

Third Party Development Agreement – General Terms and Conditions

(“General Terms”, version: 25 April 2024)

1. COMMERCIAL LICENSE FOR APPLICATION.

- 1.1. License. During the term of this Agreement, Interaxon grants Developer a revocable, non-exclusive, non-sublicensable, non-transferable limited right to: (a) develop and test the functionality of an Application in a non-production manner and using test data subject at all times to Developer’s compliance with the terms and conditions set forth in these General Terms (the “Non-Commercial License”); and (b) exploit the Application subject at all times to Developer’s compliance with the terms and conditions set forth in this Agreement including these General Terms and the Commercial Terms (the “Commercial License”). The following Sections of these General Terms do not apply to Non-Commercial Licenses: Section 2 (Fees), Section 3 (Reports), Section 4 (Records), and Section 5 (Audit). To obtain a Commercial License from Interaxon, Developer can contact business@interaxon.ca (and/or another email or other address specified by Interaxon from time-to-time). For clarity, no Commercial License is granted to Developer under these General Terms unless and until Developer and Interaxon enter into the Commercial Terms applicable for the Commercial License.
- 1.2. Use of SDK. During the term of this Agreement, and subject to the terms and conditions applicable to a Non-Commercial License or a Commercial License for the Application, as applicable, Interaxon grants Developer a revocable, non-exclusive, non-sublicensable, non-transferable limited right to use the SDK with the Application for the purpose of allowing the Application to connect to an Interaxon Deliverable and collect Application Data. Developer will not share the SDK with any third party without Interaxon’s prior written consent and will not use the SDK for any other purpose.
- 1.3. Deprecation and Upgrade of SDK Versions. Interaxon reserves the right to deprecate any version of the SDK at its sole discretion. Deprecation refers to the phase-out of a version of the SDK, after which no further support, updates, or maintenance will be provided for that version. Interaxon will provide Developers with notice of deprecation at least three (3) months prior to the deprecation date through email communication or by posting on the Interaxon development community site. Following the deprecation notice, Developers will have a maximum of six (6) months from the deprecation date to upgrade to the latest or a supported version of the SDK. Failure to upgrade within this timeframe may result in the Application being unable to interface with Interaxon Deliverables effectively, and Interaxon shall not be liable for any loss or damage arising from the use of a deprecated version of the SDK.
- 1.4. Application Approval. Before exercising any rights under the Commercial License, Developer will ensure that: (a) Developer provides Interaxon with version of the Application that Developer wishes to use under the Commercial License and has received Interaxon’s prior written approval for that version of the Application; and (b) Developer has entered into Commercial Terms with Interaxon. Developer will continue to provide Interaxon with any new versions of the Application that Developer wishes to use under the Commercial License at least two weeks in advance of the date on which Developer wishes to use under the Commercial License and Developer will ensure that it has received Interaxon’s prior written approval for that version of the Application.
- 1.5. Good Standing. Developer acknowledges and agrees that the rights granted under this Agreement are subject to and conditional upon Interaxon, in its sole discretion, being satisfied that Developer is at all times in good standing including in relation to its compliance, payment, record keeping and reporting obligations set out in this Agreement.
- 1.6. Harmful Code. Developer will ensure that the Developer Deliverables do not contain malware or malicious or harmful code or other harmful components (e.g., a software virus) or damage, corrupt, degrade, destroy or otherwise adversely affect any Interaxon Deliverable or the security thereof.
- 1.7. Reverse Engineering. Developer must not and will not permit or facilitate any Developer Deliverable or any person to reverse engineer, decompile, disassemble or otherwise attempt to deconstruct, identify or otherwise reduce to any human readable form or attempt to discover any source code, underlying ideas, techniques, or algorithms in any Interaxon Deliverable.

