

ULTRALEAP LICENSE FOR THE PICO/HTC BUNDLE

BACKGROUND

- A. Ultraleap has developed the Ultraleap Technology for use with a VR headset to create a 3-D interaction space to precisely interact with and control software through non-touch gesturing.
- B. Purchaser has purchased the Bundle which comprises a Stereo IR170 camera mounted to a Pico Neo 3 or HTC ViveFocus 3, the Ultraleap Software, a software development kit, the user guides and the software licence (which is this Agreement). Purchaser may produce the End Product (as defined below).
- C. Ultraleap wishes to license the End Product for distribution and/or multi-user use.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Ultraleap and Company hereby agree as follows:

1. Definitions

Whenever capitalised in these terms and conditions:

- 1.1. **“Agreement”** means these terms and conditions.
- 1.2. **“Bundle”** means a Stereo IR170 camera mounted to a Pico Neo 3 or HTC ViveFocus 3, the Ultraleap Software, a software development kit, the user guides and the software licence (which is this Agreement).
- 1.3. **“End Product”** means the application created by the Purchaser for use with the Bundle and any product distributed by Purchaser which includes the Bundle and/or the application.
- 1.4. **“End User”** means an end user of the End Product.
- 1.5. **“SDK”** means the software development kit included with the Bundle, including tools, APIs, sample code, software, documentation and other materials.
- 1.6. **“Ultraleap”** means Ultraleap Limited, a company registered in England and Wales with company number 08781720.
- 1.7. **“Ultraleap Device”** means an Ultraleap Stereo IR 170 camera that obtains images and passes them to the Ultraleap Software.
- 1.8. **“Ultraleap EULA”** means the standard End User Software License Agreement available at <https://developer.leapmotion.com/end-user-license-agreement>, together with subsequent amendments to such agreement by Ultraleap made available generally to its users.
- 1.9. **“Ultraleap Redistributables”** means any .lib code, .dll files, .so files, sample code, or other materials we specifically designate in the SDK as made available for incorporation into or distribution with the End Product and **“Non-Redistributable Materials”** means any part of the SDK which is not designated as an Ultraleap Redistributable.
- 1.10. **“Ultraleap Software”** means version 5 of the Ultraleap core services application and related applications that interact with an Ultraleap Device and an operating system to make motion control functionality available to other applications and software through an interface, and includes any Updates thereto.
- 1.11. **“Ultraleap Technology”** means the Ultraleap Device, Ultraleap Software, Ultraleap Redistributable and any other technology provided by Ultraleap from time to time.

- 1.12. “**Updates**” means changes to the Ultraleap Software produced from time to time by Ultraleap to keep a released version of the Ultraleap Software current as to functionality, or to correct any errors, install patches, fix bugs, or perform similar enhancements, and generally indicated by a change in the digit to the right of the decimal point (e.g. a change from version x.x to version x.y) or other similar indicia, with any corrections and updates to associated documentation.
- 1.13. “**Upgrade**” means an Ultraleap Software release containing new enhancements, features or functionality which is generally indicated by a change in the digit to the left of the first decimal point (e.g. a change from version x.x. to y.x) or other similar indicia, with associated documentation.

Other capitalised terms used in the Agreement have the meaning given to them elsewhere in the Agreement.

2. **Purchase.** Purchaser shall purchase the Bundle from an Ultraleap authorised distributor.

