

INTERAXON DEVELOPMENT KIT (SDK) LICENSE AGREEMENT (“AGREEMENT”)

THE RIGHTS GRANTED TO DEVELOPER UNDER THIS AGREEMENT ARE EFFECTIVE AS OF THE SIGNING OR eSIGNING OF THIS AGREEMENT BY BOTH INTERAXON AND DEVELOPER (“EFFECTIVE DATE”). THIS AGREEMENT IS A LEGAL AGREEMENT ENTERED INTO BETWEEN DEVELOPER INCLUDING ITS EMPLOYEES AND CONTRACTORS WHO HAVE A DEMONSTRABLE NEED TO KNOW OR USE THE SDK IN ORDER TO DEVELOP APPLICATIONS ON ITS BEHALF (“YOU” OR “YOUR”) AND INTERAXON. BEFORE SIGNING OR eSIGNING THIS AGREEMENT, PLEASE CAREFULLY READ THE FOLLOWING AGREEMENT. IF, PRIOR TO SIGNING, eSIGNING, OR DOWNLOADING, INSTALLING, ACTIVATING OR USING THE SDK, YOU DECIDE YOU ARE UNWILLING TO AGREE TO THE TERMS OF THIS AGREEMENT, YOU HAVE NO RIGHT TO USE THE SDK. IN THIS CASE, DO NOT SIGN OR eSIGN THE AGREEMENT OR ATTEMPT TO DOWNLOAD THE SDK BY ANY MEANS AND IF YOU HAVE ALREADY DONE SO, PROMPTLY DELETE THE SDK.

1 Definitions.

Unless otherwise defined herein, the following capitalized terms used in this Agreement shall have the following meaning:

“**Application**” means a software application and or algorithms (which may or may not be embodied in a software application) developed by You using the SDK only for use with the Headband, including updates, upgrades, modifications, enhancements, revisions, new releases and new versions of such software application.

“**Application Data**” means any data or signals received, collected, compiled, derived or generated from the use of the Application including without limitation, Muse Data, electroencephalogram (EEG), electromyogram (EMG), electro-oculogram (EOG), and/or electrocardiogram (ECG) signals, accelerometer and/or gyroscope data, and also including without limitation, meta data and tags applied to such signals or data.

“**Authorized Application**” means the Application, if any, described in an Authorized Application Approval and further described in Section 2.1.

“**Authorized Application Approval**” means a document, if any, entitled “Authorized Application Approval” signed by the CEO of InteraXon and issued by InteraXon to You, setting out any additional terms pursuant to which You may commercialize the Authorized Application described in such Authorized Application Approval.

“**Confidential Information**” means (a) the SDK, any information or materials that are part of or made available by the SDK or by using the SDK, and all InteraXon technology, know-how, algorithms, testing procedures, software, structure, interfaces, specifications, reports, analysis and other technical information learned, accessed or derived by You pursuant to this Agreement or pursuant to Your use of or access to the SDK, and that (b) InteraXon considers confidential and is identified as confidential prior to or at the time of its disclosure or would reasonably be considered confidential in the industries in which InteraXon operates. Without limiting the generality of the foregoing, InteraXon’s Confidential Information includes without limitation: (a) any performance or test results relating to InteraXon’s products, software or services, including performance of an Application in connection with InteraXon’s products, software or services; (b) InteraXon software’s source code; and (c) technical specifications related to InteraXon’s software or products. Confidential Information under this Agreement does not include information that: (i) has become generally publicly known without any improper action or inaction; (ii) was in Your rightful possession without any obligation of confidentiality to any parties before having access to the SDK; or (iii) is independently developed by You without use of or access to the Confidential Information as shown by contemporaneous documentation.

“Developer” means a person or other entity who has agreed to the terms of this agreement and/or who has access to InteraXon’s tools, firmware and other information and/or services comprised or forming part of the SDK.

“Excluded Application” means an Application (other than any Authorized Application described in an Authorized Application Approval) which is:

- (a) sold, licensed, leased, made available for download or otherwise distributed or disposed of; or
- (b) sold, licensed, leased, made available for download or otherwise distributed or disposed of as part of, or for use with, another application, system, machine or device (other than the Headband, a personal computer, or mobile phone); or
- (c) designed for use, or that is primarily used, with or for control, whether direct or indirect, of life critical or safety-critical sessions such as use in the operation of medical or industrial equipment, automated transportation systems, autonomous vehicles, aircraft or air traffic control, nuclear facilities, manned spacecraft, or military use in connection with live combat.