2. FEES.

- 2.1. Minimum Fee. Developer will pay the Minimum Fee to Interaxon in advance on or before the 10th day of each month. Developer will pay the prorated Minimum Fee for the first month of this Agreement on or before the Effective Date of this Agreement.
- 2.2. Royalty. Developer will pay the Royalty to Interaxon on or before the 10th day of each month for the previous month. The Royalty shall be calculated by Developer based on revenues that: (a) have actually been received by Developer; or (b) are receivable by Developer. Interaxon is not responsible for Developer’s credit terms or customer bad debt and the Royalty is payable to Interaxon regardless of whether or not Developer actually receives the revenues connected with Developer’s licensing of the Application.
- 2.3. Other Fees. Developer will pay any other fees described in the Commercial Terms in accordance with Interaxon’s invoice.

3. REPORTS.

- 3.1. **Users Report.** Within seven (7) days from the end of each calendar month, Developer shall deliver to Interaxon a complete and accurate report containing the following information and any other information reasonably requested by Interaxon from time to time (“**Users Report**”): the number of end users who have licensed or used the Application in the previous calendar month and the total number of end users.
- 3.2. **Royalty Report.** Within seven (7) days from the end of each calendar month, Developer shall deliver to Interaxon a complete and accurate report containing the information as set out in the Commercial Terms and any other information reasonably requested by Interaxon from time to time (“**Royalty Report**”).
- 3.3. **Financial Statements.** Within ten (10) days of the end of each calendar quarter, Developer will provide Interaxon with copies of its detailed financial statements. Such financial statements, must clearly describe the gross revenue and non-cash consideration amounts and other information that forms the basis for the Royalty calculations and any revenues received or receivable by the Developer or anyone associated with the Developer from the licensing, exploitation, or use of the Application and/or Application Data (alone or in conjunction with other products or services).
- 3.4. **Certification.** Each Users Report and Royalty Report and the financial statements must be certified as being accurate and complete by an authorized signatory of Developer.
- 3.5. **Delivery of Reports and Financial Statements.** Developer shall deliver the Users Report, Royalty Report and financial statements to Interaxon (in a text, Excel or other format requested by Interaxon from time-to time) to: finance@interaxon.ca, sdk@interaxon.ca and business@interaxon.ca (and/or another email or other address specified by Interaxon from time-to-time).
4. **RECORDS.** Developer shall keep accurate records relating to the licensing of the Application and/or Application Data and any products or services provided with the Application and/or Application Data including: (a) the number and type (if applicable) of end users who have licensed, used or downloaded the Application and/or Application Data and associated products and services – for clarity, licensing of the Application and/or Application Data will be deemed to include an end user downloading the Application and/or Application Data and using the Application and/or Application Data as part of a product or service offered by Developer or anyone else associated with or authorized by Developer; (b) the terms (including selling price) upon which the Application and/or