPPA requires that online service providers obtain parental consent before they knowingly collect personally identifiable information online from children who are under 13. Therefore, we only collect personal information through the Services from a child under 13 where that student's school, district, and/or teacher has agreed to obtain parental consent for that child to use the Services and disclose personal information to us or where the parent or legal guardian of a child has signed the child up to use the Services.

A student, parent or legal guardian of a student may review personally identifiable information contained in student data and correct any erroneous information, if any, in such student data. He or she may do so by sending an email to privacy@gamesalad.com.

GameSalad for Education account administrators ("Administrators") will have the ability to access, delete, or request the deletion of student date in the possession of GameSalad except in instances where such data is: (a) otherwise prohibited from deletion or required to be retained under state or federal law, or (b) stored as a copy as part of a disaster recovery storage system and that is (i) inaccessible to the public, and (ii) unable to be used in the normal course of business by the GameSalad. Administrators may request deletion of any such student information, student records or student-generated content if such copy has been used by the operator to repopulate accessible data following a disaster recovery. The Administrator may request deletion of student data by email a request to education@gamesalad.com.

If you are a student under 13, please do not send any personal information about yourself to us if your school, district, and/or teacher has not obtained this prior consent from your parent or guardian or if your parent or guardian has not signed you up to use the Site, and please do not send any personal information other than what we request from you in connection with the Services. If we learn we have collected personal information from a student under 13 without parental consent being obtained by his or her parent, guardian, school, district, and/or teacher, or if we learn a student under 13 has provided us personal information beyond what we request from him or her, we will delete that information as quickly as possible. If you believe that a student under 13 may have provided us personal information in violation of this paragraph, please contact us at privacy@gamesalad.com.

Disclosures of your personal data

We may have to share your personal data with the parties set out below for the purposes set out in the table in paragraph 4 above.

- Service providers who provide IT and system administration services.
- Service providers who provide customer service tools such as online chat services and helpdesk services.
- Third parties who provide personalized icons for use on our Site.
- Professional advisers including lawyers, bankers, auditors and insurers who provide consultancy, banking, legal, insurance and accounting services.
- Third party payment processors who securely store payment data.
- Our third party analytics partners to analyse Site traffic and understand customer needs and trends.
- Third parties if we are required to do so by law, or if we believe that such action is necessary to: (a) fulfil a government, or regulatory authority request; (b) conform with the requirements of the law or legal process; (c) protect or defend our legal rights or property, our Site or customers.
- Third parties to whom we may choose to sell, transfer, or merge parts of our business or our assets. Alternatively, we may seek to acquire other businesses or merge with them. If a change happens to our business, then the new owners may use your personal data in the same way as set out in this Privacy Policy.

We require all third parties to respect the security of your personal data and to treat it in accordance with the law. We do not allow our third party service providers to use your personal data for their own purposes and only permit them to process your personal data for specified purposes and in accordance with our instructions.

Data security

We have put in place appropriate security measures to prevent your personal data from being accidentally lost, used or accessed in an unauthorized way, altered or disclosed. In addition, we limit access to your personal data to those employees, agents, contractors and other third parties who have a business need to

know. They will only process your personal data on our instructions and they are subject to a duty of confidentiality.

We have put in place procedures to deal with any suspected personal data breach and will notify you and any applicable regulator of a breach where we are legally required to do so.

Data retention

We will only retain your personal data for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements.

To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements.

You can request further details of retention periods for different aspects of your personal data by contacting us.

In some circumstances you can ask us to delete your data: see "Your legal rights" below for further information.

In some circumstances we may anonymize your personal data (so that it can no longer be associated with you) for research or statistical purposes in which case we may use this information indefinitely without further notice to you.

Your legal rights

Under certain circumstances, you have the following rights under data protection laws in relation to your personal data:

- **Request access** to your personal data (commonly known as a "data subject access request"). This enables you to receive a copy of the personal data we hold about you and to check that we are lawfully processing it.

- **Request correction** of the personal data that we hold about you. This enables you to have any incomplete or inaccurate data we hold about you corrected, though we may need to verify the accuracy of the new data you provide to us.

- **Request erasure** of your personal data. This enables you to ask us to delete or remove personal data where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your personal data where you have successfully exercised your right to object to processing (see below), where we may have processed your information unlawfully or where we are required to erase your personal data to comply with local law. Note, however, that we may not always be able to comply with your request of erasure for specific legal reasons which will be notified to you, if applicable, at the time of your request.

- **Object to processing** of your personal data where we are relying on a legitimate interest (or those of a third party) and there is something about your particular situation which makes you want to object to processing on this ground as you feel it impacts on your fundamental rights and freedoms. You also have the right to object where we are processing your personal data for direct marketing purposes. In some cases, we may demonstrate that we have compelling legitimate grounds to process your information which override your rights and freedoms.

- **Request restriction of processing** of your personal data. This enables you to ask us to suspend the processing of your personal data in the following scenarios: (a) if you want us to establish the data's accuracy; (b) where our use of the data is unlawful but you do not want us to erase it; (c) where you need us to hold the data even if we no longer require it as you need it to establish, exercise or defend legal claims; or (d) you have objected to our use of your data but we need to verify whether we have overriding legitimate grounds to use it.

- **Request the transfer** of your personal data to you or to a third party. We will provide to you, or a third party you have chosen, your personal data in a structured, commonly used, machine-readable format. Note that this right only applies to automated information which you initially provided consent for us to use or where we used the information to perform a contract with you.

- **Withdraw consent at any time** where we are relying on consent to process your personal data. However, this will not affect the lawfulness of any processing carried out before you withdraw your consent. If you withdraw your consent, we may not be able to provide certain products or services to you. We will advise you if this is the case at the time you withdraw your consent.

If you wish to exercise any of the rights set out above, please contact us.

No fee usually required

You will not have to pay a fee to access your personal data (or to exercise any of the other rights). However, we may charge a reasonable fee if your request is clearly unfounded, repetitive or excessive. Alternatively, we may refuse to comply with your request in these circumstances.

What we may need from you

We may need to request specific information from you to help us confirm your identity and ensure your right to access your personal data (or to exercise any of your other rights). This is a security measure to ensure that personal data is not disclosed to any person who has no right to receive it. We may also contact you to ask you for further information in relation to your request to speed up our response.

Time limit to respond

We try to respond to all legitimate requests within one month. Occasionally it may take us longer than a month if your request is particularly complex or you have made a number of requests. In this case, we will notify you and keep you updated.

About Us

GameSalad is the revolutionary game development platform that allows anyone to create the game of their dreams with a sophisticated visual programming interface. It's also the best way to introduce programming concepts, game design, and digital media creation to your students.

Launched in 2010, GameSalad has been used by over one million aspiring game developers and has powered over 75 games that reached the top 100 in the App Store, including multiple #1 games.

Resources

GameSalad Results

FAQ

Tutorials

Forums

Marketplace

Featured Games

Download

Privacy Policy

Terms of Service

About

About

Blog

Leadership

Press

Jobs

Contact Us

Contact

Physical Address:

GameSalad, Inc.

2301 W Anderson Ln

102-#133

Austin, TX 78757

Mailing Address:

PO Box 80288

Austin TX 78708

From:	Julie Froehling <julie@gamesalad.com>
Sent:	Thursday, July 29, 2021 11:27 PM
To:	Debbie D. Wood (ddwood)
Cc:	Fahryka P. Elliott (fpelliott)
Subject:	Re: FW: FW: iRFP 9573
Attachments:	iRFP 9573 Best and Final Pricing_GameSalad Response.pdf

Use Caution: This message originated outside of Henrico County Public Schools. Use caution when opening attachments, clicking links or responding to requests for information.

Debbie,

Attached is the best and final pricing. Text was added for clarification of the site license pricing and the single site pricing was reduced. The Scenario section is for a single site, the proposed solution section reflects your volume discount for multiple sites (6 or more). Thank you!

Best Regards,
Julie

Julie Froehling
Education Partnership Manager
Check out the Winners of the 2021 Student Game Creation Challenge!
Teachers all over the world went virtual with GameSalad last semester

julie@gamesalad.com
+1 512-348-6697 (direct)
Austin, TX CST/UTC(GMT) -6
www.gamesalad.com/education

On Thu, Jul 29, 2021 at 12:41 PM Julie Froehling <julie@gamesalad.com> wrote:
 Thank you! I am preparing this now and you will have it by the end of the day today

On Thu, Jul 29, 2021, 09:09 Debbie D. Wood (ddwood) <ddwood@henrico.k12.va.us> wrote:

Hi Julie,

I don't see where you have responded to my email below.

Just a reminder that your response is due back by the end of the day.

Thanks Julie.

1

Many Thanks,

~Debbie Wood, CPPB

Finance Division Director

Henrico County Public Schools

804-652-3640

804-652-3151 fax

Hi Julie,

This email is to inform you that your firm has been selected to enter into negotiations for iRFP #9573 for Business and Information Software for Workforce and Career Development Students. Please provide your best and final offer pricing and return to me no later than Thursday, July 29, 2021.

Many Thanks,

~Debbie Wood, CPPB

Finance Division Director

Henrico County Public Schools

804-652-3640

804-652-3151 fax

ATTACHMENT C
PRICING OPTIONS

Provide pricing for the scenario below based off pricing being offered

Scenario	Price
Provide pricing for an annual subscription for one site licenses for a high school for 149 Business students	$ 1,495.00 for a single site
Virtual training for 25 teachers (minimum one hour)	$ 0.00 / included

Provide pricing as it relates to the proposed solution

	Price
Price per Student (provide details if tiered pricing is offered)	$ 18.00 / annual subscription
Price per Teacher	$ n/a
Price per Classroom	$ n/a
Price per Site current volume pricing: for 6 or more sites	$ 829.80 per school site /annual
Price for District License 6-12	$ 14,995.00 / annual subscription
Virtual training to introduce teachers to the platform, inform how to find user instructor materials and answer questions.	$ 0.00 / included
Additional Professional Development models	$ 2,500.00 / advanced training
Printed materials – provide list of pricing for each product offered	$ n/a
Consumables – provide list of pricing for each product offered	$ n/a

Game salad

Commonwealth of Virginia
County of Henrico

6/21/2021

Non-Professional Services
Informal Request for Proposal 9573

Business and Information Software for Workforce and Career Development Students

Receipt Date: 06/30/2021

Department: Schools
Contact: Debbie Wood
Telephone: 804-652-3640
Email: ddwood@henrico.k12.va.us

1. **Purpose**
   The intent and purpose of this Informal Request for Proposal (iRFP), and the resulting contract, is to obtain the services of a qualified firm to provide

   See attached

2. **Background**
   See attached

3. **Scope of Work / Services**
   The Successful Offeror shall provide all labor, supervision and materials in order to provide the following:
   See attached

4. **Anticipated Procurement Schedule**

   The following represents a tentative outline of the schedule currently anticipated by the County:

   Solicitation Published 06/23/2021

   Submit Proposals Electronically to Debbie Wood   no later than
   6/30/21

   Evaluation of Proposals Received 7/1/2021

   Discussions with Offerors, if applicable TBD

   Contract Awarded 8/1/2021

5. **Proposal Contents**
   Offerors shall submit a written proposal that presents the Offeror's qualification and understanding of the work to be performed as follows:

   A. Response to Scope of Work/Services.
   The Offeror should address each section of the Scope of Work/Services with an indication of their response.

   B. Company Profile.
   Offerors are to present a company profile that shows the ability, capacity and the skill of the Offeror and

their employees to perform the services provided within the specified time. Provide resumes of the proposed staff to be assigned to the project.

C. References.
Provide a minimum of three (3) references who can attest to the Offeror's past performance to provide services similar to those required in this iRFP.

D. Assumptions.
List any assumptions made when responding to the Scope of Work/Services requirements in Section 3.

E. Exceptions.
List any exceptions to the Scope of Work/Services and Terms and Conditions in a separate section of the Offeror's proposal response and mark as "Exceptions." In the case of a proposal for Information Technology, as defined in Va. Code §2.2-2006, the County shall not require an Offeror to state in a proposal any exception to any liability provisions contained in the iRFP.

F. Pricing / Fee Schedule. Provide detailed pricing / fee schedule for the Scope of Work/Services requested.

See attached

G.

[Insert unique requirements specific to this Informal Request for Proposal.]

6. **Criteria**
Selection of the Successful Offeror will be based upon submission of proposal meeting the following Evaluation Criteria:

Criteria	Weight
Functional Requirements / Compliance with Scope of Services / Work	30
Experience / Qualifications	25
Implementation / Delivery	25
Pricing / Fees	20

7. **Submission Requirements**
Proposals shall be received by the date as set forth in this iRFP. All proposals received by the date specified shall be accepted. Time of receipt shall be determined by the date the proposal is received electronically. No late proposals will be considered and the Offeror will be notified when its proposal is not received on time. *Proposals shall be submitted to the Department Contact via email attachment only. Unless otherwise noted in writing, proposals shall be submitted in a single .pdf format with all contents described in Section 5.*

8. **Evaluation Process**
Proposals received shall be reviewed and evaluated by an Evaluation Committee. Informal discussions/interviews may be conducted as needed.

Should the County determine in writing and at its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

9. **Standard Terms and Conditions** The County of Henrico Terms and Conditions are incorporated by reference into this iRFP. These Terms and Conditions can be viewed on Henrico County's Purchasing Division website at: http://henrico.us/assets/terms.pdf.

   A. Insurance.

   The Successful Offeror shall maintain insurance to protect itself and the County of Henrico (including Henrico County Public Schools) from claims under the Workers' Compensation Act, and from any other claims for damages for personal injury, including death, and for damages to property which may arise from operations under this contract whether such operations be by itself or by any subcontractor or anyone directly employed by either of them. Such insurance shall conform to the County Insurance Specifications located at: http://henrico.us/assets/insurance-2.pdf.

   B. Subject to the limitations of Va. Code § 2.2-4342(F), trade secrets or proprietary information submitted by an Offeror in connection with this procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protection of this section prior to or upon submission of data or materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary (Va. Code § 2.2-4342(F)).

   C. By submitting a proposal, the Offeror agrees not to withdraw its proposal after the date set for receipt of proposals for 90 days thereafter.

   D.

   > [Insert additional terms and conditions that are applicable to the Scope of Work/Services. (i.e. Direct Contact with Students, Tobacco Free, HIPAA, etc.)]

10. **Contract Award**

    At the conclusion of negotiations, the final terms of the agreement must be confirmed in writing and signed by both parties. The Purchasing Division will notify the Successful Offeror of contract award. The County reserves the right to waive any informality in proposals, to award in part or in whole, to reject any or all proposals received, and to cancel this iRFP.

Signature Sheet

My signature certifies that the proposal as submitted complies with all requirements specified in this Informal Request for Proposal.

My signature also certifies that by submitting a proposal in response to this Informal Request for Proposal, the Offeror represents that in the preparation and submission of this proposal, the Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person or business entity, or enter into any agreement, participate in any collusion, or otherwise take any action in the restraining of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1) or Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

I hereby certify that I am authorized to sign as a legal representative for the business entity submitting this proposal.

Legal Name of Offeror (Do Not Use Trade Name) GameSalad, Inc.	
Address: 2301 W Anderson Ln, Ste 102 #133	
Austin, TX 78757	
Signature: *Julie Froehling*	
Name of Person Signing (Print): Julie Froehling	
Title: Education Partnership Manager	
Telephone: 512-348-6697	
Email: julie@gamesalad.com	
Date: 06/30/2021	
Virginia State Corporation Commission Identification Number: (http://www.scc.virginia.gov/)	
Department of Professional and Occupational Regulation License Number (if applicable): (http://www.dpor.virginia.gov/)	

Offeror Information

Business Classification Category: (check box(s))

☐ Small Business ☐ Women-Owned Business ☐ Minority-Owned Business
☐ Service Disabled Veteran ☐ Employment Services Organization
☑ Non-SWaM (not Small, Women, or Minority-Owned)

*Definitions can be found for each of the above at http://henrico.us/pdfs/purchasing/swampolicy.pdf.

VA Minority Business Enterprise
(DMBE) Certification No:_____ **Expiration Date:** _____

Business Located in Henrico County: ☐ Yes ☑ No

eVA Registered: ☑ Yes, Supplier Number: VS0000327824 ☐ No

PROPRIETARY/CONFIDENTIAL INFORMATION IDENTIFICATION

Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protections of Va. Code § 2.2-4342(F) in writing, either before or at the time the data or other materials are submitted. The Offeror must specifically identify the data or materials to be protected including the section(s) of the proposal in which it is contained and the pages numbers, and state the reasons why protection is necessary. A summary of trade secrets and proprietary information submitted shall be submitted on this form. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. Va. Code § 2.2-4342(F) prohibits an Offeror from classifying an entire proposal, any portion of a proposal that does not contain trade secrets or proprietary information, line item prices, or total proposal prices as proprietary or trade secrets. If, after being given reasonable time, the Offeror refuses to withdraw such classification(s), the proposal will be rejected.

SECTION / TITLE	PAGE NUMBER(S)	REASON(S) FOR WITHHOLDING FROM DISCLOSURE

Informal Request for Proposal
Business and Information Technology Software for HCPS
Workforce and Career Development Students
HENRICO COUNTY PUBLIC SCHOOLS

I. **INTRODUCTION**

A. **Purpose:**

The purpose of this informal request for proposal (iRFP) is to solicit proposals for an annual contract(s) for Henrico County Public Schools (HCPS) to provide a web-based platform that teaches Computer Science coding concepts through game creation and/or modules and simulation. Multiple awards/contracts may result from this iRFP to accommodate the need of the Business and IT classes offered by HCPS.

B. **Background:**

HCPS is a large metropolitan school district with approximately 50,000 students in 73 schools for the 2020-21 school year. This includes 46 elementary schools, 12 middle schools, 9 high schools, 2 technical centers, 3 program centers, and one preschool.

II. **SCOPE OF SERVICES**

A. **General Requirements:**

1. The proposed solution shall provide:

   a. A web-based platform that teaches computer science concepts and coding. The web-based platform should scaffold learning, limit downloadable materials, and include a game or story element to engage students.

   b. Teacher resources that include:
      1. Printable lesson plans
      2. Recommended pacing guide for teaching
      3. Student activities or extension projects with instructor solutions
      4. Auto-graded assignments

   c. Student modules for learning that are locked/opened at teacher's discretion

   d. A product that is aligned to computer science and/or Virginia CTE standards

   e. A product where the content is appropriate for diverse middle school students, grade 6-8 with separate, additional content available and appropriate for diverse high school students, grades 9-12

   f. Technical support for all users, including real-time assistance if needed during class time.

   g. A toll-free number for help desk support to HCPS at a minimum from 8 am to 5 pm EST, Monday-Friday.

     h. Dedicated account representative to manage licenses and to review the usage data with content specialist.

2. The successful bidder shall provide teacher training – one-hour minimum training in a synchronous, virtual format to introduce teachers to the platform, inform how to find and use instructor materials, and answer questions.

3. Contact Period
    a. The contract period shall be from August 1, 2021 through July 31, 2022. Contract prices shall remain firm for the contract period.

    b. The contract may be renewed for four (4) additional one-year periods upon the sole discretion of the County at a price not to exceed 3% above the previous year's prices.

    c. The resulting contract should require the Successful Offeror to give at least a ninety (90) day written notice if they do not intend to renew the contract at any annual renewal.

    d. The contract shall not exceed a maximum of five (5) years.

B. Technical Specifications:

User Interface

1. Browser Support – the proposed solution shall:
    a. Have compatibility with the current versions of multiple browsers- at minimum, current versions of Edge, Safari, and Chrome browsers.
    b. Maintain compatibility with listed browsers and future versions/updates/releases of the listed browsers for the duration of the contract.
    c. Only require standard browser plugins.

2. The proposed solution will be compliant with the Americans with Disabilities Act requirements for accessibility.

3. The proposed solution shall be cloud-based and delivered via the Internet over wireless LANs to the client's browser.

4. The proposed solution shall provide an intuitive user interface that allows for ease of use by teachers and students.

5. The proposed solution shall support mobile technology including but not limited to the specific mobile devices currently used in HCPS (iOS, Chromebooks, and Android Platforms)

Integration

1. The proposed solution shall provide methods for user account administration that are easy to use and maintain.

2. The proposed solution shall support a single sign-on solution that does not require staff or students to have a separate account or password for accessing the vendor's application.

3. The proposed solution shall allow for LTI, Azure Active Directory or LDAP as a method of authentication and authorization.

4. The proposed solution shall provide a means to identify the individual or client using the application, authenticate the individual and determine the authorities and rights granted to that individual as well as a reporting engine for tracking usage and progress.

5. Any requirements for student, staff, course, roster or school information must be supported through a common specification. The exchange of data must be through a common protocol and not require the installation of vendor-specific software in the HCPS internal infrastructure. HCPS currently supports the following means of exchanging student information in order of preference but will accept other non-vendor specific protocols:
   a. LTI integration as a Tool Provider (TP) with our LMS Solution (Schoology)
   b. SIF - Student Information framework
   c. Exchange of information through Clever - a third party vendor for exchanging common data for school systems; The Successful Offeror is responsible for any costs incurred with Clever implementation.
   d. API integration with our SIS, PowerSchool
   e. File exchange to a vendor-supported sFTP server

6. No additional fees may be charged to HCPS for data integration

7. The proposed data exchange solution must be described in detail in the Offeror's response. The proposed solution must also include limitations the Offeror has such as the number of teachers for a class and the number of schools associated with teachers and students.

8. Solutions that allow for seamless integration of their product through the IMS Global interoperability standards are preferred.

Infrastructure and System Administration
1. Offerors shall provide:
   a. Details of the hosting environment including hosting provider, service level agreements between the offeror and the hosting provider, and length of the relationship between the offeror and the hosting provider.
   b. Specifics of structures in place to ensure high availability including redundant Internet paths, hardware failover, scalability, and protection against denial of service attacks or other network threats.
   c. Specifics of security measures in place to ensure that district data is secure during both storage and transit.
   d. SOC 2 compliance status (certification documentation should be provided)
   e. Specifics of structures in place to ensure acceptable disaster recovery including backup schedules and redundancy.
   f. Internet Bandwidth requirements and provide a per-user bandwidth usage specification of the software product.
   g. Specifics of the availability of remote access to the district's data outside of the web-based application.
   h. Specifics on the frequency and duration of operating system and application updates including the procedures used to inform the district of maintenance windows and system downtime for these tasks.
   i. Any tools available to measure system responsiveness.
   j. Any limits on data storage (i.e. user quotas, access to previous year data, database size, etc.).
2. The proposed solution shall be deployed on servers and equipment hosted or administered by the Successful Offeror. Hosting the solution on a 3rd party, such as Amazon or Azure, is acceptable.

3. The proposed solution will provide a secure, web-based system for data in transit and at rest.

4. Successful Offeror(s) will document compliance with all local, state, and federal laws related to student data privacy.

5. The proposed solution shall contain neither commercial content nor serve as a vehicle to market goods and services.

Web Accessibility

1. The solution shall be accessible to persons with disabilities, including:
    a. Blindness, color blindness, visual impairment
    b. Deafness, hearing impairment
    c. Speech impairment
    d. Mobility, strength, dexterity, or reach impairment

2. The solution shall support the use of commonly available screen readers.

3. The solution shall comply with Federal Web Accessibility Standards (part of Section 508 of the Rehabilitation Act).

4. The solution shall meet Level A and Level AA guidelines as specified by the W3C's WCAG 2.0 guidelines.

5. The proposed solution shall be able to handle at least 60,000+ concurrent HCPS users with less than 30 ms latency. Offeror(s) must provide comprehensive documentation to evidence the ability to accommodate concurrent users based on data collected from a similar environment

6. If the solution is reliant on LDAP authentication, HCPS will only accept a defined external IP address to allow Firewall transactions and will not accept the allowance of entire network segments.

7. HCPS shall have the ability to submit requests for an alteration of the digital content (including additional supporting data, modification of current data, or removal of data deemed inappropriate by HCPS) via email or web-based forms embedded in the digital content.

8. Provide all documentation for each piece of software equipment, or software, including copyright information, all operator and user manual, training materials necessary for the proper and successful use of the software where an installation or configuration on HCPS network or devices are required.

Computer, Software, and Network Specifications:

The proposed solution shall meet all performance requirements defined in this document and be currently compatible with the following minimum computer specifications as well as maintaining compatibility with updates/patches/versions of listed software for the duration of the contract (at a minimum beginning with the versions listed below)

1. Staff District-wide; All High, Middle Students and limited numbers for Elementary Students
    a. Windows Laptop
        i. Software
            1. OS – Windows 10, 1903 or higher: 64-bit
            2. Browsers – Google Chrome 86.x or above; Microsoft Edge 89.x or above
            3. Java – 1.8.0_251 or above
            4. PDF Reader - embedded within Google Chrome and Microsoft Edge
            5. Adobe Reader - standalone application
            6. Adobe Shockwave – 12.2 or above

       7. O365 Pro Plus
- ii. Hardware:
    - 1. Latitude 3380s model:
        - a. Specifications
            - i. Display - 13.3-inch HD Anti-Glare LED with integrating webcam and noise reducing array microphone
            - ii. Hard drive - 128GB SSD
            - iii. Processor - 2.50 GHz Intel® i5 -Dual Core
            - iv. Memory - 8GB DDR3 SDRAM
            - v. Graphics Card – 128MB Dedicated VRAM; 1366X768 - Native Resolution
            - vi. Network Connections: Built-in Wireless Card (802.11ac) and 10/100/1000 Gigabit Ethernet
        - b. Other:
            - i. Stereo headphone/Microphone combo jack
    - 2. Latitude 5420 model:
        - a. Specifications
            - i. Display - 14" FHD (1920x1080) Non-Touch, Anti-Glare, IPS, 250nits, WLAN/WWAN, HD Camera
            - ii. Hard drive – 128GB PCIe NVMe Class 35 SSD
            - iii. Processor – 11th Generation Intel® Core™ I3-1125G4 (4 Core, 8M cache, base 2.0GHz, up to 3.7GHz)
            - iv. Memory – 8GB DDR4 Non-ECC
            - v. Network connections - Intel® Wi-Fi 6 AX201 2x2 .11ax 160MHz + Bluetooth 5.1
            - vi. Graphic cards - I3-1125G4 Trans, Intel UHD Graphics, Thunderbolt
    - 3. Latitude 3310 model
        - a. Specifications:
            - i. Display – 13.3" HD (1366 x 768) Anti-Glare Non-Touch, Camera & Microphone, WLAN Capable
            - ii. Hard drive – 128GB PCIe NVMe Class 35 SSD
            - iii. Processor – 8th Generation Intel® Core™ i5-8265U Processor (4 Core, 6MB Cache,1.6GHz,15W)
            - iv. Memory – 8GB DDR4 Non-ECC
            - v. Network Connections - Intel Dual Band Wireless Driver 9560 (802.11ac) 2x2 + Bluetooth 5.0; Intel® Dual Band Wireless AC 9560 (802.11ac) 2x2 + Bluetooth 5.0
            - vi. Graphics card - Intel® Core™ i3-8145U Processor w/Intel® HD Graphics 620
    - 4. Latitude 3180 Education model – Elementary Carts:
        - a. Specifications:
            - i. Display - 11-inch HD with integrated webcam
            - ii. Hard drive - 64GB eMMC Storage - Hard drive
            - iii. Processor - Intel® Pentium® N4200
            - iv. Memory - 4GB 1600MHz LPDDR3
            - v. Video Card – Intel integrated HD graphics 4600
            - vi. Network Connections – Intel Dual Band Wireless-AC 7265 802.11AC Wi-Fi + BT 4.0 LE Wireless Card (2x2)
        - b. Other:
            - i. 2 speakers
            - ii. 1 Combo headphone/microphone jack

- iii. USB card reader
- b. Chromebooks (primary device for elementary students, Grades 1st-5th)
    - i. Software
        1. Chromium OS 86.x+ or above
    - ii. Hardware:
        1. Dell Chromebook 3180 (touch & non-touch):
            - a. Specifications:
                - i. Display - 11.6-inch HDF
                - ii. Hard drive - 16GB eMMC
                - iii. Processor - Celeron N3060
                - iv. Memory - 4GB
                - v. Video Card - Intel integrated HD graphics 4600
                - vi. Network - Built-in Wireless Card (802.11a/g/n)
            - b. Other:
                - i. 2 speakers
                - ii. Headphone/Microphone jack
                - iii. Integrated webcam
        2. Dell Chromebook 3100 (touch & non-touch):
            - a. Specifications:
                - i. Display - 11.6" HD (1366 x 768) Anti-Glare Non-Touch, Camera & Microphone, WLAN Capable - Display
                - ii. Hard drive - 16GB eMMC
                - iii. Processor - Intel Celeron N4020 (Dual Core, up to 2.8GHz, 4M Cache, 6W) 1 USB Type-C, 1 USB 3.1
                - iv. Memory - 4GB 2400MHz LPDDR4 Non-ECC
- c. iOS Devices – Elementary (primary device for PreK-K) and Secondary
    - i. Software
    - ii. iOS version - 14.x
    - iii. Safari browser
    - iv. Hardware (Based on iPad MR7F2LL/A)
    - v. Specifications:
    - vi. Display - 9.7-inch (diagonal) LED-backlit, multi-touch with IPS technology
    - vii. Storage – 32GB
    - viii. Wireless-A, Wireless-AC, Wireless-B, Wireless-G, Wireless-N
    - ix. Bluetooth 4.2 Technology
    - x. Camera, Photos, and Video Recording

Networking Environment

1. Location WAN Circuit Bandwidth
    a. 1 Gbps or greater Comcast ENS Data WAN Circuit to High Schools.
    b. 1 Gbps or greater Comcast ENS Data WAN Circuit to Middle Schools.
    c. 500 Mbps or greater Comcast ENS Data WAN Circuit to Elementary Schools.
    d. 100 Mbps or greater Comcast ENS Data WAN Circuit to remote Administrative sites.
2. District Internet Bandwidth
    a. (2) 8 Gbps Comcast ENI circuits to provide a total district bandwidth of 16 Gbps of Internet Service to the Data Center which is then distributed to the entire district via the size and type of WAN circuits listed above.
3. Local Area Network and Wireless Infrastructure

a. All Schools/Sites utilize either 1 Gbps or 10 Gbps fiber backbone connections between their MDF & IDF's network closets.
b. All Schools/Sites utilize a combination of LightWeight or Cloud-Controlled wireless access points capable of supporting the IEEE 802.11 ac wireless standard and are connected at 1 Gbps, or greater, to Cisco Catalyst 9200 & 9300 series POE switches.

III.   COUNTY RESPONSIBILITIES

The County will designate an individual to act as the County's representative with respect to the work to be performed under this contract. Such individual shall have the authority to transmit instructions, receive information, and interpret and define the County's policies and decisions with respect to the contract.

IV.   PROPOSAL RESPONSE FORMAT

1. Executive Summary

   Company Profile - Offerors are to present a Company profile that shows the ability, capacity and skill of the Offeror, their staff, and their employees to perform the services required within the specified time. Include the following information.

   a) Years in business outlining the company history and experience providing progress monitoring systems for K-12
   b) Experience with a project of this magnitude
   c) Experience in K-12 market
   d) Diagram of the Offeror's network topology as well as that of the Offeror's ISP if applicable.
   e) Number of employees proposed for the development and ongoing processes including training

2. References - Provide a minimum of three (3) references who could attest to the Offeror's past performance to provide services similar to those required for the contract. The list should include contact persons and telephone numbers. Offerors may not use Henrico County as one of their references.

5. Subconsultants - (If Applicable) Information on any sub-consultants that is necessary to provide the services required. Provide name, experience, address, telephone number and qualifications.

6. The proposed solution must be described in detail in the Offeror's response. Offerors must also include limitations the Offeror has, such as the number of teachers for a class and the number of schools associated with teachers and students.

7. Offeror(s) must provide comprehensive documentation to evidence the ability to accommodate concurrent users based on data collected from a similar environment.

8. Discuss the Offeror's current workload and the ability to provide the operational products by August 1, 2021.

9. Provide samples and descriptions of reports offered and the ability to customize content and reports.

15. Offerors shall provide a "sandbox" environment for any proposed solution for the committee to use for evaluation. If the "sandbox" environment is not available, offerors shall provide screenshots of the product with their proposal.

16. Offerors shall provide a detailed explanation of how accounts are maintained in their system and how they support automated provisioning of users and accounts.

17. Offerors shall describe in detail the proposed solutions data exchange process.

18. Offerors shall provide the per user bandwidth requirements for their proposed solution. Provide the average bandwidth per student required for the proposed solution.

19. Offerors shall submit any agreements to which HCPS may be requested to agree to as part of a final award.
    a) Include any terms and conditions the "end user" is required to accept.
    b) Discuss how your firm handles parental consent, if required.

20. Offerors shall provide a detailed timeline for implementation of the project indicating resources (responsible party) and completion dates.

21. Pricing – Complete the scenario provided in Attachment C. Also provide detailed pricing for all costs associated with providing the services outlined in Section II. Scope of Services. List all categories separately, itemized for evaluation, such as subscription costs, training of County staff, Professional Development at a minimum. Provide details if tiered pricing is available. **Attachment C.**

22. Offers shall provide evidence of financial stability.

23. Provide copies of any contract documents, SaaS Service Level Agreement (SLA), etc. that would be needed to be signed by the County if awarded the contract including any service or business agreements.

24. Assumptions - List any assumptions made when responding to the Scope of Services requirements.

25. Exceptions - List any exceptions to the Scope of Services and General Terms and Conditions in a separate section of the Offeror's proposal response and mark the section as "Exceptions", except for exceptions to liability provisions contained in the Request for Proposal.

26. Appendices - Optional for Offerors who wish to submit additional material that will clarify their response.

ATTACHMENT A

COUNTY OF HENRICO

INSURANCE SPECIFICATIONS

The following insurance coverages and limits are required in order to provide goods, services, construction, professional and non-professional services to Henrico County general government agencies and Henrico County Public Schools. These requirements are specific to this procurement and may or may not be the same for future requests.

Please be sure and review the Additional Requirements Section

The Successful Bidder/Offeror shall carry Public Liability Insurance in the amount specified below, including contractual liability assumed by the Successful Bidder/Offeror, and shall deliver a Certificate of Insurance from carriers licensed to do business in the Commonwealth of Virginia and that is representative of the insurance policies. The Certificate shall show that the policy has been endorsed to add the County of Henrico and Henrico County Public Schools named as an additional insured for the Commercial General Liability coverage. ***The certificate must not show in the description of operations section that it is issued specific to any bid, job, or contract.*** The coverage shall be provided by a carrier(s) rated not less than "A-" with a financial rating of at least VII by A.M. Best or a rating acceptable to the County. In addition, the Successful Bidder/Offeror shall agree to give the County a minimum of 30 days prior notice of any cancellation or material reduction in coverage.

Workers' Compensation

Statutory Virginia Limits
Employers' Liability Insurance - $100,000 for each Accident by employee
$100,000 for each Disease by employee
$500,000 policy limit by Disease

Commercial General Liability

$1,000,000 each occurrence including contractual liability for specified agreement
$2,000,000 General Aggregate (other than Products/Completed Operations)
$2,000,000 General Liability-Products/Completed Operations
$1,000,000 Personal and Advertising injury
$ 100,000 Fire Damage Legal Liability

Business Automobile Liability – including owned, non-owned and hired car coverage

Combined Single Limit - $1,000,000 each accident

Umbrella Liability

$2,000,000 Per Occurrence and in the aggregate

Additional Requirements

In addition to the requirements above, the Successful Bidder/Offeror shall thoroughly review the scope of work that is included and if any of the following are included in the services that will be provided, the following additional insurance will be required, if required:

☐ **Professional Liability - $2,000,000 Per Occurrence (or limit in accordance with Statute for Medical Professional)**
Required if the Scope includes providing advice or consultation including but not limited to; lawyers, bankers, physicians, programming, design (including construction design), architects & engineers and others who require extensive education and/or licensing to perform their duties.

☒ **Cyber Liability - $2,000,000 Per Occurrence**
Required if the Scope includes the collection and electronic transmittal of Personal Health Insurance (PHI), or any other demographic data on individuals including but not limited to Name, Address, Social Security Numbers or any other sort of personally identifying information.

☐ **Abuse and Molestation Coverage - $1,000,000 Per Occurrence**
Required if the scope of work includes the offering of professional or non-professional services to any child or student where one on one contact or consultation is to be provided.

☐ **Pollution Liability - $1,000,000 Per Occurrence**
Required if the scope of work involves the use (other than in a motor vehicle) or removal of a substance or energy introduced into the environment that potentially has an undesired effect or affects the usefulness of a resource. These include, but are not limited to Asbestos, PCB's, Lead, Mold, and Fuels.

☐ **Explosion, Collapse & Underground Coverage (XCU)**
Required of a Contractor in limits equal to the General Liability Limit when the Scope includes any operations involving Blasting, any work underground level including but not limited to wires, conduit, pipes, mains, sewers, tanks, tunnels, or any excavation, drilling, or similar work.

☐ **Builders Risk Coverage**
Required if the scope of work includes the ground up construction of a structure. Limit of insurance   shall be 100% of the completed value of the structure. For projects for the renovation of an existing structure, The County shall insure the Builder's Risk with the Contractor being responsible for the first $10,000 of any claim.

☐ **Other as Specified Below**
____

NOTE 1: The commercial general liability insurance shall include contractual liability. The contract documents include an indemnification provision(s). The County makes no representation or warranty as to how the Bidder/Offeror's insurance coverage responds or does not respond. Insurance coverages that are unresponsive to the indemnification provision(s) do not limit the Bidder/Offeror's responsibilities outlined in the contract documents.

NOTE 2: The intent of this insurance specification is to provide the coverage required and the limits expected for each type of coverage. With regard to the Business Automobile Liability and Commercial General Liability, the total amount of coverage can be accomplished through any combination of primary and excess/umbrella insurance. This insurance shall apply as primary insurance and non-contributory with respect to any other insurance or self-insurance programs afforded the County of Henrico and Henrico County Public Schools. This policy shall be endorsed to be primary with respect to the additional insured.

NOTE 3: Title 65.2 of the Code of Virginia requires every employer who regularly employs three or more full-time or part-time employees to purchase and maintain workers' compensation insurance. If you do not purchase a workers' compensation policy, a signed statement is required documenting that you are in compliance with Title 65.2 of the Code of Virginia.

NOTE 4: The Certificate Holder Box shall read as follows:
County of Henrico
Risk Management
PO Box 90775
Henrico, VA 23273

ATTACHMENT B
DIRECT CONTACT WITH STUDENTS

Name of Bidder: __GameSalad, Inc.__

Pursuant to Va. Code § 22.1-296.1, as a condition of awarding a contract for the provision of services that require the contractor or employees of the contractor to have direct contact with students on school property during regular school hours or during school-sponsored activities, the contractor shall provide certification of whether any individual who will provide such services has been convicted of any violent felony set forth in the definition of barrier crime in subsection A of Va. Code § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; or any crime of moral turpitude.

Any individual making a materially false statement regarding any such offense is guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction is grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services.

As part of this submission, I certify the following:

✓ **None of the individuals who will be providing services that require direct contact with students on school property during regular school hours or during school-sponsored activities have been convicted of a violent felony set forth in the definition of "barrier crime" in Va. Code § 19.2-392.02(A); an offense involving the sexual molestation, physical or sexual abuse, or rape of a child;**

And (select one of the following)

✓ **None of the individuals who will be providing services that require direct contact with students on school property during regular school hours or during school-sponsored activities have been convicted of any felony or any crime of moral turpitude.**

or

☐ **One or more individuals who will be providing services that require direct contact with students on school property during regular school hours or during school-sponsored activities has been convicted of a felony or crime of moral turpitude that is not set forth in the definition of "barrier crime" in Va. Code § 19.2-392.02(A) and does not involve the sexual molestation, physical or sexual abuse, or rape of a child. (In the case of a felony conviction meeting these criteria, the contractor must submit evidence that the Governor has restored the individual's civil rights.).**

Julie Froehling
Signature of Authorized Representative

Julie Froehling
Printed Name of Authorized Representative

GameSalad, Inc.
Printed Name of Vendor

Provide pricing for the scenario below based off pricing being offered

Scenario	Price
Provide pricing for an annual subscription for one site licenses for a high school for 149 Business students	$ 1,699.00
Virtual training for 25 teachers (minimum one hour)	$ 2,500.00

Provide pricing as it relates to the proposed solution

	Price
Price per Student (provide details if tiered pricing is offered)	$ 18.00 / annual subscription
Price per Teacher	$ n/a
Price per Classroom	$ n/a
Price per Site	$ 829.80 per school site /annual
Price for District License 6-12	$ 14,995.00 / annual subscription
Virtual training to introduce teachers to the platform, inform how to find user instructor materials and answer questions.	$ 0.00 / included
Additional Professional Development models	$ 2,500.00 / advanced training
Printed materials – provide list of pricing for each product offered	$ n/a
Consumables – provide list of pricing for each product offered	$ n/a

(*ATTACHMENTS D AND E SHALL BE REQUIRED TO BE COMPLETED BY THE SUCCESSFUL OFFER)
ATTACHMENT D
LICENSE AGREEMENT ADDENDUM

The County of Henrico, Virginia (the "**County**"), a political subdivision of the Commonwealth of Virginia, and _____ ("**Supplier**"), a [state] [corporation/LLC/etc.], are this day entering into an agreement for [title of wraparound contract/RFP/etc.] (the "**Agreement**") and, for their mutual convenience, the parties are using the standard form contract ("[title of Supplier's form: EULA, etc.]") provided by Supplier ("**Contract**"). This License Agreement Addendum ("**LAA**"), duly signed by the County and Supplier (each a "**Party**"), is attached to and made a part of the Agreement and the Contract by incorporation, and with the Agreement governs the use of any and all software licensed by the County under the Agreement (the "**Software**") and this LAA.

As used in this LAA, the term "**Contract**" means the Supplier's standard form contract and any and all exhibits and attachments thereto. The term(s) "**Customer**", "**You**" or "**you**" as used in the Contract and this LAA, means, as applicable,the County, or any of their officers, directors, agents or employees.

Supplier represents and warrants that it is a [State][corporation/LLC/etc.] authorized to do in business in Virginia. If Supplier is not a U.S.-based entity, Supplier maintains a registered agent and a certification of authority to do business inVirginia.

Supplier's Contract is generally acceptable to the County, with the exceptions noted in this LAA below. Despite the general acceptability of the Contract, certain standard clauses may appear in, or be incorporated by reference into, the Contract that cannot be accepted by the County. In consideration of the convenience of using Supplier's standard form contract without the necessity of specifically negotiating a separate contract document, the Parties specifically agree that any of the following provisions contained in the Contract are deemed void and will not have any effect and will not be enforceableagainst any Customer:

1. Requiring the application of the law of any state other than the Commonwealth of Virginia in interpreting or enforcing the Contract or requiring or permitting that any dispute under the Contract be resolved in any court other than the state courts located in Henrico County, Virginia;

2. Requiring any total or partial compensation or payment for lost profit or liquidated damages by any Customer if the Contract is terminated before the end of its ordinary term;

3. Imposing any interest charge(s) contrary to that specified by § 2.2-4347 *et seq.* of the Code of Virginia;

4. Requiring the County to maintain any type of insurance for Supplier's benefit;

5. Granting Supplier a security interest in any property of the County;

6. Requiring the County to indemnify, defend, or to hold harmless Supplier for any act or omission;

7. Limiting or adding to the time period within which claims can be made or actions can be brought (Reference Tit. 8.01 of the Code of Virginia);

8. Limiting selection and approval of counsel and approval of any settlement in any claim arising under the Contract and in which the County is a named party;

9. Binding the County to any arbitration or to the decision of any arbitration board, commission, panel or other entity;

10. Obligating the County to pay costs of collection or attorney's fees;

11. Requiring any dispute resolution procedure(s) other than those in accordance with § 2.2-4363 *et seq.* of the Code of Virginia;

12. Permitting Supplier to access any of the County's records or data, except pursuant to court order;

13. Permitting Supplier to use any information provided by the County except for Supplier's own internal administrative purposes;

14. Requiring the County to limit its rights or waive its remedies at law or in equity;

15. Bestowing any right, or incurring any obligation, that is beyond the duly granted authority of the undersigned representative of the County to bestow, or incur, on behalf of the County;

16. Establishing a presumption of severe or irreparable harm to Supplier by the actions or inactions of the County;

17. Limiting the liability of Supplier for property damage, death, or personal injury;

18. Permitting Supplier to assign, subcontract, delegate or otherwise convey the Contract, or any of its rights and obligations under the Contract, to any entity without the prior written consent of the County, except as set forth in paragraph 39 below;

19. Not complying with the contractual claims provision § 2.2-4363 of the Code of Virginia, which is also incorporated into this LAA and the Contract by reference;

20. Enforcing the United Nations Convention on Contracts for the International Sale of Goods and all other laws and international treaties or conventions relating to the sale of goods. They are expressly disclaimed. UCITA shall apply to the Contract only to the extent required by § 59.1-501.15 of the Code of Virginia;

21. Not complying with all applicable federal, state, and local laws, regulations, and ordinances;

22. Requiring that the County waive its sovereign immunity or its immunity;

23. Requiring that the County, which is tax exempt, be responsible for payment of any taxes, duties, or penalties;

24. Requiring or construing that any provision in this Contract conveys any rights or interest in the County's data to Supplier;

25. Requiring the use of foreign currency. The currency used for the Contract will be United States Dollars;

26. Obligating the County beyond approved and appropriated funding. All payment obligations from the County under the Contract are subject to receipt of necessary appropriations from the County's Board of Supervisors. In the event of non-appropriation of funds for the items under the Contract, the County may terminate, in whole or in part, the Contract or any order, for those goods or services for which funds have not been appropriated. This may extend to the renewal of maintenance services for only some of the licenses granted by Supplier. The County shall provide written notice to the Supplier as soon as possible after legislative action is completed. There will be no time limit for termination due to termination for lack of appropriations;

27. Permitting unilateral modification of the Contract by Supplier;

28. Permitting termination by Supplier of the Contract or the licenses granted pursuant to the Contract, or permitting suspension of services by Supplier, except pursuant to an order from a court of competent jurisdiction;

29. Requiring or stating that the terms of the Supplier's standard form contract will prevail over the terms of this LAA in the event of conflict;

30. Renewing or extending the Contract beyond the term set forth in the Agreement or automatically continuing the Contract period from term to term;

31. Requiring that the Contract be "accepted" or endorsed by the home office or by any other officer subsequent to signing by an official of the County before the Contract is considered in effect;

32. Delaying the acceptance of the Contract or its effective date beyond the date of signing;

33. Defining "perpetual" license rights to have any meaning other than license rights that exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Contract;

34. Permitting modification or replacement of the Contract pursuant to any new release, update or upgrade of Software, or subsequent renewal of maintenance. If Supplier provides any update or upgrade subject to additional payment, the County will have the right to reject such update or upgrade;

35. Requiring the purchase of a new release, update, or upgrade of Software, or subsequent renewal of maintenance, in order for the County to receive or maintain the benefits of Supplier's indemnification of the County against any claims of infringement on any third-party intellectual property rights;

36. Prohibiting the County from transferring or assigning to any entity the Contract or any license to Software granted pursuant to the Contract;

37. Granting Supplier or an agent of Supplier the right to audit or examine the books, records, or accounts of the County; or

In addition to the provisions set forth above in this LAA, the Parties further agree as follows:

38. Supplier warrants that it is the owner of the Software or otherwise has the right to grant to the County the license to use the Software granted under the Contract without violating or infringing any law, rule, regulation, copyright, patent, trade secret, or other proprietary right of any third party.

39. Supplier may assign all or any of its rights and obligations to a third party as a result of a merger or acquisition or sale of all or substantially all of its assets to the third party so long as Supplier's assignee agrees in writing to be bound by the terms and conditions set forth in the Contract, and provided the third party is a U.S.-based entity or

maintains a registered agent and a certification of authority to do business in Virginia. Supplier may assign all or any of its rights and obligations to an affiliate of Supplier, provided Supplier remains liable for the affiliate's compliance with the terms and conditions set forth in this Contract

40. Supplier agrees to indemnify, defend and hold harmless the County of Henrico (including Henrico County Public Schools), the County's officers, agents and employees, from any claims, damages, suits, actions, liabilities and costs of any kind or nature, including attorneys' fees, to the extent the claim in any way relates to, arise out of or result from: (i) any negligent act, negligent omission, or intentional or willful conduct of any employee or subcontractor of Supplier, (ii) any breach of any representation, warranty or covenant of Supplier contained in the Contract and LAA, (iii) any defect in the Software, or (iv) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Software.

41. The County will only be liable to pay for Supplier's travel-related expenses, including transportation, meals, lodging and incidental expenses that have been authorized by the County in advance. The travel-related expenses will be reimbursable at the County's then-current per diem rates.

42. The County may require that Supplier personnel submit to a criminal background check prior to performance of any services under the Contract.

43. Payments for license fees, including subscription fees, and support services are only authorized to be made to the Supplier pursuant to the Contract.

Together with the Agreement, the Contract and this LAA constitute the entire agreement between the Parties and may notbe waived or modified except by written agreement between the Parties.

IN WITNESS WHEREOF, the Parties have caused this License Agreement Addendum to be duly executed as of the last dateset forth below by the undersigned authorized representatives of the parties, intending thereby to be legally bound.

Supplier Name   **County of Henrico, Virginia**

By:_____   By: _____
(Signature)   (Signature)

Name:_____   Name: _____
(Print)   (Print)

Title:_____   Title:_____

Date: _____   Date: _____

ATTACHMENT E

HENRICO COUNTY PUBLIC SCHOOLS DATA SECURITY AGREEMENT

This Data Security Agreement ("Agreement") is agreed upon effective_____,

_____, 2018, by and between_____, ("Vendor") and the

County School Board of Henrico County, Virginia ("School Board" or "HCPS").

I. DEFINITIONS

A. **HCPS Data**: HCPS Data is any and all data that HCPS has disclosed to Vendor. For the purposes of this Agreement, HCPS Data does not cease to be HCPS Data solely because it is transferred or transmitted beyond HCPS's immediate possession, custody, or control.

B. **Data Breach**: The unauthorized access and acquisition of computerized data that materially compromises the security or confidentiality of confidential or sensitive personal information maintained by HCPS as part of a database of personal information regarding multiple individuals and that causes or HCPS reasonably believes has caused or will cause loss or injury to any HCPS constituent.

C. **System**: An assembly of components that supports an operational role or accomplishes a specific objective. This may include a discrete set of information resources (network, server, computer, software, application, operating system or storage devices) organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

D. **Contract**. Shall mean the contract between Vendor and HCPS outlining the services to be provided.

II. DISCLOSURE OF HCPS DATA

A. The Vendor shall not disclose HCPS Data in any manner that would constitute a violation of state or federal law or the terms of this agreement including, without limitation, by means of outsourcing, sharing, retransfer, or access, to any person or entity, except:

B. Employees or agents who actually and legitimately need to access or use HCPS Data in the performance of Vendor's duties to HCPS;

C. Such third parties, such as but not limited to, vendors, suppliers or subcontractors, but only after such third party has agreed in writing and in advance of any disclosure, to be bound by confidentiality terms at least as stringent as the terms of this Agreement; or

D. Any other third party approved by HCPS in writing and in advance of any disclosure, but only to the extent of such approval.

E. The Vendor may also store HCPS Data on servers housed in datacenters owned and operated by third parties, provided the third parties take reasonable precautions to protect the security and confidentiality of HCPS data.

III. USE OF, STORAGE OF, OR ACCESS TO HCPS DATA

A. Vendor shall only use, store, or access HCPS data:

1. In accordance with, and only to the extent permissible under the contract for services; and

2. In full compliance with any and all applicable laws and regulations, only to the extent applicable to Vendor, including the Family Educational Rights and Privacy Act (FERPA); and

B. Vendor agrees that the use, storage, and access to HCPS Data shall be performed with that degree of skill, care, and judgment customarily accepted as sound, quality, and professional practices. Vendor shall implement and maintain safeguards necessary to ensure the confidentiality, availability, and integrity of HCPS Data. Vendor shall also implement and maintain any safeguards required to be implemented by applicable state and federal laws and regulations.

C. HCPS reserves the right to request security information reasonably necessary to ascertain HCPS's own compliance with state and federal data privacy laws.

D. If Vendor becomes aware that HCPS Data may have been accessed, disclosed, or acquired without proper authorization and contrary to the terms of this Agreement or the Contract, Vendor shall use reasonable efforts to alert HCPS of any Data Breach within two business days, and shall immediately take such actions as may be necessary to preserve forensic evidence and eliminate the cause of the Data Breach. Vendor shall give highest priority to immediately correcting any Data Breach and shall devote such resources as may be required to accomplish that goal. Vendor shall provide HCPS information necessary to enable HCPS to fully understand the nature and scope of the Data Breach. Upon request, Vendor shall provide HCPS information about what Vendor has done or plans to do to mitigate any deleterious effect of the unauthorized use or disclosure of, or access to, HCPS Data. In the event that a Data Breach requires Vendor's assistance for mitigation, such assistance shall be provided at no cost to HCPS. HCPS may discontinue any services or products provided by Vendor and any payments to Vendor until HCPS, in its sole discretion, determines that the cause of the Data Breach has been sufficiently mitigated.

E. If Vendor is served with any subpoena, discovery request, court order, or other legal request or command that calls for disclosure of any HCPS Data, Vendor shall promptly notify HCPS in writing and provide HCPS sufficient time to obtain a court order or take any other action HCPS deems necessary to prevent disclosure or otherwise protect HCPS Data. In such event, Vendor shall provideHCPS prompt and full assistance in HCPS's efforts to protect HCPS Data. Where Vendor is prohibited by law from notifying HCPS of a legal request for HCPS Data, Vendor will comply with all applicable laws and regulations with respect to the requested HCPS Data.

F. Upon expiration or termination of the Contract, Vendor shall ensure that no Data Breach occurs and shall follow HCPS's instructions as to the preservation, transfer, or destruction of HCPS Data. The method of destruction shall be accomplished by "purging" or "physical destruction", in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88. Upon requestby HCPS, Vendor shall certify in writing to HCPS that return or destruction of data has been completed. Prior to such return or destruction, Vendor shall continue to protect HCPS Data in accordance with this Agreement.

G.   This Agreement shall survive the expiration or earlier termination of the Contract. However, upon expiration or termination of the Contract, either party may terminate this Agreement.

FOR HCPS: FOR VENDOR:

_____   _____

Name   Name

_____   _____

Signature   Signature

_____   _____

Title   Title

_____   _____

Date   Date

Attachment F

**Henrico County Public Schools Middle and
High School Locations**

Middle Schools
BROOKLAND - 9200 Lydell Drive, Henrico, VA 23228
BYRD - 9400 Quioccasin Road, Henrico, VA 23238
ELKO - 5901 Elko Road, Sandston, VA 23150
FAIRFIELD - 5121 Nine Mile Road, Henrico, VA 23223
HOLMAN - 600 Concourse Boulevard, Glen Allen, VA 23059
HUNGARY CREEK - 4909 Francistown Road, Glen Allen, VA 23060
MOODY - 7800 Woodman Road, Henrico, VA 23228
POCAHONTAS - 12000 Three Chopt Road, Henrico, VA 23233
ROLFE - 6901 Messer Road, Henrico, VA 23231
SHORT PUMP - 4701 Pouncey Tract Road, Glen Allen, VA 23059
TUCKAHOE - 9000 Three Chopt Road, Henrico, VA 23229
WILDER - 6900 Wilkinson Road, Henrico, VA 23227

High Schools
DEEP RUN - 4801 Twin Hickory Road, Glen Allen, VA 23059
FREEMAN - 8701 Three Chopt Road, Henrico, VA 23229
GLEN ALLEN - 10700 Staples Mill Road, Glen Allen, VA 23060
GODWIN - 2101 Pump Road, Henrico, VA 23238
HENRICO - 302 Azalea Avenue, Henrico, VA 23227
HERMITAGE - 8301 Hungary Spring Road, Henrico, VA 23228
HIGHLAND SPRINGS - 15 S. Oak Avenue, Highland Springs, VA 23075
TUCKER - 2910 Parham Road, Henrico, VA 23294
VARINA - 7053 Messer Road, Henrico, VA 23231
VIRGINIA RANDOLPH 2204 Mountain Rd Glen Allen, VA 23060

Pa

Inc.

Response to iRFP 9573:
Business and Information Software for Workforce and Career Development Students,
County of Henrico, VA

Offerer: GameSalad, Inc.

Executive Summary

GameSalad develops software to aid in the creation of video games and attending curriculum to allow students to learn video game design and computer science fundamentals used in the process of building video games. GameSalad's goal is to: "Turn game players into game creators".

GameSalad has been in business since 2009 and has been serving educational institutions since 2014. GameSalad implemented progress monitoring in 2019 as an in-product system for tracking student progress through tutorials and scoring of in product quizzes.

GameSalad is used in over 150 schools worldwide serving over 10,000 students. Implementations of similar scope to HCPS have been successfully implemented in districts such as Brownsville ISD and Union County Public Schools.

For this contract, GameSalad will provide 3 employees total, 2 support employees (customer success and technical) as well as 1 school / district liaison. This district liaison will be the primary contract and will be Julie Froehling who can be reached via email at education@gamesalad.com or julie@gamesalad.com. Julie Froehling will provide training, with other employees as needed.

Scope of Work
   A. General Requirements
   1. The proposed solution shall provide:
      a. GameSalad Web Creator is Web-Based. Students learn and proactive coding concepts and computer science fundamental principles, ie computational thinking, through building a guided series of different types of mobile-format games. No downloaded materials are required.
      b. Teacher Resources include:
         i.   Printable lesson plans
         ii. Lesson plans include a pacing/timing guide
         iii. Student activities and projects with instructor solutions, including an instructor-only "answer key" completed example game for each unit with completed game logic .
         iv. Auto-graded multiple choice quiz questions.

c. Student Units and Assignments have controlled access, available to students at the teacher's discretion.
d. Lesson Plans are aligned to CSTA Standards.
e. Content is appropriate for diverse middle school students, grades 6-8. All game units can be completed as specified in the step-by-step instructions or expanded to include more complexity for advanced learners. Additional content appropriate for diverse high school students grades 9-12 guides students through constructing their own original game from scratch.
f. Technical support for all teachers including real-time assistance if needed during class time.
g. A toll-free number for help desk support is provided to HCPS from 8am-5pm EST M-F.
h. A dedicated account representative is provided to HCPS.

2. Training is provided for 1-2 hours in a synchronous, virtual format to introduce teachers to the platform, inform how to find materials and use instructor resources and answer questions.

Implementation

No subconsultants are necessary for direct implementation and support of this contract, though we will from time-to-time work with independent contractors to write new learning content that may be available during the course of this contract. GameSalad works with many schools during the course of a school year and will have no issues meeting the terms of this contract.

GameSalad's current workload is compatible with an August 1, 2021 implementation. The company anticipates and accommodates an uptick in implementations around the traditional beginning of the K12 US school year. Julie Froehling is the responsible party for receiving and implementing the platform for HCPS per the timeline as follows:

Licenses will be provisioned upon receipt of a purchase order or other similar confirmation. If students will be self provisioning via our "class code" sign up flow, then no other interactions are required. If pre-provisioned anonymous student accounts are requested, GameSalad must inform us at least 48 hours before the start of class / use of accounts. If student accounts are to be created using student information, intent must be conveyed at least 1 business week prior to the start of class / use of accounts so that an SFTP account can be provisioned. Student information must be provided at least 48 hours prior to the start of class / use of accounts. Alternatively student information may be uploaded via our secure web form.
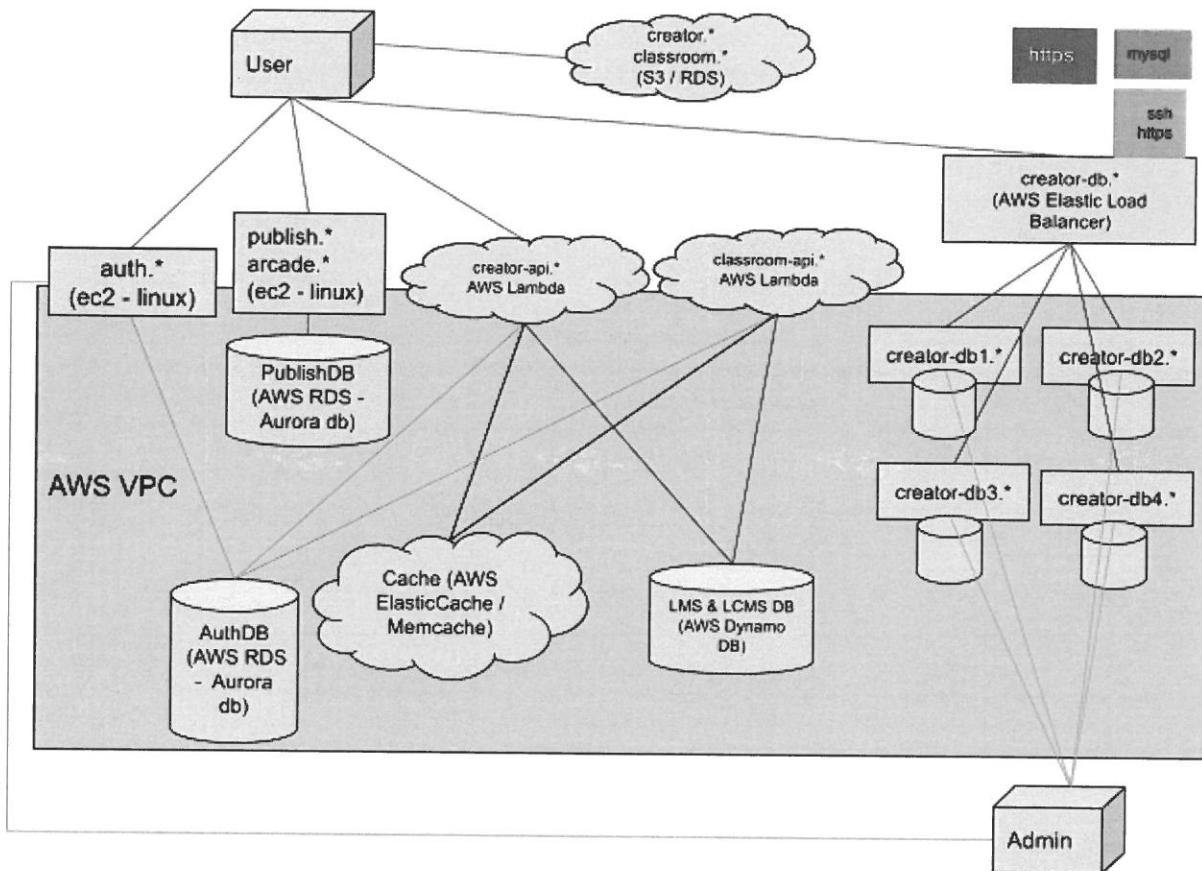
Technology

Network Topology
GameSalad for Education systems are hosted on Amazon AWS using AWS's Security Groups as a firewall to prevent access to unauthorized ports. Open ports are either required by the

application (https) or are encrypted (ssh). Server admin ports are only open to authorized IP addresses.

GameSalad's environment is a (public) environment in that all users share the same environment. No special servers are created for a specific user.

Scalability

GameSalad's authentication and publishing servers support hundreds of thousands of simultaneous users as part of our offering to both consumer and education customers.

GameSalad Creator's main UI is hosted on Amazon S3 and CloudFront. GameSalad Creator's app specific REST APIs are built on top of AWS Lambda, allowing them to scale as needed.

GameSalad Creator's Databases are load distributed to allow for growth as needed and have no problem supporting our current user load.

30ms latency is not possible for all parts of our system (specifically tutorial content delivery, which currently has a higher, but consistent latency). While we are improving that part of our

system, the current latency is not tied to traffic, but to a constant access latency in a particular operation and we've seen no problems with users in real usage.

We currently cannot prove the ability to support 60,000 concurrent users, as we don't have that many, but we also believe that because our system only supports a subset of your userbase, this should not be a problem.

As evidence of the concurrency we do have, we are using the following query via Amazon Athena (sql query over s3 text files):

```
select AVG (concurrent_users), MAX(concurrent_users), MIN(concurrent_users)
from (
  SELECT count(http_x_gamesalad_id) concurrent_users
  FROM auth_proxy_logs_prod
  GROUP BY
  DATE(from_iso8601_timestamp(cloudwatch_time)),
  HOUR(from_iso8601_timestamp(cloudwatch_time))
)
```

This query runs over the apache style log entries for the proxy to our document database servers. The query is counting distinct users over each hour of the day. The results of that query show an average of 38 users and a maximum of 448 concurrent users. Despite the number of students we serve, not all of them access at once and because our system runs mostly in browser and only syncs with the server as needed, the concurrent user count the server sees is often lower than the actual number of concurrent users.

Sandbox Environment

GameSalad, as a fully live environment, does not currently support sandboxed environments. That being said, teachers and admins may create as many "classes" as they wish, and treat some of those classes as "sandboxes". Customers may evaluate the "live" environment through a trial license.

Authentication, Account provisioning, and data exchange.

GameSalad allows for automated provisioning through a code based individual sign-up flow. Teachers create "classes" which are assigned code strings. Students who sign up using those codes are provisioned a license if they do not already have one and are enrolled in the class.

Alternatively, we provision "anonymous" accounts for students so that teachers can assign an account to a student.

FInally, we can make available an SFTP login or secure web-form for teachers or administrators who would like to provision accounts using student data. Data requested includes student login

email address, username (optional), and student name (First Initial, Last Name, or vice versa per teacher preference).

Students can be authenticated against GameSalad accounts or using Google Authentication.

Platform Requirements

Platforms require the usage of a current version of Google Chrome or Firefox. While we do not test on Microsoft Edge, we believe there will be minimal problems using it. While the software will work on Safari, we discourage its use due to local storage limitations Safari enforces.

Bandwidth usage is contingent on student usage as students have the ability to upload their own assets and view video tutorials. While GameSalad doesn't have specific requirements, we believe a connection that can be used to stream videos on youtube or a similar site will be sufficient to use GameSalad.

GameSalad Web Creator can be accessed from the following devices: laptops, desktops, Chromebooks with at least 2GB RAM, or iPads.

The cloud-based user interface is delivered over the internet via wireless LANs to the client's browser. The intuitive user interface allows ease of use by teachers and students.

Other requirements

Terms & Policies

Our Terms of Service are available: https://gamesalad.com/terms and our privacy policy is available: https://gamesalad.com/privacy/

Please note that our policy pages cover both Consumer Developers and Educational users and specific terms are called out for each usage. For instance, data usage is much more restrictive as required by most educational settings for Education users. The terms reflect GameSalad's adherence to FERPA and COPPA for education users.

ADA Notes

GameSalad is a visual platform for building video games as a visual medium. While we have made best efforts to support accessibility standards (including appropriate HTML augmentation for screen readers), we strongly suggest teachers find alternate platforms for blind students. Through ensuring proper contrast and color usage we believe the product will pose no problems for students with other vision impairments.

References:

1) **Union County Public Schools**
   Gloria Jowers, Teacher: CTE Computer Applications
   704-290-1510
   gloria.jowers@ucps.k12.nc.us
   Marvin Ridge Middle School
   2831 Crane Road

   Waxhaw, NC 28173

2) **Union County Public Schools**
   Christine Courtney, Teacher: CTE Business Education
   704-225-7555
   christine.courtney@ucps.k12.nc.us
   Porter Ridge Middle School
   2827 Ridge Road

   Indian Trail, NC 28079

3) **Murrieta Valley Unified School District**
   Tim Holder, Game Design and Programming; Graphic Design Teacher
   951-677-0568
   tholder@murrieta.k12.ca.us
   Murrieta Mesa High School
   24801 Monroe Ave.,
   Murrieta, CA 92562

4) **High Point Academy**
   Jason Moore, Director of Educational Technology
   (626)798-8989
   jmoore@highpointacademy.org
   1720 Kinneloa Canyon
   Rd Pasadena CA 91107

From:	Julie Froehling <julie@gamesalad.com>
Sent:	Thursday, July 29, 2021 11:27 PM
To:	Debbie D. Wood (ddwood)
Cc:	Fahryka P. Elliott (fpelliott)
Subject:	Re: FW: FW: iRFP 9573
Attachments:	iRFP 9573 Best and Final Pricing_GameSalad Response.pdf

> Use Caution: This message originated outside of Henrico County Public Schools. Use caution when opening attachments, clicking links or responding to requests for information.

Debbie,

Attached is the best and final pricing. Text was added for clarification of the site license pricing and the single site pricing was reduced. The Scenario section is for a single site, the proposed solution section reflects your volume discount for multiple sites (6 or more). Thank you!

Best Regards,
Julie

Julie Froehling
Education Partnership Manager
Check out the Winners of the 2021 Student Game Creation Challenge!
Teachers all over the world went virtual with GameSalad last semester

julie@gamesalad.com
+1 512-348-6697 (direct)
Austin, TX CST/UTC(GMT) -6
www.gamesalad.com/education

On Thu, Jul 29, 2021 at 12:41 PM Julie Froehling <julie@gamesalad.com> wrote:
 Thank you! I am preparing this now and you will have it by the end of the day today

 On Thu, Jul 29, 2021, 09:09 Debbie D. Wood (ddwood) <ddwood@henrico.k12.va.us> wrote:

 Hi Julie,

 I don't see where you have responded to my email below.

 Just a reminder that your response is due back by the end of the day.

 Thanks Julie.