For clarity and notwithstanding anything to the contrary, You have no rights under any **Authorized Application Approval** unless You strictly ensure compliance with all Your obligations under this Agreement (including **the Authorized Application Approval**).

“Headband” means any device or system of devices developed by or behalf of InteraXon, which includes sensors which monitor biodata and other data including without limitation the electrical activity of the brain, muscle activity, heart rate, heart rate variability, motion, respiration rate, eye movement and other signals.

“Muse Data” means any data or signals received, collected, compiled, derived or generated from the Headband or the SDK including without limitation, electroencephalogram (EEG), electromyogram (EMG), electro-oculogram (EOG), and/or electrocardiogram (ECG) signals, accelerometer and/or gyroscope data, or data and also including without limitation, meta data and tags applied to such signals or data, .

“InteraXon” “we” or “us” means InteraXon Inc., a corporation incorporated under the laws of Ontario, Canada with a principal place of business at 511 King Street West, Suite 303, Toronto, Ontario M5V 1K4.

“Losses” means any harm, damages, losses or liability, including but not limited to being based on personal injury or death, property damage, system or device failure, loss or corruption of data, or breach of privacy or security.

“Sample Code” means source code that may be made available by InteraXon in connection with the SDK for assisting developers in using the SDK for the purposes of this Agreement, as further described in Section 12.

“SDK” means, collectively, the system files, tools, APIs, software documentation, algorithms, other materials and any updates to the foregoing that may be provided or made available to the Developer by or on behalf of InteraXon pursuant to this Agreement including without limitation, those described at <http://www.choosemuse.com/pages/developers>.

“Updates” means updates, upgrades, modifications, enhancements, revisions, new releases or new versions to the SDK that InteraXon may make available to You in connection with this Agreement.

“You” or “Your” shall have the meaning assigned to such term in the preamble to this Agreement. You shall include the Developer.

2 Rights Granted.

- 2.1 Subject to the terms and conditions set forth in this Agreement, InteraXon grants You a non-exclusive, revocable, non-sublicensable, non-transferable limited license to:
- (a) Install, reproduce and use one copy of the software in the SDK solely for engaging in internal development and internal testing of Your one or more Applications for use with the Headband only; and
 - (b) Make and distribute internally a reasonable number of copies of the documentation and other materials (other than software) in the SDK solely for engaging in internal development and internal testing of Your one or more Applications for use with the Headband only.

Also, either in connection with this Agreement or as an amendment to this Agreement under Section 6, You may obtain commercialization rights subject to express written authorization by the CEO of InteraXon of a written instrument in the form of an **Authorized Application Approval** referring to this Agreement. Such commercialization rights shall be subject to the terms and conditions of this Agreement and any additional terms and conditions set out in the applicable **Authorized Application Approval**. If so expressly stated in the **Authorized Application Approval**, terms and conditions of such **Authorized Application Approval** may replace specific terms and conditions of this Agreement.

In connection with any rights granted under this section and **any Authorized Application Approval**, notwithstanding anything to the contrary: (i) You may not, directly or indirectly, publish, post or otherwise make available the SDK other than as compiled with, incorporated into, or packaged with, Your Application; (ii) Your Application may 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 the security of the SDK, or any other software, firmware, hardware, data, systems, or networks accessed or used by or with Your Application; (iii) unless and to the extent authorized under an **Authorized Application Approval**, You have no right under this SDK to commercialize Your Application; and (iv) You acknowledge and agree that issuance of an Authorized Application Approval by InteraXon does not mean that InteraXon authorizes, endorses, or recommends the use of Application with the Headband and You will ensure that InteraXon has no liability in connection with the Application.

For greater certainty: (a) You may not copy or distribute (or have copied or distribute) the SDK, (b) except to the extent expressly authorized under an Authorized Application Approval, You may not import or sell/license or offer for sale/license or distribute Your Application; and (c) You may develop and test Excluded Applications for the Headband, provided, however that You acknowledge and agree that this Agreement does not grant You rights to import or sell/license or offer for sale/license or distribute Excluded Applications. If You wish to distribute, exploit or otherwise commercialize Your Application (unless and to the extent authorized under an **Authorized Application Approval**), You may not do so under this Agreement, and must contact InteraXon's business development team at business@interaxon.ca and enter into an appropriate agreement with InteraXon.

