

eyecandylab
SDK TERMS AND CONDITIONS

IMPORTANT – PLEASE READ THE TERMS OF THESE SDK TERMS AND CONDITIONS (the “Agreement”) CAREFULLY. This Agreement is a binding, contractual agreement between You, the Developer (“You,” “Your” or “Developer”), and eyecandylab Corp. (“eyecandylab”), a Delaware corporation having principal offices at 925 N LaBrea Ave, #4th floor, Los Angeles, CA 90038, United States. This Agreement applies solely to Your access to and/or use of the SDK (defined in Section 14) pursuant to this Agreement. By clicking the button below labeled “I Accept”, or by accessing or using the SDK, You are indicating Your acceptance and agreeing to all of the terms and conditions of this Agreement. If You are entering into this Agreement on behalf of a company or other legal entity, You represent that You have the authority to bind such entity and its affiliates to the terms and conditions of this Agreement, in which case the terms “You,” “Your” or “Developer” shall refer to such entity and its affiliates. If You do not have such authority, or if You do not accept and agree to all of the following terms and conditions, You must click the button labeled “I Do Not Accept,” in which case, You will not be permitted to access or use the SDK.

You acknowledge and agree that by clicking on the “I Accept” button, You are entering into a legally binding contract. You hereby agree to the use of electronic communications in order to enter into this Agreement, to create other records and to the electronic delivery of notices, policies and records of transactions between You and eyecandylab with respect to the SDK and this Agreement. You hereby waive any rights or requirements under any laws or regulations in any jurisdiction which require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent permitted under applicable mandatory law. If You reside in a jurisdiction which restricts the ability to enter into agreements such as this Agreement according to age and You are under such a jurisdiction and under such age limit, You may not enter into this Agreement and may not access or use the SDK.

Furthermore, You acknowledge that eyecandylab operates its business and provides its services, including, without limitation, the SDK, from within the United States of America. eyecandylab makes no representation that the augmen.tv Platform, SDK, related documentation, or any other services and/or material that may be provided by eyecandylab under this Agreement, are appropriate or available for use in locations outside the United States or all territories within the United States, and Developers and/or Customers who choose to access the foregoing, do so on their own initiative and are solely responsible for compliance with local laws. eyecandylab is an exciting new service that allows you to create rich, two-way video experiences for your audiences. The following sets out the terms and conditions you may use our SDK.

1. **REGISTRATION.** Prior to receiving access to and/or use of the SDK, Developer must register and establish an account with eyecandylab (“Account”). When setting up an Account, Developer is required to select a logon ID and password to access such Account. Developer may not transfer or share the logon ID, password or Account (collectively, the “Account Information”) with any third party, and Developer is solely responsible for maintaining the confidentiality of Account Information. Developer agrees to immediately notify eyecandylab of any unauthorized use of the Account Information or any other breach of security. Developer is solely responsible for any and all use of Developer’s Account. To establish an Account, Developer must be at least eighteen (18) years of age or the applicable age of majority in applicable jurisdiction. Developer represents and warrants that any and all information provided to eyecandylab under this Agreement will be true, accurate, current and complete information, and that Developer will maintain and promptly update such information to keep it true, accurate, current and complete throughout the Term of this Agreement. If eyecandylab has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, eyecandylab may suspend or terminate Developer’s access to and/or use of the SDK (or any portion thereof). eyecandylab reserve the right, in its sole discretion, to deny registration, or access to and/or use of the SDK, to anyone for any reason.
2. **DEVELOPING CONTENT; COLLECTION OF DATA.**
 - 2.1 **License to SDK.** Subject to the terms and conditions of this Agreement, eyecandylab hereby grants to Developer a limited, revocable, non-exclusive, non-transferable, non-sublicenseable right to access and use the SDK, solely for purposes of developing Content for inclusion in Applications, in accordance with this Agreement. In the event Developer is using the Free Version of the SDK, the foregoing license is only granted for internal use purposes only and any Content developed through access to or use of the Free Version of the SDK may not be commercially distributed.
 - (a) **Free Version.** Developer may access a “Free Version” of the SDK at no charge. The Free Version only allows Developer to upload Content with an aggregate duration of up to one (1) minute. Any attempt to upload Content that extends beyond one (1) minute in the aggregate will be prompted with a request to upgrade prior to uploading such Content.
 - (b) **Demo Version.** Upon payment of then-current fees, as made available to Developer at the time of purchase, Developer will have access to the “Demo Version” of the SDK. The Demo Version allows the Developer to create a project pursuant to which Developer can upload multiple pieces of Content, with time-limited fingerprints.
 - 2.2 **Contents and Applications.** Developer is solely responsible for the Content and Applications, regardless of whether Developer was the party that created the Application or Content or any component thereof. Developer shall, at its own expense, obtain all third party licenses, consents and/or permissions that may be necessary or appropriate with respect to such Application and Content, including, to enable each party to exercise its rights and perform its obligations under this Agreement. Developer hereby grants to eyecandylab a non-exclusive, perpetual, irrevocable, worldwide, license to reproduce, modify, adapt, translate, publicly perform, and distribute the Content to provide the Platform, SDK, and related products and services and/or to improve eyecandylab’s products and services. Developer represents and warrants that any and all Applications and Content do not and will not: (a) infringe any third party’s copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (b) violate any law, statute, ordinance or regulation, including, without limitation, the laws and regulations governing export control; (c) be defamatory or trade libelous; (d) be pornographic or obscene; (e) violate any laws regarding unfair competition, anti-discrimination or false advertising; or (f) contain viruses, trojan horses, worms, time bombs, cancelbots or other similar harmful or deleterious programming routines.
 - 2.3 **Exporting your Content.** You decide when your Content is ready. Once, you do, you agree to notify eyecandylab and eyecandylab will create a fingerprint of the requested Content in a format that may be integrated with your Application (“Content File”) and will e-mail or otherwise make available the Content File to You.
 - 2.4 **Reporting Copyright Violations.** eyecandylab complies with the Digital Millennium Copyright Act (“DMCA”). eyecandylab encourages all of its users to report an alleged copyright infringement involving a user by sending a notice that complies with the DMCA. It is

