



## Touch Type Tale EULA

### SOFTWARE LICENSE AGREEMENT

Effective Date: 30th November, 2022.

#### SUMMARY

1. This Agreement is legally binding on you when you access and play our game(s).
2. Everything contained in this Agreement is important and should be read by you, but we particularly draw your attention to sections 4 and 5 (which set out what happens if there's an issue or dispute between us)
3. There are certain circumstances where we are liable to you, and others where we are not or where our liability is limited – this is set out in section 7.
4. There are certain situations where you might have to compensate us for damage we suffer (e.g. if you breach this Agreement) – this is set out in section 8.
5. We may need to vary or withdraw our game(s) in certain situations (e.g. to make technical improvements) which we discuss in sections 1.4 and 3.1. If we decide to stop providing the game(s) permanently, we'll try to give you at least 60 days' notice (please see section 3.2 for further details).
6. There are a number of rules you must follow when using our game(s) in section 2.3 (for example, no hacking) – if you break these rules then we may stop you accessing our game(s) (temporarily or permanently).
7. There are summaries at the start of each section, but remember the full version is what is legally binding.
8. If you've got any questions or concerns about this Agreement, please feel free to email us at [info@pumpernickel-studio.com](mailto:info@pumpernickel-studio.com)

FOR USERS NOT IN THE UNITED KINGDOM OR EUROPEAN UNION, THIS AGREEMENT CONTAINS A BINDING INDIVIDUAL ARBITRATION AND CLASS ACTION WAIVER PROVISION IN THE "DISPUTE RESOLUTION; BINDING INDIVIDUAL ARBITRATION; CLASS ACTION WAIVER" SECTION 5 THAT AFFECTS HOW DISPUTES ARE RESOLVED BETWEEN YOU AND US. THESE PROVISIONS SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT AND TO HAVE A JURY HEAR YOUR CLAIMS. YOU HAVE A TIME-LIMITED RIGHT TO OPT OUT OF THE BINDING INDIVIDUAL ARBITRATION REQUIREMENT AS EXPLAINED BELOW.

1. About us and this Agreement.

SUMMARY: We're Pumpernickel Studios! This document applies to our game(s) (such as Touch Type Tale), and we can change these rules as set out below. If you are under 18, please ask your parent or guardian to review and agree to these terms.

1.1. Who we are and our Software. This Software License Agreement (“Agreement”) is a legal agreement between you (referred to as “you” or “your”) and Pumpernickel Studios (“Company”, “we”, “our”, or “us”), covering your use of the software, interactive entertainment product, or downloads provided by us (including without limitation games and apps, any updates and upgrades thereto, and all features, content, and documentation provided with or for the foregoing) and made available for download or use (collectively, the “Software”). Please read this Agreement carefully. By indicating your acceptance of this Agreement, or by continuing to use the Software after being notified of a change to this Agreement, you agree to be bound by the terms of this Agreement (including its dispute resolution terms).

1.2. Age restrictions. To accept this Agreement, you must be and hereby affirm that you are of the legal age of majority in your country of residence or 18 years of age (whichever is older). If you are under the legal age of majority in your jurisdiction or 18 years of age (whichever is older), your parent or legal guardian must consent to this Agreement on your behalf. If you are the parent or guardian of children under the age of majority in their jurisdiction or 18 years of age (whichever is older), you agree that you will be responsible for all uses of the Software by your child whether or not such uses were authorized by you.

1.3. Other documents. Please also review our Privacy Policy , which explains what information we collect and how we protect it.

1.4. Changes to the Software and the Agreement. We may make changes to the Software and/or this Agreement for reasons such as to reflect changes in relevant laws or regulatory requirements and/or to implement technical changes or improvements (for example, to address a security issue and/or changes in our business practices). If we make minor changes, these changes should not impact your use of the Software. If we make more significant changes to the Software or this Agreement, or in the unlikely event we suspend or permanently discontinue the Software, we will notify you in advance and, where appropriate, you may be entitled to a partial refund (see section 3.2 below).