3. Licence and Restrictions

- 3.1. **Licence.** Conditional upon compliance with the terms and conditions of this Agreement, and in consideration of the rights and obligations conferred upon each other through this Agreement, Ultraleap hereby grants Purchaser a limited, non-exclusive, personal, royalty-bearing licence under Ultraleap’s applicable intellectual property rights to the extent necessary to: (a) install and use a reasonable number of copies of the SDK on computers owned or controlled by Purchaser for the purpose of developing and testing applications forming part of the End Product; and (b) to make (but not have made), use, sell, offer for sale and import the End Product. Purchaser may transfer the Ultraleap Software only to its End Users solely in connection with the provision of the End Product to its End Users.
- 3.2. **Updates.** The licence granted in Section 3.1 includes a licence to any Updates that Ultraleap may, in its sole discretion, make available to Purchaser and its End Users. Purchaser acknowledges and agrees that Updates to the Ultraleap Software may impact the functionality of the Bundle and the End Product, including the ability of the End Product to interact with the Ultraleap Software. Purchaser will be solely responsible for the functionality of the Company Distributables, and solely responsible for disabling any auto-update functionality in the Ultraleap Software.
- 3.3. **Restrictions.** The licences granted to Purchaser in Section 3.1 are subject to the following restrictions:
- 3.3.1. except as specifically permitted in Section 3.1 Purchaser may not, and may not enable others to, sell, re-distribute, rent, lease or sublicense the Ultraleap Software. Purchaser may not make the Ultraleap Software available over a network where it could be used by multiple computers at the same time, or accessed remotely in a virtual operating system environment, or otherwise.
 - 3.3.2. Purchaser may not, directly or indirectly, publish, post or otherwise make available the Ultraleap Redistributables other than as compiled with, incorporated into, or packaged with, the End Product. Purchaser may not and may not allow any third party to distribute the Non-Redistributable Materials in the SDK.
 - 3.3.3. Purchaser may not reverse engineer, decompile, disassemble or otherwise attempt to reconstruct, identify or discover any source code, underlying ideas, techniques, or algorithms in the Bundle or attempt to read any FPGA code embedded in Ultraleap Devices (except as and only to the extent any foregoing restriction is prohibited by applicable law or permitted by applicable law or licence notwithstanding the foregoing restriction) or use the Ultraleap Technology to develop or aid in the creation of any software or hardware which competes with any Ultraleap Technology.
 - 3.3.4. Purchaser may not remove, obscure, or alter any proprietary rights or confidentiality notices within the Ultraleap Software or any documentation or other materials in it or supplied with it.
 - 3.3.5. Purchaser must not allow the Ultraleap Software or SDK to fall under the terms of any licence which would obligate you or Ultraleap to make available or publish any part of the Ultraleap Software or SDK.
 - 3.3.6. Purchaser may not represent Ultraleap Technology as Purchaser technology or that of third parties.

- 3.3.7. Purchaser must not allow the Ultraleap Technology to be used for a use where failure of the Ultraleap Technology could lead to death or serious bodily injury of any person, or to severe physical or environmental damage.
- 3.4. **Acknowledgment and Waiver.** Purchaser agrees that it is solely responsible for the End Product and ensuring that they are safe and free of defects in design and operation. Purchaser acknowledges that the Ultraleap Technology and the Bundle may not always function as intended. Purchaser must design the End Product so that any failure of the Ultraleap Technology and/or the Bundle does not cause personal injury or death, property damage, or other losses. If Purchaser chooses to distribute the End Product, (i) Purchaser assumes all risk that use of the Ultraleap Technology or the Bundle causes any harm or loss, including to the End Users of the End Product or to third parties, (ii) Purchaser hereby waives, on behalf of itself and its affiliates, subsidiaries, officers, directors, employees and contractors, all claims against Ultraleap and its affiliates related to such use, harm or loss (including, but not limited to, any claim that Ultraleap Technology is defective), and (iii) Purchaser agrees to defend, indemnify and hold Ultraleap and its affiliates harmless from such claims and any claims of Purchaser's End Users or other third parties.
- 3.5. **Compliance with Laws.** Purchaser is entirely responsible for ensuring that the development, manufacturing and commercialisation of the End Product is in accordance with applicable laws. Without limiting the generality of the foregoing, if the End Products are used in the medical field, Purchaser will be solely responsible for compliance with all applicable laws and regulations related to the development, marketing, commercialisation and use of medical or therapeutic technologies.
- 3.6. **Software Licensed, Not Sold.** Notwithstanding the use of terms such as "purchase" and "sale" in this Agreement or by the distributor, copies of the Ultraleap Software are licensed, not sold, and "purchase" and "sale" when used in relation to the Ultraleap Software refers to the purchase and sale of a licence to use the Ultraleap Software, as set forth in this Agreement.
- 3.7. **Upgrades.** Purchaser's licence does not include a licence to any Upgrades or to any additional functionality beyond hand tracking that Ultraleap may develop or offer for licence, including but not limited to, body tracking, positional tracking, object tracking or other functionality.
4. **Multi-User Licence.** Conditioned upon compliance with the terms and conditions of this Agreement, Ultraleap hereby grants to Purchaser a limited non-exclusive licence, with the right to grant sub-licence to Purchaser's distributors, resellers and End Users, to use the Ultraleap Software in a multi-user environment solely in connection with the Bundle. All other terms of the EULA will apply to the Purchaser, Purchaser's distributors, resellers and End Users, except that in the event of a conflict between the terms of the EULA and this Agreement, the terms of this Agreement will govern.

