

## MoodMe SOFTWARE DEVELOPMENT KIT for Unity3D

### LICENSE AGREEMENT

This Software Development Kit License Agreement (the “**Agreement**”) is entered into as of DATE, by and between **Mach-3D SaRL**, a company incorporated in Luxembourg at Technoport, 9 Avenue des Hauts Fourneaux, Belval, L-4263 Esch-sur-Alzette, Luxembourg and registered with VAT number LU25263957 and Company Registry B 166226, owner of the MoodMe brand, trade mark, technologies, IP, and of **MoodMe Belgium SRL**, company registration number BE 0550.385.819, incorporated in Belgium at 15, Rue des Vertes Haies, 1400 Nivelles, validly represented by Chandra Olivier De Keyser in his capacity of Associé Gérant (CEO) of Mach-3D (“**MoodMe**”) and

Company or Person

Address

Company Registration number if applicable

represented by

Title

Email

(“**Company**”).

### RECITALS

Whereas, MoodMe has the right to license certain software and Company desires to obtain rights to use such software on designated systems and at designated facilities;

Whereas, MoodMe distributes such software either directly or through a distributor and is willing to license such software to Company on the terms and conditions of this Agreement.

### AGREEMENT

Now, therefore, in consideration of the foregoing and the mutual promises contained in this Agreement (including the exchange for the payment of fees for use of the Software), the adequacy of which consideration is hereby acknowledged, the parties agree as follows:

#### 1. Purpose.

UNLESS EXPLICITLY CONTRADICTED BY THE SPECIFIC ANNEX, THE FOLLOWING CONDITIONS APPLY:

The “SDK” shall mean the MoodMe application software as well as underlying software development kit(s), including any subsequent updates or upgrades made available to Company, and any associated software source code, documentation or other materials made available by MoodMe to assist Company in developing solution(s) (each a “Company Product”) that interoperates with MoodMe product(s).

This Agreement applies to any SDK provided by MoodMe or that includes, displays, or links to this Agreement, and to any updates, supplements or support services for this SDK.

#### 2. Payment; Use Rights.

Subject to Company’s compliance with the terms of this Agreement, Company may:

- (i) download, install, and use the SDK on its devices solely to design, develop, and test Company Product(s) or to use it as an application for 1 year after purchase, and make a reasonable number of copies of the SDK as necessary to develop Company Product(s), provided that Company reproduces complete copies of the SDK, including without limitation all “read me” files, copyright notices, and other legal notices and terms,
- (ii) use, reproduce, modify, and distribute the sample code included in the SDK as embedded in a Company Product.

Company’s rights to license, distribute or otherwise transfer the MoodMe SDK or any rights therein are defined by Unity Asset Store rules terms & policies.

#### 3. MoodMe Marketing Guidelines

“MoodMe Marks” means the MoodMe(TM) trademark.

Company agrees and acknowledges that:

- (i) the MoodMe Marks, whether or not registered, are the sole property of MoodMe or its suppliers;
- (ii) Company’s reproduction of the MoodMe Marks inures to the benefit of MoodMe;

- (iii) MoodMe has the right to communicate about Company, its sublicensees customers and any end user of MoodMe products, about how they use MoodMe products including but not limited to press releases, web & blog post, case studies, benchmarks and to use visual assets including but not limited to screen shots & videos;
- (iv) Company agrees to share information such as visuals, screen shots, video, description of use cases
- (v) Company acquires no legal rights in the MoodMe Marks.

Company agrees that it shall not adopt or use any MoodMe Marks or any word, company name, mark or design that is similar to or confusing with the MoodMe Marks.

Company shall not use the MoodMe Marks in connection with any activity that:

- (a) disparages MoodMe or its products or services;
- (b) violates or infringes any intellectual property of MoodMe; or
- (c) violates any local, state, federal, country, or international regulation or law.

#### **4. Support.**

MoodMe provides support for the SDK as part of this Licensing Agreement through its Forum <https://www.mood-me.com/support/> & by email: [support@mood-me.com](mailto:support@mood-me.com)

#### **5. Ownership.**

The SDK is licensed, not sold. MoodMe reserves all other rights not granted herein.

The parties acknowledge that, as between the parties,

- (a) MoodMe or its licensors retain complete ownership of all Intellectual Property Rights in and to the SDK and
- (b) Company or its licensors retain complete ownership of all Intellectual Property Rights in the Company Product(s)

Nothing in this Agreement will be construed to transfer or assign any Intellectual Property Rights of either party to the other. "Intellectual Property Rights" means any and all rights under patent law, copyright law, trade secret law, trademark law, and any and all other proprietary rights.

