



“MADE in NY” Logo for Digital Games APPLICATION

DIGITAL GAME INFORMATION

Digital Game Title: _____

Digital Gaming Company Name: _____

Digital Gaming Company Contact Name: _____ Email Address: _____

Contact Phone: _____ Company’s State of Incorporation (if applicable): _____

Digital Gaming Company Mailing Address: _____

City: _____ State: _____ Zip: _____

Estimated Release or Premiere Date: _____

Distribution Platform: Console Mobile App Streaming Other: _____

PLEASE COMPLETE THE FOLLOWING TABLE

Budget Summary

Total Production Costs	
Total Production Costs Incurred in NYC	

MOME will review applications in the order they are received. Applicants should allow for up to 4 weeks for the application to be reviewed. **This application form is subject to disclosure pursuant to the New York Freedom of Information Law. This application does not constitute a binding agreement unless and until signed by the NYC Mayor’s Office of Media and Entertainment.**

ELIGIBILITY CRITERIA

By ticking the boxes below, the applicant confirms that it meets the eligibility criteria for the usage of the “Made in NY” logo for Digital Games.

- Threshold Budget:** A production must have “production costs” of at least \$10,000 incurred in New York City. “Production costs” means any costs for tangible property used and services performed directly and predominantly in the production and development of a digital game, including, but not limited to the costs of computer software and hardware, data processing, graphics and animation, sound synchronization, and editing. “Production costs” do not include (1) costs for voice talent, (2) costs incurred for the acquisition of intellectual property rights of a character from a third party, (3) costs incurred in the marketing, promotion, or advertising of a digital game, (4) distribution costs, and (5) other costs not directly and predominantly incurred in the production and development of a digital game.
- Adequate Nexus to New York City:** A digital game has an adequate nexus to New York City if it meets all of the following criteria: (1) completed at least 75% of its total “production costs” (see definition above) are incurred directly in New York City; AND (2) is headquartered in and employ at least one full-time position in New York City; AND (3) had at least 10,000 users during the calendar month prior to the date of the application either based upon sales of console- or computer-based media, uses of on-line media (including the applicant’s website), a streaming platform (such as Twitch or YouTube), an on-line service (such as Nintendo) or another Internet-based platform, or uses of a mobile app.

COMPLIANCE WITH OTHER PROGRAM REQUIREMENTS

By ticking the boxes below, the applicant confirms that its digital game complies with other program requirements if its application is approved:

- Digital Game:** The applicant’s digital game is an electronic or computerized game manipulated by users through interactive devices to generate images on a display screen that is intended for commercial production, use or distribution.

- Made in NY” Acknowledgment:** The applicant will include the following in the qualified game’s packaging, title screen and/or game website (1) the “Made in NY” logo and (2) the phrase, “The ‘Made in NY’ logo is a trademark of the City of New York and is used with the City’s permission.

- Completion Date:** A digital game must have been completed no earlier than 12 months prior to application to the “Made in NY” Logo Program.

- Prohibited Characteristics:** The digital game must not be (a) application software, system software or middleware primarily designed and developed for private or internal purposes, (b) a largely static Internet site, (c) a product or platform that is used for gambling and prohibited by Article I, § 9 of the N.Y. State Constitution and N.Y. Penal Law § 225.95, (c) not be subject to 18 USC § 2257 (reporting of books, films, digital images, digitally- or computer-manipulated images, etc. with respect to sexually explicit conduct), or (d) a product or platform that violates the law.

- Terms and Conditions:** If the Mayor’s Office of Media and Entertainment approves my application, applicant agrees to the terms and conditions attached.

- By signing this application, I affirm that all of the information is true to the best of my knowledge and I represent that I have the authority to bind the digital gaming company identified in this application.

Please sign below and email this application to minydigital@media.nyc.gov at the Mayor’s Office of Media and Entertainment to proceed.

