

# MOTION LIBRARY END USER LICENSE AGREEMENT

*Last Updated: September 28, 2018*

## 1. Parties and Background

### 1.1.

This Motion Library End User License Agreement (hereinafter referred to as "EULA") is a non-exclusive, legally binding end user license agreement between any organisation ("END-USER") that acquires a digital motion capture asset (the "Motion Asset") from Rokoko Electronics ApS, company no. 35 68 06 67, Sankt Gertruds Straede 6 E, 1129 Copenhagen K, Denmark ("Licensor" or "Rokoko") in the Unity Asset Store.

### 1.2.

By installing, copying, accessing, downloading or otherwise using any Motion Assets, END-USER agrees to be bound by the provisions of this EULA.

### 1.3.

The subject matter of this EULA is the licensing to END-USER of any Motion Asset acquired by END-USER in the Unity Asset Store. The Motion Assets are licensed, not sold, and the use under the license is subject to certain restrictions and limitations, including but not limited to a time limitation, as further set out in this EULA.

## 2. Declaration Regarding Use of Motion Assets

### 2.1.

The END-USER confirms that any Motion Assets acquired by it under the terms and conditions of this EULA will be used by the END-USER for commercial, scientific or academic purposes.

## **3. END-USER's Rights and Obligations**

### **3.1.**

Licensor grants to the END-USER a non-exclusive, worldwide, license to the Motion Asset licensed by the END-USER.

### **3.2.**

The license for each Demo Motion Asset is limited to only cover non-commercial use i.e. the END-USER may not use Demo Motion Assets as integrated components of publicly distributed digital media productions.

### **3.3.**

END-USER may not reproduce, distribute, sublicense, rent, lease or lend any Motion Asset. It is emphasized that the END-USERS shall not be entitled to distribute or transfer in any way (including, without, limitation by way of sublicense) the Motion Assets in any other way than as integrated components of digital media productions. Without limitation of the foregoing it is emphasized that END-USER shall not be entitled to share the costs related to the licensing of a Motion Asset and then let any third party that has contributed to such license use such Asset (forum pooling).

### **3.4.**

END-USER is granted a license to install and use the licensed Motion Assets on an unlimited number of computers of the END-USER.

### **3.5.**

With respect to any licensed Motion Asset, no modification, integration or any other use of those Motion Assets shall: (i) infringe, misappropriate, or violate a third party's patent, copyright, trademark, trade secret, moral rights, or other intellectual property rights, or rights of publicity or privacy; (ii) violate, or encourage any conduct that would violate, any applicable law or regulation or would give rise to liability of any kind; (iii) be fraudulent, false, misleading, or deceptive; (iv) be defamatory, obscene, pornographic, vulgar, or offensive; (v) promote discrimination, bigotry, racism, hatred, harassment, or harm against any individual or group; (vi) promote violence or actions that are threatening to any other person; or (vii) promote illegal or harmful activities or substances.

## **4. Subscription and billing**

### **4.1.**

Access to the Motion Library Demo is free for individual users (identified by e-mail accounts) registered by END-USER.

### **4.2.**

Access to the Motion Library Premium is subject to a monthly subscription fee of USD 10.00, excluding VAT and taxes, per individual user (identified by e-mail accounts) registered by END-USER.

### **4.3.**

The subscription fee is payable monthly or yearly in advance. Licensor reserves the right to change the subscription fee with 1 (one) months prior notice.

### **4.4.**

The license fee for each Motion Asset is set out in the Unity Asset Store. Licensor reserves the right to change the license fee of the Motion Assets from time to time without notice.

### **4.5.**

END-USER shall pay the subscription fee and the license fee for the Motion Assets in accordance with the payment process provided in the Unity Asset Store.

### **4.6.**

All subscription fees, license fees and any other payment under this EULA are invoiced by Unity Asset Store, unless and until Rokoko notifies the END-USER differently in writing.

## **5. File Format and Support**

### **5.1.**

The Motion Assets are made available in FBX format or such other format as Licensor in its sole discretion may determine.

## **5.2.**

Licensor provides no support services to END-USER.

# **6. Termination**

## **6.1.**

Without prejudice to any other rights, Licensor may terminate this EULA with immediate effect if END-USER fails to comply with the terms and conditions of this EULA and the Terms or in any way abuse or misuse the Motion Assets.

