License Agreement

(“Agreement”)

between

# NERO World, L.L.C.

(“**Licensor**”)

and

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(“**Licensee**”)

**Recitals:**

1. **Licensor** is a North Carolina limited liability company in the business of licensing certain intellectual property relating to the live action role-playing game NERO (“**NERO**”).
2. **Licensee** is a **NERO** chapter owner desiring a non-exclusive, non-transferable license to use **Licensor**’s intellectual property relating to **NERO**.
3. **Licensor** is willing to grant such license to **Licensee** pursuant to the terms and conditions set forth in this **Agreement**.

**The parties, Licensor** **and Licensee, mutually agree as follows:**

1. License Grant
	1. **Intellectual Property**.
		1. The term “**Intellectual Property**” as used in this **Agreement** shall mean the intellectual property of **Licensor** that is reasonably required, in **Licensor**’s reasonable business judgment, for **Licensee** in order to allow **Licensee**’s chapter members to play **NERO**, as such intellectual property rights are now or may exist in the future, including without limitation, any and all rights, privileges and priorities arising under the laws or treaties of the United States and any other nation, state, government, territory or jurisdiction in the world relating to: (i) trademarks, service marks, trade dress, logos, trade names, and corporate names, including but not limited to the U.S. trademark “**NERO**” (Registration Date: May 13, 2014; Serial Number: 86280398); (ii) trade secrets and confidential business information; and (iii) any common law rights arising from the use of the foregoing.
		2. The term “**Intellectual Property**” also includes additions, updates and revisions of **Licensor**’s intellectual property described in Section 1.1.1 (collectively, “**Updated Intellectual Property**”) that **Licensor** may cause from time to time in **Licensor**’s absolute discretion.
		3. From time to time, **Licensor** may use **Licensor**’s reasonable business judgment to determine that **Licensor**’s intellectual property that was formerly reasonably required for **Licensee** in order to allow **Licensee**’s chapter members to play **NERO** is no longer reasonably required, and that **Licensor**’s intellectual property that was not formerly reasonably required for **Licensee** in order to allow **Licensee**’s chapter members to play **NERO** is reasonably required.
		4. In the event that any intellectual property ceases to be licensed **Intellectual Property**, **Licensee** shall return or destroy such intellectual property.
	2. **License Rights Granted in Intellectual Property**. Subject to the receipt by **Licensor** of all applicable fees under this **Agreement** and **Licensee**’s compliance with all of the other terms of this **Agreement**, **Licensor** grants to **Licensee** a non-exclusive and non‑transferable right to: (i) use the **Intellectual Property** in connection with the **NERO** chapter owned by **Licensee** for the single purpose of allowing **Licensee**’s chapter members to play **NERO**; and (ii) make copies of the **Intellectual Property** for reasonable internal use by **Licensee**.
	3. **License Restrictions on Licensee**. **Licensee** expressly agrees that **Licensee** shall not, nor shall **Licensee** allow others under **Licensee**’s reasonable control, including without limitation **Licensee**’s chapter members, to, perform the following upon the **Intellectual Property**: (i) reverse engineer, translate or otherwise attempt to derive the underlying ideas, structure or organization from the **Intellectual Property**, except and only to the extent that such activity is expressly permitted by this **Agreement** or by applicable law notwithstanding this limitation; (ii) sublicense the **Intellectual Property** to any third party, except and only to the extent that such activity is expressly permitted by this **Agreement**; (iii) create derivative works from the **Intellectual Property**; (iv) modify the **Intellectual Property** or incorporate the **Intellectual Property** into any other product or service; (v) take any course of action that damages the value of the **Intellectual Property**; or (vi) take any other action not expressly permitted by this **Agreement** or by applicable law notwithstanding this limitation. If, notwithstanding any terms in this Section 1.3 prohibiting or otherwise limiting reverse engineering, **Licensee** engages in reverse engineering, or if the laws of the jurisdiction in which **Licensee** uses the **Intellectual Property** allow reverse engineering of the **Intellectual Property**, then **Licensee** agrees that the product of any such reverse engineering shall be deemed to be the proprietary confidential information of **Licensor**.
2. Duties
	1. **Duties of Licensor**. **Licensor** shall provide **Licensee** with access to a central database, which will allow **Licensee**’s chapter members to upload the experience points earned by such chapter members during each **NERO** event, and which will allow **Licensor** to view experience points and history for each chapter member. **Licensor** may use a portion of the annual fees described in Section 3 to pay for the marketing and promotion of **NERO**. **Licensor** shall organize, oversee and establish the rules governing **NERO**’sregional and national councils, as described in greater detail on Exhibit A attached hereto and incorporated herein. **Licensee** hereby acknowledges and agrees that **Licensor** shall have the right to update Exhibit A from time to time, without needing to obtain **Licensee**’s prior consent.
