

**LITHTECH, INC.
SDK, ART ASSETS, AND
GAME OBJECT CODE LICENSE
AND NONDISCLOSURE AGREEMENT**

This SDK, Art Assets, and Game Object Code License and Nondisclosure Agreement (the "Agreement") is made this 2nd day of April, 2001 (the "Effective Date"), by and between University of Washington ("Licensee") with an address located at the Department of Computer Science and Engineering, Box 35250 Seattle, WA 98195 and LithTech, Inc., a Washington corporation ("LithTech"), with offices located at 10516 NE 37th Circle, Kirkland, WA 98033, for itself and affiliated companies.

Whereas, LithTech is the developer of the LithTech development system (the "Development System") and the associated game object code and software development kit (the "SDK");

Whereas, LithTech has ownership or license to certain three dimensional models of beings or objects, three dimensional world models, three dimensional geography, and two dimensional textures (the "Art Assets") which are compatible with the Development System and SDK;

Whereas, Licensee wishes to evaluate the tools and technology for educational purposes relating to computer gaming course work at the University of Washington (the "Purpose");

Whereas, Licensee wishes to receive, and LithTech wishes to disclose to Licensee, an object code version of the Development System, the SDK, certain Art Assets and game object source code, and other information as deemed appropriate by LithTech, all on the terms set forth herein;

Now, therefore, in consideration of the mutual promises made herein, the parties agree as follows:

1. License.

1.1 License Grant. LithTech hereby grants Licensee a nonexclusive, royalty-free, terminable, nontransferable license to use and reproduce the Development System (in object code form only), the Art Assets, the game object source code and the SDK, and solely for the Purpose.

1.2 Updates. LithTech may from time to time, in its sole discretion, provide updates, error corrections, and future versions of the Development System, Art Assets, game object code and SDK to Licensee. Upon delivery, such updates, error corrections and future versions shall be deemed part of the Development System, Art Assets, game object code or SDK, as applicable, under this Agreement.

1.3 Restrictions. Licensee shall have no right to distribute the Development System, Art Assets, game object code or SDK to any third party. Licensee agrees not to disassemble, decompile or otherwise reverse engineer the source code of the Development System, Art Assets, or game objects.

2. Confidentiality.

2.1 Information. Both parties desire to disclose to each other certain specifications, design plans, drawings, software, data, prototypes, business plans, strategies or other business

and/or technical information, in oral or written form, which is proprietary and/or confidential to the disclosing party or its affiliated companies ("Information") for the Purpose.

2.2 Disclosure. The Licensee shall (a) hold such Information in confidence, shall restrict disclosure of such Information to its group members in the University of Washington, course with a need to know (and advise such employees of the obligations assumed herein), (b) shall use the Information only for the Purpose, (c) shall not disclose such Information to any third party without prior written approval of LithTech, and (d) shall protect such Information by using the same degree of care (which shall be no less than reasonable care) to prevent its unauthorized disclosure as the receiving party uses to protect its own confidential information of a like nature.

2.3 Exclusions. These restrictions on the use or disclosure of Information shall not apply to any Information:

(a) Which is independently developed by the receiving party as evidenced by documentation in such party's possession; or

(b) Which is lawfully received from another source free of restriction and without breach of this Agreement, as evidenced by documentation in the receiving party's possession; or

(c) After it has become generally available to the public without breach of this Agreement by the receiving party; or

(d) Which at the time of disclosure to the receiving party was known to such party free of restriction as evidenced by documentation in such party's possession; or

(e) Which the disclosing party agrees in writing is free of such restrictions.

2.4 Announcements. The parties agree not to announce or disclose to any third party the terms or existence of this Agreement without first securing the prior written approval of the other party.

2.5 Limitations. The parties agree that nothing in this Agreement shall prevent a party from using Information retained by such party's personnel in intangible form in the way of knowledge gained from exposure to such Information, whether such knowledge was imparted through oral disclosure, written documentation or otherwise. Nothing herein shall restrict the continued use of a party's employees in their current assignment or their reassignment, whether or not to an area related to Information received hereunder.

3. Term.

3.1 Term. This Agreement shall become effective as of the Effective Date and shall expire on **June 3, 2004**.

3.2 Termination. Either party may terminate this Agreement upon written notice to the other party.

3.3 Effect of Termination. Upon the earlier of end of Term or Termination, Licensee shall immediately return all materials received from LithTech under this Agreement.

3.4 Survival. Sections 1.3, 2, 3.3, 3.4, and 4-6 shall survive any expiration or termination of this Agreement.

4. Disclaimer of Warranties; Limitation of Liability

4.1 NO WARRANTIES. LITTECH AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES WITH RESPECT TO THE DEVELOPMENT SYSTEM, ART ASSETS, GAME OBJECT CODE AND THE SDK, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

4.2 LIMITATION OF LIABILITY. IN NO EVENT SHALL LITTECH OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE DEVELOPMENT SYSTEM, ART ASSETS, GAME OBJECT CODE AND/OR THE SDK, EVEN IF LITTECH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

5. No Exclusivity.

Neither this Agreement nor the disclosure or receipt of Information shall constitute or imply any promise to or intention to make any purchase of products or services by either party or its affiliated companies or any commitment by either party or its affiliated companies with respect to the present or future marketing of any product or service or any commitment to enter into any other business relationship. Except for the license, confidentiality and use restrictions expressly set forth herein, each party will be free (1) to pursue, negotiate, and enter into similar relationships with third parties and (2) to develop, market, and make available similar products and services. Neither party will be obligated to enter into any other agreement with the other party by virtue of this Agreement.

6. General.

6.1 Modification. No amendment or modification of this Agreement shall be valid or binding on the parties unless made in writing and signed on behalf of both of the parties by their respective duly authorized officers or representatives.

6.2 Assignment. Licensee may not assign this agreement without the prior written consent of LithTech. Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties, their successors and assigns.

6.3 Severability. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

6.4 Governing Law, Jurisdiction and Venue. This Agreement shall be governed by the laws of the State of Washington. Each of the parties hereto submits to jurisdiction and venue in the state and federal courts sitting in King County, Washington.

6.5 Entire Agreement. This Agreement constitutes the entire understanding between the parties hereto and supersedes all previous communications, representations and understandings, oral or written, between the parties, with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date herein above indicated.

LithTech, Inc.

University of Washington

Signature_____

Signature_____

Name_____

Name_____

Title_____

Title_____

Date_____

Date_____