Application Data and associated products and services are licensed, used or downloaded; (c) the billing or other identifiers associated with each user of the Application and/or Application Data (and associated products and services); (d) the basis upon which Developer has calculated the Royalty; (e) any other consideration received by Developer in connection with the licensing or use of the Application and/or Application Data alone and in conjunction with other products or services; and (f) details of every connection between an Interaxon Deliverable and the Application including the Bluetooth serial number of the Headband (when applicable) and the date and time such access occurs (collectively, “**Records**”). Developer shall maintain Records in compliance with standard business practices to ensure that Interaxon has the necessary information to be able to conduct an inspection, reconciliation and/or audit contemplated under this Agreement.
5. **AUDIT.** Interaxon may, upon seventy-two (72) hours prior notice, inspect and perform a reconciliation and/or audit of the Records to ensure that Interaxon can determine whether the Developer has complied with and is continuing to comply with its obligations under this Agreement. Developer shall forthwith and continually cooperate with Interaxon in connection with its request for inspection, reconciliation and/or audit of the Records. Any and all non-public information related to Developer or its business revealed in the course of such reconciliation shall be kept confidential by Interaxon, and shall not be used for any purpose except to the extent reasonably necessary to determine Developer’s compliance with the provisions of this Agreement and/or to enforce Interaxon’s rights. If it becomes evident to Interaxon or Developer that Developer has delayed payment of any fees, underpaid any fees, misrepresented or withheld any relevant information, and/or failed to comply with any of its obligations under this Agreement, in addition to any other remedy and/or any right to recourse available to Interaxon, Interaxon may: (a) demand from Developer the underpaid or unpaid fees, together with interest at the lesser of two percent (2%) per month compounded monthly (26.8% annually) and the maximum rate permitted by law compounded monthly, calculated from the time the underpaid or unpaid fees were originally due until the time they are paid, which Developer shall immediately pay to Interaxon; (b) demand that Developer takes certain corrective action or reporting as Interaxon requests, which Developer shall immediately undertake; (c) exercise any of its rights under this Agreement and/or send a request to the applicable application or skill store (including iTunes App Store, Google Play App Store or Apple App Store) to terminate publishing of the Application.
6. **INTELLECTUAL PROPERTY.**
- 6.1. **Ownership.** Developer acknowledges and agrees that:
- (a) Interaxon’s Confidential Information and Interaxon Deliverables, in whole or in part, are subject to and/or embody intellectual property rights of Interaxon and/or Interaxon Related Parties and all rights, title and interests in and to Interaxon’s Confidential Information and Interaxon Deliverables and any intellectual property rights shall belong to Interaxon and/or Interaxon Related Parties.
- (b) Developer is not granted any rights in this Agreement to implement any of Interaxon’s patents or other intellectual property. Developer’s sole rights shall be only those limited rights granted by Interaxon under this Agreement.
- 6.2. **Prohibitions.**