PRINT NAME _____

DATE _____

SIGNATURE _____

TITLE/COMPANY _____

APPROVED BY MAYOR’S OFFICE OF MEDIA AND ENTERTAINMENT

SIGNATURE _____

NAME/TITLE _____



**Mayor’s Office of Media and Entertainment
1 Centre Street, 26th Floor
New York, NY 10007**

Terms and Conditions

1. Parties: This Agreement (“Agreement”) contains the terms and conditions by which the City of New York (“City”), a municipal corporation acting by and through the Mayor’s Office of Media and Entertainment (“MOME”), with a principal place of business at 1 Centre Street, 26th Floor, New York, NY, 10007 is willing to grant you (“You”) a license to use the City’s “Made in NY” trademark and service mark (“Trademark”) and/or name in the digital game (“Digital Game”) noted on the Made in NY Logo Program for Digital Game Application (the “Application”). By signing the Application, You acknowledge that You have read and accept the terms and conditions of this Agreement in its entirety.
2. The Trademark is used to indicate the Your participation in the City’s “Made in NY” program intended to promote the economic development of the City of New York through the development of incentive programs to promote digital game productions in the City of New York. A current version of the Trademark is set forth on <https://www1.nyc.gov/assets/mome/pdf/MINY-Trademark.pdf> and made part of this Agreement.
3. Grant of License:
 - a. The City grants You a non-exclusive, royalty free, license and right to photograph, record, reproduce or otherwise use the Trademark solely in connection with the production, exhibition, exploitation, advertising, and promotion of the Digital Game.
 - b. The rights granted herein include the right to use excerpts or stills from the Digital Game, which may contain the Trademark in connection with the advertising or promotion of the Digital Game. The rights granted herein do not include the right to use the Trademark on or in connection with any merchandise, products or other items of any kind sold or otherwise distributed (other than as the Trademark appears in the context of credits in the Digital Game by You or in connection with the Digital Game or its commercial exploitation).
 - c. The Digital Game shall depict the Trademark on the Digital Game packaging, title screen of the Digital Game and/or Digital Game website. All copies of the Digital Game distributed in any of these mediums shall contain the Trademark in the same size and prominence as those of other companies that have such credit, and substantially the following credit: “The ‘Made in NY’ logo is a trademark of the City of New York and is used with the City’s permission.”. All other aspects of such credit shall be at your sole discretion. Should You wish to acknowledge the assistance and cooperation of the City in the Digital Game, You should use the following language:

Special thanks to
The City of New York
Mayor’s Office of Media and Entertainment
4. Term of License: The license granted by this Agreement shall commence on date that the application is clicked/submitted (the “Effective Date”). This Agreement is without limitation as to time, territory or medium, except that if the Digital Game is not released two years after the Effective Date, the rights granted herein shall expire, and You shall not use the Trademark in any manner in connection with the Digital Game, without the separate written consent of the City.
5. Limitations on License: You agree to comply with the following, which are conditions of the license granted by this Agreement:
 - a. You may only use the Trademark and MOME name in strict conformity with the City of New York Official Licensing Style Guide as provided by the City or as set forth on the following web page: <https://www1.nyc.gov/assets/mome/pdf/Exhibit-C-NYC-Style-Guide-Made-in-NY.pdf> or in such other manner as the City may notify You.

- b. You may not assign, license or otherwise transfer any of the rights, granted under this Agreement; provided, however, that You may assign any or all of this Agreement to (i) its parent company or any affiliate, subsidiary or other entity with an ownership interest in the Digital Game; (ii) for purposes of distribution and other exploitation of the Digital Game; (iii) in the event of any company reorganization, merger or acquisition; and/or (iv) to any party which succeeds to all or substantially all of your assets.

6. Trademark:

- a. You acknowledge and agree that the City owns registrations, pending applications and claims common law rights for certain trademarks including the Trademark. Except for rights expressly granted in this Agreement, the City reserves all rights in its respective Trademark, materials, and other intellectual property rights. You may use the Trademark only as expressly authorized by this Agreement, or as otherwise approved in writing in advance by the City, and in accordance with the City's reasonable requirements. All use by You of the Trademark will inure to the benefit of the City.
- b. You agree that You shall not do any of the following in any market or jurisdiction in the world with respect to the Trademark: (i) attack ownership of or rights to the Trademark; (ii) file an application for registration of the Trademark with the trademark office of any country, or file an application to register the Trademark as a domain name in any country or with any domain name registrar; (iii) use in any manner or file an application for registration of the Trademark that is confusingly similar to the Trademark; (iv) take any action that would bring the Trademark into public disrepute; or (v) take any action that would tend to destroy or diminish the goodwill in the Trademark.
- c. All materials, if any, provided by the City to You under this Agreement, and all proprietary rights in and to all such materials shall remain the sole and exclusive property of the City, subject only to the non-exclusive rights granted to You under this Agreement.

7. Representations, Warranties, and Indemnification:

- a. You hereby represent and warrant to the City that You (i) have the right and authority to enter into this Agreement and to perform your obligations as set forth herein; (ii) are under no obligation or restriction that does or would interfere or conflict with your obligations under this Agreement, nor will You assume any such obligations or restrictions during the term hereof; (iii) and Your performance hereunder shall not conflict with the rights granted to any other person or entity, including but not limited to intellectual property rights for any materials furnished or used by the other party in the performance of this Agreement; (iv) the information provided by You in connection with this Agreement is true, correct and complete; (v) the Digital Game meets the definition of a Digital Game as noted on the Application and all criteria for participation in the program as noted on the Application; and (vi) the Digital Game and its commercial exploitation will not violate or infringe upon the rights of any third parties.
- b. The City represents and warrants, and You acknowledge that (i) the City is the sole owner of all trademark and other intellectual property rights with respect to the Trademark, and any and all registrations and applications to register the Trademark; and (ii) such intellectual property rights are valid. You shall do nothing inconsistent with or adverse to such ownership and validity.
- c. The City represents and warrants that the Trademark will not violate or infringe upon the rights of any third parties. To the extent permitted by law, the City agrees to indemnify You from and against all claims, liabilities, damages or expenses resulting from any breach of the above-stated representation and warranty.
- d. To the extent permitted by law, You shall indemnify the City and its officials, employees, and agents from and against all claims, liabilities, damages or expenses arising from the (a) any misrepresentation or breach of your representations or warranties set forth in the Agreement; (b) the Digital Game and its

commercial exploitation other than any resulting from the breach by the City of its above-stated representation and warranty in Section 7(b) and (c).

8. Termination:

- a. The City may, in its sole discretion, terminate this Agreement or modify Your license to use the Trademark at any time upon written notice to You. Upon termination of this Agreement, You shall immediately cease any and all use of the Trademark.
- b. You may terminate this Agreement at any time upon thirty (30) days' prior written notice to the City.
- c. In the event of any breach, termination or cancellation of this Agreement by You, the City hereby acknowledges that its sole remedy shall be an action for damages and the City irrevocably waives any right to obtain equitable or injunctive relief. For the avoidance of doubt, the foregoing sentence does not limit the City from seeking any remedies it might otherwise have at law or in equity if You engage in activity prohibited under this Agreement.

9. Notice: Any notice required or permitted by this Agreement shall be in writing by personal delivery, reliable overnight courier with all fees prepaid, United States certified mail (RRR), postage prepaid, or electronic mail, with confirmation of receipt, at the address of each party set forth in the Application. A notice will be deemed to be effective when it is signed for by the receiving party to the address of such party as set forth above or to any subsequent address designated by either party, on notice to the other pursuant hereto, for the purpose of receiving notices under this Agreement. If the receiving party rejects or otherwise refuses to accept the notice, or if the notice cannot be delivered because of a change in address for which no notice was given, the notice will be deemed to have been received upon that rejection, refusal or inability to deliver.

10. Governing Law: The parties agree that this Agreement shall be interpreted according to the laws of the State of New York for contracts executed and performed in New York without regard to choice of law principles. In the event of a dispute over the terms of this Agreement, the parties agree to the exclusive jurisdiction of the state and/or federal courts in New York County, New York, and courts with appellate jurisdiction over such courts, and agree that venue therein is proper and convenient.

11. Miscellaneous:

- a. Nothing set forth in this Agreement is deemed to give You any less rights than You would have as a member of the general public.
- b. This Agreement contains the full and complete understanding between the parties and supersedes all prior agreements and understandings pertaining hereto and cannot be modified except by a writing signed by each party.
- c. If any provision of this Agreement shall be held by a court of competent jurisdiction to be void or unenforceable, the remaining provisions shall remain in full force and effect.
- d. No waiver by either party of any breach of any provision of this Agreement will be deemed to be a waiver of any other or subsequent breach and will not be construed to be a modification of the terms of the Agreement unless and until the same is agreed to in writing and signed by the parties.
- e. This Agreement must not be construed as one of partnership, joint venture, or agency between the parties.