

## PYRE SOFTWARE END USER LICENSE AGREEMENT

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This Software End User License Agreement ("Agreement") constitutes a valid and binding agreement between Supergiant Games, LLC, a California limited liability company and its affiliates and business partners (singly and collectively, "Supergiant") and the end user ("you," or "your") of the Software. As used in this Agreement, the term "Software" means collectively the videogame entitled "Pyre" (the "Game"), and any and all copies and/or derivative works of the Game, related software and/or documentation, including without limitation, any and all "patches," future programming fixes, updates and upgrades provided to you. The Software will not function unless it is installed on a computer which meets its minimum installation requirements. You may only use the Software if you have agreed to this Agreement.

IT IS IMPORTANT THAT YOU CAREFULLY READ AND UNDERSTAND THIS AGREEMENT. BY CLICKING THE "I ACCEPT" BUTTON LOCATED AT THE END OF THIS AGREEMENT, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.

IF YOU DO NOT AGREE WITH ALL THE TERMS OF THIS AGREEMENT AND DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, PLEASE CLICK THE "I DO NOT ACCEPT" BUTTON. IF YOU DO NOT ACCEPT THIS AGREEMENT, THE SOFTWARE WILL NOT BE INSTALLED ON YOUR COMPUTER.

### 1. License Grant.

Subject to the terms of this Agreement, Supergiant hereby grants you during the Term (defined below), a limited, non-exclusive, personal, non-sublicensable, non-assignable license to download, install and use the Software onto a computer and to use the Software solely for the purpose of evaluating the Software and providing feedback regarding the Software to Supergiant. The Software may only be used in accordance with this Agreement and any rules, restrictions or documentation set forth by Supergiant from time to time.

### 2. License Restrictions.

(a) Notwithstanding anything to the contrary, you may not: (i) remove any proprietary notices from any copy of the Software; (ii) cause, permit or authorize the modification, creation of derivative works, translation, reverse engineering, decompiling, disassembling or hacking of the Software; (iii) sell, assign, rent, lease, act as a service bureau, or grant rights in the Software, including, without

limitation, through sublicense, to any other entity without the prior written consent of Supergiant; (iv) make any false, misleading or deceptive statement or representation regarding Supergiant and/or the Software; (v) use the Software for any commercial purpose or the benefit of any third party or charge any person, or receive any compensation for, the use of the Software or any manner not permitted by the licenses granted herein; (vi) use the Software to, or in any way that would, violate any applicable law, regulation or ordinance; (vii) collect any information or communication about the users of the Software by monitoring, interdicting or intercepting any process of the Software; and (viii) use any type of bot, spider, virus, clock, timer, counter, worm, software lock, drop dead device, packet-sniffer, addon, hack, trainer, mod, cheat, Trojan-horse routing, trap door, time bomb or any other codes or instructions

that are designed to be used to provide a means of surreptitious or unauthorized access or that are designed to distort, delete, damage, monitor, mine, enhance or disassemble the Software.

(b) The Software may be incorporated into, and may incorporate, technology, software and services owned and controlled by third parties. Use of such third party software or services is subject to the terms and conditions of the applicable third party license agreements, and you agree to look solely to the applicable third party and not to Supergiant to enforce any of your rights in relation thereto. All modifications or enhancements to the Software remain the sole property of Supergiant. You understand that Supergiant, in its sole discretion, may modify or discontinue or suspend your right to access or use any of the Software at any time, and may at any time suspend or terminate any license hereunder and disable any Software you may already have accessed or installed without prior notice. Supergiant reserves the right to add or remove features or functions to the Software at any time in its sole discretion. When installed on your computer, the Software may periodically communicate with Supergiant servers while the Software is in operation. You acknowledge and agree that Supergiant has no obligation to make available to you any subsequent versions of its software applications.

### 3. Proprietary Rights.

The Software contains proprietary and confidential information of Supergiant, including copyrights which are protected by international copyright laws, trade secrets and trademarks contained in the Software. Title to and ownership of the Software, including without limitation all intellectual property rights in and to the Software, are and shall remain the exclusive property of Supergiant and its licensors, and except for the limited license granted to you by Supergiant, Supergiant reserves all right, title and interest in and to the Software. You shall not take any action to jeopardize, limit or interfere with Supergiant's ownership of and rights with respect to the Software. You acknowledge that any unauthorized copying or unauthorized use of the Software is a violation of this Agreement and is strictly prohibited.

