

# LICENSE AGREEMENT

(Revision 2016.01-01)

for the use of the Murl Engine V1 ("SOFTWARE") entered between

Spraylight GmbH, registered in Graz, Austria, FN 363852b ("SPRAYLIGHT")

and

You, the end-user (the "LICENSEE" or "You")

## § 1

### Preamble

(1) These terms of this Agreement form a legally binding contract between the LICENSEE and SPRAYLIGHT. By downloading, installing, copying and/or using the SOFTWARE, you affirm that you are of the legal age of majority in the jurisdiction in which you reside and have the right and authority to enter into this Agreement on Your own behalf to the terms and obligations of this Agreement.

## § 2

### Definitions

- (1) The SOFTWARE is a native, cross platform, multimedia framework which provides an easy way to develop multimedia applications (e.g. games) across different platforms. The SOFTWARE consists of adaptable source code parts, prebuild code libraries and a set of software tools. Several free third party code libraries are delivered together with the SOFTWARE. These third party code libraries are not part of SOFTWARE and subject to their own licensing terms. All third party code libraries and their licensing terms can be found in the directory murl/3rd\_party.
- (2) The term "APPLICATION" in this contract means any software program (and copies thereof) which is developed by LICENSEE and which is based on or incorporate any part of SOFTWARE including without limitation any revision, modification, translation (including compilation or recapitulation by computer), abridgment, condensation, expansion, or any other form in which the SOFTWARE may be recast, transformed or adapted. The term APPLICATION in this contract also includes any software program (and copies thereof) which is developed by LICENSEE and where any part of SOFTWARE has been used in the creation process which led to a direct or indirect contribution to the software program.

## § 3

### Object of Agreement

(1) The SOFTWARE is licensed, not sold. SPRAYLIGHT grants to the LICENSEE a limited license to use the SOFTWARE under the terms of this agreement.

(2) The Agreement is made effective beginning on the date on which the LICENSEE, first accept this agreement or download, install, load or otherwise use SOFTWARE.

(3) The LICENSEE agrees to all terms and conditions of this Agreement. If the LICENSEE does not agree with the terms and conditions set forth in this Agreement the LICENSEE is not authorized to use SOFTWARE.

#### **§ 4**

##### **Grant of License**

(1) Provided that the LICENSEE strictly and continuously complies with all terms and conditions of this agreement, SPRAYLIGHT grants to the LICENSEE a non-exclusive, non-transferable, non-sublicensable, personal, limited, worldwide, perpetual license only to:

- install and use SOFTWARE on computers for the purpose of developing APPLICATIONS;
- develop derivatives of SOFTWARE;
- use derivatives of SOFTWARE for the development of APPLICATIONS;
- commercially and/or non-commercially distribute APPLICATIONS to end users assumed that APPLICATIONS which incorporate any part of SOFTWARE may only be distributed to end users pursuant to an end user license agreement with terms which protects SPRAYLIGHT'S rights not lesser than those contained in this agreement

(2) The LICENSEE has to select a Licensing Profile for each developed APPLICATION. The default Licensing Profile is free of charge and further outlined in section 6.

(3) SPRAYLIGHT may at any time revise SOFTWARE and alter the version of SOFTWARE.

#### **§ 5**

##### **Intellectual property Rights**

(1) SOFTWARE and all copyrights, trademarks, and all other conceivable intellectual property rights related thereto are owned by SPRAYLIGHT and are protected by Austrian and other national and international law. LICENSEE shall have no ownership or intellectual property rights in or to SOFTWARE.

#### **§ 6**

##### **Licensing Profiles**

(1) The LICENSEE has to select an individual Licensing Profile for each developed APPLICATION or derivative of SOFTWARE. The free Licensing Profile (§ 6.2) applies per default if no other licensing profile has been selected by the LICENSEE.

(2) Free Licensing Profile: The Free Licensing Profile is provided free of charge. APPLICATIONS created with the Free Licensing Profile overlay one or more advertising splash screens during startup. The LICENSEE must not remove or modify or change in any way the advertising splash screens. For any type of APPLICATION with the Free Licensing Profile where the advertising splash screen is not shown automatically during the startup, the LICENSEE has to integrate a custom splash screen into the APPLICATION. The custom splash screen must show the product logo of SOFTWARE in a dominant appearance and in conjunction with a proper generic term (e.g. "powered by Murl Engine"), must be visible for at least one second and may not contain any other product logos.

(3) Premium Licensing Profile: The Premium Licensing Profile requires a Premium License Key which must be bought by the LICENSEE from SPRAYLIGHT. APPLICATIONS created with a valid Premium License Key do not show advertising splash screens and don't require custom splash screens.

