

## **Terms and Conditions:**

### **Licensor:**

**Author Name:** Joseph Sipos (“Author”)

**Game Name:** Glider Island - Standard Edition and Glider Island – Ride Edition

**Business Name:** 5D Realities, LLC, a Washington State Limited Liability Company (“Owner”)

### **Address:**

1344 N 183<sup>rd</sup> St

Shoreline, WA 98133

### **Licensee:**

The Individual or Entity who has created a user account, purchased license(s), and/or has otherwise signed up for and continues to use the Licensor’s content and game(s). **By continued use of the content or game(s), the Licensor has acknowledged his, her, or their agreement to the following Terms and Conditions:**

This Video Game Licensing Agreement is entered into on the date which this Agreement has been physically or electronically signed or on the date on which the Licensor has registered for a free trial or purchased a License, by and between the Licensor and the Licensee, the particulars of which may be amended by mutual agreement, under the same terms and conditions herein.

The Licensor has developed the Game(s) titled above and is in the business of building, developing, and distributing video games.

Licensee owns an Arcade or other business which allows customers to play video games on their premises and Licensee desires to host, use, and otherwise make available Licensor’s Game for its business purposes.

Licensor and Licensee believe it is in their mutual interest to enter into this Agreement pursuant to the following terms and conditions:

## **1. License**

1.1 Licensor grants to Licensee a limited, non-sublicensable, non-exclusive license to install, market, and use the Games for an authorized purpose. The License Key provides a single seat license – meaning that one License Key allows Licensee to use the Game(s) on one machine. This right shall apply to all versions and editions for all of Licensee’s machines or venues. By installing the Games, the Licensee agrees to be bound by all terms and conditions of this Agreement. And just to be clear, the license grant does not confer any ownership rights in the Games to the Licensee.

1.2 Authorized Purposes. Licensee is permitted to use the Games for their own, personal use, for ordinary arcade use within their physical establishment, or for any special uses mutually agreed to in the Order Form. Licensee may further use the Game(s) branding and tradename for their establishment’s marketing purposes and to promote use of the Game(s), within the terms of this Agreement.

1.3 Unauthorized Purposes. Licensee is prohibited from making copies, derivative works, or selling any rights to the Games without the express permission of the Licensor.

**2. Term.** This Agreement shall be effective as of the date of execution by both parties and shall extend for the term indicated in the Order Form/ And or Email Agreement (the “Initial Term”).

## **3. Warranty and Responsibilities**

3.1 Licensor warrants that, to the best of his knowledge and belief, he has the right to license the Games and provide services under this Agreement, and is not encumbered with third-party rights to limit the rights granted in Section 1.

3.2 Licensee shall be liable for any third-party loss or damage occurring in the Licensee premises or as a result of Licensee use. Licensee understands that the use of any game may have risks or cause disorientation for those unaccustomed to virtual reality experiences. Licensor is not responsible for any loss or damage occurring on the Licensee premises or as a result of Licensee use. Licensor has no control over how Licensee uses or directs others to use the Games.

3.3 Licensor does not own or have any control over and is not responsible for third party manufacturers or retailers of Hang Gliding Simulators. Furthermore, any 5D Realities affiliated Simulators are to be purchased under a separate agreement, with separate

terms and conditions. Any breaches or claims related to or arising out of a Hang Gliding Simulator, whether affiliated with 5D Realities or not, are not governed by this Agreement.

3.4 Licensor warrants that the Games will perform best with the Computing and Virtual Reality equipment or specifications suggested by Licensor. THE WARRANTY PROVIDED FOR HEREIN IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, THAT MAY ARISE EITHER BY AGREEMENT BETWEEN THE PARTIES OR BY OPERATION OF LAW, INCLUDING THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

In the event of a claim by Licensee under this warranty, Licensor shall have the option to either repair or replace the Games. In the event that Licensor fails to repair or replace the Games within a reasonable period, Licensee's sole recourse shall be to terminate the Agreement and Licensor's sole obligation shall be to return any License Fees paid by Licensee within the previous 30 days or since notification to Licensor of the breach if greater than 30 days. In no event shall Licensor be liable for any incidental, consequential, or punitive damages as a result of its performance or breach of this Agreement.

3.5 Licensee is responsible any equipment and ancillary services needed to download, make use of, access or otherwise make optimal use of the Game(s), including, without limitation, modems, routers, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Licensee shall also be responsible for maintaining the security of the Equipment, Licensee account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Licensee account or the Equipment with or without Licensee's knowledge or consent.

