

# QUIXEL END-USER LICENSE AGREEMENT

## FOR

### MEGASCANS FREE ASSETS

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THE MEGASCANS FREE ASSETS ("THE MEGASCANS FREE ASSETS") ARE OWNED BY QUIXEL AB, A SWEDISH CORPORATION (HEREINAFTER "QUIXEL"). THIS END-USER LICENSE AGREEMENT (THIS "AGREEMENT", "EULA") APPLIES TO ALL USERS OF THE MEGASCANS FREE ASSETS (COLLECTIVELY OR INDIVIDUALLY, "YOU", "USERS", "CUSTOMER") AND GOVERNS THE TERMS AND CONDITIONS FOR THE USE OF THE MEGASCANS FREE ASSETS.

IF YOU ARE USING THE MEGASCANS FREE ASSETS ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY, ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY, ITS AFFILIATES AND USERS ASSOCIATED WITH IT. IF

- 1. ACCEPTANCE.** This End User License Agreement is a legal agreement between You and Quixel, and governs your use of the Megascans Free Assets. This EULA is made effective beginning on the date on which you first accept this EULA, access or otherwise use the Megascans Free Assets.
- 2. OWNERSHIP.** Quixel retains all right, title and interest in and to the Megascans Free Assets, including but not limited to All trademarks, service marks, and trade names etc. in the Megascans Free Assets, material, any documentation and any copies thereof and retains all such rights. Except as expressly granted in this Agreement; no license, right or interest in any Megascans Free Assets, patent, trademark, copyright, trade name or service mark is granted hereunder. The right to use the Megascans Free Assets is licensed, not sold.
- 3. RIGHT OF USE.** Quixel hereby grants to Customer, for the Term of the Agreement a non-exclusive, non-transferable right to use the Megascans Free Assets solely for Customer's evaluation and test-integration of the Megascans Free Assets with Third Party Service Provider products.
- 4. RESTRICTIONS.** The Megascans Free Assets may not be used by the Customer or any third party for any other use or for any other purpose than explicitly stated in this Agreement. Customer may not sell, license or otherwise commercially use or exploit any products or services containing the Megascans Free Assets without a separate license. The Customer is not entitled to use the Megascans Free Assets for any other use or develop products and services that competes with Quixel's products and services. You may not without specific prior written consent from Quixel use your own or third-party software to modify any content appearing within the Megascans Free Assets or its environment or change how the Megascans Free Assets is used. You may not, under any circumstances, whether intentionally, or through negligence or inaction, allow or enable others (another individual, legal entity etc.) to access the Megascans Free Assets without the prior written consent of Quixel. You expressly agree that you shall not: (a) use the Megascans Free Assets for any illegal purpose; (b) use the Megascans Free Assets in any manner which violates the rights of a third party, including without limitation intellectual property rights. Further, you may not perform benchmarks tests of the Megascans Free Assets or disclose the results of any performance benchmarks of the Megascans Free Assets or related software or materials to any third party without Quixel's prior written consent.
- 5. PROHIBITED USE.** Customer shall not: i) translate or adapt the Megascans Free Assets for any purpose nor arrange or create derivative works based on the Megascans Free Assets without Quixel's express prior written consent in each case; ii) copy, modify or in any other way change or alter the Megascans Free Assets, or parts thereof, nor authorize anyone else to do so; iii) transfer or distribute (whether by license, loan, rental, sale or otherwise) all or any part of the Megascans Free Assets to any other person or entity; iv) make, nor authorize others to make, any further copies of the Megascans Free Assets without Quixel's prior written consent; or v) itself or authorize others to decompile, reverse-engineer, disassemble, modify or in any other way change or alter the Megascans Free Assets or any part thereof.
- 6. WATERMARK.** Quixel and Third Party Service Provider reserves the right to watermark the Megascans Free Assets for the purposes of verifying that the Megascans Free Assets are not used for commercial use or otherwise in breach of this Agreement.
- 7. PROPRIETARY NOTICES.** Customer shall retain, reproduce, and apply any copyright notices and/or other proprietary rights notices included on or embedded in the Megascans Free Assets.
- 8. TERM.** The term of this EULA and the license granted herein shall begin on the Start Date, as defined above, and shall be ongoing until terminated by either party or Third Party Service Provider effective immediately.