(4) A Premium License Key may be bound to an upper revenue limit. Related revenue is all directly or indirectly generated revenue relating to the licensed APPLICATION and includes, but is not limited to, monies earned from: sales, services, training, advertisements, sponsorships, endorsements, memberships, subscription fees, in-game transactions, rentals and pay-to-play. The LICENSEE must buy a revenue limit upgrade from SPRAYLIGHT within 6 weeks if the revenue exceeds the upper revenue limit. The revenue limit upgrade bounds the Premium License Key to a new upper revenue limit.

(5) A Premium License Key may only be used for one APPLICATION.

(6) A Premium License Key may not be transferred to any third party.

(7) A Licensing Profile upgrade or a revenue limit upgrade to a more significant Licensing Profile or a higher revenue limit is possible at any time. A downgrade to a less significant profile or to a lower revenue limit is not possible.

(8) Despite the selected Licensing Profile, the LICENSEE is allowed and encouraged to show a reference to SOFTWARE e.g. on the APPLICATION splash screen and/or on the APPLICATION title screen and/or in the credits section of the APPLICATION and/or on the web page and/or on promotional material. A reference to SOFTWARE may use the product logo of SOFTWARE in conjunction with a proper generic term (e.g. "powered by Murl Engine") and should include a link to the web address "www.murlengine.com"

## **§ 7**

### **License Restrictions**

(1) SPRAYLIGHT reserve all rights not expressly granted to the LICENSEE in this Agreement. Unless applicable law gives the LICENSEE more rights despite this limitation, the LICENSEE may use the SOFTWARE only as expressly permitted in this Agreement.

(2) The LICENSEE is not allowed to reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the parts of SOFTWARE which are distributed in object code only except to the extent you may be expressly permitted under applicable law.

(3) The LICENSEE is not allowed to use the SOFTWARE to develop APPLICATIONS that compete with or could compete with the SOFTWARE or any other middleware or game development software produced by SPRAYLIGHT.

(4) The LICENSEE may not transfer this Agreement to any third party.

(5) The LICENSEE may not remove or modify any product identification or trademark, copyright, or proprietary notices, legends, symbols, labels, or this Agreement from the SOFTWARE. Furthermore the LICENSEE is not allowed to use any SPRAYLIGHT trademarks, logos, trade names, or service marks in any manner other than expressly stated in this agreement.

## **§ 8**

### **Contract Penalty**

(1) The Licensee agrees to pay a contractual penalty in the amount of EUR 5.000 (in words five thousand) to SPRAYLIGHT for any single breach of contract. Especially according to the licensing profiles which are stated in § 6 the licensee have to observe strictly to buy a revenue limit upgrade from SPRAYLIGHT within 6 weeks if the revenue exceeds the upper revenue limit.

(2) Notwithstanding such rights SPRAYLIGHT reserves the right to lodge a claim for further reaching damages which exceeds the limit stated in §8.1, however the contractual penalty has to be deducted from the amount of damage.

## **§ 9**

### **Service and Support**

(1) SPRAYLIGHT will not render any free technical support (no telephone support, no training, no bug fixing).

(2) The LICENSEE may access public developer support forums and online support pages as they are made available to the public by SPRAYLIGHT in SPRAYLIGHT's sole discretion.

(3) The LICENSEE may buy a support package which defines a support period and a defined number of support time units from SPRAYLIGHT. The LICENSEE can use the support time units within the support period to request technical support from SPRAYLIGHT. One support time unit is worth 15 minutes of support work. The LICENSEE may limit the number of associated support time units on a per request basis. The support technician is working on a solution for the request until the problem has been solved or until all associated support time

units are consumed. The total time of support work for a request is always rounded up to a whole multiple of 15 minutes. The support period starts with the full payment of the support package and lasts 12 month. Not consumed support time units expire on the end of the support period.

## **§ 10**

### **Updates**

(1) Updates may be licensed to you by SPRAYLIGHT with additional or different terms.

## **§ 11**

### **Exclusion of liability, Warranty, Indemnification**

(1) In no event shall SPRAYLIGHT be liable for any indirect, incidental, special or consequential damages, or damages for loss of profits, revenue, data or use, incurred by LICENSEE or any third party, whether in an action in contract or tort (including negligence) or otherwise, even if SPRAYLIGHT has been advised of the possibility of such damages. SPRAYLIGHT's maximum aggregate liability to LICENSEE in connection with or in any manner related to this agreement (whether in an action in contract or tort or otherwise) will be limited to the total amount paid by or on behalf of LICENSEE to SPRAYLIGHT under this agreement. The foregoing allocation of risk is reflected in the amount of the compensation contemplated under this agreement.