### 4. Term and Termination.

(a) This Agreement will be effective as of the date you accept this Agreement, thereby expressly agreeing to the terms and conditions set forth herein, and will remain effective until termination by either party as set forth below. As used herein, the term "Term" means the period of time from the date you accept this Agreement until the date this Agreement terminates or expires.

(b) You may terminate this Agreement at any time provided you cease all use of the Software AND destroy or remove from all hard drives, networks, and other storage media all copies of the Software in your possession. Supergiant may terminate this Agreement at any time, with or without cause, by providing notice to you and/or preventing your access to the Software.

(c) Upon termination of this Agreement for any reason (i) all licenses and rights to use the Software shall terminate and you must remove the Software from your computer equipment and dispose of all originals and copies of the Software in your possession, and (ii) Sections 2, 3, 4(c), and 5 through 13 shall survive such termination.

### 5. Your Representations, Warranties and Promises.

(a) You represent and warrant that you: (i) possess the legal right and ability to enter into this Agreement and to comply with its terms, (ii) will use the Software for lawful purposes only and in accordance with this Agreement and all applicable laws, regulations and policies, (iii) will always provide and maintain true, accurate, current and complete information as requested by Supergiant, (iv) are of a lawful age in your applicable jurisdiction to enter into this Agreement and install and use the Software, and (v) will only use the Software on a computer on which such use is authorized by the computer's owner or lessee, as applicable.

(b) You promise that you will not: (i) use any automatic or manual device or process to interfere or attempt to interfere with the proper working of the Software, except to remove the Software from a computer of which you are an owner or authorized user in a manner permitted by this Agreement, (ii) attempt to decompile, reverse engineer or hack the Software or to defeat or overcome any encryption and/or other technical protection methods implemented by Supergiant with respect to the Software and/or data transmitted, processed or stored by Supergiant or other users of the Software, and (iii) take any steps to interfere with or in any manner compromise or violate any of Supergiant's or the Software's security measures, any other individual's or entity's computer utilizing the Software. Supergiant reserves the right to investigate occurrences which may involve such violations, and may involve, and cooperate with, law enforcement authorities in prosecuting users who have participated in such violations. You agree to cooperate fully in any such investigations and you expressly acknowledge and agree that Supergiant may disclose your personal information to comply with law enforcement or any legal, governmental or regulatory order or action.

#### 6. Indemnity.

You agree to indemnify, hold harmless and defend Supergiant and its affiliates, parent companies, subsidiaries, officers, directors, employees, agents, network service providers, business partners and licensors (collectively, the "Indemnified Parties") at your expense, against any and all third-party claims, actions, proceedings, and suits and all related liabilities, damages, settlements, penalties, fines, costs and expenses (including, without limitation, reasonable attorneys' fees and other dispute resolution expenses) incurred by Supergiant arising out of or relating to your (a) violation or breach of any term of this Agreement or any policy or guidelines referenced herein, including any unauthorized disclosure of Confidential Information or (b) use or misuse of the Software.

#### 7. Disclaimer of Warranties.

(a) THE SOFTWARE IS PROVIDED "AS IS" AND THERE ARE NO WARRANTIES, CLAIMS OR REPRESENTATIONS MADE BY SUPERGIANT, EITHER EXPRESS, IMPLIED, OR STATUTORY, WITH RESPECT TO THE SOFTWARE, INCLUDING ANY WARRANTIES OF QUALITY, PERFORMANCE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, NOR ARE THERE ANY WARRANTIES CREATED BY COURSE OF DEALING, COURSE OF PERFORMANCE, OR TRADE USAGE. SUPERGIANT FURTHER DOES NOT REPRESENT OR WARRANT THAT THE SOFTWARE WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE, ERROR-FREE, OR WILL OPERATE WITHOUT PACKET LOSS.

(b) YOU ACKNOWLEDGE THAT THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE SOFTWARE REMAINS WITH YOU TO THE MAXIMUM EXTENT PERMITTED BY LAW.

(c) As some jurisdictions do not allow some of the exclusions set forth in this Section 7, some of these exclusions may not apply to you.

#### 8. Limitation of Liability.

(a) IN NO EVENT SHALL SUPERGIANT, ITS SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR LICENSORS BE LIABLE TO YOU WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE (WHETHER ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY OR STRICT LIABILITY OR OTHER THEORY), FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION ANY LOSS OF DATA, SERVICE INTERRUPTION, COMPUTER FAILURE OR PECUNIARY LOSS) ARISING OUT OF THE INSTALLATION, UNINSTALLATION, USE OR INABILITY TO USE THE SOFTWARE, INCLUDING ANY DAMAGES RESULTING THEREFROM, EVEN IF SUPERGIANT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, IN NO CASE SHALL THE LIABILITY OF COMPANY OR ANY OF THE RELATED PARTIES TO YOU EXCEED TWENTY DOLLARS (USD\$20).