- (a) Developer will not: (i) adopt as a trademark, any trademark or trade name of Interaxon, or any trademark or trade name that is confusingly similar to Interaxon's trademark or trade names at any time including in or as part of the Developer's Deliverables; or (ii) use Interaxon's marks (including as part of any press releases, products, services, application name, offering, domain name, meta tag, keyword, company name, marketing and/or promotional materials) anywhere in the world; or (iii) alter, remove, cover or otherwise obscure any patent notices, copyright notices, trademarks, and any other intellectual property right notices attaching to, displayed on or within any Interaxon Deliverable.
- (b) Developer will not file any patent applications or any other intellectual property applications anywhere worldwide or otherwise prevent or attempt to prevent Interaxon from developing and/or exploiting any deliverable (or any part thereof), or any of Interaxon's intellectual property or other proprietary rights, at any time.
- 6.3. Use of Interaxon Marks. If Developer wishes to use an Interaxon mark, Developer must obtain Interaxon's prior express written consent for each proposed use and comply at all times with Interaxon's then-current branding guidelines ("**Branding Guidelines**"). The Branding Guidelines may be: (a) obtained from Interaxon's website (www.choosemuse.com/brand-guidelines) or emailing branding@interaxon.ca; and (b) modified or amended by Interaxon from time to time, and each version shall be deemed to be incorporated by reference into this Agreement.
- 6.4. Developer's Marks. Interaxon is permitted to publicise the availability of Developer's Deliverables including using Developer's name, logo and trademarks.
- 6.5. Access to Developer's deliverables: Interaxon is permitted to access and use the Developer's Deliverables for testing, validation and auditing purposes and to the extent necessary for Interaxon to perform its obligations under this Agreement.
- 7. ACKNOWLEDGMENTS AND WAIVERS.**
- 7.1. Avoid Losses. Developer will ensure that the Developer Deliverables do not present risk of or cause any Losses. Developer assumes all risk of Losses caused by any Developer Deliverable including any Losses incurred by end users of the Application, Interaxon Related Parties, or other third parties. Developer waives all claims against Interaxon and Interaxon Related Parties related to such use and any Losses resulting from such use, whether directly or indirectly, and Developer agrees to defend, indemnify and hold Interaxon Related Parties harmless from any claims, liability and any Losses.
- 7.2. No Claims. On Developer's behalf and on behalf of Developer's affiliates, successors, assigns, or any other third party claiming through Developer, Developer hereby covenants not to bring any suit or claim, or otherwise assert or facilitate the assertion of any suit or claim against Interaxon and/or any Interaxon Related Parties based on, related to, or arising out of: (a) any Developer Deliverable or the use thereof; or (b) any Interaxon Deliverable or the use thereof; or (c) the termination of this Agreement.
- 7.3. Freedom to Operate. Interaxon and/or one or more Interaxon Related Parties may develop and/or exploit and/or authorize others to independently and without use of any Developer Confidential Information develop and/or exploit one or more deliverables that are similar to and/or compete with one or more Developer Deliverables at any time and nothing in this Agreement is intended to prevent Interaxon, Interaxon Related Parties and/or others so authorized from doing so and/or to prevent Interaxon from having the freedom to operate in the same or similar field(s) as the Developer where "field" may include (but is in no way limited by or to): commercially; industry; research and development, functionality; products and services; customer/user segments; geographically; demographic; subject matter; data categories; data processing / filtering / computation / analysis / presentation etc. Developer will not undertake any activity or refrain from undertaking any activity which prevents or attempts to prevent such developments or exploitation at any time.
- 7.4. Interaxon EULA. Developer acknowledges and agrees that use of Interaxon Deliverables by end users is subject to Interaxon's end user agreement(s). The current version of Interaxon's end user agreement(s) can be found at: <https://www.choosemuse.com/legal>.
- 7.5. Interaxon Deliverables. Interaxon has no obligation to supply or provide Developer with any Interaxon Deliverable under this Agreement. The supply of Interaxon Deliverables by Interaxon to Developer is subject to Interaxon and Developer entering into one or more a separate written agreement(s) as determined by Interaxon. Notwithstanding the foregoing, Interaxon may provide Developer with access to and use of certain developer tools (including the SDK, documentation and sample code) pursuant to this Agreement for Developer to use with or for the Application.
- 8. CONFIDENTIALITY.** Each party will treat the Confidential Information of the other party in strict confidence and shall not disclose, transfer, copy, reproduce, electronically transmit, store or maintain, remanufacture or in any way duplicate all, or any part of, the Confidential Information of the other party except in compliance with this Agreement. Each party shall be directly liable for the acts or omissions of its employees, agents and contractors with respect to such confidentiality obligations. Each party agrees to protect the Confidential Information of the other party with the same standard of care and procedures which it uses to protect its own trade secrets, proprietary information and other confidential information and, in any case, not less than a reasonable standard of care. The obligation to treat Confidential Information of the other party in strict confidence and take measures to protect the Confidential Information of the other party survives this Agreement given that Confidential Information can include trade secrets or otherwise remain confidential.

9. **PRIVACY.** Interaxon takes proper handling and privacy of data very seriously and does so in accordance with Interaxon's Privacy Policy (as it may be updated from time-to-time, see: <https://choosemuse.com/pages/legal#privacy>). Interaxon's Privacy Policy will apply to any personal information shared by Developer with Interaxon. It is not intended for Developer to share any personally identifiable information with Interaxon under this Agreement however, if Developer does share any personally identifiable information with Interaxon, Developer will be solely responsible for obtaining any and all necessary consents from those persons as may be required prior to disclosing the information to Interaxon.
10. **FEEDBACK.** Developer may (but is not required to) provide feedback, performance results, comments and suggestions, including in respect of or concerning any improvements, modifications, corrections, enhancements or derivatives (collectively, "**Feedback**") to Interaxon concerning the Interaxon Deliverables. Developer hereby grants to Interaxon a non-exclusive, perpetual, irrevocable, fully paid-up, royalty-free, transferable, sub-licensable, worldwide license under all intellectual property rights covering such Feedback to use, disclose and exploit all such Feedback for any purpose. Interaxon may develop technology, modifications, corrections, enhancements, derivatives or extensions (collectively, "**Improvements**"), and further may also develop branding elements based on such Feedback, and such Improvements and branding elements, and any intellectual property rights therein, as well as any related intellectual property registrations, shall be owned exclusively by Interaxon. Developer hereby assigns and transfers any intellectual property rights that relate to Feedback to Interaxon. Developer agrees to execute such further documents and instruments as may be required to confirm such ownership by Interaxon. For greater clarity, and without limitation, Interaxon owns all intellectual property rights to such Feedback, and such Improvements.
11. **TERM AND TERMINATION.**
- 11.1. Term. This Agreement will commence on the Effective Date and shall continue until terminated in accordance with the terms of this Agreement. The Effective Date is the first date of use of the Application. For clarity, and notwithstanding the continuing nature of this Agreement, nothing in this Agreement is intended as a commitment or obligation for Interaxon to supply, or to continue to supply, any Interaxon Deliverable to the Developer or anyone else.
- 11.2. Termination by Developer. Developer may terminate this Agreement by notifying Interaxon in writing in accordance with the notice provision under this Agreement that Developer has terminated this Agreement in accordance with this section.
- 11.3. Termination by Interaxon.
- (a) Interaxon may terminate the Non-Commercial License by notifying the Developer in writing in accordance with the notice provision under this Agreement.
 - (b) Interaxon may terminate the Commercial License by notifying the Developer in writing in accordance with the notice provision under this Agreement and in accordance with the Commercial Terms.
 - (c) Interaxon may terminate this Agreement (or portion thereof) by providing Developer written notice of termination if Developer materially breaches this Agreement or if Developer's acts or omissions have or could have a materially detrimental affect on Interaxon (including its goodwill and/or reputation) and Developer fails to rectify such material breach or affect (if capable of rectification) within thirty (30) days of the date of Interaxon's notice, or such other time expressly agreed in writing by an authorised signatory of Interaxon. A material breach of this Agreement includes any failure by Developer to comply with Section 1 (Commercial License for Application), Section 2 (Fees), Section 3 (Reports), Section 4 (Records), Section 5 (Audit), Section 6 (Intellectual Property), Section 7 (Acknowledgements and Waiver), Section 8 (Confidentiality), Section 12 (Compliance), Section 15 (Indemnification) and/or Section 16.2 (Assignment).
- 11.4. Effect of Termination. Upon termination of this Agreement, subject to the terms and conditions of this Agreement that survive termination of this Agreement, the rights and licenses granted to Developer under this Agreement will immediately terminate and Developer shall immediately cease all activities under this Agreement. Developer shall pay all amounts owing to Interaxon upon termination of this Agreement within fifteen (15) days of the effective date of termination and if any further amounts are payable to Interaxon after termination Developer shall continue to report on and pay such amounts in accordance with this Agreement until all amounts have been paid in full.
12. **COMPLIANCE.** Developer shall at all times comply with all applicable laws and regulations governing its business and the Developer Deliverables including: (a) privacy laws and regulations; and (b) import/export controls and the economic sanctions and embargoes of the UN Security Council, Canada, America, and the countries in which Interaxon and each Interaxon Related Party is domiciled, incorporated and/or operates. Developer shall not make any representations or public statements that constitute, or may be inferred as constituting, statements made by or on behalf of Interaxon or any or all Interaxon Related Parties including any representation that Interaxon or one or more Interaxon Related Parties authorises, endorses or recommends the use of any Developer Deliverable.
13. **INDEMNIFICATION.** Developer agrees to defend, indemnify and hold Interaxon Related Parties harmless from any and all judgments, awards, settlements, liabilities, damages, costs, penalties, fines and other expenses (including court costs and reasonable legal fees) incurred by them arising out of or relating to any claim: (a) with respect to any Developer Deliverables; (b) for any Losses incurred in connection with any Developer Deliverables; (c) that any Developer Deliverables infringes any

third party intellectual property rights, and/or (d) based upon or arising out of Developer's negligence or willful misconduct or any breach or alleged breach of Developer's representations, warranties, and covenants. The indemnification obligations under this Agreement are subject to the following: (i) Interaxon will promptly notifying Developer of the claim, (ii) the Developer shall have the sole control and exclusive conduct of the defense of such action and/or negotiations for its settlement or compromise, (iii) Interaxon will not admit any claim or make any payments with respect to any claim without Developer's prior written consent, and (iv) Interaxon will, at Developer's reasonable expense, cooperate with and provide all necessary assistance reasonably requested by Developer in the defense of such claim.

14. **WARRANTY DISCLAIMER.** ANY INTERAXON DELIVERABLES PROVIDED TO DEVELOPER ARE PROVIDED ON AN "AS IS" BASIS AND THERE ARE NO WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS OR IMPLIED, WRITTEN OR ORAL, ARISING BY STATUTE, OPERATION OF LAW OR OTHERWISE GIVEN BY OR ON BEHALF OF INTERAXON OR INTERAXON RELATED PARTIES. INTERAXON AND INTERAXON RELATED PARTIES DO NOT WARRANT THAT ANY INTERAXON DELIVERABLE WILL MEET THE REQUIREMENTS OF DEVELOPER, ANY USER OF THE APPLICATION, OR ANYONE ELSE OR THAT ANY OF THEIR OPERATION OR USE WILL BE UNINTERRUPTED, ERROR FREE, VIRUS FREE OR SECURE OR THAT ANY INTERAXON DELIVERABLE WHETHER OBTAINED HEREUNDER OR OTHERWISE WILL BE APPROPRIATE OR APPLICABLE FOR USE BY DEVELOPER, ANY USER OF ANY DEVELOPER DELIVERABLE OR ANYONE ELSE. INTERAXON AND INTERAXON RELATED PARTIES DISCLAIM ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, QUALITY, NON-INFRINGEMENT, MERCHANTABILITY, FUNCTIONALITY, DURABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR ANY INTERAXON DELIVERABLE AND ANY LIABILITY FOR ANY CONSEQUENCES DUE TO USE, MISUSE OR INTERPRETATION OF ANY DEVELOPER DELIVERABLE.
15. **LIMITATION OF LIABILITY.** INTERAXON RELATED PARTIES SHALL NOT BE LIABLE TO DEVELOPER OR ANY PARTY MAKING A CLAIM AGAINST AN INTERAXON RELATED PARTY THROUGH DEVELOPER (INCLUDING ANY CUSTOMER OF DEVELOPER OR ANY USER OF ANY DEVELOPER DELIVERABLES) FOR SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR INDIRECT DAMAGES OR LOSS (INCLUDING DEATH AND PERSONAL INJURY), IRRESPECTIVE OF THEIR CAUSE, NOTWITHSTANDING THAT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, NOR FOR ANY CLAIMS FOR SUCH LOSS OR DAMAGE INSTITUTED AGAINST A PARTY OR ITS CUSTOMERS OR USERS BY ANY THIRD PARTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, INTERAXON RELATED PARTIES ASSUME NO LIABILITY FOR ANY INCORRECT DATA OR ANY LOSS OF: USE, DATA, INCOME, BUSINESS, PROFIT, ANTICIPATED REVENUE OR ANY OTHER COMMERCIAL OR ECONOMIC LOSS (EVEN IF INTERAXON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS). IN NO EVENT SHALL INTERAXON'S LIABILITY TO ANY PERSON OR ENTITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE FEES PAID BY DEVELOPER TO INTERAXON UNDER THIS AGREEMENT IN THE THREE MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
16. **GENERAL TERMS.**
- 16.1. Survival. The provisions of this Agreement that under a commercially reasonable interpretation reveals that the parties would have such provisions survive the termination of this Agreement including Developer's payment obligations under this Agreement and Developer's obligations (but not any rights or licenses granted to Developer) under Section 1 (Commercial License for Application), Section 2 (Fees), Section 3 (Reports), Section 4 (Records), Section 5 (Audit), Section 6 (Intellectual Property), Section 7 (Acknowledgements and Waiver), Section 8 (Confidentiality), Section 12 (Compliance), Section 15 (Indemnification) and/or Section 16 (General Terms).
- 16.2. Assignment. Interaxon may assign this Agreement and any of its rights hereunder, or delegate any of its obligations under this Agreement, whether by operation of law or otherwise, at its sole discretion. Developer shall not assign this Agreement or any of Developer's rights hereunder, nor delegate any of Developer's obligations under this Agreement without Interaxon's prior written consent. Any attempted assignment or delegation by Developer without Interaxon's prior written consent is void.
- 16.3. Waiver; Severability. The failure of the other party to enforce any rights under this Agreement will not be deemed a waiver of any rights. The rights and remedies of the parties in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement will remain in full force and effect.
- 16.4. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws applicable in the Province of Ontario, Canada, without giving effect to the principles of conflicts of law and excluding that body of law applicable to the choice of law and excluding the United Nations Convention for the International Sale of Goods, if applicable. Any claim or court proceeding brought by Interaxon in relation with this Agreement may be presented in the Province of Ontario, Canada. Developer agrees that the courts of the Province of Ontario, Canada constitute the appropriate forum for any claim or court proceeding in relation to this Agreement and submits to the exclusive jurisdiction of such courts.
- 16.5. Relationship of the Parties. This Agreement does not create any agency, partnership, or joint venture relationship between Developer and Interaxon.