(2) SPRAYLIGHT is not aware of any rights of third parties which would oppose the utilization purposes of the LICENSEE. SPRAYLIGHT is not liable however for the licensed SOFTWARE and the licensed know-how being free of rights of third parties.

(3) If the LICENSEE is accused by third parties of infringing intellectual property rights due to the use of the licensed software or the licensed know-how, SPRAYLIGHT promises to provide the LICENSEE with information and documents in defense against such claims as far as SPRAYLIGHT is able to do so without breach of third party obligations and while maintaining its own confidentiality interests. All costs involved in such activities shall be borne by the LICENSEE.

(4) SPRAYLIGHT gives no warranty. SOFTWARE is delivered "As Is". SPRAYLIGHT does not make and hereby disclaims any and all express or implied warranties including, but not limited to, warranties of merchantability, fitness for a particular purpose and any warranties arising from course of dealing, usage or trade practice.

(5) LICENSEE shall indemnify and hold harmless SPRAYLIGHT against all costs and expenses (including reasonable attorney fees and expenses) and all other liability related to any claim of infringement based on LICENSEE'S use of the SOFTWARE.

## **§ 12**

### **Procedure against infringers**

(1) The LICENSEE shall promptly inform the licensor about infringement acts related to the SOFTWARE.

### **§ 13**

#### **Confidentiality**

(1) The LICENSEE agrees to use SPRAYLIGHT's Confidential Information solely for the purpose of exercising his rights and performing his obligations under this Agreement and agrees not to use SPRAYLIGHT'S Confidential Information for any other purpose, without a prior written consent.

(2) The LICENSEE agrees to hold the Confidential Information in strict confidence and shall not disclose such information to any third party without the written permission of SPRAYLIGHT.

### **§ 14**

#### **General Provisions**

(1) This Agreement constitutes the entire understanding between LICENSEE and SPRAYLIGHT regarding the subject matter hereof. Any modifications of and supplements to this Agreement must be made in writing. This provision applies also if the prerequisite of writing is ceded.

(2) This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between SPRAYLIGHT and LICENSEE. Neither party hereto shall have any right to obligate or bind the other party in any manner whatsoever and nothing herein contained shall give, or is intended to give, any rights of any kind to any third person.

(3) This Agreement shall bind and inure to the benefit of SPRAYLIGHT, its successors and assigns, and SPRAYLIGHT may assign its rights hereunder, in SPRAYLIGHT's sole discretion.

(4) SOFTWARE is delivered with third party code. Such code is distributed under its own license terms. All third party code libraries and their own license terms can be found in the directory `murl/3rd_party`.

### **§ 15**

#### **Term and Termination**

(1) This Agreement and all rights granted by SPRAYLIGHT hereunder will automatically terminate without notice from SPRAYLIGHT if you fail to comply with any term(s) of this Agreement.

(2) Other cause for such termination, limitation of access or suspension shall include, but not be limited to requests by law enforcement or other government agencies. Upon the termination of this Agreement for any reason, the LICENSEE agrees to immediately cease all

use of the SOFTWARE and erase and destroy all copies of SOFTWARE and all copies of SPRAYLIGHT Confidential Information in his possession or control. At SPRAYLIGHT'S request, the LICENSEE agrees to provide written certification of such destruction to SPRAYLIGHT.

## **§ 16**

### **Salvatorian clause**

(1) Should a provision of this agreement be invalid or become invalid or should this agreement contain an omission, then the legal effect of the other provisions shall not thereby be affected. Instead of the invalid provision a valid provision is deemed to have been agreed upon which comes closest to what the parties intended commercially; the same applies in the case of an omission.

## **§ 17**

### **Governing Law and Jurisdiction**

(1) This Agreement shall be governed and construed by the laws of Austria. Place of performance of this Agreement is Graz (Austria). If the LICENSEE is defendant, SPRAYLIGHT might, if admissible, determine as court of jurisdiction the court where the LICENSEE is resident or the court competent for the corporate domicile of SPRAYLIGHT which currently is in Graz (Austria). If SPRAYLIGHT is the defendant the parties expressly agree on the exclusive jurisdiction of the courts of Graz (Austria). This Agreement on jurisdiction applies to all claims, be they based on contract, on tort or on any other legal basis, arising under or in connection with this agreement.

BY ACCEPTING BELOW, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.