(b) As some jurisdictions do not allow some of the exclusions set forth in this Section 8, some of these exclusions may not apply to you.

#### 9. Equitable Remedies.

You hereby agree that Supergiant would be irreparably damaged if the terms of this Agreement were not specifically enforced, and therefore you agree that Supergiant shall be entitled, without bond, other security, or proof of damages, to appropriate equitable remedies with respect to breaches of this Agreement, in addition to such other remedies as Supergiant may otherwise have available to it under applicable laws. In the event any litigation is brought by either party in connection with this Agreement, the prevailing party in such litigation shall be entitled to recover from the other party all the costs, attorneys' fees and other expenses incurred by such prevailing party in the litigation.

#### 10. Export Administration.

You will comply fully with all relevant export laws and regulations of the United States, including, without limitation, the U.S. Export Administration Regulations (collectively "Export Controls"). Without limiting the generality of the foregoing, you will not, and you will require your representatives not to, export, direct or transfer the Software, or any direct product thereof, to any destination, person or entity restricted or prohibited by the Export Controls.

#### 11. U.S. Government Rights.

If you are, or are entering into this Agreement on behalf of, any agency or instrumentality of the United States Government, the Game is "commercial computer software" and "commercial computer software documentation," and pursuant to FAR 12.212 or DFARS 227.7202, and their successors, as applicable, use, reproduction, and disclosure of the Software are governed by the terms of this Agreement.

#### 12. Negotiations and Arbitration.

(a) Negotiations. Disputes can be expensive and time consuming for both parties. In an effort to accelerate resolution and reduce the cost of any dispute or claim related to this Agreement ("Claim"), you and Supergiant agree to first attempt to informally negotiate any Claim for at least thirty (30) days

(except those Claims expressly excluded in Section 12(e) below). Supergiant will send its notice to the address it has on file to the extent that you have provided additional contact information to Supergiant (e.g. by participating in a promotional or survey, or contacting a customer services representative). Otherwise, Supergiant will send its notice to the email address associated with your Account. You will send your notice to Supergiant Games, LLC, 521 Gough St, San Francisco, CA 94102, Attn: Legal Department. Please note that this informal resolution procedure does not suspend any statutory limitation periods applicable to the bringing of a Claim.

(b) Binding Arbitration. If the parties fail to resolve a Claim through negotiations, within such thirty (30)-day period, either you or Supergiant may elect to have the Claim (except as otherwise provided in Section 12(e)) finally and exclusively resolved by binding arbitration by sending a written notice requesting arbitration to the other party. Any election to arbitrate by one party shall be final and binding on the other. The arbitration will be conducted under the Streamlined Arbitration Rules and Procedures of JAMS that are in effect at the time the arbitration is initiated (the "JAMS Rules") and under the terms set forth in this Agreement. In the event of a conflict between the terms set forth in this Section 12(b) and the JAMS Rules, the terms in the JAMS Rules will control and prevail.

The parties will split the arbitration fees. In the event that the arbitrator finds that an equal division of the arbitration fees are an undue burden on you, we will pay all of the arbitration fees (but not your legal fees).

Except as otherwise set forth in Section 12(e), you may seek any remedies available to you under federal, state or local laws in an arbitration action. As part of the arbitration, both you and we will have the opportunity for discovery of non-privileged information that is relevant to the Claim. The arbitrator will provide a written statement of the arbitrator's decision regarding the Claim, the award given and the arbitrator's findings and conclusions on which the arbitrator's decision is based. The determination of whether a Claim is subject to arbitration shall be governed by the Federal Arbitration Act and determined by a court rather than an arbitrator.

Except as otherwise provided in this Agreement, (i) you and Supergiant may litigate in court to compel arbitration, stay proceedings pending arbitration, or confirm, modify, vacate or enter judgment on the award entered by the arbitrator; and (ii) the arbitrator's decision is final, binding on all parties and enforceable in any court that has jurisdiction, provided that any award may be challenged if the arbitrator fails to follow applicable law. BY AGREEING TO THIS ARBITRATION PROVISION, YOU UNDERSTAND THAT YOU AND SUPERGIANT ARE WAIVING THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL.