	2. **Duties of Licensee**. **Licensee** shall oversee the **NERO** events conducted by **Licensee**’s chapter members, but **Licensee** is hereby granted significant autonomy by **Licensor** regarding how **Licensee** schedules and manages such **NERO** events, as long as such **NERO** events do not violate (i) any of the terms or conditions of this **Agreement** or (ii) any of the **National NERO Rules** (as defined in Exhibit A). **Licensee** shall nominate, or oversee the nomination of, potential candidates to serve on the applicable regional **NERO** council. **Licensee** shall, upon reasonable notice from **Licensor**, furnish such information and proper assistance to **Licensor** as **Licensor** may reasonably require in connection with any litigation in which **Licensor** is, or may become, a party either during or after the term of this **Agreement**.
3. Compensation
	1. **Annual Fees**. In consideration for **Licensor**’s performance under this **Agreement**, for the license granted by **Licensor** to **Licensee** to use the **Intellectual Property** (as described in greater detail in Section 1) and for Licensee’s access to the central database (as described in greater detail in Section 2), **Licensee** hereby agrees to pay **Licensor** an annual fee of one hundred dollars ($100.00) per year (the “**Annual Fee**”). **Licensor** may increase this annual fee with at least ninety (90) days’ notice to **Licensee**, but in no event may the annual fee increase more than five percent (5%) per year.
	2. **Payment Terms**. **Licensee** shall pay **Licensor** the **Annual Fee** on the **Effective Date** of this **Agreement** and upon each anniversary of **Effective Date** during the **Term**. Any late payment shall accrue an interest charge of one and one-half percent (1.5%) per month for each month or portion of a month that such late payment remains unpaid.
4. Term and Termination
	1. **Effective Date**. This **Agreement** is effective the day upon which both parties execute this **Agreement**, or, if not executed by both parties the same day, the day upon which the second (2nd) party executes this **Agreement** (the “**Effective Date**”).
	2. **Term**. The initial term of this **Agreement** is for one (1) year from the **Effective Date**. This **Agreement** shall automatically renew every year on the anniversary of the **Effective Date** for an additional one (1) year term, unless earlier terminated in accordance with the provisions of Section 4.3.
	3. **Termination**.
		1. This **Agreement** shall terminate immediately upon the happening of any of the following events:
			1. the mutual agreement of **Licensee** and **Licensor**;
			2. by **Licensee**, with thirty (30) days advance written notice to **Licensor**;
			3. by **Licensor**, with written notice to **Licensee**;
			4. upon the dissolution and liquidation of **Licensor**, whereby the business of **Licensor** is not continued;
			5. if **Licensee** is a natural person, then upon the death of **Licensee**; or
			6. if **Licensee** is a business entity, then upon the dissolution and liquidation of **Licensee**, whereby the business of **Licensee** is not continued.
		2. Termination shall only apply to Sections 1 through 4 and all other provisions of this **Agreement** shall survive termination of this **Agreement**. In addition, **Licensee** shall remain liable to **Licensor** for any and all unpaid **Licensee Fees** and/or corresponding interest charges owed to **Licensor** that accrued prior to the termination of this **Agreement**.
5. Non-Disclosure
	1. **Confidential Information**.
		1. “**Information**” includes, but is not limited to, financial data, marketing techniques, client lists, prospective client lists, vendor lists, operation manuals, referral sources, marketing and development plans and the **Intellectual Property**.
		2. “**Confidential Information**” consists of any **Information**, whether existing in the past, present or future, and whether or not copyrightable or patentable, that either (i) is a “**Trade Secret**”, defined as **Information** that (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from such **Information**’s disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain such **Information**’s secrecy; or (ii) is private or confidential **Information**, in that it is **Information** not generally known or available either to the public or to **Licensor**’s competitors.
	2. **Non-Disclosure by Licensee**.
		1. **Licensee** shall treat as confidential, and shall not disclose or use for the benefit of any party other than **Licensor** or as set forth in this **Agreement**, any and all **Confidential Information** made available or disclosed to **Licensee** as a result of or related to this **Agreement**.
		2. Notwithstanding the provisions of Section 5.2.1, **Licensee** shall have no obligation for that portion of such **Confidential Information** that **Licensor** discloses to others without any restriction on use and further disclosure.
	3. **Effect of Termination**.
		1. **Licensee** agrees that, within thirty (30) days of the expiration or termination of this **Agreement**, **Licensee** shall return to **Licensor** or destroy all **Confidential Information**.
		2. The confidentiality provisions of this **Agreement** shall survive the termination of the license and duties portions of this **Agreement** and shall continue so long as necessary to protect the confidentiality of the **Confidential Information** governed by this Section 4.
6. Non-Disparagement
	1. After the termination of this **Agreement**:
		1. **Licensee** shall refrain, and shall cause **Licensee**’s officers, directors members and managers, if applicable, to refrain, from making any disparaging, negative or uncomplimentary statements, whether public or private, regarding **Licensor** and/or any officers, members or managers of **Licensor**; and
		2. **Licensor** shall refrain, and shall cause **Licensor**’s officers, members and managers to refrain, from making any disparaging, negative or uncomplimentary statements, whether public or private, regarding **Licensee**.
7. Intellectual Property Rights
	1. **Licensor as Sole Owner of the Intellectual Property**. As between **Licensor** and **Licensee**, **Licensor** is the sole owner of the **Intellectual Property**, and use by **Licensee** of any of the **Intellectual Property** does not require the acquisition of any further licenses by **Licensor**. **Licensee** acknowledges the ownership and/or right to use the **Intellectual Property** by **Licensor**. **Licensee** agrees that **Licensee** shall do nothing inconsistent with such ownership by **Licensor**. **Licensee** agrees that all use of the **Intellectual Property** by **Licensee** shall inure to the benefit of and be on behalf of **Licensor**. **Licensee** agrees that nothing in this **Agreement** shall give **Licensee** any right, title or interest in the **Intellectual Property**, other than the right to use the **Intellectual Property** in accordance with the terms of this **Agreement**. **Licensee** agrees that **Licensee** shall not attack the title of **Licensor** to the **Intellectual Property** or attack the validity of the license granted in this **Agreement**. **Licensee** acknowledges that portions of the **Intellectual Property** licensed under this **Agreement** are protected by United States and/or international intellectual property rights, and **Licensee** agrees to support **Licensor**’s efforts to register and maintain the **Intellectual Property**, provided that **Licensee** is under no obligation to register or maintain the **Intellectual Property** on behalf of **Licensor**. **Licensee** agrees to assign any and all rights that **Licensee** may obtain in any of the **Intellectual Property** to **Licensor**.  In the event that **Licensee** incurs any expenses related to the registration or maintenance of the **Intellectual Property**, **Licensor** agrees to timely reimburse **Licensee** for any such reasonable expenses. **Licensee** agrees not to remove or obliterate any copyright, trademark, legend or proprietary rights notices of **Licensor** from any of the **Intellectual Property**. **Licensee** shall reproduce any copyright, trademark, patent, legend or other proprietary **Licensor** marking on any authorized copy of the **Intellectual Property**.
	2. **Indemnification by Licensor**. **Licensor** agrees to defend and hold harmless **Licensee** from all settlements agreed to by **Licensor**, and all costs and direct damages awarded to a third party and any corresponding attorneys’ fees, up to a maximum cumulative amount of one hundred thousand dollars ($100,000.00), to the extent that they arise out of allegations that the **Intellectual Property**, as delivered to **Licensee**: (i) infringes a third party’s registered United States patent, trademark or copyright; or (ii) misappropriates a third party’s trade secret as such term is defined in the Uniform Trade Secrets Act. No such defense shall be undertaken unless: (a) the patent, trademark, copyright or trade secret was in existence as of the **Effective Date**; (b) **Licensee** notifies **Licensor** within thirty (30) days of the date that **Licensee** first becomes aware of a claim contemplated in this Section 7.2; (c) **Licensor** has the sole control over settlement, compromise, negotiation and defense of any such action; and (d) **Licensee** gives **Licensee** all reasonably available information, assistance and authority to enable **Licensor** to defend **Licensee** in such third party action. The foregoing obligation shall not apply to any infringement claim arising from the **Intellectual Property** if the **Intellectual Property** has been modified by parties other than **Licensor**, or use of the **Intellectual Property** is in a manner other than as authorized by **Licensor** under this **Agreement**.
	3. **Remedies**. Should the use of the **Intellectual Property** be found to constitute infringement of any third party’s United States patent, trademark or copyright or misappropriation of a trade secret as such term is defined in the Uniform Trade Secrets Act and **Licensee**’s rights under this **Agreement** are enjoined, then **Licensor**’s sole obligations, solely at **Licensor**’s option, shall be as follows: (i) obtain for **Licensee** the right to continue to use the **Intellectual Property**; or (ii) modify the **Intellectual Property** so that the **Intellectual Property** no longer infringes a third party’s intellectual property rights; or (iii) replace the **Intellectual Property** with other functionally equivalent intellectual property that does not infringe a third party’s intellectual property rights; or (iv) if none of the foregoing is reasonably possible, request the return of the **Intellectual Property**, and upon the **Intellectual Property**’s return, terminate this **Agreement**.
	4. **Limitation of Liability and Disclaimer of Warranties for Intellectual Property**. THE FOREGOING STATES **LICENSOR**’S SOLE LIABILITY FOR INFRINGEMENT OF ANY THIRD PARTY’S INTELLECTUAL PROPERTY RIGHTS OF ANY KIND, INCLUDING MISAPPROPRIATION OF TRADE SECRETS, AND IS IN LIEU OF ANY OTHER WARRANTY AGAINST INFRINGEMENT OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY. **LICENSOR** DISCLAIMS ALL SUCH WARRANTIES AND ANY REMEDY, STATUTORY OR OTHERWISE, NOT SPECIFICALLY SET FORTH IN THIS **AGREEMENT**, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND THE ENTIRE RISK OF THE QUALITY AND PERFORMANCE OF THE **INTELLECTUAL PROPERTY** IS WITH **LICENSEE**. IF **LICENSEE** RECEIVES ANY OTHER WARRANTIES REGARDING THE **INTELLECTUAL PROPERTY**, THOSE WARRANTIES DO NOT ORIGINATE FROM, AND ARE NOT BINDING UPON **LICENSOR**. **LICENSOR** DOES NOT WARRANT OR ASSUME RESPONSIBILITY FOR THE ACCURACY OR COMPLETENESS OF ANY **INFORMATION** OR OTHER ITEMS CONTAINED WITHIN THE **INTELLECTUAL PROPERTY**. IN CASES OF WILLFUL OR GROSSLY NEGLIGENT MISCONDUCT WITH REGARD TO MATTERS INVOLVING THE **INTELLECTUAL PROPERTY**, THIS EXCLUSION SHALL NOT APPLY IN THOSE JURISDICTIONS WHERE FOR SUCH WILLFUL OR GROSSLY NEGLIGENT MISCONDUCT THERE IS MANDATORY LIABILITY. NOTWITHSTANDING ANYTHING IN THIS **AGREEMENT** TO THE CONTRARY, IN NO CASE SHALL **LICENSOR**’S TOTAL MONETARY OBLIGATION TO **LICENSEE** PURSUANT TO THIS **AGREEMENT** EXCEED ONE HUNDRED THOUSAND DOLLARS ($100,000.00).
	5. **Indemnification by Licensee**. **Licensee** shall defend, indemnify and hold harmless **Licensor**, as well as **Licensor**’s officers, members, managers, employees, agents and attorneys (each a “**Licensor Person**”) from, and **Licensor** and **Licensor Persons** shall have no liability for, any claims arising out of: (i) **Licensee**’s use of the **Intellectual Property** modified in any way, or merged with any other intellectual property by **Licensee**, other than as authorized by **Licensor**; (ii) **Licensee**’s use of the **Intellectual Property** in combination with other intellectual property other than as authorized by **Licensor**; (iii) **Licensee**’s use of any allegedly infringing **Intellectual Property** after being notified thereof and after being informed of modifications that would avoid the alleged infringement; or (iv) **Licensee**’s use of the **Intellectual Property** that is not strictly in accordance with the terms of this **Agreement**.
8. General Provisions
	1. **Waiver**. Any failure or delay by either party to enforce any right under this **Agreement** shall not constitute a waiver, at that time or in the future, of the non-enforced right or any other right and shall not modify the rights or obligations of either party under this **Agreement**.
	2. **Amendments**. This **Agreement** may only be modified, or any rights under this **Agreement** waived, by a written document executed by both parties.
	3. **Governing Law**. The laws of the State of North Carolina govern this **Agreement**,without regard to its conflicts of laws principles.
	4. **Dispute Resolution**.
		1. **Time Period**.Any claim arising out of or related to this **Agreement** must be brought no later than one (1) year after such claim accrues.
		2. **Binding Arbitration**. Any dispute between the parties arising out of or in connection with this **Agreement** shall be submitted by the parties to binding arbitration. Any arbitration shall proceed in accordance with the commercial arbitration rules of the American Arbitration Association. In the event that the parties fail to agree upon an arbitrator within ten (10) days after written notice from one (1) party to the other party requesting arbitration, the complaining party shall have an arbitrator, familiar with the issues, designated in accordance with American Arbitration Association rules. The award rendered by the arbitrator shall be final and binding upon the parties, and either party may enter such judgment in any court of competent jurisdiction. All arbitration proceedings shall take place in Asheville, North Carolina, or such other location as selected by the **Licensor**.
		3. **Costs**.In the event of any action to enforce, interpret or set aside this **Agreement**, the prevailing party shall be entitled to recover all arbitration costs and attorneys’ fees incurred in connection with such action or proceeding.
	5. **Representations**.Each party acknowledges that in executing this **Agreement** such party does not rely and has not relied upon any representation or statement, other than those specifically stated in this written **Agreement**, made by either of the parties, or by either of the parties’ agents, attorneys or representatives with regard to the subject matter, the basis or the effect of this **Agreement**.
	6. **Prior Understanding**. This **Agreement** contains the entire agreement between the parties with respect to the subject matter of this **Agreement**, and the parties intend that for this **Agreement** to be a complete and exclusive statement of the terms of the parties’ agreement. This **Agreement** supersedes all negotiations, understandings, agreements, representations and warranties, if any, related to the subject matter of this **Agreement**, which precede the execution of this **Agreement**.
	7. **Partial Invalidity**. In the event that a portion of this **Agreement** becomes invalid or unenforceable, all remaining portions of this **Agreement** shall remain binding and enforceable.
	8. **Notice**.
		1. Each party shall send all notices and all other communications, required or permitted by this **Agreement**, in writing, by any one (1) of the following methods: (i) personal delivery; (ii) certified mail, return receipt requested; (iii) registered mail, return receipt requested; or (iv) overnight mail delivery service.
		2. Either party may change the address to which notices and other communications are to be sent, by written communication to the other party, served in the manner described in this Section 8.8.
		3. Initially, the addresses to which notices and other communications are to be sent are as follows:

To **Licensor**:
NERO World, L.L.C.

Attn: Ford Ivey

21 Battery Park Avenue, #302

Asheville, North Carolina 28801

With a copy to:

Arlington Law Group

Attn: Ryan A. Brown, Esq.

1739 Clarendon Boulevard

Arlington, Virginia 22209

FAX: (202) 318-0363

To **Licensee**:
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* 1. **Headings**. The headings of the sections of this **Agreement** have been included only for convenience and do not modify or limit any of the provisions of this **Agreement**.
	2. **Binding Agreement**. This **Agreement** is binding upon, and inures to the benefit of, the parties and their respective heirs, administrators, representatives, executors, successors and assigns.
	3. **Counterparts**.This **Agreement** may be executed in one (1) or more counterparts, each of which shall be deemed an original, and all of the counterparts together constitute a single instrument. The parties may execute this **Agreement** by facsimile or by an attachment to an electronic mail message in .PDF or similar format, and each copy thereof shall be treated as though it was an original.
	4. **Third Party Beneficiaries**. This **Agreement** is not intended to benefit any person or entity other than the parties to this **Agreement** and no person or entity shall be considered a third party beneficiary to this **Agreement**.
	5. **Assignment**. This **Agreement** may not be assigned by **Licensee** without the prior written consent of **Licensor**.

\* \* \* \* \* \* \* \* \*

Agreed to as of the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_, by:

**NERO World, L.L.C.** (“**Licensor**”) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Licensee**”)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: Ford Ivey By (if applicable): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: Member Title (if applicable): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Exhibit A**

**Rules Governing NERO’s Regional and National Councils**

Each regional **NERO** council shall be composed of a subset of the **NERO** licensees located within such region. The national **NERO** council (the “**National NERO Council**”) shall be composed of a subset of the representatives governing the various regional **NERO** councils. The **National NERO Council** shall set and manage all of the rules for **NERO** (collectively, the “**National NERO Rules**”). All **NERO** events shall be conducted in accordance with the **National NERO Rules**.