9. **EARLY TERMINATION.** If Quixel or Third Party Service Provider deem that You are misusing the Megascans Free Assets they may shut down your access to the Megascans Free Assets effective immediately and terminate the Agreement. Any prohibited use of the Megascans Free Assets will result in termination of this Agreement and an obligation for You to compensate Quixel for any and all losses and damages herewith.
10. **FEES.** Customer shall pay the fees as set forth in your Agreement with the Third Party Service Provider. Fees are non-refundable unless specifically specified in the Agreement your Agreement with the Third Party Service Provider.
11. **CONFIDENTIALITY.** You acknowledge that the Megascans Free Assets, related materials and any documentation etc, contains confidential and proprietary information. You agree to maintain the confidentiality of the Megascans Free Assets and related materials and documentation during the term of this EULA. For a period of 10 years after expiration or termination of this EULA, you agree that the documentation shall be treated as confidential information. The Megascans Free Assets shall be treated as confidential in perpetuity. You agree to take commercially reasonable steps to ensure that confidential information is not disclosed or distributed by you.
12. **DISCLAIMER OF WARRANTY.** QUIXEL AND THIRD PARTY SERVICE PROVIDER WILL USE REASONABLE EFFORTS TO PROVIDE YOU WITH THE MEGASCANS FREE ASSETS AND RELATED SERVICE THAT IS FAST, RELIABLE AND ENJOYABLE. HOWEVER, QUIXEL AND THIRD PARTY SERVICE PROVIDER MAKES NO REPRESENTATION OR WARRANTY AS TO THE COMPLETENESS OR ACCURACY OF THE MEGASCANS FREE ASSETS OR INFORMATION CONTAINED THEREIN, NOR DO THEY REPRESENT OR WARRANT THAT THE MEGASCANS FREE ASSETS WILL BE AVAILABLE AT ALL TIMES OR THAT IT WILL FUNCTION IN A MANNER OR AS FAST OR EFFICIENT AS YOU MAY EXPECT OR DESIRE. THE INFORMATION CONTAINED IN THE MEGASCANS FREE ASSETS MAY BE INCOMPLETE, MAY CONTAIN ERRORS, OR BECOME OUT OF DATE AT ANY TIME. THE MEGASCANS FREE ASSETS ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY EXPRESS WARRANTIES. QUIXEL AND THIRD PARTY SERVICE PROVIDER SHALL HAVE NO OBLIGATION TO CORRECT ERRORS IN, PROVIDE UPDATES FOR OR OTHERWISE SUPPORT THE MEGASCANS FREE ASSETS. QUIXEL AND THIRD PARTY SERVICE PROVIDER RESERVES THE RIGHT TO ADD, MODIFY, OR DELETE THE MEGASCANS FREE ASSETS AND RELATES SERVICES AT ANY TIME. YOU BEAR THE RISK OF USING THE MEGASCANS FREE ASSETS. QUIXEL AND THIRD PARTY SERVICE PROVIDER DO NOT GIVE ANY EXPRESS OR STATUTORY REPRESENTATIONS, WARRANTIES, GUARANTEES OR CONDITIONS REGARDING THE MEGASCANS FREE ASSETS. QUIXEL AND THIRD PARTY SERVICE PROVIDER ALSO EXCLUDES ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY, TITLE, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ETC. NOTHING IN THIS AGREEMENT SHALL AFFECT THOSE STATUTORY RIGHTS WHICH YOU MAY BE ENTITLED TO AS A CONSUMER AND THAT YOU CANNOT CONTRACTUALLY AGREE TO ALTER OR WAIVE. THE LIMITATIONS AND EXCLUSIONS OF LIABILITY DO NOT APPLY IF AND TO THE EXTENT YOU SUSTAIN DAMAGES WHICH WERE CAUSED BY GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF QUIXEL AND/OR THIRD PARTY SERVICE PROVIDER.
13. **LIMITATION OF LIABILITY.** QUIXEL AND THIRD PARTY SERVICE PROVIDER SHALL IN NO EVENT (INCLUDING BREACH OF ANY WARRANTY HEREUNDER) BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF OR RELATING TO THE AGREEMENT AND YOUR USE OF THE MEGASCANS FREE ASSETS (INCLUDING LOSS OF BUSINESS, REVENUE, PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE), EVEN IF ANY EXCLUSIVE REMEDY PROVIDED FOR IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE. QUIXEL'S AND THIRD PARTY SERVICE PROVIDER'S LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO \$ 5,000. U.S. IN NO EVENT SHALL QUIXEL'S AND THIRD PARTY SERVICE PROVIDER'S AGGREGATE LIABILITY FOR ALL INCIDENTS DURING THE TERM OF THE AGREEMENT EXCEED \$ 5,000. U.S. IN ORDER TO BE ENTITLED TO ANY INDEMNIFICATION OR COMPENSATION FROM QUIXEL AND THIRD PARTY SERVICE PROVIDER YOU MUST (I) PROMPTLY NOTIFY QUIXEL OR THIRD PARTY SERVICE PROVIDER IN WRITING OF THE CLAIMS (WHETHER OR NOT LITIGATION OR OTHER PROCEEDING HAS BEEN FILED OR SERVED), (II) GIVE QUIXEL OR THIRD PARTY SERVICE PROVIDER, AT ITS OPTION AND EXPENSE, SOLE CONTROL OVER THE DEFENCE AND/OR SETTLEMENT OF THE CLAIMS, AND (III) AT YOUR OWN EXPENSE, YOU SHALL COOPERATE WITH THE PARTY IN ALL REASONABLE ASPECTS IN CONNECTION WITH THE DEFENSE OF ANY SUCH CLAIM. QUIXEL AND THIRD PARTY SERVICE PROVIDER SHALL HAVE NO LIABILITY TO YOU IN THE EVENT THAT YOU HAVE FAILED TO COMPLY WITH THE TERMS OF THIS AGREEMENT.
14. **INDEMNIFICATION.** Your use of the Megascans Free Assets constitutes your agreement to defend, indemnify, and hold harmless Quixel and Third Party Service Provider, its parents and affiliates, partners, and their respective employees, contractors, officers, and directors, from and against any actions, claims, demands, liability and expenses, including reasonable attorneys' fees, arising out of your use or misuse of the Megascans Free Assets and the rights granted under this Agreement. You agree that Quixel and Third Party Service Provider, may seek and shall be entitled to injunctive, equitable, or other similar relief to protect, maintain, defend, enforce, and preserve such rights, in addition to any other available remedies without the necessity of posting a bond.
15. **ARBITRATION.** If you are located within the United States of America, the following applies to you: Any claim (excluding claims for injunctive or other equitable relief) where the total amount of the award sought by either party is less than \$10,000 shall be resolved via binding non-appearance-based arbitration initiated through the American Arbitration Association ("AAA"). The AAA Rules are available online at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879. In any such arbitration, the parties and AAA must comply with the following rules: (a) the arbitration shall be conducted by telephone, online and/or be solely based on written submissions, the specific manner shall be chosen by the party initiating the arbitration; (b) the arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties; (c) the arbitrator may award injunctive or declaratory relief only in favor of the individual party seeking relief and only to the extent necessary to