(c) Location. The arbitration will take place in your hometown area if you so notify Supergiant in your notice of arbitration or within ten (10) days following receipt of Supergiant's arbitration notice. In the absence of a notice to conduct the arbitration in your hometown area, the arbitration will be conducted in San Francisco, California, unless the parties agree to video, phone and/or internet connection appearances. Any Claim not subject to arbitration (other than claims proceeding in any small claims court), or where no election to arbitrate has been made, shall be decided exclusively by a court of competent jurisdiction in Seattle, Washington, United States of America, and you and Supergiant agree to submit to the personal jurisdiction of that court. To the extent allowable by the arbitrator and the JAMS Rules, you may participate by phone or electronic submission.

(d) Limitations. You and Supergiant agree that any arbitration shall be limited to the Claim between Supergiant and you individually. YOU AND SUPERGIANT AGREE THAT, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW: (I) THERE IS NO RIGHT OR AUTHORITY FOR ANY DISPUTE TO BE ARBITRATED ON A CLASS-ACTION BASIS OR TO UTILIZE CLASS ACTION PROCEDURES; (II) THERE IS NO RIGHT OR AUTHORITY FOR ANY DISPUTE TO BE BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY OR AS A PRIVATE ATTORNEY GENERAL; AND (III) NO ARBITRATION SHALL BE JOINED WITH ANY OTHER.

(e) Exceptions to Negotiations and Arbitration. You and Supergiant agree that the following Claims are not subject to the above provisions concerning negotiations and binding arbitration: (i) any Claims seeking to enforce or protect, or concerning the validity of, any of your or Supergiant's intellectual property rights; (ii) any Claim related to, or arising from, allegations of theft, piracy, invasion of privacy or unauthorized use; and (iii) any claim for equitable relief. In addition to the foregoing, either party may assert an individual action in small claims court for Claims that are within the scope of such courts' jurisdiction in lieu of arbitration.

(f) Governing Law. Except as otherwise provided in this Agreement, this Agreement is governed by, and will be construed under, the laws of the United States of America and the law of the State of California, without regard to choice of law principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. Other laws may apply if you choose to access the Software from outside of the United States. In such an event, those local laws shall affect this Agreement only to the extent necessary in that jurisdiction and this Agreement shall be interpreted to give maximum effect to the terms and conditions in this Agreement. You are responsible for compliance with all local laws if and to the extent local laws are applicable.

(g) Severability. You and Supergiant agree that if any portion this Section 12 is found illegal or unenforceable (except any portion of Section 12(e)), that portion shall be severed and the remainder of the Section shall be given full force and effect. If Section 12(e) is found to be illegal or unenforceable then neither you nor Supergiant will elect to arbitrate any Claim falling within that portion of Section 12(e) found to be illegal or unenforceable and such Claim shall be exclusively decided by a court of competent jurisdiction within San Francisco, California, United States of America, and you and Supergiant agree to submit to the personal jurisdiction of that court.

### 13. General Provisions.

Supergiant reserves all rights not expressly granted in this Agreement. Supergiant may modify this Agreement at any time by providing such revised Agreement to you or posting the revised Agreement on its website located at <https://store.supergiantgames.com>. Your continued use of the Software shall constitute your acceptance of such revised Agreement. You may not assign this Agreement or any rights hereunder. Nothing in this Agreement shall constitute a partnership, agency or joint venture between you and Supergiant. Should any term or provision of this Agreement be deemed invalid, void or unenforceable either in its entirety or in a particular application, the remainder of this Agreement shall remain in full force and effect. The failure of Supergiant at any time or times to require performance of any provision of this Agreement shall in no manner affect its right at a later time to enforce the same unless the same is waived in writing. The terms set forth in this Agreement constitute the final, complete and exclusive agreement with respect to the Software and may not be contradicted, explained or supplemented by evidence of any prior agreement, any contemporaneous oral agreement or any

consistent additional terms. Supergiant may, at its sole discretion, assign this Agreement without giving prior notice.

YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND UNDERSTAND THE RIGHTS, OBLIGATIONS, TERMS AND CONDITIONS SET FORTH HEREIN. BY CONTINUING TO INSTALL THE SOFTWARE, YOU EXPRESSLY CONSENT TO BE BOUND BY ITS TERMS AND CONDITIONS AND GRANT TO SUPERGIANT THE RIGHTS SET FORTH HEREIN.