

TRADEMARK LICENSE AGREEMENT

This Trademark License Agreement (“**Agreement**”), dated as of _____ (“**Effective Date**”), is by and between Epic Games, Inc., a Maryland corporation having its principal business offices at 620 Crossroads Blvd., Cary, NC 27518 (“**Epic**”) and _____, having its principal business offices at _____ (“**Licensee**”).

WHEREAS, Epic is the owner of the Unreal® Engine and owns or has the right to license the Marks (as defined below); and

WHEREAS, Licensee has developed or is developing one or more Products (as defined below) using the Unreal® Engine under an Unreal® Engine End User License Agreement;

WHEREAS, Licensee wishes to use the Marks in connection with the Products and Epic is willing to grant to Licensee a license to use the Marks on the terms and conditions set out in this agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by submitting this agreement to Epic Licensee agrees as follows:

1. **Definitions.** For purposes of this Agreement, the following terms shall have the following meanings:

“**Affiliate**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Brand Manual**” means Epic’s guidelines prescribing the permitted form and manner in which the Marks may be used, which can be found at <https://www.unrealengine.com/branding-guidelines-and-trademark-usage>, as amended from time to time.

“**Licensed Technology**” has the meaning set forth in the Unreal® Engine End User License Agreement.

“**Marks**” means the trademarks set forth at <https://www.unrealengine.com/branding-guidelines-and-trademark-usage>, whether registered or unregistered.

“**Person**” means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association, or other legal entity.

“**Products**” has the meaning set forth in the Unreal® Engine End User License Agreement.

2. **License.**

2.1 License Grant. Subject to the following terms and conditions, Epic grants to Licensee during the Term a worldwide, royalty-free, non-exclusive, non-transferable (except as provided in Section 10), non-sublicensable (except as provided in Section 2.2) license to use the Marks solely in connection with the manufacture, promotion, advertising, distribution and sale of Products.

2.2 Business Names and Domain Names. Licensee shall not use the Marks (or any marks confusingly similar thereto), individually or in combination, as part of its corporate or trade name, or in any domain name, URL, Internet presence or other electronic communications portal, without Epic's prior written consent. In the event that Licensee violates this Section 2.2, in addition to any other rights or remedies that Epic may have, the results of such misuse shall be deemed and are hereby irrevocably assigned to Epic without further action by any of the parties.

2.3 Sublicensing. Licensee shall have the right to grant to its publishers and distributors for the Products a sublicense under this Agreement solely as necessary to permit such parties to market and distribute the Products, provided that:

- (a) Licensee notifies Epic in advance of the identity and scope of each intended sublicense;
- (b) the terms of any sublicense are in writing, in a form and substance that are substantially the same as the terms of this Agreement (except that the sublicensee shall not have the right to sublicense its rights) and Licensee shall provide Epic with a copy of the sublicense on request;
- (c) upon request by Epic within 30 days of the notice provided in subpart (a) above, the sublicensee first enters into a supplemental written agreement direct with Epic in a form satisfactory to Epic;
- (d) each sublicense terminates automatically on termination or expiration of this Agreement;
- (e) Licensee is responsible for any breaches of this Agreement caused by any sublicensee; and
- (f) an act or omission of the sublicensee that would be a breach of this Agreement if performed by Licensee shall be deemed to be a breach by Licensee of this Agreement.

2.4 Reservation of Rights. Epic expressly reserves all rights not expressly granted to Licensee under this Agreement. For clarity, Licensee may not have any third party practice any of its rights under this Agreement except as expressly stated.

3. Use of the Marks.

3.1 Compliance with Epic's Directions. Licensee shall comply strictly with the directions of Epic regarding the form and manner of the application of the Marks to the Products and associated documentation and other materials, including the directions contained in the Brand Manual.

3.2 No Other Marks. Apart from the Marks, no other trademark or logo may be affixed to, or used in connection with, the Licensed Technology.

3.3 Trademark Notices. Licensee shall ensure that all Products sold by Licensee and all related quotations, specifications and descriptive literature, and all other materials carrying the Marks, be marked with the appropriate trademark notices as identified in the Brand Manual in accordance with Epic's instructions.

4. Ownership and Registration.

4.1 Acknowledgement of Ownership. Licensee acknowledges that Epic is the worldwide owner of the Marks. Any goodwill derived from the use by Licensee of the Marks shall inure to Epic's benefit. If Licensee acquires rights in the Marks, by operation of law, or otherwise, such rights shall be deemed and are hereby irrevocably assigned to Epic without further action by any of the parties.

4.2 Licensee Restrictions. Licensee agrees that it shall not, during the Term or thereafter, directly or indirectly:

(a) assert or claim any interest in the Marks or do, omit to do, or permit to be done, any act which will or may dilute the Marks or tarnish or bring into disrepute the reputation of or goodwill associated with the Marks or Epic or which will or may invalidate or jeopardize any registration or enforceability of the Marks;

(b) apply for, or obtain, or assist any Person in applying for or obtaining any registration of the Marks, or any trademark, service mark, trade name, or other indicia confusingly similar to the Mark in any country;

(c) develop or publish a product with a name confusingly similar to any Mark.

4.3 Maintenance of Registrations. Epic has sole right, in its discretion, to maintain the existing registrations of the Marks and prosecute any pending applications. Licensee shall provide, at the request of Epic, all necessary and reasonable assistance with such maintenance and prosecution.

4.4 No Encumbrances. Licensee shall not grant or attempt to grant a security interest in, or otherwise encumber, the Marks, or record any such security interest or encumbrance against any application or registration regarding the mark in the United States Patent and Trademark Office or elsewhere.

4.5 Recordation of License. Licensee shall, at its own cost, promptly record the license granted to it in Section 2.1 in the relevant trademark registries in the countries in which it markets and distributes Products and in which such registration is required under applicable Law. Epic shall provide reasonable assistance, at Licensee's cost, to enable Licensee to comply with this Section 4.5.

5. Quality Control.

5.1 Acknowledgement. Licensee acknowledges and is familiar with the high standards, quality, style, and image of Epic, and Licensee shall, at all times, conduct its business and use the Marks in a manner consistent with these standards, quality, style, and image.

5.2 Compliance With Laws. In exercising its rights under this Agreement, Licensee shall comply with, and shall ensure that each Product sold or otherwise supplied by Licensee using the Marks complies with, all applicable laws. Licensee shall promptly provide Epic with copies of all communications relating to the Marks or such Products with any governmental, regulatory, or industry authority.

5.3 Inspection of Facilities. Licensee shall permit upon Epic's request, and shall use its best efforts to obtain permission for, Epic at all reasonable times to enter any place used for the manufacture, storage, or distribution of the Products using the Marks to inspect the methods of manufacture, storage, and distribution to ensure compliance with the quality standards or any other specifications or requirements set forth in this Agreement.

5.4 Submission of Materials for Approval. Licensee shall, at its own expense, prior to any use of the Marks, and at Epic's subsequent reasonable request, supply a maximum of three production samples of the Products to Epic for approval of the use of the Marks in compliance with this Agreement. In the event that Epic rejects any sample, it shall use reasonable efforts to give written notice of such rejection to Licensee within 30 days of receipt by Epic of the sample. Licensee shall take all reasonable steps to immediately cease distribution of such Product using the Marks and shall not recommence distribution until Epic confirms in writing that it may do so. In the absence of a written notice of rejection, within 30 days of receipt of a sample, the sample shall be deemed to have been approved by Epic.

5.5 Rejected Products. Licensee shall not sell, market, distribute, or use for any purpose, or permit any third party to sell, market, distribute, or use for any purpose, any Products using the Marks which are rejected by Epic pursuant to Section 5.4.

6. Marketing, Advertising, and Promotion.

6.1 Marketing and Advertising Requirements. Licensee's advertising, marketing, and promotion of the Products shall not reduce or diminish the reputation, image, and prestige of the Marks.

6.2 Approval of Marketing and Advertising Materials. Licensee shall send to Epic for its prior written approval the text and layout of proposed advertisements and marketing and promotional material incorporating the Marks. In the event that Epic disapproves of such material, it shall give written notice of such disapproval to Licensee within 30 days of receipt by Epic of the material. In the absence of a written notice of disapproval within 30 days of receipt of such materials, the materials shall be deemed to have been approved by Epic. Licensee shall not use any advertising, marketing, or promotional materials containing the Marks that have not been approved by Epic.

7. Protection of the Marks.

7.1 Notification. Licensee shall, as soon as possible, notify Epic in writing giving reasonable detail if any of the following matters come to its attention:

(a) any actual, suspected, or threatened infringement of the Marks, claim that the Marks are invalid, opposition to the Marks, or claim that use of the Marks infringe the rights of any third party;

(b) any person applies for, or is granted, a registered trademark by reason of which that person may be, or has been, granted rights which conflict with any of the rights granted to Licensee under this Agreement; or

(c) any other actual, suspected, or threatened claim to which the Marks may be subject.

7.2 Actions. With respect to any of the matters listed in Section 7.1:

(a) Epic shall decide, in its sole discretion, what action if any to take;

(b) Epic shall have exclusive control over, and conduct of, all claims and proceedings;

(c) Licensee shall provide Epic with all assistance that Epic may reasonably require in the conduct of any claims or proceedings; and

(d) Epic shall bear the cost of any proceedings and shall be entitled to retain all sums recovered in any action for its own account.

8. Representations and Warranties.

8.1 Mutual Representations and Warranties. Each party represents and warrants to the other party that:

(a) it is duly organized, validly existing, and in good standing represented herein under the laws and regulations of its jurisdiction of incorporation, organization, or chartering;

(b) it has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted hereunder and to perform its obligations hereunder, and the execution of this Agreement has been duly authorized; and

(c) when executed and delivered, this Agreement will constitute the legal, valid, and binding obligation, enforceable against such party in accordance with its terms.

8.2 Disclaimer of Representations, Conditions and Warranties. **Epic hereby disclaims all representations, conditions, and warranties regarding the Marks, express or implied. Without limiting the foregoing, nothing in this Agreement shall constitute any representation, condition or warranty by Epic that any Mark is valid, any Mark (if an application) shall proceed to grant or, if granted, shall be valid, or the exercise by Licensee of rights granted under this Agreement will not infringe the rights of any person.**

8.3 Exclusion of Consequential and Other Indirect Damages. **In no event will Epic, its licensors, nor its or their Affiliates, nor any of Epic's service providers be liable for any loss of profits or any indirect, incidental, consequential, special, punitive, or exemplary damages, or any other damages arising out of or in connection with this Agreement or the Marks, even in the event of Epic's or its Affiliates' fault, tort (including negligence), strict liability, indemnity,**

product liability, breach of contract, breach of warranty, or otherwise and even if Epic or its Affiliates have been advised of the possibility of such damages. These limitations and exclusions regarding damages apply even if any remedy fails to provide adequate compensation. Because some states or jurisdictions do not allow the exclusion or the limitation of liability for consequential or incidental damages, in such states or jurisdictions, the liability of Epic, its licensors, its and their Affiliates, and any of Epic's service providers shall be limited to the full extent permitted by law.

9. Indemnity.

9.1 Indemnity. Licensee shall indemnify, pay the defense costs of, and hold Epic, its licensors, its and their Affiliates, and its and their employees, officers, directors, agents, contractors, and other representatives harmless from all claims, demands, actions, losses, liabilities, and expenses (including attorneys' fees, costs, and expert witness fees) that arise from or in connection with (a) any claim that, if true, would constitute a breach by Licensee of this Agreement or negligence by Licensee, or (b) any claim that Licensee's use of the Marks infringes any third party's intellectual property rights.

9.2 Indemnification Procedures. Epic shall promptly notify Licensee of any third party claim that is covered by Section 9.1 and cooperate with Licensee at Licensee's sole cost and expense. Licensee shall immediately take control of the defense and investigation of such claim and shall employ counsel of its choice to handle and defend the same, at Licensee's sole cost and expense. Licensee shall not settle any such claim in a manner that adversely affects Epic's rights without Epic's prior written consent. Epic's failure to perform any obligations under this Section 9.2 shall not relieve Licensee of its obligations under this Section 9 except to the extent that Licensee can demonstrate that it has been materially prejudiced as a result of such failure. Epic may participate in and observe the proceedings at its own cost and expense.

10. Assignment. Licensee shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without Epic's prior written consent. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation, or reorganization involving Licensee (regardless of whether Licensee is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under this Agreement for which Epic's prior written consent is required. No delegation or other transfer will relieve Licensee of any of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section 10 is void. Epic may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under this Agreement without Licensee's consent. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

11. Term and Termination.

11.1 Term. This Agreement shall commence as of the Effective Date and, unless terminated earlier in accordance with Section 11.2, shall remain in force for as long as Licensee markets and distributes Products under the Unreal® Engine End User License Agreement (the "**Term**").

11.2 Termination for Cause. Epic shall have the right to terminate this Agreement immediately by giving notice to Licensee if:

(a) Licensee breaches this Agreement and (if such breach is curable) fails to cure such breach within 15 days of being notified in writing to do so;

(b) Licensee (i) becomes insolvent or admits its inability to pay its debts generally as they become due; (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven business days or is not dismissed or vacated within 45 days after filing; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business;

(c) Licensee challenges the validity of or Epic's ownership of the Mark;

(d) the Unreal® Engine End User License Agreement is terminated for any reason.

12. Post-Termination Rights and Obligations.

12.1 Effect of Termination. On expiration or termination of this Agreement for any reason, all rights and licenses granted to Licensee, and all sublicenses granted by Licensee, pursuant to this Agreement shall cease to be in effect; Licensee shall cease all use of the Marks; Licensee shall cooperate with Epic in the cancellation of any licenses recorded pursuant to this Agreement and shall execute such documents and do all acts and things as may be necessary to effect such cancellation; and Licensee shall promptly destroy, at Licensee's expense, all materials containing the Marks.

12.2 Surviving Rights. Any rights or obligations in this Agreement which, by their nature, should survive termination or expiration of this Agreement will survive, including the rights and obligation set forth in Sections 1, 2.2, 2.4, 4.1, 4.2, 8-10, 12, and 13.

13. Miscellaneous.

13.1 Further Assurances. Each party shall, upon the request of the other party, execute such documents and perform such acts as may be necessary to give full effect to the terms herein.

13.2 Relationship of the Parties. The parties hereto are independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

13.3 Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally or internationally recognized overnight courier (receipt requested); or (c) on the third

day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses indicated in the first paragraph of this Agreement unless updated pursuant to this section.

13.4 Entire Agreement. This Agreement, and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. Notwithstanding anything to the contrary herein, this Agreement does not modify any of Licensee's or Epic's rights or obligations under the Unreal® Engine End User License Agreement in any way.

13.5 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.

13.6 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

13.7 Amendment and Modification; Waiver. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the waiving party. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

13.8 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

13.9 Governing Law; Submission to Jurisdiction. This Agreement shall be governed by and construed in accordance with the internal laws of the State of North Carolina without giving effect to any choice or conflict of law provision or rule (whether of the State of North Carolina or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of North Carolina. Any legal suit, action, or proceeding arising out of or related to this Agreement shall be instituted exclusively in the Superior Court of Wake County, State of North Carolina or the United States District Court for the Eastern District of North Carolina, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Service of process,

summons, notice, or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

13.10 Waiver of Jury Trial. Each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby.

13.11 Equitable Relief. Licensee acknowledges that a breach by Licensee of this Agreement may cause Epic irreparable damages, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, Epic will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which Epic may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.