1.5. Content. The Software contains: (i) materials and other items relating to us and our products and services, and similar items from our licensors, and other third parties, including all information, text, data, files, images, scripts, designs, graphics, instructions, illustrations, photographs, sounds, titles, themes, objects, characters, names, dialogue, locations, stories, animation, concepts, music, audio-visual effects, pictures, videos, copy, URLs, technology, software, interactive features, the “look and feel” of the Software, and the compilation, assembly, and arrangement of the materials of the Software and any and all copyrightable material; (ii) trademarks, logos, trade names, trade dress, service marks, and trade identities of various parties, including those of Company; and (iii) other forms of intellectual property (all of the foregoing, collectively “Content”). We reserve the right to remove any Content from the Software for any reason, including if it infringes the intellectual property of any person.

1.6. Third Party Services. We may also provide access (paid or unpaid) to content, software, products, platforms, and services operated by companies or entities other than us (“Third Party Services”). If you choose to access, transact with, or otherwise interact with any such Third Party Services, you do so at your own risk, and you understand that by using our Software you are directing the applicable company or entity to make Third Party Services available to you. You are responsible for your dealings with third parties. When you use the

Software to access Third Party Services, the applicable terms of this Agreement and any applicable usage terms associated with the Third Party Services will govern your use of that Third Party Service. We do not endorse any Third Party Services made available or marketed on or through the Software. We do not license any intellectual property to you as part of any Third Party Services, and we are not responsible or liable to you or others for information or services provided by any Third Party Services or for the results obtained from using them.

1.7. Epic Online Services. The Software uses Epic Online Services ("EOS"), which is operated by Epic Games, Inc. and includes client software ("EOS Software") that is integrated into the game software. When you start a new game session, the latest version of the EOS Software will automatically be loaded to your device without any notice to you. The EOS software is used solely for providing EOS functionality such as authentication, login, voice-chat and in-game social overlays. For more information, please visit <https://dev.epicgames.com/services>.

## 2. Software License.

SUMMARY: You have a personal right to use our Software, but we continue to own it. We also set out what you can and cannot do with our Software. Your right to use our Software is:

- non-exclusive, meaning that we can grant the same or similar licenses to other people as well;
- personal, not transferable and not sub-licensable, meaning that the license is only for your benefit and you may not grant the license to anyone else (only we may grant licenses to use the Software);
- revocable, meaning that we can terminate this license in the circumstances set out in this Agreement;
- non-commercial, meaning that you can only use the Software for your own personal entertainment purposes and not for commercial purposes;
- limited to using the Software for the purposes we set out in this Agreement and for the duration that the Agreement is in force; and
- conditional on you abiding by the Agreement's Terms.

2.1. Limited License. IF YOU DO NOT ACCEPT THIS AGREEMENT, YOU HAVE NO RIGHT TO AND MUST NOT DOWNLOAD OR USE THE SOFTWARE. If you comply with this Agreement, we grant you a limited, non-exclusive, revocable, non-assignable, non-sublicensable, personal, and non-transferable license to install and use one copy of the Software per device on a worldwide basis for use by only one person at a time, in each case for your personal, non-commercial use only. If documentation is provided with the Software, you may copy and use the documentation for personal reference purposes. The Software may include third-party code. Any third-party scripts or code, linked to or referenced from the Software, are licensed to you by the third parties that own such code, not by us.

2.2. Scope of License. The Software is licensed, not sold, and we reserve all rights to the Software and Content not expressly granted by us, whether by implication, estoppel, or otherwise. The limited license granted in this Agreement does not give you any ownership of, or any other intellectual property interest in, any Software and/or Content. Your unauthorized use of the Software and/or Content may violate copyright, trademark, privacy, publicity, communications, and other laws, and any such use may result in your personal liability, including potential criminal liability.

