

Leap Motion, Inc.

SDK AGREEMENT

THIS LEAP MOTION SDK AGREEMENT (“AGREEMENT”) IS A LEGAL AGREEMENT BETWEEN YOU AND LEAP MOTION, INC. (“LEAP MOTION”). IF YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS, CLICK THE “AGREE” BUTTON AT THE END OF THIS AGREEMENT. YOUR AGREEMENT TO THESE TERMS ALSO BINDS YOUR AUTHORIZED USERS, YOUR COMPANY OR ORGANIZATION. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT DOWNLOAD OR USE THIS SDK.

1. SDK Permitted Use and Restrictions

1.1 License. Subject to the terms and conditions of this Agreement, during the Term Leap Motion hereby grants you and any other employees at your company or organization you authorize to use or to whom you otherwise make available the SDK (your “Authorized Users”), a non-exclusive, personal, non-sublicensable and non-transferable license to use and access the SDK (and any Updates thereof) internally, solely to test and develop your application for potential use in connection with the Leap Motion Device or any prototype thereof. The SDK is the Leap Motion Software Development Kit that includes system files, tools, APIs, software documentation and any Updates that may be provided or made available to you by Leap Motion via the developer portal. The Leap Device is the USB peripheral that creates a 3-D interaction space to precisely interact with and control software on your laptop or desktop computer.

The license in Section 1.1 is solely for your internal use and access of the SDK. Any applications you develop using the SDK must be approved by Leap Motion pursuant to a separate Leap Motion app developer agreement before they may be distributed via Leap Motion’s app store. Leap Motion reserves the right to approve or withhold approval of any Application at its sole discretion. You are solely responsible for any costs, expenses or other liabilities you may incur as a result of your Application or use and access to of this SDK (or any Updates thereof).

1.2 Restrictions. You shall not, and shall not permit any person to: (i) use the SDK for commercial hosting or other commercial or production purposes; (ii) copy (except for backup purposes), modify, translate, or create derivative works of the SDK or any portion thereof; (iii) reverse engineer, decompile, disassemble or otherwise attempt to reconstruct, identify or discover any source code, underlying ideas, techniques, or algorithms in any software embedded in the SDK; (iv) lend, lease, offer for sale, sell, or distribute the SDK; or (v) remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) affixed to or contained within the SDK.

1.3 Updates. You acknowledge that Leap Motion has no obligation to make available to you any bug fixes, updates, upgrades, modifications, enhancements, supplements and new releases or versions of or to the SDK or any part of the SDK (“Updates”) to the SDK. However, if Updates are made available to you by Leap Motion, the terms of this Agreement will govern such Updates, unless a new license agreement is made available on Leap Motion’s website where the Update is available in which case the terms of that license will govern.

2. Ownership and Improvements

2.1 Ownership. As between Leap Motion and you, Leap Motion owns all right, title and interest, including all intellectual property rights, in and to the SDK and any Updates thereof (including any related Confidential Information). You agree not to contest Leap Motion's ownership of the SDK and any Updates. ALL RIGHTS NOT EXPRESSLY GRANTED HEREUNDER ARE RESERVED TO LEAP MOTION. Leap Motion will not acquire any ownership interest in or to your application, and any rights to Leap Motion to your application will be set forth in any future Leap Motion app developer agreement.

2.2 Feedback. You may (but are not required to) provide feedback, comments and suggestions to Leap Motion. You hereby grant to Leap Motion a non-exclusive, perpetual, paid-up, transferable, sub-licensable, worldwide license to use, disclose and exploit all intellectual property rights in such Feedback for any purpose. If you experience any serious failure or malfunction of the SDK, you agree to notify Leap Motion immediately.

3. Your Obligations and Warranties

You warrant and agree that:

- (a) you are at least 18 years of age and have the right and authority to enter into this Agreement on your own behalf, or if you are entering into this Agreement on behalf of your company or organization, that you have the right and authority to legally bind your company or organization and your Authorized Users;
- (b) you will only use the SDK in accordance with all accompanying documentation, in the manner expressly permitted by this Agreement and in accordance with all applicable laws and regulations and all U.S. and local or foreign export and re-export restrictions applicable to the technology and documentation provided hereunder (including privacy and data security laws and regulations), and you will not develop any application which would commit or facilitate the commission of a crime, or other tortious, unlawful, or illegal act;
- (c) you will not engage in any activity in connection with the SDK or that interferes with, disrupts, damages, or accesses in an unauthorized manner the servers, networks, systems or other properties or services of any person including Leap Motion or any mobile communications carrier;
- (d) you will fully cooperate with Leap Motion to investigate or determine whether there has been a breach of this Agreement and upon request provide Leap Motion with access to the premises and computers where the SDK is or has been used.

4. Confidentiality

4.1 Leap Motion's Information. You acknowledge that you may learn Confidential Information of Leap Motion in connection with this Agreement. You agree not to use or disclose such Confidential Information to others without the prior written consent of Leap Motion, and to hold such Confidential Information in strict confidence using at least the same degree of care you

use to protect your own Confidential Information of like nature and importance, but no less than a reasonable degree of care. Only your Authorized Users who have a “need to know” solely to test and develop your application may be given access to Leap Motion’s Confidential Information, and you are liable for any unauthorized use or disclosure by any of them. You shall immediately notify Leap Motion if you discover or suspect any unauthorized use or disclosure of any Confidential Information and shall cooperate with Leap Motion to remedy same.

“Confidential Information” means documents, any version of the SDK and all Updates, technology, know-how, algorithms, testing procedures, software, structure, interfaces, specifications, documentation, reports, analysis and other technical information learned or accessed by you pursuant to this Agreement or version of the SDK. Confidential Information does not include information that (i) has become a part of the public domain without any improper action or inaction; (ii) was in your rightful possession without any obligation of confidentiality to any parties; (iii) was rightfully disclosed to you by a third party without restriction on disclosure; and (iv) to the extent required by law or court order, provided that you shall make reasonable efforts to give Leap Motion prior notice of such requirement and shall cooperate with any attempts to obtain a protective order or similar treatment.

4.2 Your Information. Leap Motion may collect personal information provided by you or your Authorized Users to Leap Motion in connection with this SDK and may collect technical and non-personally identifiable or aggregated information such as usage statistics, Internet Protocol (“IP”) addresses, version number of the SDK, and information about which tools and/or services in the SDK are being used and how they are being used. Leap Motion collects such information to facilitate the provision of Updates and other services to you, to verify compliance with the terms of this Agreement, to improve the SDK and Leap Motion’s products, and any other purposes set out in Leap Motion’s current Privacy Policy available on its website <http://leapmotion.com>. By submitting personal information about you and/or your Authorized Users to Leap Motion through your access and use of the SDK, you consent to Leap Motion’s collection and use of such information and warrant that you have obtained all consents necessary under applicable law from your Authorized Users to disclose their personal information to Leap Motion for such purposes. You agree Leap Motion can give your user name, IP address or other identifying information to law enforcement authorities or as required by applicable law or regulation.

5. Term and Termination

5.1 Term. This Agreement shall continue so long as you are a member of the Leap Software Developer Program and remain in compliance with this Agreement (the “Term”), unless terminated earlier pursuant to Section 5.2 of this Agreement.

5.2 Termination. This Agreement and all rights granted under it by Leap Motion will automatically terminate without notice from Leap Motion if (i) you or any of your Authorized Users fail to comply with any term(s) of this Agreement; or (ii) Leap Motion decides to no longer provide the SDK or certain parts of the SDK to users. Either party may terminate this Agreement, effective thirty (30) days after providing written notice to the other party pursuant to Section 9.7 of this Agreement.

5.3 Effect of Termination. Upon termination of this Agreement, all rights granted to you under this Agreement will immediately terminate and you shall lose access to the SDK and you shall cease using the SDK immediately and will erase and destroy all copies of Leap Motion's Confidential Information in your and your Authorized Users possession or control. At Leap Motion's request, you agree to provide written proof of such destruction to Leap Motion at your cost. Sections 1.2, 2, 3(b)-(d), 4, and 5-9 shall survive termination of this Agreement.

6. Indemnification. You agree to defend, indemnify and hold Leap Motion and its affiliates and their respective officers, directors, employees agents, and representatives harmless from any and all judgments, awards, settlements, liabilities, damages, costs, penalties, fines and other expenses (including court costs and reasonable attorneys' fees) incurred by them relating to any third party claim (a) with respect to your Application(s), including products liability, privacy, or intellectual property infringement claims, or (b) based upon any breach or alleged breach of your representations, warranties, and covenants under this Agreement. In no event may you enter into any settlement or like agreement with a third party that affects Leap Motion rights or binds Leap Motion in any way, without the prior written consent of Leap Motion.

7. WARRANTY DISCLAIMER

THE SDK IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. LEAP MOTION HEREBY DISCLAIMS ALL REPRESENTATIONS, PROMISES, OR WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE SDK, INCLUDING ITS CONDITION, OR THE EXISTENCE OF ANY LATENT DEFECTS, AND LEAP MOTION SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NONINFRINGEMENT, SUITABILITY, AND FITNESS FOR ANY PURPOSE. LEAP MOTION DOES NOT WARRANT THAT THE SDK WILL BE ERROR-FREE OR THAT IT WILL WORK WITHOUT INTERRUPTIONS.

8. LIMITATION OF LIABILITY

IN NO EVENT SHALL LEAP MOTION'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED ONE HUNDRED DOLLARS. EXCEPT FOR A BREACH OF THE LICENSE RESTRICTIONS OR CONFIDENTIALITY OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS OR BUSINESS INTERRUPTION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE PARTIES AGREE THAT THE FOREGOING LIMITATIONS REPRESENT A REASONABLE ALLOCATION OF RISK UNDER THIS AGREEMENT.

9. Miscellaneous

9.1 Assignment. You may not assign this Agreement without the prior written consent of Leap Motion. Leap Motion shall have the right to assign this Agreement without your consent in connection with a sale of all of its business or assets to which this Agreement relates. In the

event of a permitted assignment, this Agreement will inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

9.2 Publicity. You agree to cooperate in the creation of press releases related to Leap Motion. You shall not issue any press releases that refer to Leap Motion without Leap Motion's prior written consent. If you agree to be contacted by the media regarding the SDK, please check the "opt-in" box at the end of this Agreement.

9.3 Waiver; Severability. The failure of the other party to enforce any rights hereunder shall not be deemed a waiver of any such rights. The rights and remedies of the parties as set forth herein 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.

9.4 Governing Law and Jurisdiction; Remedy. This Agreement shall be governed by and construed under the laws of the State of New York. All disputes arising out of or related to this Agreement will be subject to the exclusive jurisdiction of the state and federal courts located in New York, New York. If you breach or threaten to breach this Agreement, you agree that Leap Motion would suffer substantial injury and may have no adequate remedy at law and would therefore be entitled to, in addition to all other available remedies, injunctive and other equitable relief (including specific performance), without bond and without the necessity of showing actual money damages.

9.5 Further Assurances. You agree to execute such further documents and perform such further actions as may be reasonably requested by Leap Motion to evidence and effectuate further the purposes and intents set forth herein.

9.6 Relationship of the Parties. This Agreement does not create any agency, partnership, or joint venture relationship between Leap Motion and you. This Agreement is for the sole benefit of Leap Motion and you (and indemnified parties), and no other persons shall have any right or remedy hereunder.

9.7 Notice. All notices under this Agreement shall be in writing. Notice will be deemed given by Leap Motion to you when sent to you at the email address you provided as part of your Leap Motion developer account registration process. Notice will be deemed duly given to Leap Motion: (i) on the date delivered if personally delivered, (ii) on the date sent by facsimile or pdf with proper confirmation, (iii) on the business day after being sent by Federal Express or another reputable overnight courier service, or (iv) upon receipt, if mailed by the United States postage-prepaid certified or registered mail, return receipt requested, in each case addressed to the applicable party at the address set forth below:

Leap Motion:

Leap Motion, Inc.
333 Bryant Street, Suite LL150
San Francisco CA 94107
Attention: Director of Developer Relations
Copy: Legal Group

You consent to receive notices by email and agree that any such notices that Leap Motion sends you electronically will satisfy any legal communication requirements. A party may change its email or mailing address by giving the other written notice as described above.

9.8 Entire Agreement. This Agreement embodies the entire understanding of the parties and supersedes any previous or contemporaneous communications, whether oral or written, and may be amended only by a writing signed by authorized representatives of both parties.