- 2.2 **Limitations.** Except as expressly set forth in this Agreement, You may not and will not permit or facilitate any other person to:
- (a) modify, adapt, alter, edit, correct, translate, publish, sell, transfer, assign, convey, rent, lease, loan, pledge, sublicense, distribute, export, enhance, or create derivative works based upon the SDK, in whole or part, or otherwise grant or transfer rights to the SDK or the rights granted herein in any form or by any media (electronic, mechanical, photocopy, recording, or otherwise);

- (b) reverse engineer (except to the extent that applicable law prohibits reverse engineering restrictions), decompile, disassemble or otherwise attempt to deconstruct, identify or otherwise reduce the SDK to any human readable form or attempt to discover any source code, underlying ideas, techniques, or algorithms in the SDK, Headband or any software therein; or
- (c) use, copy, sell, license, offer for sale or license, import, or distribute the SDK, the Headband or Your Application for or in connection with system, products or uses where failure or fault of any of the foregoing could lead to Losses.
- (d) access Muse Data except through the use of the SDK.
- (e) offer or make available Muse Data as a service, platform or offering.

2.3 **Intellectual Property Rights.** You shall continually use Your best efforts to protect InteraXon's trade-marks, trade names, patents, copyrights, and other proprietary rights, but shall not initiate legal action against third parties for infringement thereof. In connection therewith, You agree to comply with InteraXon's then-current branding guidelines ("**Branding Guidelines**") applicable to this Agreement (which may be available on InteraXon's website or obtained by emailing branding@interaxon.ca) as they may be modified or amended by InteraXon from time to time, which shall be deemed to be incorporated by reference into this Agreement. You will not use InteraXon's marks (including, without limitation, as part of any press releases, products, services, domain name, company name, marketing and/or promotional materials) without InteraXon's prior express written consent and in compliance with InteraXon's Branding Guidelines. You shall promptly notify InteraXon of any infringement or improper or unauthorized use of which You have actual knowledge. The SDK and Headband and the product specifications are subject to or embody intellectual property rights of InteraXon, including copyright as applicable in which case all right and title to all copies is retained by InteraXon. You shall not alter, remove, cover or otherwise obscure any copyright notices, trade mark notices and any other intellectual property right notices attaching to, displayed on or within the SDK or any software or documentation relating thereto.

2.4 **English Language.** This Agreement is and will only be provided in the English language. The SDK, user information, user interface, support and communication, may only be provided in English. In which case, do not use the SDK, the Headband or any InteraXon products, software or services unless You can fluently read and understand English. Further, do not install, download or use the SDK unless You can fluently read and understand English. You acknowledge and represent that You have carefully reviewed this Agreement and understand the terms and conditions contained in this Agreement and that You have no questions regarding the meaning or effect of any of the terms, provisions or conditions of this Agreement.

3 **Acknowledgment and Waiver.**

You acknowledge and agree that: (A) You must take steps to design, implement and test Your Applications to ensure that Your Applications do not present risk of Losses or Losses; (B) the Headband and other software in the SDK may not always function as intended; (C) You must design Your Applications so that any failure of the Headband or Your Application and/or any other product or technology that is part of a solution that includes Your Application does not cause Losses; and (D) if You choose to use the SDK, (i) You assume all risk that use (by You or others) of the Headband, Your Application and/or such other product or technology that is part of a solution that includes Your Application, causes any Losses, including any Losses incurred by end users of Your Applications or InteraXon or other third parties, (ii) You hereby waive all claims against InteraXon related to such use and any Losses resulting from such use, whether directly or indirectly, and (iii) You agree to hold InteraXon harmless from any claims, liability and losses based on the foregoing. Except to the extent authorized in writing, You shall not make any representations or public statements that constitute, or may be inferred as constituting, statements regarding the performance of the Headband, or of any other product, software, or service of InteraXon.