## **6.2.**

In the event of abuse or misuse LICENSOR shall have the right to sue for infringement and/or breach of contract, for which LICENSOR will seek all damages and remedies available including attorney's fees and all associated costs plus all estimated current and future earnings incurred by the END-USER as a result of the abuse or misuse.

## **6.3.**

In the event of termination of this EULA due to a breach by END-USER, all license rights granted herein terminate and END-USER shall immediately destroy any and all copies of the Motion Assets contained or stored on any type of media under the control of END-USER and confirm such destruction in writing to LICENSOR.

## **6.4.**

Each Party may terminate the EULA without cause at any time with 1 (one) month notice to the end of a calendar month.

# **7. Duplication Rights/Back Up Copy**

## **7.1.**

END-USER may download and make copies of the Motion Assets for legitimate purposes, including back-up purposes, subject to the terms and conditions of this EULA, including the restrictions set out in clause 3.2 and 3.3. In addition, Licensor acknowledges that copies of the Motion Assets may be made when the Motion Assets have been integrated as parts of digital media productions.

## **8. Trademarks**

### **8.1.**

This EULA does not grant END-USER any rights in connection with any trademarks or service marks of Licensor or Licensor's other suppliers.

## **9. Copyright**

### **9.1.**

The Motion Assets are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties.

### **9.2.**

All title and intellectual property rights in and to the Motion Assets (including but not limited to any software, images, photographs, animations, graphics, 3D graphics, video, audio, music, text, tutorials, and iapplets incorporated into the Motion Assets), the accompanying printed materials, and any copies of the Motion Assets are owned by Licensor. All rights not expressly granted are reserved by Licensor. For greater certainty and without limitation of the foregoing, use of Motion Assets, whether modified as permitted hereunder or unmodified, is limited to use as expressly provided in this EULA.

## **10. No stealing**

### **10.1.**

END-USER agrees not to access (or attempt to access) any Motion Assets available in the Unity Asset Store by any means other than through the interface that is provided by Unity, unless END-USER has been specifically allowed to do so in a separate agreement with Unity. END-USER specifically agrees not to access (or attempt to access) any Motion Assets available at the Unity Asset Store through any automated means (including use of scripts, crawlers or similar technologies from time to time).

# 11. Disclaimer of Warranties

## 11.1.

END-USER UNDERSTANDS AND ACCEPTS THAT PRIOR TO PLACING ANY MOTION ASSET IN THE UNITY ASSET STORE, ROKOKO DOES NOT UNDERTAKE ANY LEGAL OBLIGATION TO MONITOR, PRE-SCREEN, REVIEW, FLAG, FILTER, MODIFY, REFUSE OR REMOVE ANY MOTION ASSET OR THEIR CONTENT FROM THE UNITY ASSET STORE. CONSEQUENTLY, END-USER EXPRESSLY UNDERSTANDS AND AGREES THAT ITS USE OF THE MOTION ASSETS IS AT END- USER'S SOLE RISK AND THAT THE MOTION ASSETS ARE PROVIDED ìAS ISî AND ìAS AVAILABLEî WITHOUT WARRANTY OF ANY KIND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. IN PARTICULAR, LICENSOR, ITS SUBSIDIARIES, HOLDING COMPANIES AND AFFILIATES, AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO END-USER THAT: (A) END-USER'S USE OF THE MOTION ASSETS WILL MEET END-USER'S REQUIREMENTS, (B) END-USER'S USE OF THE MOTION ASSETS WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR, (C) ANY INFORMATION OBTAINED BY END-USER AS A RESULT OF END-USER'S USE OF THE MOTION ASSETS WILL BE ACCURATE OR RELIABLE, AND (D) THAT DEFECTS IN THE OPERATION OR FUNCTIONALITY OF ANY SOFTWARE PROVIDED TO END-USER AS PART OF THE MOTION ASSETS WILL BE CORRECTED.

## 11.2.

END-USER'S USE OF ANY MOTION ASSETS IS AT END-USER'S OWN DISCRETION AND RISK AND END-USER IS SOLELY RESPONSIBLE FOR ANY DAMAGE TO END-USER'S COMPUTER SYSTEM, OR OTHER DEVICE, OR LOSS OF DATA THAT RESULTS FROM SUCH USE.