#### **6. DISCLAIMER OF WARRANTIES & LIABILITY.**

THE SDK IS PROVIDED "AS IS" WITHOUT ANY WARRANTIES OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MOODME DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL MOODME BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RELATING TO THE SDK OR THIS SOFTWARE DEVELOPMENT KIT LICENSE AGREEMENT, UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE. EXCEPT WITH REGARD TO MOODME'S INDEMNIFICATION OBLIGATIONS PURSUANT TO SECTION 11,

MOODME'S TOTAL LIABILITY RELATING TO THE SDK OR THIS AGREEMENT WILL NOT, IN ANY EVENT, EXCEED THE AMOUNT ACTUALLY RECEIVED BY MOODME PURSUANT TO THIS AGREEMENT. THE FOREGOING LIMITATIONS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, REGARDLESS OF WHETHER MOODME HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

#### **7. Confidentiality.**

"Confidential Information" means information or material provided by the discloser to the recipient that is in tangible form and labeled "confidential" or the like, or, information, which a reasonable person knew or should have known to be confidential.

The following information shall be considered Confidential Information whether or not marked or identified as such:

- (a) license keys;
- (b) information regarding either party's pricing, product roadmaps and strategic marketing plans;
- (c) non-public materials relating to the SDK, MoodMe products or Company products, and
- (d) the terms and conditions of this Agreement.

Each party shall keep all Confidential Information it receives confidential using the same protections that it applies to its own information of like importance, but in no event less than reasonable care, and may use such information solely for the purposes contemplated by this Agreement or as otherwise agreed in writing.

Confidential Information may be disclosed solely to employees, contractors and consultants who have a legitimate need to know the Confidential Information and are bound to confidentiality restrictions substantially equivalent to this Section 12 and who are not working on products or services that are competitive with MoodMe's or Company's (and their respective affiliates') products and services.

This Section will not apply to information that:

- (a) was rightfully in possession of the recipient prior to receipt of such Confidential Information from the discloser;
- (b) is or becomes a matter of public knowledge through no fault of the party receiving such Confidential Information hereunder;
- (c) is rightfully received from a third party without a duty of confidentiality;
- (d) is independently developed by recipient without breach of any confidentiality obligations; or
- (e) is disclosed by recipient with discloser's written approval;
- (f) the recipient is required to disclose by applicable law or court order, or
- (g) in confidence, in connection with an actual or proposed merger, acquisition, or similar transaction.

In addition, recipient will be allowed to disclose

- (i) discloser's Confidential Information to the extent that such disclosure is required by law or by the order of a court or similar judicial or administrative body, provided that recipient notifies discloser of such required disclosure promptly and in writing and cooperates with discloser, at discloser's request and expense, in any lawful action to contest or limit the scope of such required disclosure,
- (ii) the terms and conditions of this Agreement in confidence in connection with an actual or proposed merger, acquisition, or similar transaction.

The parties acknowledge that breach of this Section may cause damage to the discloser for which monetary damages will be an inadequate remedy. Accordingly, the discloser will be entitled to seek and obtain injunctive and any relief (legal or equitable) to restrain any breach or anticipated breach of this Section.

## **8. General.**

### **a. Governing Law/Venue.**

This Agreement will be governed and interpreted in accordance with the laws of Belgium, without regard to conflict of law principles. Venue for any legal action is proper in Belgium courts and each party expressly consents to venue and jurisdiction of those courts.

### **b. Assignment.**

This Agreement may not be assigned in whole or in part, by operation of law or otherwise, by either party without the prior written consent of the other party.

Notwithstanding the forgoing, either party may assign this Agreement in connection with merger, a corporate reorganization, or the transfer of substantially all of the assets of the business to which this Agreement relates.

This Agreement will bind and inure to the benefit of the parties and their permitted assigns.

### **c. Entire Agreement.**

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes entirely all written or oral agreements previously existing between the parties with respect to that subject matter.

Each of the parties acknowledges that it is not entering into this Agreement on the basis of any representations other than those representations contained expressly in this Agreement.

Any modifications of this Agreement must be in writing and signed by both parties hereto.

If any provision of this Agreement is held to be illegal, invalid, or unenforceable, the parties agree to comply with the provision to the maximum extent permissible so as to affect the intent of the parties, and the remaining provisions of this Agreement remain in full force and effect.

### **d. Export Control.**

Company acknowledges that the SDK is of European Union origin, is provided subject to applicable EU Export Regulations, may be subject to the export control laws of the applicable territory, and that diversion contrary to applicable export control laws is prohibited.

Company represents, warrants and covenants that

- Company is not, and is not acting on behalf of,
  - (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the European Union or the United States have prohibited export transactions; or
  - (b) any person or entity listed on applicable EU or US lists of Specially Designated Nationals and Blocked Persons,

**e. Personal data, GDPR.**

MoodMe does not process any kind of personal data, nor information concerning identified or identifiable natural person. The means and technology used only allows the collection of various and anonymous emotional general characteristics extracted “on the fly” ie in real time, without any storage of identified or identifiable faces. MoodMe only processes the results of the extraction of face characteristics as landmarks indicating the position of the mouth, the eyebrows, the nose, the eyes, the gender, the age and the emotions, without any possibility to identify an individual person. Consequently, the GDPR and its principles of data protection are not applicable to the anonymous information processed by MoodMe, considering that even if personal data is accidentally collected, it is automatically rendered anonymous in such a manner that the data subject is not or no longer identifiable.

**f. Data Privacy.**

Company agrees that MoodMe may periodically collect, process and store technical and related information about Company’s device, system, application, peripherals and Company’s use of the SDK, including without limitation: internet protocol address, hardware identification, operating system, application software, peripheral hardware, number of active plugins and software development kits, the successful installation and launch of SDK, and SDK usage statistics (collectively, “Technical Data”).

MoodMe will use Technical Data for internal statistical and analytical purposes to facilitate support, invoicing or online services, the provisioning of updates, and the development of MoodMe products and services.

Company acknowledges that correspondence and log files generated in conjunction with a request for support services may contain sensitive, confidential or personal information.

Company is solely responsible for taking the steps necessary to protect such data, including obfuscating the logs or otherwise guarding such information prior to sending it to MoodMe.

**g. Relationship of Parties.**

The relationship of the parties during the term of this Agreement is that of independent third parties.

Neither party has, nor no party has the right to represent that it has any power, right or authority to bind the other party, or to assume or create any obligation or responsibility, express or implied, on behalf of the other party or in the other party’s name.

Nothing stated in this Agreement may be construed as creating the relationships of employer/employee, franchiser/franchisee, or principal/agent between the parties.

**h. Notices.**

Notices to either party must be in writing and must be delivered by email addressed as stated below:

MoodMe:  
Chandra De Keyser, CEO: [chandra.dekeyser@mood-me.com](mailto:chandra.dekeyser@mood-me.com)

COMPANY  
NAME, TITLE & EMAIL as in Introduction

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**SIGNATURES**

IN WITNESS WHEREOF, the authorized representatives of parties have executed this Agreement as of the day and year first above written.

MoodMe:



Chandra De Keyser, Chief Executive Officer

MoodMe Contact <a href="mailto:sales@mood-me.com">sales@mood-me.com</a>	USA: 555 Forest Avenue #1 Palo Alto, CA 94301	HQ: 38 Rue Antoine Meyer L-2153, Luxembourg	R&D : 15 Rue des Vertes Haies, B-1400 Nivelles, Belgium
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COMPANY

Authorized representative

## **ANNEX A**

### **COMMERCIAL TERMS & ADDITIONAL TERMS & CONDITIONS.**

CLAUSES IN THE PRESENT SPECIFIC ANNEX MAY SUPERSEDE THE CONDITIONS EXPRESSED IN THE BODY OF THIS LICENSING AGREEMENT. IN CASE OF CONTRADICTION, THE CLAUSES IN THE PRESENT SPECIFIC ANNEX TAKE PRECEDENCE.

MOODME PRODUCTS (TICK THE SDK & OS)

	WEB	UNITY	IOS	ANDROID	WIN10	LINUX	MACOS
FACE TRACKER v2019							
FACE TRACKER v2020							
FACE AUGMENTED REALITY SDK							
FACE BACKGROUND REMOVAL NN v2020							
UNITY PLUGIN		X					
AR FILTERS*							
EMOTION ANALYTICS NEURAL NETWORK		X					
AGE DETECTION NEURAL NETWORK							
GENDER DETECTION NEURAL NETWORK							
ETHNICITY DETECTION NEURAL NET							
FACE INSIGHTS: RE-ID/RECOGNITION							
ENGAGEMENT INSIGHTS PLATFORM							

NA	COMMERCIAL DEPLOYMENT	X	COMMERCIAL DEPLOYMENT
COMMERCIAL TERMS: PRICE: PAYMENT TERMS: UPON RECEIPT OF LICENSE		COMMERCIAL TERMS: AS PER UNITY3D ASSET STORE PRICE: AS PER UNITY3D ASSET STORE PAYMENT TERMS: UPON RECEIPT OF LICENSE	
SUBLICENSING, END CUSTOMER AND MARKETING GUIDELINES			
<b>Sublicensing:</b> <ul style="list-style-type: none"><li>End Customer: Company</li><li>Type of Application: Commercial, no restrictions unless provided for by this license agreement.</li></ul>			