5. Trademark Licence

- 5.1. **Trademark Licence.** Conditioned upon compliance with the terms and conditions of this Agreement, and in consideration of the rights and obligations conferred upon each other through this Agreement, Ultraleap hereby grants Purchaser a limited, non-exclusive, personal, licence to reproduce and use Ultraleap trademarks solely to mark the End Product, related collateral, and to promote and market the End Product, solely in accordance with the Ultraleap trademark guidelines that Ultraleap may provide Purchaser from time to time. Such licence includes the right of Purchaser to sublicense distributors, resellers, and other third parties to achieve the foregoing. Purchaser will, on request of Ultraleap, submit any uses of Ultraleap marks by Purchaser or its sub-licensees to Ultraleap for review to determine if such uses are in accordance with Ultraleap trademark guidelines. If the uses are not in accordance with the guidelines, Purchaser will promptly correct the misuses. Purchaser acknowledges and agrees that all uses of the Ultraleap marks will inure to the benefit of Ultraleap.
- 5.2. **Marketing.** For so long as Ultraleap Technology is included with the End Product, Purchaser must ensure any mention (including within Company's press releases, press briefings, social media accounts, and/or website) of the use by the Purchaser of Ultraleap's Technology and/or the functionality of Ultraleap's Technology within the End Product is accredited to Ultraleap by stating the End Product is using 'Ultraleap Hand Tracking'. Ultraleap may at its option mention Purchaser and its End Product using Ultraleap Technology in Ultraleap's press releases, press briefings, social media accounts, and/or website, and may use Purchaser trademarks for such purpose.

6. **EULA.** Purchaser must either require End Users to affirmatively agree to the Ultraleap EULA, as modified by the licence in Section 3.1, or require its End Users to affirmatively agree to Purchaser's own end user licence agreement that protects Ultraleap at least as much as the Ultraleap EULA.
7. **Support.** Ultraleap and its parents, subsidiaries or affiliates and suppliers will not be required to provide any support to Purchaser or its End Users under this Agreement. Ultraleap and its parents, subsidiaries or affiliates and suppliers have no obligation to modify, or provide any support to assist with modifications of the Ultraleap Software for use with the End Product. Purchaser is solely responsible for the support of its own customers for the End Products. Purchaser will be solely responsible for, and Ultraleap and its parents, subsidiaries or affiliates and suppliers will have no obligation to honour, any warranties that Purchaser or any of its distributors or resellers provides to End Users with respect to the Bundle and/or End Product.
8. **Warranty Disclaimer.**
 - 8.1. THE ULTRALEAP TECHNOLOGY IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. ULTRALEAP, ON BEHALF OF ITSELF AND ITS SUPPLIERS, HEREBY DISCLAIMS ALL REPRESENTATIONS, PROMISES, OR WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE ULTRALEAP TECHNOLOGY, INCLUDING THEIR CONDITION, AVAILABILITY, OR THE EXISTENCE OF ANY LATENT DEFECTS. ULTRALEAP SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NONINFRINGEMENT, SUITABILITY, AND FITNESS FOR ANY PURPOSE. ULTRALEAP DOES NOT WARRANT THAT THE ULTRALEAP TECHNOLOGY WILL BE ERROR-FREE OR THAT THEY WILL WORK WITHOUT INTERRUPTION.

9. Purchaser's Obligations and Warranties

In addition to Purchaser's other obligations under this Agreement, Purchaser warrants and agrees that:

- 9.1. Purchaser has the right and authority to enter into this Agreement on its own behalf and that of its authorised users and this Agreement, when executed, shall constitute legal, valid and binding obligations of the Purchaser and shall be enforceable against the Purchaser in accordance with its terms; and
- 9.2. the End Product will be in compliance with all applicable laws and regulations and all U.K., U.S. and local or foreign export and re-export restrictions applicable to the technology and documentation provided under this Agreement (including privacy and data security laws and regulations).

10. Term and Termination

- 10.1. **Term.** This Agreement begins when payment of the fees for the Bundle is authorised by the Purchaser by clicking "confirm payment" on the distributor's website or payment an invoice issued by the distributor. This Agreement continues until terminated by Purchaser or by Ultraleap.
- 10.2. **Termination by Purchaser.** Purchaser may terminate this Agreement after the Initial Term by giving not less than thirty (30) days' written notice to Ultraleap.
- 10.3. **Termination by Ultraleap.** Ultraleap may terminate this Agreement in the case of Purchaser's uncured material breach on thirty (30) days' notice, or, if the breach is not capable of cure, immediately upon notice.
- 10.4. **Effect of Expiration or Termination.** Upon termination of this Agreement: (i) unless Ultraleap has terminated this Agreement pursuant to Section 10.3 Purchaser may continue to distribute the End Products for up to six months after termination; and (ii) any licence rights of Purchaser's End Users will continue despite termination of this Agreement. Sections 1, 8, 9.2, 10.4, 11 and 12 will survive termination or expiration of this Agreement.

11. Limitation of Liability.

- 11.1. ULTRALEAP SHALL NOT IN ANY CIRCUMSTANCES WHATEVER BE LIABLE TO THE COMPANY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, ARISING UNDER OR IN CONNECTION WITH THE AGREEMENT FOR:

- (A) LOSS OF PROFITS, SALES, BUSINESS, OR REVENUE;
 - (B) BUSINESS INTERRUPTION;
 - (C) LOSS OF ANTICIPATED SAVINGS;
 - (D) LOSS OR CORRUPTION OF DATA OR INFORMATION;
 - (E) LOSS OF BUSINESS OPPORTUNITY, GOODWILL OR REPUTATION; OR
 - (F) ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE.
- 11.2. OTHER THAN THE LOSSES SET OUT ABOVE (FOR WHICH ULTRALEAP IS NOT LIABLE), ULTRALEAP'S MAXIMUM AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THE AGREEMENT WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, SHALL IN ALL CIRCUMSTANCES BE LIMITED TO THE SUM OF US \$1,000. THIS MAXIMUM CAP DOES NOT APPLY TO DEATH OR PERSONAL INJURY RESULTING FROM ULTRALEAP'S NEGLIGENCE; FRAUD OR FRAUDULENT MISREPRESENTATION; OR ANY OTHER LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW.
- 11.3. THE AGREEMENT SETS OUT THE FULL EXTENT OF ULTRALEAP'S OBLIGATIONS AND LIABILITIES IN RESPECT OF THE SUPPLY OF THE ULTRALEAP TECHNOLOGY. EXCEPT AS EXPRESSLY STATED IN THE AGREEMENT, THERE ARE NO CONDITIONS, WARRANTIES, REPRESENTATIONS OR OTHER TERMS, EXPRESS OR IMPLIED, THAT ARE BINDING ON ULTRALEAP. ANY CONDITION, WARRANTY, REPRESENTATION OR OTHER TERM CONCERNING THE SUPPLY OF THE ULTRALEAP TECHNOLOGY WHICH MIGHT OTHERWISE BE IMPLIED INTO, OR INCORPORATED IN THE AGREEMENT WHETHER BY STATUTE, COMMON LAW OR OTHERWISE, INCLUDING ANY WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IS EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. THESE LIMITATIONS WILL 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.