2.3. Restrictions. The limited license granted in this Agreement does not give you any right to and you may not: (i) use the Software or Content for any political or commercial purpose; (ii) publish, copy, rent, lease, sell, export, import, distribute, or lend the Software or Content unless we expressly authorize you to do so; (iii) engage in any activity in connection with the Software or Content that is unlawful, harmful, offensive, sexually explicit, obscene, violent, threatening, harassing, abusive, falsely representative of your persona, invasive of someone else's privacy, or otherwise objectionable to us; (iv) harvest any information from the Software or Content; (v) disassemble, decompile, decrypt, hack, emulate, exploit, or reverse engineer or modify the Software or Content; (vi) interfere with the proper operation of or any security measure and/or circumvent or bypass any technological protection measures used by the Software or Content; (vii) infringe any intellectual property or other right of any third party; (viii) use the Software or Content in a manner that suggests an unauthorized association or is beyond the scope of the limited license granted to you; or (ix) otherwise violate this Agreement or any applicable third-party terms. You agree to comply with all local, state, federal, national, foreign, and international laws, statutes, ordinances, regulations, treaties, directives, and agreements that apply to your use of the Software and Content. Breach of this section will result in your access to the Software being revoked, either temporarily or permanently.

2.4. Ownership. All right, title, and interest in and to the Software and the Content is the property of Company or our licensors, or certain other third parties, and is protected by U.S. and international copyright, trademark, trade dress, patent and/or other intellectual property and unfair competition rights and laws to the fullest extent permitted by applicable law.

### 3. Software Features.

SUMMARY: sometimes we may need to update or upgrade the Software, which also means it may be unavailable from time to time.

3.1. Updates. We may provide patches, updates, or upgrades to the Software that may be required to continue using the Software (e.g. to add or remove features, to resolve software bugs), however the Software will still match the description of it that we provided before your purchase. The Software will have minimum technical requirements and it is your responsibility to ensure you meet these requirements before downloading or using the Software.

3.2. Availability. The Software and Content may be unavailable from time to time (for example, to issue a security update), or may vary depending on your region or device. If you change locations, you may need to re-acquire the Software or Content that were available to you and paid for in your previous region, if applicable. The Company Parties (defined below) are not liable for any disruption or loss you may suffer as a result of any occasional disruptions and outages in availability of the Software. In the event of an outage, you may not be able to retrieve your information that you've stored. We may suspend or terminate the availability of the Software and Content, in whole or in part, to any individual user or all users, for any reason. If we stop providing the Software and/or Content permanently, we will try and give you at least 60 (sixty) days' notice (though we may not always be able to) and you may, where appropriate, be entitled to a full or partial refund. Upon suspension or termination of your access to the Software/Content, or upon notice from us, all rights granted to you under this Agreement will cease immediately, and you agree that you will immediately discontinue use of the Software and

Content.

#### 4. Governing Law, Jurisdiction and Disputes in the UK and EU.

##### SUMMARY:

- For UK and EU users, this Agreement is governed by English law and any disputes will be in English courts (unless you bring a claim in your home country, if not England). We agree that we will try and resolve any dispute informally first.
- For users in the US and elsewhere in the world, this Agreement is governed by the State of New York.

4.1. FOR USERS RESIDENT IN THE UNITED KINGDOM OR EUROPEAN UNION ("EU"): You and we agree that your use the Software and this Agreement, any issues arising out of them, will be governed by and interpreted according to the laws of England and any dispute regarding it will be under the jurisdiction of the courts of England. This does not exclude any mandatorily applicable rules or remedies which are available to you under the law of your country of residence (if not England).

If you have any concerns or issues, you can contact us at [info@pumpnickel-studio.com](mailto:info@pumpnickel-studio.com) where we hope we can resolve any complaints with you informally. We and you both agree to make reasonable and good faith efforts to resolve any dispute between us informally.

If you reside in the EU, you may also be entitled to submit your complaint to the European Commission's Online Dispute Resolution ("ODR") Platform. ODR allows EU consumers to resolve disputes related to the online purchases of goods and services without going to court.