eyecandylab's policy to terminate membership privileges of any user who repeatedly infringes copyright upon prompt notification to eyecandylab by the copyright owner or the copyright owner's legal agent. If you believe that your work has been uploaded on eyecandylab in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (1) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (2) a description of the copyrighted work that you claim has been infringed; (3) a description of the location on the augmen.tv Platform of the material that you claim is infringing; (4) your address, telephone number and e-mail address; (5) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and (6) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Contact information for eyecandylab's Copyright Agent for notice of claims of copyright infringement is as follows.

eyecandylab, Corp.
Tom Orzikowski, Copyright Agent
Muenchner Strasse 18
85774 Unterfoehring, Germany
operations@eyecandylab.com

2.5 Developer Data.

(a) Developer agrees and hereby consents to eyecandylab's collection of the following data and information in connection with Developer's access to and use of the Platform and SDK ("**Developer Data**"), which Developer Data, Developer may use for its business purposes and in accordance with eyecandylab's Privacy Policy, available at <https://augmen.tv/latest/terms>:

- The version of the Technology;
- The company name associated with the development tool Licensee uses to develop the App (the "Developer Tool") (e.g. Unity);
- The organization reverse domain associated with the App;
- The operating system and version running on Licensee's Developer Tool, (e.g. Mac OSX 12.5.1 / Windows 10.02);
- The version of Licensee's Developer Tool, (e.g. Unity 5.6.1f Pro);
- The system language set on the operating system;
- A hash of a device unique identifier;
- A hash of the user ID associated with the developer tool; and
- Other similar non-personalized data.

(b) Developer will retain all right, title and interest in and to the Developer Data, including all intellectual property rights therein. Developer, not eyecandylab, will have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Developer Data.

3. RESTRICTIONS ON DEVELOPER.

3.1 **General Usage Restrictions.** Developer will not use the augmen.tv Platform, the SDK, any documentation relating to the foregoing, or the eyecandylab Brand for any purposes beyond the scope of the rights granted under this Agreement. Except as expressly permitted herein, Developer shall not (a) copy or duplicate the augmen.tv Platform or the SDK in any manner; (b) adapt, alter, modify, translate or create derivative works of the augmen.tv Platform or the SDK, any documentation thereof, or the eyecandylab Brand; (c) assign, sublicense, market, sell, lease, rent, convey or otherwise transfer, or pledge as security or otherwise encumber, the rights and licenses granted hereunder with respect to the augmen.tv Platform or the SDK and the eyecandylab Brand, except with the prior, written consent of eyecandylab; or (d) authorize or otherwise allow any third party to create a Content File based on the Content uploaded to the augmen.tv Platform and/or SDK. Nothing in this Agreement shall be construed to give Developer a right to use, or otherwise obtain access to, any source code from which the augmen.tv Platform or the SDK is compiled or interpreted, and Developer shall not reverse engineer, decompile, disassemble or otherwise attempt to reconstruct or obtain any such source code. Developer shall not distribute, provide or make access available to the augmen.tv Platform or the SDK to any third party. Developer shall undertake all measures necessary to ensure that its provision of access to the augmen.tv Platform or the SDK, and its use of any documentation relating to the foregoing, and of the eyecandylab Brand complies in all respects with any contractual or other legally binding obligations of eyecandylab to any third party, provided that eyecandylab has notified Developer with respect to any such obligations. Developer shall not enter into any contractual relationship or other legally binding obligation with any third party which shall have the purpose or effect of encumbering the use by eyecandylab of the augmen.tv Platform or the SDK, any documentation relating to the foregoing, or the eyecandylab Brand. Developer shall undertake all measures necessary to ensure that its use of the augmen.tv Platform or the SDK, the documentation relating to the foregoing, and the eyecandylab Brand complies in all respects with all applicable laws, statutes, regulations, ordinances or other rules promulgated by governing authorities having jurisdiction over the parties, the augmen.tv Platform, the SDK, Content, Developer Data, any related documentation, or the eyecandylab Brand, including, without limitation, by means of obtaining any permits, licenses and/or approvals required with respect to export regulations under the Bureau of Export Administration or any other agency or department of the federal government of the United States of America. In the event of a breach by Developer of this Section 3 or the scope of the license in Section 2.1, eyecandylab reserves the right to suspend or terminate Developer's use of the SDK or any portion thereof, at eyecandylab's discretion, provided eyecandylab has notified Developer of the breach and Developer has failed to cure such breach within seven (7) days after receipt of written notice of the same.

4. EYECANDYLAB RIGHTS AND OBLIGATIONS.

4.1 **Provision of Access by eyecandylab.** eyecandylab will provide Developer with access to the features and functions of the SDK, and corresponding documentation describing the features and functions of the SDK. eyecandylab shall specify to Developer procedures

according to which Developer may access and use the SDK, including, without limitation, provision of any access codes, passwords, technical specifications, connectivity standards or protocols, or any other relevant procedures.

- 4.2 Responsibility for Hosting.** With respect to Section 4.1, subject to the terms of this Agreement, eyecandylab shall be responsible for the operation and hosting of the augmen.tv Platform and Content; provided, however that, eyecandylab shall not be responsible for any and all telecommunications or connection charges for connections between the Developer and the Server and any connection by a Customer to the Server. Notwithstanding any other provision of this Agreement, eyecandylab shall be permitted to enter into arrangements with one or more third parties for the performance of eyecandylab's obligations under this Section 4.2.
- 4.3 Right to Monitor.** eyecandylab shall have the right to monitor Developer's use of the SDK and any Content or Content File created in connection therewith to ensure Developer is complying with this Agreement and/or to track and create insights with respect to how the Content, Developer Data, or any Content File is used and distributed. If we believe that you are violating this Agreement, or any laws, rules, or regulations, we may prevent you from further accessing or using the SDK and/or Platform.
- 4.4 Right to Suspend Account.** eyecandylab reserves the right, in its reasonable discretion, to suspend Developer's use of the SDK or the availability of any Content, or any portion thereof, at any time if necessary in eyecandylab's discretion to protect the security or operation of the SDK or augmen.tv Platform.
- 5. FEES; PAYMENT; AUDIT RIGHTS.**
- 5.1 Payments.** In the event you purchase the Demo Version of the SDK, You agree to pay all fees or charges to your Account in accordance with the fees, charges and billing terms in effect at the time a fee or charge is due and payable. You must provide Company with a valid credit card (Visa, MasterCard, or any other issuer accepted by us) or PayPal account ("**Payment Provider**"), or purchase order information as a condition to accessing the Demo Version of the SDK. Your Payment Provider agreement governs your use of the designated credit card or PayPal account, and you must refer to that agreement and not the Terms to determine your rights and liabilities. By providing eyecandylab with your credit card number or PayPal account and associated payment information, you agree that eyecandylab is authorized to immediately invoice your Account for all fees and charges due and payable to Company hereunder and that no additional notice or consent is required. You agree to immediately notify eyecandylab of any change in your billing address or the credit card or PayPal account used for payment hereunder. eyecandylab reserves the right at any time to change its prices and billing methods, either immediately upon posting on the eyecandylab website or by e-mail delivery to you.
- 5.2 Developer Operating Expenses.** Developer shall bear all expenses incurred in the development of any Content and/or Applications.
- 5.3 Taxes.** Developer will be responsible for payment of all applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges (other than taxes based on eyecandylab's income), fees, duties and charges, and any related penalties and interest, arising from the payment of any fees hereunder, the grant of rights hereunder, or the delivery of any related services hereunder, including, without limitation, the Demo Version of the SDK.
- 6. OWNERSHIP.**
- 6.1 Ownership by Developer.** Subject to the rights granted to eyecandylab under this Agreement, as between the parties, Developer will own all rights, title, and interests (including all intellectual property rights) in and to the Application and Content (but specifically excluding the augmen.tv Platform).
- 6.2 Ownership by eyecandylab.** Subject to the limited rights granted to Developer under this Agreement, as between the parties, eyecandylab will own all rights, title, and interest (including all intellectual property rights) in and to the augmen.tv Platform, eyecandylab Brand, eyecandylab Confidential Information and the SDK (but specifically excluding the Content and Developer Data). Developer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Developer further acknowledges that eyecandylab retains the right to use the foregoing for any purpose in eyecandylab's sole discretion.
- 6.3 Feedback.** You acknowledge and agree that any comments, ideas and/or reports provided to eyecandylab (collectively, "**Feedback**"), shall be considered eyecandylab's proprietary and confidential information, and You hereby irrevocably transfer and assign (and agree to cause Your employee(s) to irrevocably transfer and assign) to eyecandylab all intellectual property rights embodied in or arising in connection with such Feedback, and any other rights or claims that You may have with respect to any such Feedback.
- 7. BRANDING.** Developer agrees it will not remove or modify any eyecandylab watermark or other branding or attribution that is included or embedded in the Content, the SDK, Platform, or any other branding with eyecandylab's products and services.
- 8. DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY; ESSENTIAL BASIS.**
- 8.1 Disclaimer of Warranties.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE AUGMEN.TV PLATFORM, AUGMEN.TV SDK, AND ALL OTHER INFORMATION, MATERIALS OR SERVICES PROVIDED BY EYECANDYLAB HEREUNDER ARE PROVIDED "AS IS," AND EYECANDYLAB EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE AUGMEN.TV PLATFORM, AUGMEN.TV SDK, AND ANY OTHER INFORMATION, MATERIALS OR SERVICES PROVIDED BY EYECANDYLAB HEREUNDER, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, CONDITION, QUIET ENJOYMENT, CAPACITY, PERFORMANCE, TITLE, ACCURACY OF DATA, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. EYECANDYLAB DOES NOT WARRANT THAT THE AUGMEN.TV PLATFORM OR AUGMEN.TV SDK, OR ANY DELIVERABLES, INCLUDING CONTENT FILES, WILL MEET DEVELOPER'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ALL ERRORS WILL BE CORRECTED. THIS PARAGRAPH IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.
- 8.2 Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EYECANDYLAB BE LIABLE TO DEVELOPER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE NATURE OF THE CLAIM, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, ANY FAILURE OF DELIVERY, BUSINESS INTERRUPTION, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION, OR LIABILITIES TO THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, CUSTOMERS, ARISING FROM ANY SOURCE, EVEN IF EYECANDYLAB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION UPON DAMAGES AND CLAIMS IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE. THE CUMULATIVE LIABILITY OF EYECANDYLAB TO DEVELOPER, OR ANY THIRD PARTY, FOR ALL CLAIMS

ARISING FROM OR RELATING TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY CAUSE OF ACTION SOUNDING IN CONTRACT, TORT, OR STRICT LIABILITY, WILL NOT EXCEED TOTAL AMOUNT OF THE AMOUNTS PAID TO EYECANDY LAB DURING THE TWELVE (12)-MONTH PERIOD PRIOR TO THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

8.3 Essential Basis of the Agreement. The disclaimers, exclusions and limitations of liability set forth in this Section 9 form an essential basis of the agreement between Developer and eyecandylab; and absent such disclaimers, exclusions and limitations of liability, the terms and conditions of this Agreement would be substantially different.

9. INDEMNIFICATION.

9.1 Indemnification by eyecandylab. eyecandylab agrees to indemnify, defend and hold harmless Developer from and against any and all losses, liabilities, costs (including reasonable attorneys' fees) or damages resulting from any claim by any third party that the augmen.tv Platform or the augmen.tv SDK, as applicable, infringes such third party's U.S. patents issued as of the Effective Date, or infringes or misappropriates, as applicable, such third party's copyrights or trade secret rights under applicable laws of any jurisdiction within the United States of America, provided that Developer promptly notifies eyecandylab in writing of the claim, cooperates with eyecandylab, and allows eyecandylab sole authority to control the defense and settlement of such claim. If such a claim is made or appears possible, Developer agrees to permit eyecandylab, at eyecandylab's sole discretion, to enable it to continue to use the augmen.tv Platform or the eyecandylab Brand, as applicable, or to modify or replace any such infringing material to make it non-infringing. If eyecandylab determines that none of these alternatives is reasonably available, Developer shall, upon written request from eyecandylab, cease use of, and, if applicable, return, such materials as are the subject of the infringement claim. This Section 9.1 shall not apply if the alleged infringement arises, in whole or in part, from (a) modification of the augmen.tv Platform or the eyecandylab Brand by Developer or any third party, or (b) combination, operation or use of the SDK or augmen.tv Platform with other software, hardware or technology not provided by eyecandylab, if such infringement would have been avoided by use of the SDK or augmen.tv Platform alone (any of the foregoing circumstances under clauses (a) or (b), a "**Developer Indemnity Liability**"). EYECANDYLAB'S LIABILITY UNDER THIS SECTION 9.1 SHALL AT ALL TIMES BE SUBJECT TO SECTION 8. THIS SECTION STATES EYECANDYLAB'S ENTIRE OBLIGATION AND LIABILITY WITH RESPECT TO ANY CLAIM OF INFRINGEMENT.

9.2 Indemnification by Developer. Developer agrees to hold, harmless, indemnify, and, at eyecandylab's option, defend eyecandylab from and against any losses, liabilities, costs (including reasonable attorneys' fees) or damages resulting from: (a) Developer's gross negligence or willful misconduct; (b) a Developer Indemnity Liability, and (c) the Content and/or Developer Data (including, but not limited to, any claim by a third party that the Content and/or the Developer Data infringes a third party's intellectual property right), provided that Developer will not settle any third-party claim against eyecandylab unless such settlement completely and forever releases eyecandylab from all liability with respect to such claim or unless eyecandylab consents to such settlement, and further provided that eyecandylab will have the right, at its option, to defend itself against any such claim or to participate in the defense thereof by counsel of its own choice. eyecandylab agrees to provide Developer with prompt written notice of the claim.

10. CONFIDENTIALITY; DATA COLLECTION.

10.1 Confidential Information. The "**Confidential Information**" or "**CI**" of eyecandylab will mean any and all technical and non-technical information disclosed by eyecandylab to Developer during the term of this Agreement and all other information that Developer knew, or reasonably should have known, was the CI of eyecandylab. For purposes of clarification, the Parties agree that the augmen.tv Platform and all documentation relating to the foregoing and the SDK shall be deemed Confidential Information of eyecandylab. CI may include without limitation: (a) trade secrets, inventions, ideas, processes, computer source and object code, formulae, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs, and techniques; (b) information regarding products, plans for research and development, marketing and business plans, budgets, financial statements, contracts, prices, suppliers, and customers; and (c) information regarding the skills and compensation of eyecandylab's employees, contractors, and other agents.

10.2 Confidentiality Obligations. Subject to the Section titled "Exclusions," Developer agrees that it will (a) hold in strict confidence and not disclose to any third party, any CI of eyecandylab, except as specifically approved in writing by eyecandylab; (b) protect such CI with at least the same degree of care that Developer uses to protect its own highly confidential CI, but in no case, less than a the highest degree of care used by government contractors to secure classified information; (c) use eyecandylab's CI for no purpose other than as specifically authorized under this Agreement; (iv) limit access to the eyecandylab's CI to those of Developer's employees or authorized representatives having a need to know who have signed confidentiality agreements substantively as protective of eyecandylab as this Agreement; and (v) immediately notify eyecandylab upon discovery of any loss or unauthorized disclosure of eyecandylab's CI. The Parties agree that neither party will communicate any information to the other party in violation of the proprietary rights of any third party.

10.3 Exclusions. Developer has no obligations under this Agreement with respect to any portion of the eyecandylab's CI if such Developer can demonstrate with competent evidence that such portion (a) was in the public domain at the time it was communicated to Developer by eyecandylab; (b) entered the public domain subsequent to the time it was communicated to Developer by eyecandylab, through no fault of Developer; or (c) was in Developer's possession free of any obligation of confidence prior to the time it was communicated to Developer by eyecandylab. Notwithstanding the above, Developer may disclose eyecandylab's CI, without violating the obligations of this Agreement, to the extent such disclosure is required by a valid order of a court or other governmental body having jurisdiction, provided that Developer gives eyecandylab reasonable prior written notice of such disclosure and makes a reasonable effort to obtain, or to assist eyecandylab in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the CI so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

10.4 Restrictions. Developer will not reproduce the eyecandylab's CI in any form except as required to exercise its rights under this Agreement. Any copy of any of eyecandylab's CI remains the property of eyecandylab and will contain all confidential or proprietary notices or legends that appear on the original, unless otherwise authorized in writing by eyecandylab.

10.5 Ongoing Obligations. Developer's obligations under this Agreement will survive termination of this Agreement and continue in full force and effect. All tangible information furnished hereunder by eyecandylab to Developer shall remain the property of eyecandylab. Upon termination of this Agreement, or upon written request of eyecandylab, Developer will (a) cease any use of eyecandylab's CI; and (b) promptly return to eyecandylab all documents and other tangible materials containing any portion of, or summarizing, eyecandylab's CI and all copies thereof. At eyecandylab's request, an authorized representative of Developer will provide a certificate attesting to Developer's compliance with the foregoing.

11. TERM AND TERMINATION.

- 11.1 Term.** The Agreement will be in effect from the date that you are eligible to download the SDK until terminated in accordance with this Agreement. If you subscribe to our services, then the initial term of your subscription will continue for one (1) year, and subject to payment of fees, will be automatically renewed for additional one (1) year terms unless and until you cancel your subscription. You acknowledge and agree that we, at our sole discretion, may terminate your use of the SDK with no less than three (3) days' prior notice for any reason. You agree that we will not be liable to you or any third party for termination of your access to the SDK. In the event of any termination, you will immediately cease use of the SDK.
- 11.2 Effect of Termination.** Upon termination or expiration of this Agreement for any reason: (a) all licensed rights granted by us in this Agreement will immediately cease to exist; and (b) within ten (10) days after the effective date of termination, Developer will return or destroy all Confidential Information of eyecandylab. Upon termination or expiration of this Agreement, Developer acknowledges and agrees that eyecandylab will have the right to terminate Developer's Account and delete all Content, and that eyecandylab will not be liable to Developer or any third party for any termination of Developer's and/or Customer's access to the eyecandylab Content or SDK, and/or deletion of Account information and/or Content. Developer understands that the rights of termination hereunder are absolute. eyecandylab shall not incur any liability or compensation obligation whatsoever for any damage (including, without limitation, damage to or loss of goodwill or investment), loss or expenses of any kind suffered or incurred by Developer (or for any compensation to Developer) arising from or incident to any expiration or termination of this Agreement that complies with the terms of this Agreement whether or not eyecandylab is aware of any such damage, loss or expenses. Termination is not the sole remedy under this Agreement and, whether or not termination is effected, all other remedies will remain available.
- 11.3 Survival.** The provisions of Sections 3, 6, 8, 10, 11.2, 11.3, 12, 13, 14, and 15 shall survive any termination or expiration of this Agreement.
- 12. GOVERNING LAW.** *Please read the following arbitration agreement in this Section ("Arbitration Agreement") carefully. It requires you to arbitrate disputes with eyecandylab and limits the manner in which you can seek relief from us.*
- 12.1 Applicability of Arbitration Agreement.** Developer agrees that any dispute or claim relating in any way to Developer's access or use of the SDK or Platform, or to any aspect of your relationship with eyecandylab, will be resolved by binding arbitration, rather than in court, except that (1) you may assert claims in small claims court if your claims qualify, so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis; and (2) you or eyecandylab may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). **This Arbitration Agreement shall apply, without limitation, to all claims that arose or were asserted before the Effective Date of this Agreement or any prior version of this Agreement.**

IF YOU AGREE TO ARBITRATION WITH EYECANDYLAB, YOU ARE AGREEING IN ADVANCE THAT YOU WILL NOT PARTICIPATE IN OR SEEK TO RECOVER MONETARY OR OTHER RELIEF IN ANY LAWSUIT FILED AGAINST EYECANDYLAB ALLEGING CLASS, COLLECTIVE, AND/OR REPRESENTATIVE CLAIMS ON YOUR BEHALF. INSTEAD, BY AGREEING TO ARBITRATION, YOU MAY BRING YOUR CLAIMS AGAINST THE EYECANDYLAB IN AN INDIVIDUAL ARBITRATION PROCEEDING. IF SUCCESSFUL ON SUCH CLAIMS, YOU COULD BE AWARDED MONEY OR OTHER RELIEF BY AN ARBITRATOR. YOU ACKNOWLEDGE THAT YOU HAVE BEEN ADVISED THAT YOU MAY CONSULT WITH AN ATTORNEY IN DECIDING WHETHER TO ACCEPT THIS AGREEMENT, INCLUDING THIS ARBITRATION AGREEMENT.

- 12.2 Arbitration Rules and Forum.** The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim to our registered agent Tom Orzikowski, Muenchner Str 18, 85774 Unterfoehring, Germany. The arbitration will be conducted by JAMS, an established alternative dispute resolution provider. Disputes involving claims and counterclaims under \$250,000, not inclusive of attorneys' fees and interest, shall be subject to JAMS's most current version of the Streamlined Arbitration Rules and procedures available at <http://www.jamsadr.com/rules-streamlined-arbitration/>; all other claims shall be subject to JAMS's most current version of the Comprehensive Arbitration Rules and Procedures, available at <http://www.jamsadr.com/rules-comprehensive-arbitration/>. JAMS's rules are also available at www.jamsadr.com or by calling JAMS at 800-352-5267. If JAMS is not available to arbitrate, the parties will select an alternative arbitral forum. If the arbitrator finds that you cannot afford to pay JAMS's filing, administrative, hearing and/or other fees and cannot obtain a waiver from JAMS, eyecandylab will pay them for you. In addition, eyecandylab will reimburse all such JAMS's filing, administrative, hearing and/or other fees for claims totaling less than \$10,000 unless the arbitrator determines the claims are frivolous. Likewise, eyecandylab will not seek attorneys' fees and costs in arbitration unless the arbitrator determines the claims are frivolous.

You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the country where you live or at another mutually agreed location. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

- 12.3 Authority of Arbitrator.** The arbitrator, and not any federal, state or local court or agency shall have exclusive authority to (a) determine the scope and enforceability of this Arbitration Agreement and (b) resolve any dispute related to the interpretation, applicability, enforceability or formation of this Arbitration Agreement including, but not limited to any claim that all or any part of this Arbitration Agreement is void or voidable. The arbitration will decide the rights and liabilities, if any, of you and eyecandylab. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the arbitral forum's rules, and the Agreement (including the Arbitration Agreement). The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and us.
- 12.4 Waiver of Jury Trial.** DEVELOPER AND EYECANDYLAB HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. Developer and eyecandylab are instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement, except as specified in Section 12.1 above. An arbitrator can award on an individual basis the same damages and relief as a court and must follow this Agreement as a court would. However, there is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

- 12.5** Waiver of Class or Consolidated Actions. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. Notwithstanding anything to the contrary herein, (a) representative action for public injunctive relief may be arbitrated on a class basis and (b) in the event that the foregoing sentence is deemed invalid or unenforceable with respect to a particular class or dispute for recovery of damages, neither you nor we are entitled to arbitration and instead claims and disputes shall be resolved in a court as set forth in Section 13.
- 12.6** 30-Day Right to Opt Out. Developer the right to opt out of the provisions of this Arbitration Agreement by sending written notice of Developer's decision to opt out to the following address: eyecandylab, Muenchner Str. 18, 85774 Unterfoehring, Germany, or operations@eyecandylab.com, within 30 days after first becoming subject to this Arbitration Agreement. Developer's notice must include Developer's name and address, Developer's eyecandylab username (if any), the email address Developer used to set up Developer's eyecandylab account, and an unequivocal statement that Developer wants to opt out of this Arbitration Agreement. If Developer opts out of this Arbitration Agreement, all other parts of this Agreement will continue to apply to Developer. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that Developer may currently have, or may enter in the future, with eyecandylab.
- 12.7** Severability. If any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.
- 12.8** Survival of Agreement. This Arbitration Agreement will survive the termination of Developer's relationship with eyecandylab.
- 13. MISCELLANEOUS.** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, oral and written, between the parties with respect to the subject matter hereof. No amendment or modification will be binding unless in writing and signed by a duly authorized representative of both parties. This Agreement will be governed by the substantive laws of the State of New York and the United States, without giving effect to any choice of law provisions thereof or to the United Nations Convention on the International Sale of Goods. This Agreement shall be interpreted and construed in the English language, which is the language of the official text of this Agreement. Subject to the requirements set forth in the Arbitration Agreement, any dispute arising out of this Agreement will be brought in the state or federal courts located in Manhattan, New York, and the parties consent to the exclusive jurisdiction of such courts. Each party expressly waives any right to a trial by jury in any action or proceeding brought by or against either party in connection with this Agreement. eyecandylab and Developer are independent contractors, and will not be deemed partners, franchisees, agents or joint ventures of each other. Neither party will have any right or authority to obligate or bind the other party in any manner whatsoever. No waiver of any term of this Agreement will be effective unless executed in writing by the party charged therewith or will excuse the performance of any acts other than those specifically referred to therein. If any term of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other term hereto. This Agreement cannot be assigned by either party without the prior written consent of the other party; provided, however, that eyecandylab may assign this Agreement to any person or entity that acquires by sale, merger or otherwise all or substantially all of its assets, stock or business or to an affiliate. eyecandylab shall not be liable to Developer for delays or failures in performance resulting from causes beyond its reasonable control, including, but not limited to, acts of God, labor disputes or disturbances, material shortages or rationing, riots, acts of war, governmental regulations, communication or utility failures, or casualties. Each party acknowledges that a breach by the other party of any confidentiality or proprietary rights provision of this Agreement may cause the non-breaching party irreparable damage, for which the award of damages would not be adequate compensation. Consequently, the non-breaching party may institute an action to enjoin the breaching party from any and all acts in violation of those provisions, which remedy shall be cumulative and not exclusive, and a party may seek the entry of an injunction enjoining any breach or threatened breach of those provisions, in addition to any other relief to which the non-breaching party may be entitled at law or in equity. Developer will comply with all applicable export and import control laws and regulations in its access to and/or use of the augmen.tv Platform, SDK, eyecandylab Confidential Information, all related documentation, and, in particular, Developer will not export or re-export the foregoing without all required United States and foreign government authorization. Developer will defend, indemnify, and hold harmless eyecandylab from and against all fines, penalties, liabilities, damages, costs, and expenses incurred by eyecandylab as a result of any violation of such laws or regulations by Developer, Customers or any of its agents or employees. Any notice required or permitted to be given by either party under this Agreement shall be in writing and shall be personally delivered or sent by a reputable overnight mail service (e.g., Federal Express), or by first class mail (certified or registered), or by facsimile confirmed by first class mail (registered or certified), to the other party. Notices will be deemed effective (a) three (3) working days after deposit, postage prepaid, if mailed, (b) the next business day if sent by overnight mail, or (c) the same day if sent by facsimile and confirmed as set forth above.

A copy of any notice shall be sent to the following, provided that either party may amend its address below at any time by written notice to the other:

If to eyecandylab:
 eyecandylab Corp.
 925 N LaBrea Ave, #4th floor
 Los Angeles, CA 90038
 United States of America

If to Developer:
 To Developer through Developer's Account on the Platform.

- 14. DEFINITIONS.** Capitalized terms used in this Agreement not otherwise defined above, shall have the meanings set forth or cross referenced below.
- 14.1** "**Application**" means an online augmented reality game or application developed by Developer using Unity or such other eyecandylab-designated or approved game or application development platform that is designed to integrate and/or interoperate with the SDK provided by eyecandylab to Developer.
- 14.2** "**Brand**" means, as relating to a party, any one or more of the trademarks, service marks, trade names, domain names, logos, business names, product names, and/or slogans owned or licensed by such party.

- 14.3** “**Content**” means (a) all pre-recorded (and/or with respect to the Demo Version, streaming) audiovisual content or simulation submitted by Developer to eyecandylab in the course of accessing and/or using the SDK (except Feedback) and (b) any augmented reality content (including, but not limited to, animated and static assets) developed by Developer or a third party and submitted by Developer to eyecandylab in the course of accessing and/or using the SDK for the purposes of integrating with any such Content described in (a).
- 14.4** “**augmen.tv Platform**” or “**Platform**” means eyecandylab’s proprietary online platform that enables Developers to access and use the SDK and upload Content and/or ingest live streams of Content. The augmen.tv Platform shall include all improvements, modifications or enhancements thereto, and any associated technical documentation.
- 14.5** “**augmen.tv SDK**” or “**SDK**” means the object code version of the provided software and associated application programming interface for use with Content development and other designated platforms, as well as any related materials, including the documentation, installation tools, sample code, source code, software libraries and any error corrections, updates, or new releases that we elect, in our sole discretion, to make available to you.
- 15. INTERNATIONAL PROVISIONS.**
- 15.1** **International Users.** The SDK and Platform can be accessed from countries around the world and may contain references to services and content that are not available in your country. These references do not imply that eyecandylab intends to announce such services or content in your country. Those who access or use SDK and Platform do so at their own volition and are responsible for compliance with local law.
- 15.2** **United Kingdom.** A third party who is not a party to the Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of the Agreement, but this does not affect any right or remedy of such third party which exists or is available apart from that Act.
- 15.3** **Germany.** Notwithstanding anything to the contrary in Section 8, eyecandylab is also not liable for acts of simple negligence (unless they cause injuries to or death of any person), except when they are caused by a breach of any substantial contractual obligations (vertragswesentliche Pflichten).
- 15.4** **Choice of Language.** It is the express wish of the parties that the Agreement and all related documents have been drawn up in English. This Agreement, and any contract between us, are only in the English language. C’est la volonté expresse des parties que la presente convention ainsi que les documents qui s’y rattachent soient rediges en anglais.