12. Miscellaneous.

- 12.1. Ultraleap may collect personal information provided by Purchaser or End Users in connection with the SDK or the Ultraleap Technology, and may collect other information from Purchaser or End Users, including technical, non-personally identifiable and/or aggregated information such as usage statistics, hardware configuration, problem / fault data, IP addresses, version number of the Ultraleap Software, information about which tools and/or services in the Ultraleap Software are being used and how they are being used, and any other information described in Ultraleap's privacy policy, currently available at <https://www.ultraleap.com/privacy-policy/>. Ultraleap may use the information collected to facilitate the provision of Updates and other services to Purchaser, to verify compliance with, and enforce, the terms of this Agreement, to improve the Ultraleap Software and Ultraleap's other products, and for any other purposes set out in Ultraleap's privacy policy (these uses, collectively, are "**Permitted Uses**"). The information collected may be transferred to, stored, and processed in a destination outside the European Economic Area, including (without limitation) by Ultraleap staff in the USA, China, Japan, and Hong Kong. Data collection can be turned off in the Ultraleap Software settings and Purchaser must ensure that the End Product retains this functionality. By using the Ultraleap Software or SDK without turning off data collection or by otherwise submitting data to Ultraleap, Purchaser consents to Ultraleap's collection and use of the information for the Permitted Uses and represent that it has obtained all consents and permits necessary under applicable law to disclose End Users' information to Ultraleap for the Permitted Uses. Purchaser further agrees that Ultraleap may provide any information collected under this to law enforcement authorities or as required by applicable law or regulation.
- 12.2. **Assignment.** Purchaser may not assign this Agreement without the prior written consent of Ultraleap. Any assignment without such consent is void and of no effect. Ultraleap may assign this Agreement without the consent of Purchaser in connection with (1) a merger or consolidation of Ultraleap, (2) a sale or assignment of substantially all its assets, or (3) any other transaction which results in another entity or person owning substantially all of the assets of Ultraleap. 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.

- 12.3. **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.
- 12.4. **Reservation.** All licenses not expressly granted in this Agreement are reserved and no other licenses, immunity or rights, express or implied, are granted by Ultraleap, by implication, estoppel, or otherwise.
- 12.5. **Export Restrictions.** Purchaser must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users, and end use.
- 12.6. **Ultraleap Affiliates.** Affiliates of Ultraleap may enter into one or more adoption addenda (each an “**Adoption Addendum**”) under which the Ultraleap affiliate may agree to be bound by the terms of this Agreement as if the affiliate was an original party to it. Purchaser shall not be required to be a party to any Adoption Addendum unless such Adoption Addendum imposes additional obligations on Purchaser or otherwise seeks to make changes to the Agreement.
- 12.7. **Governing Law and Jurisdiction.** This Agreement will be exclusively governed by and construed under the laws of England and Wales, without reference to or application of rules governing choice of laws. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods (1980) is specifically excluded from application to this Agreement. All disputes arising out of or related to this Agreement will be subject to the exclusive jurisdiction of the courts of England and Wales and Company hereby consents to such jurisdiction. However, Ultraleap may apply to any court or tribunal worldwide, including but not limited to those having jurisdiction over Company, to seek injunctive relief.
- 12.8. **Relationship of the Parties.** This Agreement does not create any agency, partnership, or joint venture relationship between Ultraleap and Purchaser. This Agreement is for the sole benefit of Ultraleap and Purchaser (and indemnified parties), and no other persons will have any right or remedy under this Agreement.
- 12.9. **Notice.** All notices required to be given under this Agreement will be in writing and will be sent, in the case of Ultraleap at the address below and, in the case of the Purchaser, the details provided to the distributor when purchasing the Bundle. Any notice under this Agreement may be delivered by hand or express courier and will be deemed to have been received: (i) by hand delivery, at the time of delivery; or (ii) by express courier, on the second business day after delivery to the carrier. If an email address is provided below, a copy must also be sent via email, but such copy is for convenience only and the effective time of notice will be calculated as provided in the second sentence of this Section.
- Ultraleap Limited
 The West Wing
 One Glass Wharf
 Bristol
 BS2 0EL
- Email: legal@ultraleap.com
- 12.10. **Counterparts; Amendments.** This Agreement may be executed in any number of counterparts, any one of which need not contain the signature of more than one party, but all such counterparts taken together will constitute one and the same agreement. No amendment, waiver, or modification of this Agreement will be valid unless in writing signed by each Party. This Agreement, including any amendment, waiver or modification to it, may be executed by facsimile, e-signature or scanned signatures and such signatures will be deemed to bind each party as if they were original signatures.
- 12.11. **Entire Agreement.** This Agreement is 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.