4.2. FOR USERS RESIDENT IN THE UNITED STATES OR REST OF WORLD (NOT THE UNITED KINGDOM OR EUROPEAN UNION): This Agreement is entered into in the State of New York and shall be governed by, and construed in accordance with, the laws of the State of New York without regard to any state's choice or conflict of law rules. For any claims not subject to binding individual arbitration, you and the Company agree to submit to the exclusive jurisdiction of the state and federal courts in New York County, New York, and you and the Company hereby consent to venue in and personal jurisdiction before such courts (but without prejudicing either party's rights to remove a case to federal court if permissible). This paragraph will be interpreted as broadly as applicable law permits. We have the right to prosecute civil claims against you for any violation of this Agreement, or any other governing terms and conditions related to the Software, whether for breach of contract, violation of common law rights, or violation of any applicable state or federal statute.

#### 5. Dispute Resolution; Binding Individual Arbitration; Class Action Waiver (outside the UK and EU).

SUMMARY: for users not in the UK and EU, we will try and informally resolve the dispute first or you can bring your claim in small claims court. After this, any arbitration will be on an individual basis only.

PLEASE READ THIS SECTION CAREFULLY – IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT AND TO HAVE A JURY HEAR YOUR CLAIMS.

IMPORTANT: this section 5 does not apply to users in the United Kingdom or European Union.

Most issues can be resolved quickly and amicably by contacting Company's customer support at [support@pumpernickel-studio.com](mailto:support@pumpernickel-studio.com). But we understand that sometimes disputes can't be easily resolved by customer support. This Section explains how you and Company agree to resolve those disputes, including (where applicable) by binding, individual arbitration.

Arbitration is an alternative dispute-resolution process and allows us to seek to resolve Disputes (defined below) without the formality or expense of litigating in court. Arbitration is often faster and less expensive than formal court litigation. Any qualifying Dispute between you and us will be submitted to a neutral arbitrator instead of being presented in court to a judge or jury. If you wish to opt-out of this binding individual arbitration requirement, you must comply with the opt-out process set forth in the "Your 30-Day Opt-Out Right" paragraph below. This Binding Individual Arbitration agreement will not apply to the extent prohibited by the laws of your country of residence.

#### 5.1. Informal Resolution.

If you have an issue that our customer support can't resolve, before starting arbitration you and Company agree to attempt to resolve the Dispute informally to help get us to a resolution and control costs for both parties. You and Company agree to make a good-faith effort to negotiate any Dispute between us for at least 30 days ("Informal Resolution"). Those informal negotiations will start on the day you or Company receive a written Notice of a Dispute (defined below) in accordance with this Agreement.

If you have a Dispute with us, you will send written notice to Pumpernickel Studios ATTN: NOTICE OF DISPUTE, Windthorststrasse 68, 48147 Muenster, GERMANY in order to give us the opportunity to resolve the Dispute through Informal Resolution ("Notice of Dispute"). Include your name, registered email address you use to play the Software, address, how to contact you, what the problem is, and what you want Company to do. If Company has a Dispute with you, Company will send our Notice of Dispute to your registered email address and any billing address you have provided us.

If the Dispute isn't resolved by Informal Resolution or small-claims court (below), you or Company may start an arbitration in accordance with this Agreement.

#### 5.2. Small Claims Court.

Instead of using Informal Resolution, you and Company agree that you may sue us in small-claims court in your choice of the county where you live or New York County, New York (if you meet the requirements of small-claims court). We hope you'll try Informal Resolution first, but you don't have to before going to small-claims court.

#### 5.3. Binding Individual Arbitration.

THE ARBITRATION PROCEEDINGS IN THIS SECTION WILL BE CONDUCTED ON AN INDIVIDUAL BASIS

ONLY.

You and Company agree that Disputes will be settled by binding individual arbitration conducted by the Judicial Arbitration Mediation Services, Inc. ("JAMS") subject to the U.S. Federal Arbitration Act and federal arbitration law and according to the JAMS Streamlined Arbitration Rules and Procedures effective July 1, 2014 (the "JAMS Rules") as modified by this Agreement.

This means that You and Company agree to a dispute-resolution process where we submit any Dispute to a neutral arbitrator (not a judge or jury) that makes the final decision to resolve the Dispute. JAMS uses experienced professionals to arbitrate disputes, which helps you and Company resolve any disputes fairly, but more quickly and efficiently than going to court. The arbitrator may award the same remedies to you individually as a court could, but only to the extent required to satisfy your individual claim.