## 11.3.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, LICENSOR FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES TERMS OR CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTIES TERMS AND CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, WITH RESPECT TO ANY MOTION ASSETS.

#### **11.4.**

NONE OF THE MOTION ASSETS ARE INTENDED FOR USE IN THE OPERATION OF NUCLEAR FACILITIES, LIFE SUPPORT SYSTEMS, EMERGENCY COMMUNICATIONS, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL SYSTEMS, OR ANY OTHER ACTIVITIES WHERE THE FAILURE OF THE MOTION ASSETS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

## **12. Limitation of Liability**

#### **12.1.**

THE LIABILITY OF THE LICENSOR AND ITS SUBSIDIARIES, HOLDING COMPANIES, REPRESENTATIVES AND OTHER AFFILIATES TOWARDS END-USER FROM ALL CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY UNDER THESE TERMS WILL BE LIMITED TO THE AMOUNTS PAID TO LICENSOR BY END-USER IN THE PAST SIX MONTHS FOR THE MOTION ASSETS RELATING TO THE DISPUTE. IN NO EVENT SHALL LICENSOR OR ITS SUBSIDIARIES, HOLDING COMPANIES, REPRESENTATIVES AND OTHER AFFILIATES BE LIABLE TO END- USER FOR ANY SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF DATA, BUSINESS, PROFITS OR ABILITY TO EXECUTE) OR FOR THE COST OF PROCURING SUBSTITUTE PRODUCTS ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR YOUR USE OF THE MOTION ASSETS DOWNLOADED OR OTHERWISE OBTAINED, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE FOREGOING LIMITATIONS WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

#### **12.2.**

END-USER EXPRESSLY UNDERSTANDS AND AGREES THAT LICENSOR, ITS SUBSIDIARIES, HOLDING COMPANIES, REPRESENTATIVES AND AFFILIATES, AND ITS LICENSORS SHALL NOT BE LIABLE TO END-USER FOR ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY END-USER, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF: (I) ANY RELIANCE PLACED BY END-USER ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY

ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN END-USER AND LICENSOR OR ANY, DEVELOPER, ADVERTISER OR SPONSOR WHOSE ADVERTISING APPEARS IN THE MOTION ASSETS OR IN THE UNITY ASSET STORE; OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE UNITY ASSET STORE OR THE MOTION ASSETS (OR ANY FEATURES WITHIN THE MOTION ASSETS); (III) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH END- USER'S USE OF THE MOTION ASSETS; (IV) END-USER'S FAILURE TO PROVIDE ROKOKO WITH ACCURATE ACCOUNT INFORMATION;

### **12.3.**

NOTHING IN THE TERMS EXCLUDES THE LIABILITY FOR LICENSOR, ITS SUBSIDIARIES OR AFFILIATES FOR: (I) DEATH AND PERSONAL INJURY CAUSED BY NEGLIGENCE; (II) FRAUDULENT MISREPRESENTATION; OR (III) ANY OTHER LIABILITY WHICH CANNOT BE LIMITED BY APPLICABLE LAW.

## **13. Amendments**

### **13.1.**

Licensor reserves the right to amend the terms and conditions of the EULA at any time with 1 (one) month prior notice. The most recent version of the EULA may be found at [www.motionlibrary.com](http://www.motionlibrary.com).

## **14. Export Restrictions**

### **14.1.**

Motion Assets available in the Unity Asset Store may be subject to laws, administrative regulations and executive orders of those authorities responsible according to any applicable laws relating to the control of imports and exports of the Motion Assets ("Export Laws"). You agree to comply with all applicable Export Laws and you shall not export or re-export directly or indirectly (including via remote access) any part of the Motion Assets to anyone in any country to which a license is required under the Export Laws without first obtaining a license.



# **15. Venue and Applicable Law**

## **15.1.**

This EULA and END-USER's relationship with Licensor under this EULA, shall be governed by the laws of Denmark without regard to its conflict of laws provisions. Any dispute arising out of or in connection with this Agreement, including any disputes regarding the existence, validity or termination thereof, shall be settled by simplified arbitration arranged by The Danish Institute of Arbitration in accordance with the rules of simplified arbitration procedure adopted by The Danish Institute of Arbitration and in force at the time when such proceedings are commenced. Notwithstanding this, END-USER agrees that Licensor shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.