provide relief warranted by that party's individual claim; and (d) any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Nothing in this Agreement shall prevent either party from seeking remedies in small claims court of competent jurisdiction.

16. **CLASS ACTION WAIVER.** YOU AGREE THAT ANY CLAIMS SUBJECT TO ARBITRATION UNDER SECTION 15 MUST BE MADE IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.
17. **CLAIMS.** YOU, QUIXEL AND THIRD PARTY SERVICE PROVIDER AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE MEGASCANS FREE ASSETS MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.
18. **GOVERNING LAW.** (a) If you are located outside of the United States of America this Agreement shall be governed by and construed in accordance with the laws of Sweden, without giving effect to any principles of conflicts of law, and the parties hereby consent to the sole and exclusive jurisdiction of the courts of Sweden, with the district court of Uppsala (Uppsala Tingsrätt) as first venue, to resolve any disputes arising out of or relating to this Agreement. (b) If you are located within the United States of America, and unless otherwise required by a mandatory law of any jurisdiction, this Agreement shall be governed by and construed in accordance with the laws of the state of New York, without giving effect to any principles of conflicts of law. You agree that any action arising out of or relating to this Agreement or the Service that is not subject to mandatory arbitration as set forth above in Section 15 shall be filed only in the state or federal courts in and for New York County, New York and you hereby consent and submit to the personal jurisdiction of such courts for the purposes of litigating any such action. (c) Notwithstanding anything to the contrary, Quixel and/or Third Party Service Provider may apply to any court of competent jurisdiction for injunctive or other equitable relief.
19. **WAIVER.** A provision of this Agreement may be waived only by a written instrument executed by the party entitled to the benefit of such provision. The failure of any party at any time to require performance of any provision of this Agreement shall in no manner affect such party's right at a later time to enforce the same. A waiver of any breach of any provision of this Agreement shall not be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.
20. **SEVERABILITY.** If any provision of this Agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions which shall continue in full force and effect.
21. **ASSIGNMENT.** You shall not, without the prior written consent of Quixel, assign, transfer, charge, sub-contract, license or deal in any other manner with all or any of Your rights or obligations under this EULA. Quixel may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this EULA without notice to you.
22. **NO PARTNERSHIP.** This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between Quixel and you. 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 persons.
23. **ENTIRE AGREEMENT.** This EULA constitutes the entire agreement between the parties with respect to this specific subject matter hereof and shall not be modified except as provided in this Agreement.
24. **DISCLOSURES.** The services hereunder are offered by Quixel AB, a Swedish corporation, with registered and business offices at Stora Torget 3, S-753 20 Uppsala, Sweden, email: [legal@quixel.se](mailto:legal@quixel.se).