The arbitrator's decision is final, except for a limited review by courts under the U.S. Federal Arbitration Act, and can be enforced like any other court order or judgment.

**5.3.1. Disputes We Both Agree to Arbitrate.** You and Company agree to submit all Disputes to individual binding arbitration that cannot be resolved through Informal Resolution or small-claims court. "Dispute" means any dispute, claim or controversy (except those listed in the "Exclusions from Arbitration" paragraph below) between you and Company that relates to your use or attempted use of the Software (including any Content), all matters under this Agreement, the Privacy Policy, the Terms of Service, or any other agreement between you and Company including the validity, enforceability, and scope of this Binding Individual Arbitration agreement, whether based in contract, statute, regulation, ordinance, tort (including fraud, misrepresentation, fraudulent inducement, or negligence), or any other legal or equitable theory. You understand that there is no judge or jury in arbitration and that court review of an arbitration award is limited. You and Company agree that whether a dispute is subject to arbitration under this Agreement will be determined by the arbitrator rather than a court.

**5.3.2. Exclusions from Arbitration.** The Binding Individual Arbitration and Informal Resolution sections shall not apply to (i) individual actions duly filed in small claims court of competent jurisdiction on an individual basis; (ii) claims relating to the enforcement or validity of intellectual property rights, but not, for clarity, claims related to the license granted to you for the Software under this Agreement (iii) pursuit of enforcement actions through a government agency if the law allows; (iv) a complaint or remedy under the EU General Data Protection Regulation; (v) an action to compel or uphold any prior arbitration decision; (vi) Company's right to seek injunctive relief against you in a court of law to preserve the status quo while an arbitration proceeds; and (vii) the enforceability of the "No Class Actions" paragraph below. Such claims excluded from arbitration under this section are subject to the "Governing Law and Jurisdiction" section in this Agreement.

**5.3.3. Arbitration Procedures.** The party starting an arbitration must send JAMS a "Demand for Arbitration" (available on its website), pay a filing fee, and mail a copy of the Demand for Arbitration to the opposing party. You will send a copy to Pumpnickel Studio, ATTN: ARBITRATION OF DISPUTE, Windthorststrasse 68, 48147 Muenster, GERMANY]. Company will send our copy to your registered email address and any billing address you have provided us. The arbitration will be conducted by a single JAMS arbitrator selected with substantial experience in resolving intellectual-property and commercial-contract disputes. You and Company both agree

that the arbitration will be conducted in the English language and that the arbitrator will be bound by this Agreement. You and the Company agree, and the arbitrator shall issue an order providing, that all notices, pleadings, motions, discovery responses, depositions, testimony, and documents exchanged or filed related to arbitration proceedings be kept strictly confidential.

5.3.4. Decision of the Arbitrator. The arbitrator (not a judge or jury) will resolve the Dispute. Any decision or award by the arbitrator shall be final and binding on the parties. Unless otherwise agreed, any decision or award shall set forth the factual and legal basis for the award. The arbitrator shall be permitted to award only those remedies in law or equity which are requested by the parties and which the arbitrator determines are supported by credible relevant evidence. Unless otherwise expressly consented to by Company, the arbitrator may not award relief against Company respecting any person other than you. Any decision or award may be enforced as a final judgment by any court of competent jurisdiction or, if applicable, application may be made to such court for judicial acceptance of any award and an order of enforcement.

5.3.5. Arbitration Fees. If you start the arbitration, you must pay the JAMS filing fee required for consumer arbitrations. In some situations, Company will help with your fees to (hopefully) get us to a resolution quickly and fairly: if the Dispute involves \$10,000 or less, Company will pay all of the JAMS costs, including the fees you otherwise would have been required to pay. If the above doesn't apply to you, but you demonstrate that the arbitration costs are an undue burden, Company will pay as much of your arbitration filing and hearing fees as the arbitrator finds is necessary to prevent arbitration from being cost-prohibitive (as compared to the cost of litigation) excluding your attorneys' fees and costs. The fee assistance offered above is contingent upon you bringing the arbitration claim in "good faith". If the arbitrator finds you brought an arbitration claim against Company for an improper purpose, frivolously, or without a sufficient pre-claim investigation into the facts or applicable law, then the payment of all fees will be governed by the JAMS rules. Even if Company wins the arbitration, Company will not seek any portion of the JAMS fees or our attorneys' fees or expenses from you in any arbitration, even if the law or the JAMS Rules entitle us to do so. You will pay your own attorneys' fees and costs unless the applicable law provides otherwise.

5.3.6. Location of Arbitration. Arbitration may be conducted through the submission of documents, by phone, or in person. If an in-person hearing is required, the hearing will occur in either New York County, New York or where you reside; you choose.

5.3.7. Notice and Filing. If a Dispute must be arbitrated, you or Company must start arbitration of the Dispute within two (2) years of the events giving rise to the Dispute. If applicable law requires you to bring a claim for a Dispute sooner than two (2) years after the Dispute first arose, you must start arbitration in that earlier time period. Company encourages you to tell us about a Dispute as soon as possible so we can work to resolve it. Failure to provide timely notice will permanently bar all claims.

5.3.8. Continuation. This Binding Individual Arbitration section survives any termination of this Agreement or the provision of the Software to you by Company.

5.3.9. Future Changes to Agreement to Arbitrate. Although Company may revise this Agreement, the Privacy Policy, or other agreements or policies at its discretion, Company does not have the right to alter this agreement

to arbitrate or the rules specified herein with respect to any Dispute once that Dispute has accrued.

5.4. No Class Actions. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU AND COMPANY AGREE TO BRING DISPUTES UNDER THIS AGREEMENT ON AN INDIVIDUAL BASIS ONLY. The arbitrator may not combine or consolidate individual proceedings unless all parties to this Agreement and all other actions or arbitrations expressly consents to such consolidation. Neither you nor Company may arbitrate any dispute in a representative capacity, including, without limitation, as a representative member of a class, collective or class-wide arbitration, or in private attorney general actions. The arbitrator may award any relief permitted by applicable law with respect to your individual claim, but to the maximum extent permitted by applicable law, may not award relief against the Company respecting any person other than you.

5.5. Severability. If any clause within this Binding Individual Arbitration agreement is found to be invalid, unenforceable, or illegal, that clause will be severed and the remainder of this arbitration agreement will be given full force and effect. The only exception to this is the “No Class Actions” paragraph. If the “No Class Actions” paragraph is found to be invalid, illegal or unenforceable in its entirety, this entire arbitration agreement will be void and unenforceable, and the Dispute will proceed in court. Under no circumstances shall arbitration be conducted on a class basis without Company’s express consent. If, for any reason, a claim proceeds in court rather than in arbitration, the dispute shall be exclusively brought in state or federal court in New York County, New York. Suits brought in state court may be removed to federal court by either party if permissible by law.

5.6. Your 30-Day Opt-Out Right. YOU HAVE THE RIGHT TO OPT OUT OF THIS BINDING INDIVIDUAL ARBITRATION REQUIREMENT AND CLASS ACTION WAIVER. IF YOU DO NOT WISH TO BE BOUND BY THE BINDING INDIVIDUAL ARBITRATION AND CLASS ACTION WAIVER IN THIS AGREEMENT, YOU MUST NOTIFY US IN WRITING OF YOUR INTENT TO DO SO WITHIN 30 DAYS OF THE DATE THAT YOU FIRST ACCEPT THIS AGREEMENT UNLESS A LONGER PERIOD IS REQUIRED BY APPLICABLE LAW. Your written notification must be sent to Pumpernickel Studios, ATTN: ARBITRATION OPT-OUT, Windthorststrasse 68, 48147 Muenster, GERMANY. Your notice must include (1) your full name; (2) your mailing address; (3) your user account name, if you have one; and (4) a clear statement that you do not wish to resolve disputes with Company through arbitration. You are responsible for ensuring our receipt of your opt-out notice, and you therefore may wish to send a notice by means that provide a written receipt of delivery.

5.7. Remedies. In the event that you breach this Agreement, you hereby agree that we would be irreparably damaged if this Agreement were not specifically enforced, and therefore you agree that we shall be entitled, without bond, other security, or proof of damages, to obtain equitable remedies with respect to breaches of this Agreement, in addition to such other remedies as we may otherwise have available to us under applicable laws.

## 6. Warranty Disclaimer.

SUMMARY: for users not in the UK and EU, we provide the Software on a limited basis and we will not be responsible for issues related to it unless we set this out.

IMPORTANT: the section 6 does not apply to users in the United Kingdom or European Union.

6.1. Warranty Disclaimer. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE IS PROVIDED TO YOU "AS IS," "AS AVAILABLE," AND "WITH ALL FAULTS." NEITHER COMPANY, THE DIGITAL STOREFRONT, NOR ANY OF OUR OR ITS RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, AGENTS, OR LICENSORS (COLLECTIVELY, THE "COMPANY PARTIES") MAKE ANY REPRESENTATIONS, WARRANTIES, PROMISES, OR GUARANTEES OF ANY KIND WHATSOEVER AS TO THE SOFTWARE, CONTENT, THIRD PARTY SERVICES, OR OTHER SERVICES, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE. THE COMPANY PARTIES DO NOT WARRANT THAT THE SOFTWARE OR THIRD PARTY SERVICES WILL BE ACCURATE OR RELIABLE, UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, OR FREE OF VIRUSES. TO THE FULLEST EXTENT PERMITTED BY YOUR LOCAL LAW, THE COMPANY PARTIES DISCLAIM ANY IMPLIED WARRANTIES INCLUDING FOR NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND SATISFACTORY QUALITY.

## 7. Limitations of Our Liability.

### SUMMARY:

- For UK and EU users, we will be liable to you in limited circumstances and we do not exclude or limit our liability to you where we are not permitted to do so by law. Otherwise, any other liability to you will be capped at the amount you've paid us in the last 12 months under this Agreement.
- For users in the US and elsewhere in the world, our maximum liability to you will be \$500.

### 7.1. FOR USERS RESIDENT IN THE UNITED KINGDOM OR EUROPEAN UNION:

#### 7.1.1. Where we do not exclude or limit our liability.

We do not exclude or limit our liability to you where it would be unlawful to do so, this includes:

- death or personal injury caused by our negligence (or the negligence of our employees, agents or subcontractors);
- fraud or fraudulent misrepresentation;
- breach of your legal rights as a consumer; or
- for any other liability which may not be excluded by applicable law.

#### 7.1.2. Foreseeable loss and damage caused by us.

If we fail to comply with this Agreement, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this Agreement, or our failure to use reasonable care and skill. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the Agreement was agreed to, both we and you knew it might happen. We are not responsible for any loss or damage that is not foreseeable.

#### 7.1.3. Damage to your device or other digital content.

If the Software damages a device or digital content belonging to you, and this is caused by our failure to use reasonable care and skill, we will either repair the damage or pay you compensation. However, we will not be liable for damage which you could have avoided by following our advice to apply an update offered to you free of charge or for damage which was caused by you failing to correctly follow installation instructions or have in place the advised minimum technical requirements.

#### 7.1.4. Personal losses.

We only supply the Software for domestic and private use. If you use the Software for any commercial, business or re-sale purposes we will have no liability to you for any loss of profits, loss of business, business interruption or loss of business opportunity.

7.2. Subject to section 7.1 above, our total liability (and our group companies) arising out of or in connection with this Agreement will not exceed the total amount you have paid to us under this Agreement during the twelve (12) months immediately prior to the event which caused the liability.

7.3. FOR USERS RESIDENT IN THE UNITED STATE OR REST OF WORLD (NOT THE UNITED KINGDOM OR EUROPEAN UNION): TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE COMPANY PARTIES BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSSES OR DAMAGES, OR DAMAGES FOR SYSTEM FAILURE OR MALFUNCTION OR LOSS OF PROFITS, DATA, USE, BUSINESS OR GOOD-WILL, ARISING OUT OF OR IN CONNECTION WITH THE SOFTWARE OR THIS AGREEMENT, WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY, STATUTE OR ANY OTHER LEGAL OR EQUITABLE THEORY.

In the event you have any basis for recovering damages arising from the Software or a breach of this Agreement, you agree that your exclusive remedy is to recover from the Company Parties direct damages and the maximum liability is limited up to an amount equal to \$500.

#### 8. Your Responsibilities to Us.

SUMMARY: you agree to compensate us for any losses or damages due to your breaches of this Agreement.

8.1. FOR USERS RESIDENT IN THE UNITED KINGDOM OR EUROPEAN UNION: You will be responsible for compensating us for any losses, expenses or other costs which we incur as a result of you breaching the terms of this Agreement.

8.2. FOR USERS RESIDENT IN THE UNITED STATES OR REST OF WORLD (NOT THE UNITED KINGDOM OR EUROPEAN UNION): To the fullest extent permitted by applicable law, you agree to defend, indemnify and hold harmless the Company Parties from and against any and all claims, liabilities, damages, losses, costs and expenses (including, reasonable attorneys' fees and costs) arising out of or in connection with: (i) your breach or alleged breach of this Agreement; (ii) any information or content provided by you; and/or (iii) your acts or omissions. The Company Parties reserve the right to assume, at their own expense, the exclusive defense and control of any matter subject to indemnification by you, and in such case you agree to cooperate with our defense of any claim.

You are solely responsible for any third party costs you incur to use the Software, and you bear all risk of loss for accessing or downloading the Software.

#### 9. Termination.

SUMMARY: you can terminate this Agreement by stopping using the Software. We may suspend or terminate your access to the Software if you seriously breach this Agreement.

9.1. How you can terminate. You may stop using the Software and related services at any time and terminate this Agreement by destroying and/or deleting all copies of the Software in your possession.

9.2. How we can terminate. We may suspend or terminate your access to any aspects of the Software or Content immediately in the event you materially breach this Agreement or otherwise harm us, our staff or users.

9.3. What happens if this Agreement is terminated. If your use of the Software is terminated, whether by you or us, the rights granted to you under this Agreement will stop immediately, you must stop using the Software and Content.

## 10. Miscellaneous.

10.1. General. This Agreement is the entire agreement between you and us for your use of the Software. It supersedes any prior agreements between you and us regarding your use of the Software. We may assign this Agreement, in whole or in part, provided that this will not reduce your rights under this Agreement, or alternatively with your consent. This Agreement is personal to you, which means that you may not assign your rights or obligations under this Agreement or transfer any rights to use the Software without our prior written consent. All parts of this Agreement apply to the fullest extent permitted by applicable law. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable and the remaining provisions of this Agreement shall not be affected.

Paragraph 5.5 prevails over this section in the event of any inconsistency with it. Sections 1, 2.3, 2.4, 3.2, 3.3, 4, 5, 6, 7, 8, 9, 10 and those that by their nature apply after this Agreement ends will survive any termination or cancellation of this Agreement. We reserve the right to investigate and prosecute any suspected breaches of this Agreement or use of the Software. We may disclose any information as necessary to satisfy any law, regulation, legal process or governmental request.

10.2. Contact Us. If you have any questions or concerns about the Software or this Agreement, please visit [www.pumpernickel-studio.com/touchtypetale](http://www.pumpernickel-studio.com/touchtypetale) or contact us at [info@pumpernickel-studio.com](mailto:info@pumpernickel-studio.com).

10.3. Export Laws. You must comply with all domestic and international export laws and regulations (which may be amended from time to time) that apply to the Software, which include restrictions on destinations, end users, and end use. You agree not to use, export, re-export, or download the Software into (or to a national or resident of) any country to which the U.S. has embargoed goods, or to anyone on the U.S. Treasury Department's list of Specially Designated Nationals and Blocked Persons list and other sanctions lists administered by the Office of Foreign Assets Control (OFAC). You represent and warrant that you are not located in, under the control of, or a national or resident of a U.S. restricted or prohibited country or on any OFAC sanctions list.