4 Ownership, Confidentiality, and Marketing.

- 4.1 You agree that all right, title and interest in and to the Confidential Information and the SDK, in whole or in part, and including without limitation, all patent, copyright, trademarks, trade secret and all other intellectual and industrial property rights therein and the structure, sequence and organization of same, and the media on which such material is contained shall, between You and InteraXon, belong to InteraXon or licensors to InteraXon. Your sole rights thereto shall be only those rights granted by InteraXon under this Agreement. You agree and acknowledge that InteraXon has and reserves the exclusive, world-wide right in perpetuity to protect the SDK, Confidential Information, and all product, software and service specifications and any part thereof, under any laws for the protection of intellectual and industrial property, including without limitation, trade secrets, trademarks, copyrights, industrial designs and patents.
- 4.2 You shall treat the Confidential Information 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 except in compliance with the terms and conditions of this Agreement. You shall be directly liable for the acts or omissions of Your employees, agents and contractors with respect to such confidentiality obligations. You agree to protect the Confidential Information with the same standard of care and procedures which You use to protect Your own trade secrets, proprietary information and other confidential information and, in any case, not less than a reasonable standard of care. You shall not use any Residual Information for any purpose whatsoever except in accordance with the terms and conditions of this Agreement, including without limitation, the development of Your own products, applications or business or on behalf of others. For the purposes of this Agreement, "Residual Information" shall mean any Confidential Information which may be retained in intangible form in Your mind or the minds of those working with You who have had access to such Confidential Information.
- 4.3 For the purposes of enabling InteraXon to test and promote Your Application and/or InteraXon's business and technology, You hereby grant to InteraXon a non-exclusive, worldwide and royalty free license to use, reproduce, display, and perform (as applicable): (A) Your Application; (B) screenshots, brand elements, assets, photographic, graphic or video reproductions or fragments of Your Application; (C) Your name, trade name or trademark in any medium or media.). The license for (A) shall end upon termination or expiration of this Agreement. The license for (B) and (C) will terminate one (1) year after termination or expiration of this Agreement, except that this license after termination or expiration of this Agreement shall not apply to any documentation and materials created and distributed after the effective date of termination or expiration of this Agreement.
- 4.4 If Application Data is saved or stored by You or on Your behalf, at InteraXon's request, You shall deliver to InteraXon in a timely manner anonymized Application Data in a usable format specified by InteraXon from time-to-time. Such delivery may be requested on a periodic or real-time basis. InteraXon's Privacy Policy (see: <http://www.choosemuse.com/privacy>) will apply to the Application Data shared by You with InteraXon. You grant to InteraXon a non-exclusive, perpetual, irrevocable, worldwide, transferable, sub-licensable, and royalty-free license to use, reproduce, display, exploit, perform, publish and distribute the Application Data, and create derivative works from such Application Data.
- 4.5 InteraXon takes proper handling and privacy of data very seriously, You shall ensure that Your Application and its use and distribution shall comply with all applicable laws including without limitation, privacy laws and regulations, and that You have obtained all necessary consents pursuant to those applicable laws and regulations as may be required or be advisable for disclosing any personal information to InteraXon, including as InteraXon may request from You pursuant to this Agreement. You shall ensure that consents are secured from the end user prior to that end user's access to the Application. In addition, to the extent that Application Data requested by InteraXon contains meta tags with Your confidential and proprietary information, You may extract such confidential information and proprietary information from the Application Data You share with

InteraXon. If the Application Data constitutes or includes personal information that You are prohibited or restricted by law from sharing with InteraXon, You shall anonymize such Application Data or take other actions as may be necessary or advisable to comply with applicable laws or regulations or best practices prior to sharing it with InteraXon.

- 4.6 Except to the extent prohibited or restricted under applicable law, or expressly authorized under this Agreement, You may not use any information provided by or made available by or on behalf of InteraXon, including without limitation Confidential Information, the SDK and the Headband. Without limiting preceding sentence, You are specifically prohibited from using such information for the design, development, support, testing, repair or manufacture of any product, software or service that is not used with the Headband.

5 Feedback.

You may (but are 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 SDK, the Headband or any other intellectual property, products, software, or services of InteraXon. You hereby grant to InteraXon a non-exclusive, perpetual, irrevocable, paid-up, 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. You agree to execute such further documents and instruments as may be required to confirm such ownership by InteraXon.

6 Amendments.

InteraXon reserves the right to change, amend or modify the terms of this Agreement or the SDK from time to time by publishing a notification of such change at its website (eg. www.choosemuse.com or www.interaxon.ca) or notifying you via email or other electronic notification regarding such change. In such instance, You may be required to accept and agree to the new terms of this Agreement. If You do not agree to any such new terms, You must cease or terminate Your use of the SDK. Your continued use of the SDK after any modification to any of the terms of this Agreement shall be deemed to constitute Your acceptance of any such new terms, conditions or modifications.

7 Term and Termination.

7.1 **Term.** This Agreement will commence upon acceptance of the terms hereof and shall continue until terminated in accordance with the terms of this Agreement. By downloading, installing, activating or using the SDK You are deemed to have accepted the terms of this Agreement.