3.6 Licensor is not responsible for interruptions of the Licensee's network or the network of any third-party hosting service used to host the Game(s). Licensor will use best efforts to provide customer service in case there is an interruption of the hosting service used by Licensor; however, Licensor cannot and is not responsible for these or any other third-party services used in connection with the Game(s).

#### **4. Design and Marketing**

4.1 Licensee shall be free to market the Games in whatever, good faith, method and manner they choose and takes full responsibility for sales and marketing efforts once the Games are licensed to them under this Agreement, given the requirements of Section 4.2.

4.2 Licensee shall provide Licensor with notice and a copy or link to any marketing materials. Should Licensor object to the marketing and sales materials created within 7 days of receipt, Licensee shall amend the sales and marketing materials to incorporate the Licensor's comments.

**5. Installation.** Licensee shall install the Game(s) on Licensee's machine(s) after being provided access to the simulator edition on the Steam Platform and installation instructions. Instructions/ User Manual are available on Licensor's site for downloading and installing the Game(s).

In the event that Licensee fails to notify Licensor of any difficulties or problems with the Games within 7 days after installation thereof, Licensee shall be deemed to have accepted the Games. Prior to acceptance of such Games, Licensor shall have the right to repair or replace the Games at its discretion. Upon acceptance of the Games, Licensor shall be under no obligation to repair or replace the Games except as provided for in the Warranty provision in this Agreement.

**6. Accounting and Payments.** Payments shall be made via the online payment system on a timely basis, or per the Order Form if alternative arrangements have been made. Any changes in the number of licenses or the length of the term may be made by submitting a new Order Form. The execution of a new Order Form incorporates the terms and conditions of this Agreement. Payments shall be in USD.

Licensor Reserves the right to cancel any Steam account associated with the Licensee's account should the Licensor find that the Licensee is violating any aspect of this Agreement.

Licensee does not owe any royalties or payments to the Licensor other than those specifically listed in this Agreement and the Order Form.

**7. Termination of the Agreement.** Either Party may terminate this Agreement prior to the end of the Term identified in the Order Form. However, unless the Licensor has breached this Agreement, the Licensee cannot claim any refund of payment given to Licensor.

Licensor shall give to Licensee at least one months' prior notice before removing the Game(s), unless due to a violation of this Agreement or the Licensor's intellectual property rights. In case of a violation of this Agreement or the Licensor's intellectual property rights, Licensor reserves the right to remotely and without notice cancel the Licensee's License Key until a thorough investigation can take place.

**8. Indemnity.** Licensor agrees to defend, indemnify, and hold Licensee, and its officers, directors, agents, and employees, harmless against all costs, expenses, and losses (including reasonable attorney fees and costs) incurred through claims of third parties against Licensee based on a breach by Licensor of any third-party claim for infringement of its intellectual property rights based on Licensee's use of the Games.

Licensee agrees to defend, indemnify, and hold Licensor, and its officers, directors, agents, and employees, harmless against all costs, expenses, and losses (including reasonable attorney fees and costs) incurred on the premises of the Licensee's business, as a result of or in connect with the use of the Games, or in connection with the use of any third-party apparatus in connection with the Games.

**9. Jurisdiction and Disputes.** This Agreement shall be governed by the laws of Washington. All disputes hereunder shall be resolved in the applicable state or federal courts of State. The parties consent to the jurisdiction of such courts, agree to accept service of process by mail or electronic and waive any jurisdictional or venue defenses otherwise available.

**10. Agreement Binding on Successors.** This Agreement shall be binding on and shall inure to the benefit of the parties hereto, and their heirs, administrators, successors, and assigns.

**11. Waiver.** No waiver by either party of any default shall be deemed as a waiver of any prior or subsequent default of the same or other provisions of this Agreement.

**12. Severability.** If any provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other provision and such invalid provision shall be deemed to be severed from the Agreement.

**13. Assignability.** The license granted hereunder is personal to Licensee and may not be assigned by any act of Licensee or by operation of law unless in connection with a transfer of substantially all the assets of Licensee or with the consent of Licensor.

**14. Integration.** This Agreement constitutes the entire understanding of the parties, and revokes and supersedes all prior agreements between the parties and is intended as a final expression of their Agreement. It shall not be modified or amended except in writing signed by the parties hereto and specifically referring to this Agreement. This Agreement shall take precedence over any other documents that may be in conflict therewith.