- 16.6. **Notices.** Any notice required to be given to Interaxon hereunder must be sent to the following address: Interaxon Inc. 555 Richmond Street West, Suite 900, Toronto, Ontario M5V 3B1 Attention: CEO. With a copy to Interaxon Inc., Legal Department, 555 Richmond Street West, Suite 900, Toronto, Ontario M5V 3B1. Interaxon may provide notices to Developer under this Agreement at the office address stated in the Commercial Terms or by email or other electronic communication or by posting communications to its development community on <https://choosemuse.com/development/>. Developer consents to receive such notices in any of the foregoing manners and agrees that any such notices by Interaxon will satisfy any legal communication requirements.
- 16.7. **Entire Agreement.** This Agreement constitutes the entire understanding of the parties with respect to its subject matter and supersedes any previous or contemporaneous communications, whether oral or written with respect to such subject matter.
- 16.8. **Amendments.** Amendments to the Commercial Terms must be in writing and signed by authorized representatives of the Developer and Interaxon. Interaxon may update these General Terms from time to time and such updates shall become effective the earlier of: (a) Developer's acceptance of such updated General Terms; (b) thirty (30) days after the update General Terms are published or made available by Interaxon.
- 16.9. **Counterparts/Electronic Signatures.** This Agreement may be executed in two or more identical counterparts, or electronic counterparts, each of which when executed by a party shall be deemed to be an original and such counterparts shall together constitute one and the same agreement. This Agreement may also be executed by means of an electronic signing process.
- 16.10. **English Language.** The parties agree that this Agreement and all related documents will be in English. If this Agreement or any related documents are translated in a language other than English, to the extent of any conflict between the English version and the translated version, the English version will prevail.
- 16.11. **Interpretation.** Capitalised terms used in this Agreement will have the meanings as set out in Section 17 (Definitions), or as otherwise defined in this Agreement. In this Agreement: (a) the singular will include the plural and vice versa unless the context requires otherwise; (b) "includes" and "including" are not limiting; (c) references to currency or dollars will mean United States dollars unless expressly stated otherwise in the Commercial Terms; and (d) "all" includes "any" and "any" includes "all". Section headings are provided for convenience only. If any conflict of interpretation arises between a Section heading and the text of the Section, the text of the Section will prevail to the extent of such conflict.
17. **DEFINITIONS.** Unless otherwise defined herein, the following capitalised terms used in the Agreement shall have the following meaning:
- (a) **"Agreement"** means: (i) the Commercial Terms, as applicable; (ii) these General Terms; (iii) any schedules, attachments, exhibits or documents referenced in the Commercial Terms or the General Terms; and (iv) any express written amendments to the Commercial Terms that are agreed by the Developer and Interaxon in accordance with these General Terms.
 - (b) **"Application"** means the software application that is developed by or for Developer and which connects to and collects Application Data from an Interaxon Deliverable using the SDK or otherwise. The Application may be specifically named and described by Developer when registering on Interaxon's website and/or in the Commercial Terms.
 - (c) **"Application Data"** means any data or signals received, collected, compiled, derived or generated by the Application or from the use of the Application including any data collected from an Interaxon Deliverable by Developer or the Application and any metadata and tags applied or related thereto.
 - (d) **"Commercial Terms"** means the Commercial Terms applicable to this Agreement and the Application that are agreed to in writing between Developer and Interaxon and which expressly reference and incorporate these General Terms.
 - (e) **"Confidential Information"** includes:
 - (i) information that the discloser considers to be confidential and is identified as confidential prior to or at the time of its disclosure or would reasonably be considered confidential;
 - (ii) technical specifications related to the discloser's products, software and services;
 - (iii) performance or test results relating to the discloser's products, software or services; and
 - (iv) the discloser's technology, know-how, algorithms, testing procedures, structure, interfaces, specifications, reports, analysis, software, source code, sample code, SDK, tools, system files, APIs, firmware, software documentation, algorithms, and other information and/or services and/or materials (and any updates thereto).

Confidential Information of Interaxon includes any information or data identifying or about users, customers, suppliers, developers or partners of Interaxon or about Interaxon's business, products, software and/or services (which may include personally identifiable information). Confidential Information under this Agreement does not include information that: (A) has become generally publicly known without any improper action or inaction; (B) was in rightful possession of the recipient without any obligation of confidentiality; or (C) is independently developed by the recipient without use of or access to the Confidential Information of the discloser as shown by contemporaneous documentation.

- (f) **“Developer”** means the party that: (i) develops (or has developed) an Application, (ii) accesses and/or uses the SDK, and/or (iii) is named in the Commercial Terms, when applicable.
- (g) **“Developer Deliverables”** includes the Application, any Application Data and/or any other products, software, services, data, information, content, materials, recommendations, advice and/or deliverables of the Developer.
- (h) **“exploit”** includes: (i) with respect to non-patent intellectual property rights, to make improvements, and to use, copy, display, market, promote, distribute, make available, operate, support and otherwise exploit, through multiple tiers; and (ii) with respect to patents, to use, import, make, have made, sell and offer for sale, practice any methods and exercise any other rights recognized under applicable patent laws, through multiple tiers. For clarity, in relation to Developer, exploit includes: (A) any access to, collection of, use of, any data by or on behalf of Developer from an Interaxon Deliverable for any purpose; (B) any academic or commercial research which involves the use of the Application; (C) any development of current or prospective business, product and/or service opportunities which involves the use of the Application.
- (i) **“Fees”** include the Minimum Fee, Royalty and any other fees stated in the Commercial Terms.
- (j) **“Headband”** means any device or system of devices (or part thereof) designed and/or developed by or on behalf of Interaxon, which includes sensors which monitor biosignals and other data.
- (k) **“Interaxon”** means Interaxon Inc., with its current principal place of business at 555 Richmond Street West, Suite 900, Toronto, Ontario M5V 3B1.
- (l) **“Interaxon Deliverables”** means the tools for developers (including the SDK, documentation, specifications, instructions, sample code, data, information), content, data, materials, Headbands, Muse Data, products, software, algorithms, services that Interaxon may produce and/or make available from time to time. For clarity, Interaxon is not obligated to supply any Interaxon Deliverables to Developer under this Agreement.
- (m) **“Interaxon Related Parties”** means Interaxon and its affiliates, and their respective customers, suppliers, developers, partners, purchasers, users, distributors, manufacturers, employees, agents, representatives, successors or assigns.
- (n) **“Losses”** means any harm, damages, losses or liability including when based on personal injury or death, property damage, system or device failure, loss or corruption of data, or breach of privacy or security.
- (o) **“Muse Data”** means any data or signals received, collected, compiled, derived or generated from one or more Interaxon Deliverable by or on behalf of Interaxon using any means and any metadata and tags applied or related thereto. For clarity, Interaxon is not obligated to supply any Muse Data to Developer under this Agreement.
- (p) **“SDK”** means, individually and collectively, the system files, tools, APIs, software documentation, algorithms, other materials and any including updates, upgrades, modifications, enhancements, revisions, new releases and new versions to the foregoing that may be provided or made available to the Developer or its personnel by or on behalf of Interaxon pursuant to this Agreement.

INTERAXON INC.

[DEVELOPER NAME]

By: _____

By: _____

Printed Name of Authorized Signatory

Printed Name of Authorized Signatory

Title _____

Title: _____

Date: _____

Date: _____