7.2 **Termination by You.** You may terminate this Agreement by uninstalling and destroying all copies of the Muse Data, SDK and any other InteraXon confidential and/or proprietary information that are in Your possession, custody or control and by ceasing use of the SDK or distribution of Your Application, as the case may be. If any rights granted by You to InteraXon cease upon termination, You must give InteraXon express written notice in accordance with the notice provision under this Agreement, that You have terminated this Agreement in accordance with this Section and that the rights specified in the notice have terminated as well. If You fail to give such notice, any rights granted to InteraXon will continue.

7.3 **Termination by InteraXon.** InteraXon may forthwith terminate this Agreement (or portion thereof) by providing you notice of termination in the event You breach any of the terms and conditions of this Agreement. In addition, InteraXon may, at any time and for any reason, terminate this Agreement (or portion thereof) by providing You a thirty (30) day prior written notice.

7.4 **Effect of Termination.** Upon termination of this Agreement (or portion thereof), all rights granted to You under this Agreement (or portion terminated) will immediately terminate. In addition, upon termination of this Agreement, You must immediately cease all use and destroy all copies of the SDK and erase and destroy all copies of InteraXon's Confidential Information in Your possession, custody or control, and, where applicable, cease Your distribution of Applications. For clarity, your obligation regarding Application Data set out in Section 4 shall survive termination or expiry of this Agreement.

8 **Indemnification.**

You agree to indemnify, hold harmless and defend InteraXon 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 legal fees) incurred by them arising out of or relating to any claim: (a) with respect to the Application and/or the use or distribution of the Application in combination with any other product, service, device, system or solution (collectively, "**Application Use**"), including without limitation claims based on any Losses incurred in connection with Application Use or any claims based on Application Use infringing any intellectual property rights, (b) based upon Your negligence or willful misconduct or, (c) based on or arising out any breach or alleged breach of Your representations, warranties, and covenants under this Agreement.

The indemnification obligations under this Agreement are subject to the following: (a) the indemnified party promptly notifying the indemnifying party of the claim, (b) the indemnifying party shall have the sole control and exclusive conduct of the defense of such action and/or negotiations for its settlement or compromise, (c) the indemnified party shall furnish to the indemnifying party on request all information in the indemnified party's possession or control for such defense, (d) the indemnified party will not admit any claim or make any payments with respect to any claim without the indemnifying party's prior written consent, and (e) the indemnified party will, at the indemnifying party's reasonable expense, cooperate with and provide all necessary assistance reasonably requested by indemnifying party in the defense of such claim.

9 **Warranty Disclaimer.**

- (a) EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, THE SDK, MUSE DATA AND ANY TOOLS AND DOCUMENTATION ARE PROVIDED TO YOU 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, REGARDING THE SDK, MUSE DATA OR ANY TOOLS OR ANY OTHER PRODUCT OR SERVICE PROVIDED HEREUNDER OR IN CONNECTION HERewith.
- (b) INTERAXON DISCLAIMS ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, MERCHANTABILITY, FUNCTIONALITY, DURABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- (c) INTERAXON DOES NOT WARRANT THAT THE SDK WILL MEET YOUR REQUIREMENTS OR THAT ITS OPERATION WILL BE UNINTERRUPTED, ERROR FREE OR SECURE BEYOND WHAT IS OTHERWISE WARRANTED HEREIN OR THAT ALL CONTENT OR DATA DELIVERED UNDER THIS AGREEMENT OR THROUGH USE OF THE SDK WILL BE APPROPRIATE OR APPLICABLE FOR YOUR USE. INTERAXON DISCLAIMS ANY LIABILITY FOR ANY CONSEQUENCES DUE TO USE, MISUSE OR INTERPRETATION OF INFORMATION CONTAINED, OR NOT CONTAINED, IN THE SDK OR ANY TOOLS OR INTELLECTUAL PROPERTY.
- (d) INTERAXON DOES NOT WARRANT THAT THE SDK WILL OPERATE WITH ANY APPLICATION OR PRODUCT.

- (e) MUSE DATA IS SOLELY FOR INFORMATION PURPOSES AND IS NOT TO BE USED TO DIAGNOSE, TREAT, CURE OR PREVENT ANY DISEASE, TO PRESCRIBE MEDICATION, OR AS A SUBSTITUTE FOR A MEDICAL DEVICE OR TREATMENT. IN SOME CIRCUMSTANCES, MUSE DATA MAY REPORT FALSE OR INACCURATE RESULTS.

