

Bethesda Softworks LLC / Interplay Entertainment Corp.

Exclusive Licensing Agreement

This EXCLUSIVE LICENSING AGREEMENT ("*Agreement*") is entered into this 29th day of June 2004 ("*Effective Date*"), by and between Bethesda Softworks LLC, a Delaware company wholly owned by ZeniMax Media Inc., a Delaware corporation ("*Bethesda*"), and Interplay Entertainment Corp., a California corporation ("*Interplay*") (each being a "*party*" or collectively, the "*parties*") pursuant to which Interplay grants to Bethesda exclusive, unrestricted intellectual property rights to the Licensed Property under the terms and conditions set forth herein. This Agreement constitutes a binding contractual arrangement between the parties and shall define the legal rights and responsibilities of the parties.

1. Parties:
Bethesda Softworks LLC (Licensee)
a ZeniMax Media company
1370 Piccard Drive, Suite 120
Rockville, MD 20850 USA
Attn: Vlatko Andonov, President
Tel: 301 926 8300; Fax: 301 926 8010

Interplay Entertainment Corp. (Licensor)
16815 Von Karman Avenue
Irvine, CA 92649 USA
Attn: Herve Caen, CEO
Tel: 310 432 1955; Fax: 310 432 1959

2. Licensed Property: Any and all intellectual property rights in and to all future uses of every kind to the brand and interactive entertainment software game property known as "*Fallout*" as set forth in this Agreement, including but not limited to any and all rights to a planned *Fallout* sequel video game with the current working title, "*Fallout 3*", any and all rights to two (2) additional sequels tentatively titled "*Fallout 4*" and "*Fallout 5*", and all uses of the *Fallout* trademark and brand except to the extent expressly excluded hereunder (all such property rights and uses being collectively referred to as "*Licensed Property*"). Without limiting the foregoing, subject to the terms and conditions herein, the Licensed Property shall include the rights to all add-ons, expansion packs and combinations of same, however packaged or sold, hint books and strategy guides, and any prequels, sequels and derivative products of the Licensed Property, and all rights to the *Fallout* brand, including but not limited to merchandising and sublicensing rights. Interplay shall continue to own the *Fallout* trademark and brand, and the original *Fallout* interactive entertainment software games, "*Fallout*", "*Fallout 2*", "*Fallout Tactics*", and "*Brotherhood of Steel*" ("*Pre-existing Fallout Games*"), and Bethesda shall have no rights to or financial interest in those Pre-existing Fallout Games.

3. Platforms: PC; Xbox®, Xbox®2, PlayStation®2, PlayStation®3, PlayStation® Portable (PSP), Gameboy®, Gameboy Advance, Gameboy SP, Gameboy DS, GameCube® and Nokia N-Gage (and any and all next generation versions of each); wireless and mobile devices; and all other media and platforms, now existing or later developed. Expressly excluded from the rights granted Bethesda hereunder are the rights of

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Interplay to develop a Massively Multiplayer On-Line Game ("MMOG") using the *Fallout* brand. MMOG shall mean a type of computer or console video game for large communal use that (i) is only played and accessed via the Internet and is not playable off-line in any manner whatsoever, (ii) is only functional as an MMOG and does not work as a single player game or as a game with a small number of players (iii) enables at least 1,000 players simultaneously to interact in the game world on-line and remains live 24 hours a day/7 days a week, (iv) requires all players to pay a monthly subscription service for the express purpose of obtaining on-line access to the game's core experience, and (v) contains content that is maintained on dedicated servers by the offeror of the subscription service.

Interplay shall also retain the rights to use the *SPECIAL* rules system to develop, create, promote, and sell non-*Fallout*-branded video games or products (i.e. Bethesda's license to use the *SPECIAL* rules system shall be non-exclusive to the limited extent Interplay shall have the right to use said *SPECIAL* rules in conjunction with a non-*Fallout*-based game.) *SPECIAL* rules and *SPECIAL* rules systems shall mean those systems, guides or principles governing gameplay in *Fallout 1* and *Fallout 2* which dictate the resolution of role-playing actions (such as the use of "Strength" to determine the damage done in combat during gameplay). ("*SPECIAL* rules"). With the single and sole exceptions of the Pre-existing *Fallout* Games and the MMOG referenced above, no Interplay game or Interplay licensed property, using the *SPECIAL* rules or not using the *SPECIAL* rules, shall use, exploit, or reference the *Fallout* name, trademark or brand in any way or manner, nor shall Interplay use any other property, characteristic, or asset of, or associated with, *Fallout* and/or the *Fallout* brand, nor shall Interplay develop, license or exploit any game of any type featuring a post-apocalyptic setting or genre (all such restrictions, prohibitions, and limitations being referred to as ("*Interplay limitations*").

Other than the MMOG rights and the *SPECIAL* rules system rights expressly reserved, the Licensed Property of Bethesda shall be exclusive and include all other rights to and uses of the *Fallout* brand.

4. Territory:

Worldwide.

5. Term:

The Term of this Agreement shall commence on the Effective Date and continue in perpetuity insofar as it relates to the rights to the Licensed Property granted to Bethesda hereunder.

6. Grant of Rights;

Refusal Rights:

(i) Interplay grants to Bethesda the exclusive, irrevocable worldwide, royalty-based right and license to develop, use, modify, manufacture, market, promote, distribute, sell, sublicense and otherwise fully exploit the Licensed Property on the Platforms in the Territory as well as such other exploitation of the Licensed Property in all media by any means, now or hereafter devised, throughout the world in perpetuity and as Bethesda shall determine. Bethesda shall be entitled, without consultation or approval, to exploit all such rights to the Licensed Property whenever and in whatever manner it deems fit, it being understood that Bethesda shall maintain the high quality of the Licensed Property in connection with the use of the *Fallout* mark so as not to impair the reputation for quality now and heretofore associated with Interplay and its trademarks. This grant of exclusivity to Bethesda

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shall serve to prohibit Interplay, after the Effective Date, directly or indirectly, from licensing, developing, publishing or distributing any product that uses in any manner the name, assets, characteristics and/or brand of "Fallout", including but not limited to a prohibition against licensing or granting any third party any rights that would interfere, infringe, detract, injure, lessen or be in conflict with the grant of exclusive rights to Bethesda hereunder, except that Interplay may license the rights to develop an MMOG using the Fallout brand on PC and console platforms, now existing or hereafter developed, may continue to manufacture and sell units of the Pre-existing Fallout Games and may use the *SPECIAL* rules system to create and develop non-Fallout branded computer and video games, subject to the terms and conditions of this Agreement, including without limitation the Interplay limitations. All properties developed under this Agreement shall be the exclusive property of Bethesda or its designee, and Interplay shall have no ownership or legal title to the Licensed Property or any asset or property developed under this Agreement.

(ii) Interplay grants Bethesda first and last refusal rights as to any sequel or future use of the Licensed Property for the Platforms after "Fallout 5" is published, except to the extent expressly excluded hereunder. No license to a sequel to "Fallout 5" shall be granted prior to six (6) months following the release of "Fallout 5". Interplay shall provide written notice to Bethesda of its intention, directly or indirectly, to develop or arrange for the development of a sequel or other use of the Licensed Property or the *Fallout* trademark or brand after "Fallout 5", and shall set forth the terms for such proposed sequel or future use. Bethesda shall have thirty (30) days after receipt of such notice to give written notice to Interplay of its acceptance of such terms. Bethesda's failure to respond within the 30-day period shall be deemed a decision by Bethesda not to exercise its first refusal rights and to waive its first refusal rights from that time forward. In the event that Interplay receives an offer from a third party to develop a sequel or otherwise use the Licensed Property or the *Fallout* trademark or brand after "Fallout 5", on terms equal to or more favorable to such third party than those available to Bethesda, then Interplay shall first provide written notice to Bethesda, and Bethesda shall have thirty (30) days after receipt of such notice to give written notice to Interplay of Bethesda's acceptance of those terms. Bethesda's failure to respond within the 30-day period shall be deemed a decision by Bethesda not to exercise its last refusal rights and to waive such last refusal rights from that time forward. The parties intend by this provision to provide Bethesda the opportunity to continue its exclusive rights to the *Fallout* brand after the "Fallout 5" Sequel is published.

7. Exclusive

Ownership:

Interplay represents and warrants that it alone has good, exclusive and marketable legal right, title and interest in and ownership of the Licensed Property, and is legally able to grant Bethesda the exclusive rights set forth in this Agreement.

8. Conveyance:

In furtherance of its grant of rights to Bethesda and promptly after the Effective Date, Interplay shall provide Bethesda with any and all Licensed Property assets, including but not limited to design documents, art assets, and related documentation developed for and relating to "Fallout" and "Fallout 2" as are requested by Bethesda. Without limiting the foregoing, Interplay shall provide Bethesda the *Fallout* logos, PIPBoy art, interface art, 3D Source (Max or Maya) files and textures for all in-game art, the world bible (background on the *Fallout* universe, locations

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and people), source materials (such as clan symbols and maps), and high resolution art from cutscenes, loading screens, and the like. All assets of "Fallout" and "Fallout 2" shall remain the exclusive property of Interplay. All assets of *Fallout 3* and every other property of every kind developed pursuant to this Agreement shall be the exclusive property of Bethesda under the terms and conditions set forth herein.

9. Ownership Rights;

No Approval Rights:

(i) As set forth above, all property developed by or on behalf of Bethesda under this Agreement shall be the exclusive property of Bethesda, including but not limited to artwork, source code, game design, game play features, audio and visual elements, video games, artwork, hint books, clue books and strategy guides, text and translations, advertisements, packaging and any other media or other use of the Licensed Property. Bethesda shall maintain the high quality of the Licensed Property in connection with the use of the *Fallout* mark so as not to impair the reputation and quality now and heretofore associated with Interplay and its trademarks.

(ii) Interplay shall have no rights to review or approve any exercise by Bethesda of its rights under this Agreement. Without limiting the foregoing, Interplay shall have no right to approve any aspect of any game or other property developed hereunder, and shall have no approval rights over game content, game design, branding, packaging, marketing, promotion and/or sales.

10. Consideration:

As sole and exclusive consideration for all rights granted hereunder, Bethesda shall pay Interplay, by wire transfer in immediately available U.S. dollar-denominated funds, the sum of One Million Two Hundred Fifty Thousand Dollars (US\$1,250,000) ("*Original Advance*"), payable as follows:

- (i) Five Hundred Thousand Dollars (US\$500,000) ("*Initial Advance*"), payable upon execution of this Agreement;
- (ii) Seven Hundred Fifty Hundred Thousand Dollars (US\$750,000) ("*Second Advance*"), payable ninety (90) days after payment of the Initial Advance.

Sequels to "Fallout 3". Interplay grants Bethesda the rights to develop two additional Sequels to "*Fallout 3*", tentatively titled "*Fallout 4*" and "*Fallout 5*" ("*Second Sequel*" and "*Third Sequel*", respectively). The term, "*Sequel*", shall only refer to an entirely new, full fledged Licensed Property interactive software video game on the PC, Xbox[®]2 and/or PlayStation[®]3 Platform (and next generation versions thereof) branded as a "*Fallout*" property and developed as a Sequel to "*Fallout 3*" and, without limiting the foregoing, shall not include any new or additional content to the Licensed Property designated by Bethesda for sale as an add-on and/or expansion pack or combination of same with an existing Sequel, or

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any other property or SKU other than a Sequel as defined herein ("additional content"). Bethesda shall have the right to develop and sell any and all such additional content without having to pay Interplay monies due under this Agreement in connection with the development of a Sequel.

Unless Bethesda gives written notice to Interplay no later than six (6) months after the date of the initial shipment for commercial release of "Fallout 3" that it does not intend to develop the Second Sequel of the Licensed Property under this Agreement, Bethesda shall be deemed to have exercised its rights to the Second Sequel and shall pay One Million Dollars (US\$1,000,000) ("Second Sequel Advance"), to Interplay, as follows:

- (iii) Five Hundred Thousand Dollars (US\$500,000), payable six (6) months after the date of the initial shipment for commercial release of "Fallout 3"; and
- (iv) Five Hundred Thousand Dollars (US\$500,000), payable nine (9) months after the date of the initial shipment for commercial release of "Fallout 3".

Unless Bethesda gives written notice to Interplay no later than six (6) months after the date of the initial shipment for commercial release of the Second Sequel that it does not intend to develop a Third Sequel, Bethesda shall be deemed to have exercised its rights to such Third Sequel and shall pay One Million Dollars (US\$1,000,000) ("Third Sequel Advance") to Interplay, as follows:

- (v) Five Hundred Thousand Dollars (US\$500,000), payable six (6) months after the date of the initial shipment for commercial release of the Second Sequel; and
- (vi) Five Hundred Thousand Dollars (US\$500,000), payable nine (9) months after the date of the initial shipment for commercial release of the Second Sequel.

In the event that Bethesda exercises its refusal rights under Section 6(ii) above, the arrangement for the Second and Third Sequels shall apply to any subsequent Sequel after "Fallout 5", unless otherwise agreed to by Bethesda in writing. The advance payments for each such subsequent Sequel shall be deemed a "Future Sequel Advance" hereunder. Bethesda may give written notice at any time that it does not intend to develop another Sequel and said notice, if given, shall terminate Bethesda's obligation to pay the Second Sequel Advance, Third Sequel Advance, or any Future Sequel Advance, as the case may be, and shall terminate any rights of Bethesda to develop any Future Sequels.

Except for royalties set forth in Section 12, in no event shall Bethesda be obligated to make payments of more than US\$1,250,000 to Interplay for "Fallout 3", or US\$1,000,000 for "Fallout 4", "Fallout 5" or any additional Sequel (if Bethesda exercises its refusal rights), it being the agreement of the parties that for each Sequel after "Fallout 3" that Bethesda thereafter develops, Interplay shall be entitled to receive US\$1,000,000 per game on the basis provided. Nothing herein shall obligate

Bethesda to develop and/or sell any Sequel or any other property under this Agreement, the timing and exercise of all rights granted hereunder being matters entirely within the discretion of Bethesda. Notwithstanding the foregoing, the date of the initial shipment for commercial release of Fallout 3 shall be no later than December 31, 2007, failing which, said date of December 31, 2007 shall be deemed to have been the ship date of Fallout 3 solely for purposes of triggering the provisions hereunder relating to the Second Sequel and timing of the payment of the Second Sequel Advance under this section 10, and for no other purpose; provided, however, that if a Fallout MMOG shall have been released prior to December 31, 2007 and the initial shipment date of Fallout 3 shall not yet have occurred, then said date of December 31, 2007 shall be extended at Bethesda's sole discretion for up to an additional nine months for said purpose of triggering the Second Sequel and Second Sequel Advance provisions. All payments made by Bethesda to Interplay shall be deemed "*Total Advances*" and recoupable against Royalties (defined below) and cross collateralized across all SKUs under this Agreement.

**11. Exploitation
Costs:**

Bethesda shall have the sole responsibility and obligation for the costs of exploiting the Licensed Property under this Agreement, including the costs of development, manufacturing, packaging, distribution, promotion and sale of units of the Licensed Property hereunder ("*Exploitation Costs*").

12. Royalties:

Provided Interplay is not in material breach of this Agreement, at the time Bethesda submits a Quarterly Report (defined below) and upon receipt of a Royalty invoice from Interplay, Bethesda shall pay Interplay a Royalty of twelve percent (12%) of Net Cash Receipts derived directly from SKU Units Sold in the Territory during the calendar quarter immediately preceding the invoice date. The term, "*SKU Units Sold*", shall mean a SKU Unit of "*Fallout 3*" and any games developed as Sequels to "*Fallout 3*" ("*Fallout 4*", "*Fallout 5*", etc.) sold, in English or localized, and with respect to which Bethesda has received payment in full and has not subsequently provided a refund. Bethesda shall have the right to recoup the Total Advances paid to Interplay under this Agreement. The term, "*Net Cash Receipts*", shall mean the monies actually collected by Bethesda from the sale and distribution of SKU Units Sold in the Territory ("*Total Cash Receipts*") less:

- (i) Exploitation Costs, including but not limited to all costs of goods (materials, manufacture and assembly of final packaged units), testing and quality assurance, platform manufacture royalties, internet service fees, and sales expenses;
- (ii) Marketing expenditures, including paid ads, promotions, and co-ops;
- (iii) Any taxes (such as value added taxes), duties and the like on the sale of SKU units (excluding taxes on Bethesda's net income);
- (iv) Allowances for trade discounts, price protections and credits, rebates or returns with respect to SKU units;
- (v) Sales commissions, similar fees, compensation and directly related costs paid to third party sales representatives or rack servicers;
- (vi) Insurance, packing, custom duties, shipping and procurement charges;
- (vii) Promotional amounts, such as credits, cash discounts, freight discounts, rebates or promotional allowances to customers; and
- (viii) Amounts for returns, such as credits, refunds or allowances.

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**13. Quarterly Reports;
Invoicing:**

Bethesda agrees to provide Interplay with a written royalty report forty-five (45) days following the end of each calendar quarter ("*Quarterly Report*"), which report shall include the following information:

- (i) Number of SKU Units Sold – launch to date (includes any returns and defectives);
- (ii) Total Cash Receipts for SKU Units Sold;
- (iii) Less Deductions for said Units;
- (iv) Net Cash Receipts;
- (v) Total launch-to-date Royalties earned;
- (vi) Less Total Advances paid to Interplay;
- (vii) Less any prior period Royalty payments made;
- (viii) Royalties for the Quarter (item (v) minus items (vi) through (vii));
- (ix) Less ten percent (10%) of the Royalties for the Quarter as a reserve, adjusted quarterly, for returns and defectives;
- (x) Net Royalties due for the Quarter.

Upon receipt of a Quarterly Report from Bethesda, Interplay shall submit an invoice to Bethesda for the Royalties due. Bethesda shall pay the royalties due within 10 business days of receipt of the Royalty invoice from Interplay. In the event that Bethesda does not make payment of undisputed Royalties within ten (10) business days following receipt of Interplay's invoice, Bethesda shall pay Interplay one percent (1%) per month up to a maximum of five percent (5%) of the unpaid Royalties. Bethesda shall not be required to submit Quarterly Reports regarding a SKU if there have been no sales of such SKU for more than two (2) calendar quarters.

14. Termination With

Cause; Effects: (i) Either party may terminate this Agreement upon ten (10) business days' written notice to the other party ("*notice of termination*") upon a violation or breach by the other party or any party acting on its behalf of any material provision of this Agreement, if such violation is not cured within fifteen (15) days following written notice specifying the breach. In addition to the foregoing, if a party becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceedings under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated its business, voluntarily or otherwise, and same has not been discharged or terminated within forty-five (45) days, the other party has the right to treat said occurrence as an Event of Breach. Each violation, material breach, or occurrence specified in this paragraph shall be referred to as an "*Event of Breach*".

(ii) In case of an Event of Breach by Interplay which is not cured, following a notice of termination by Bethesda, the Agreement may be terminated by Bethesda, and in that event, all ownership rights in and to the Licensed Property shall immediately be deemed transferred free and clear to Bethesda, Bethesda shall have no further obligations to Interplay hereunder, and Interplay shall promptly execute and deliver to Bethesda any and all instruments, certificates, and documents as Bethesda deems necessary or appropriate to confirm such transfer of all ownership rights, provided, however, Bethesda shall continue to make payments as specified

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under Section 12 above. All rights and licenses granted under or pursuant to this Agreement by Interplay to Bethesda are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the United States Bankruptcy Code, 11 U.S.C. Section 101, *et seq.* (the "*Bankruptcy Code*"), licenses of rights to "intellectual property" as defined under Section 101(56) of the Bankruptcy Code. The parties agree that Bethesda, as a licensee of such rights and licenses, shall retain and may fully exercise all of its rights and elections under the Bankruptcy Code, provided it abides by the terms of this Agreement.

(iii) In case of an Event of Breach by Bethesda which is not cured, following a notice of termination by Interplay, the Agreement may be terminated by Interplay. Bethesda shall not be obligated to make any further payments under this Agreement, except as to Royalties due and owing as of the date of termination, and all rights granted hereunder to Bethesda shall revert to Interplay.

15. Representations and Warranties:

In addition to the representations and warranties of exclusive ownership under section 7, Interplay represents and warrants to Bethesda that: (i) it has full power, right and authority to enter into this Agreement and to carry out its obligations and grant and assign the rights granted and assigned to Bethesda under this Agreement, and has taken all necessary corporate action to make this a legally binding contract; (ii) the making of this Agreement does not violate any agreement existing between Interplay and any other person or entity, and throughout the Term, Interplay shall not make any agreement with any person or entity that is inconsistent with any of the provisions of this Agreement; (iii) there are no liens, claims, mortgages or encumbrances against the Licensed Property and any components thereof, and as of the Effective Date Interplay has not, directly or indirectly, licensed, assigned or otherwise transferred any of the rights granted herein to any third party respecting the use of the name, assets, and/or brand of *Fallout*; and (iv) the Licensed Property and Bethesda's exercise of the rights granted and assigned by Interplay hereunder with respect to the same will not infringe, misappropriate or violate the intellectual property rights of any third party.

Bethesda represents and warrants to Interplay that: (i) it has full power, right and authority to enter into this Agreement and to carry out its obligations under this Agreement, and has taken all necessary corporate action to make this a legally binding contract; (ii) the making of this Agreement does not violate any agreement existing between Bethesda and any other person or entity; and (iii) Bethesda's exercise of the rights granted and assigned to it hereunder will not infringe any patent, copyright, trademark, trade secret or other right of any third party.

16. Relationship of the Parties:

The parties agree that their relationship hereunder is in the nature of independent contractors. No party shall be deemed to be the agent, partner, joint venture, franchisor-franchisee, or employer-employee of any other, and no party shall have any authority to make any agreements or representations on the other's behalf unless expressly provided for hereunder. Each party shall be solely responsible for the payment of compensation, insurance and taxes of its own personnel, and such personnel are not entitled to the provisions of any employee benefits from the other party.

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17. Limitation of Liability:

Neither party shall be liable to the other or any third party on any legal theory for any special, incidental or consequential damages arising out of or in connection with this Agreement, including loss of revenue or profit, or harm to reputation or goodwill, even if such party has been advised of the possibility of such damages.

18. Indemnification:

Each party agrees to indemnify, defend and hold the other party harmless from and against any action brought against the other party with respect to any claim, demand, cause of action, debt, loss or liability, including reasonable attorneys' fees, to the extent such action is based upon or arises out of a claim that, if true, would constitute a breach of the proposed indemnifying party's respective representations and warranties set forth in section 15 above.

With respect to a party's indemnification obligations hereunder, each party agrees to: (i) give the other party prompt written notice of any claim, action, suit or proceeding for which the first party is seeking indemnity; and (ii) reasonably cooperate with the other party with respect to the defense of the action. A party may participate, at its own cost, in the defense and settlement of such action through counsel of its choice. In no event may a party settle any such action in a manner that adversely affects the first party of its rights, without the first party's express prior written consent.

19. General Provisions:

(i) **Assignment.** Each party is free to assign, sell or otherwise transfer any or all its rights or delegate any or all its duties under this Agreement without the prior written consent of the other party. No consent of the other party is required in connection with an acquisition, merger or reorganization of either party, under which the surviving party after such reorganization, merger or reorganization agrees to accept all obligations of the merged, acquired or reorganized party under this Agreement. This Agreement shall apply to, inure to the benefit of, and be binding upon, each party's successors and assigns.

(ii) **Governing Law.** This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Delaware, USA, without regard to principles of conflict of laws. Each party agrees that sole and exclusive jurisdiction and venue for any action or litigation arising from or relating to this Agreement shall be an appropriate federal or state court located in the State of Delaware. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement or to any dispute arising out of this Agreement.

(iii) **Force Majeure.** No party shall be responsible for delays or failure of performance resulting from acts beyond the reasonable control of such party. Such acts shall include, but not be limited to, acts of God, terrorism, strikes, riots, acts of war, epidemics, power failure(s), earthquakes, or other disasters.

(iv) **All Amendments in Writing.** No supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement.

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(v) **No Waiver.** A failure of any party to exercise any right provided for herein shall not be deemed to be a waiver of any right hereunder.

(vi) **Entire Agreement.** The parties have read this Agreement and agree to be bound by its terms, and further agree that it constitutes the complete and entire agreement of the parties and supersedes all and merges all previous communications, oral or written, and all other communications among them relating to the subject matter hereof. No representations or statements of any kind made by any party that are not expressly stated herein shall be binding on such party.

(vii) **Severability.** In the event that any provision of this Agreement is held invalid by a court with jurisdiction over the parties, such provision shall be deemed to be restated to be enforceable, in a manner which reflects, as nearly as possible, the original intentions of the parties in accordance with applicable law. The remainder of this Agreement shall remain in full force and effect.

(viii) **Notice.** Any notices hereunder shall be provided in writing to the addresses set forth below (or such other addresses as shall be properly notified), and shall be sent by FedEx (or similar service), signature on receipt required:

To Bethesda: Vlatko Andonov
President
Bethesda Softworks LLC
1370 Piccard Drive, Suite 120
Rockville, MD 20850
Tel: 301 926 8300; Fax: 301 926 8010

with a copy to:

J. Griffin Leshner
Vice President -Legal
ZeniMax Media Inc.
1370 Piccard Drive, Suite 120
Rockville, MD 20850
Tel: 301 963 2000; Fax: 301 990 7025

To Interplay: Herve Caen
Chief Executive Officer
Interplay Entertainment Corp.
16815 Von Karman Avenue
Irvine, CA 92606
Tel: 310 432 1955; Fax: 310 432 1959

with a copy to:

Legal Dept.
Interplay Entertainment Corp.
16815 Von Karman Avenue
Irvine, CA 92606
Tel: 310 432 1955; Fax: 310 432 1959

ACKNOWLEDGED AND AGREED TO:

Bethesda Softworks LLC
a ZeniMax Media company

By: *V. Andonov*
Name: Vlatko Andonov
Title: President

Date: JUNE 29, 2004

Interplay Entertainment Corp.

By: *[Signature]*
Name: Herve Caen
Title: Chief Executive Officer

Date: June 29, 2004

**Addendum
To
Exclusive Licensing Agreement**

This ADDENDUM ("*Addendum*") is made this 19 day of August 2004, to a certain Exclusive Licensing Agreement dated June 29, 2004 ("*Agreement*") entered into by and between Bethesda Softworks LLC, a Delaware company wholly owned by ZeniMax Media Inc., a Delaware corporation ("*Bethesda*") and Interplay Entertainment Corp., a California corporation ("*Interplay*") (each being a "*party*" and collectively, the "*parties*"). All capitalized terms shall be as defined in the Agreement, unless otherwise indicated herein.

In consideration of the mutual promises and covenants contained herein and in the Agreement, the parties hereby agree:

1. **Section 10. Consideration:**

(a) The first paragraph of section 10 of the Agreement is deleted and the following substituted in lieu thereof:

"As sole and exclusive consideration for all rights granted hereunder, Bethesda shall pay Interplay, by wire transfer in immediately available U.S. dollar-denominated funds, the sum of **One Million One Hundred and Seventy-Five Thousand Dollars (US\$1,175,000)** ("*Original Advance*"), payable as follows:

"(i) **Five Hundred Thousand Dollars (US\$500,000)** ("*Initial Advance*"), payable upon execution of the Agreement; and

"(ii) **Six Hundred and Seventy-Five Thousand Dollars (US\$675,000)** ("*Second Advance*"), payable August ²⁸~~16~~, 2004."

(b) The first sentence of the sixth paragraph of section 10 of the Agreement is deleted and the following substituted in lieu thereof:

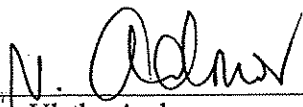
"Except for royalties set forth in Section 12, in no event shall Bethesda be obligated to make payments of more than US\$1,175,000 to Interplay for "*Fallout 3*", or US\$1,000,000 for "*Fallout 4*", "*Fallout 5*" or any additional Sequel (if Bethesda exercises its refusal rights), it being the agreement of the parties that for each Sequel after "*Fallout 3*" that Bethesda thereafter develops, Interplay shall be entitled to receive US\$1,000,000 per game on the basis provided."

2. **Effect of this Addendum:**

Except as specifically set forth in this Amendment, the parties agree that all definitions, terms and conditions set forth in the Agreement remain in full force and effect and in all respects are hereby ratified and affirmed.

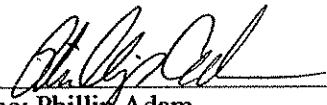
ACKNOWLEDGED AND AGREED TO:

Bethesda Softworks LLC
a ZeniMax Media company

By: 
Name: Vlatko Andonov
Title: President

Date: 8/19/2004

Interplay Entertainment Corp.

By: 
Name: Phillip Adam
Title: President

Date: 8/19/2004