10 Limitation of Liability.

EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS AGREEMENT, INTERAXON SHALL NOT BE LIABLE TO YOU OR ANY PARTY MAKING A CLAIM AGAINST INTERAXON THROUGH YOU 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 BY ANY THIRD PARTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, INTERAXON ASSUMES NO LIABILITY FOR ANY LOSS OF: USE, DATA, OR THE PROVISION OF INCORRECT 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 SUBSCRIPTION FEES PAID BY YOU TO INTERAXON UNDER THIS AGREEMENT IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

11 Miscellaneous.

- 11.1 **Survival.** The provisions of this Agreement that under a commercially reasonable interpretation reveal that the parties would have such provisions survive the termination of this Agreement, including without limitation, Your payment obligations under this Agreement, and Your obligations under Sections 2, 3, 4, 5, 8, 9, 10, 11, and 12 of this Agreement, and **Authorized Application Approval** (if applicable) will survive termination of this Agreement.
- 11.2 **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. You shall not assign this Agreement or any of Your rights hereunder, nor delegate any of Your obligations under this Agreement without InteraXon's prior written consent. Any attempted assignment or delegation by You without InteraXon's prior written consent is void.
- 11.3 **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.
- 11.4 **Governing Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance to 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 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. You agree that the courts of the Province of Ontario, Canada constitute the appropriate forum for any claim or court proceeding in relation with this Agreement and submits to the exclusive jurisdiction of such courts.

- 11.5 **Relationship of the Parties.** This Agreement does not create any agency, partnership, or joint venture relationship between You and InteraXon.
- 11.6 **Notice.** Any notice required to be given to InteraXon hereunder must be sent to the following address: InteraXon Inc. 511 King Street West, Suite 303, Toronto, Ontario M5V 1K4 Attention: CEO

With a copy to InteraXon Inc. Legal Department 511 King Street West, Suite 303, Toronto, Ontario M5V 1K4

InteraXon may provide You notice under this Agreement at Your office address or by email or other electronic communication or by posting communications to its development community on developer.choosemuse.com. You consent to receive such notices in any of the foregoing manners and agree that any such notices by InteraXon will satisfy any legal communication requirements.

- 11.7 **Entire Agreement.** This Agreement and any Authorized Application Approval issued by InteraXon in relation to the Application constitute 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. Any SDK license agreement and any other agreements between You and InteraXon relating to the Application (other than any mutual non-disclosure agreements between you and InteraXon) ("**Other Agreements**") granting you any rights to develop applications are terminated and you have no further rights (including any licenses) granted pursuant to those agreements. In connection with such Other Agreements, it is agreed that this Agreement is deemed to replace such Other Agreements, including in connection with any use of the SDK or predecessor to the SDK prior to the date of this Agreement. To the extent that the Other Agreements granted to You rights that are not available under this Agreement, You agree that such rights are voided by this Agreement, and there are no claims or Losses arising from the voiding of such rights.
- 11.8 **No Claims.** Without limiting any other provision, You covenant that You shall make no claims of any kind whatsoever upon or against InteraXon, either on their own account or on behalf of any third party, arising directly or indirectly out of the use of the SDK or the Application or the termination of this Agreement by InteraXon.
- 11.9 **Counterparts/Electronic Signatures.** This Agreement may be executed in two or more identical counterparts, facsimile counterparts, or electronic counterparts, each of which when executed by a Party shall be deemed to be an original and such counterpart shall together constitute one and the same agreement. This Agreement may also be executed by means of an electronic signing process.

12 Sample Code.

In some cases, You may wish to include Sample Code, or portions of Sample Code in Your Applications. You may use such Sample Code, solely for the purpose of development, use or distribution of Applications as specifically otherwise authorized by InteraXon pursuant to this Agreement and/or an Authorized Application Approval, and further subject to any applicable terms and conditions that are included in the source code file for the applicable Sample Code, including any attribution notices to InteraXon. If Sample Code item does not include a statement of license, contact customercare@choosemuse.com prior to your use of the Sample Code to inquire about the license that will apply.

The parties have caused this Agreement to be executed or otherwise approved by their respective authorized signatories.

INTERAXON INC.

DEVELOPER:

By: _____

By: _____

Printed Name of Authorized Signatory

Title:

Date:

Updated: March 4, 2016

Printed Name of Authorized Signatory

Title:

Date: