

## **Trademark License Agreement Merchandise**

This Trademark License Agreement is by and between Factom, Inc., with a primary business address of 7320 N. MoPac Expressway Suite 301, Austin, Texas 78731, U.S.A. ("Factom") and the following ("Licensee") and shall become effective as of the date of the last party to sign this Agreement (the "Effective Date"):

Licensee:

Type of entity (or state "Individual"):

Address:

### **BACKGROUND**

- A.** Factom has been using the word mark FACTOM (the "FACTOM Mark") in the U.S. since at least as early as September 13, 2014, on and in association with computer software using a consensus engine incorporating blockchain technology for securing data and cryptographic information for record management and related goods and services.
- B.** Factom is the owner of U.S. Patent and Trademark Office Registration Number 5,263,803 for the FACTOM Mark for "computer software using a consensus engine incorporating blockchain technology for securing data and cryptographic information for record management, but excluding software for cost calculation, monitoring, and optimization," in International Class 9.
- C.** Factom has been using and continues to use the FACTOM Mark internationally in the cryptocurrency industry, and the FACTOM Mark has become well known internationally in that industry.
- D.** Licensee desires to use the FACTOM Mark on and/or in association with sales and/or other distribution of the goods described in the attached Exhibit A.

Therefore, in consideration of the mutual promises herein contained, and for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

### **AGREEMENT**

#### **1. License.**

- 1.1.** Subject to the terms of this Agreement, Factom grants Licensee a non-exclusive, non-transferrable, limited license to use the FACTOM Mark in the United States and in any other territories in which Factom owns the necessary rights on or in association with sales and/or other distribution of the goods described in the attached Exhibit A, (the "Licensed Products") and in connection with the marketing, promotion, and sale and/or other distribution of Licensed Products in any format or medium (collectively, the "Promotional Uses").
- 1.2.** Factom makes no representations or warranties regarding its ownership of rights in or to the FACTOM Mark, or its ability to license such rights, in any territory outside of the United States.

- 1.3. Licensee represents and warrants that the Licensed Products do not include software or other goods or services used for cost calculation, monitoring, or optimization and that Licensee will not use the FACTOM Mark on or in association with such.
- 1.4. Licensee may not assign or sublicense the rights granted herein.
- 1.5. Any use of the FACTOM Mark other than as specifically allowed by this Agreement requires the prior written permission of Factom in the form of an amendment to this Agreement or a new Trademark License Agreement, either of which must be executed by both parties.

## **2. Limitations on Use.**

- 2.1. Licensee may not modify the FACTOM Mark, or use a modified version of the FACTOM Mark, in any way.
- 2.2. Licensee may not use the FACTOM Mark in a manner that falsely suggests or states the endorsement or approval by Factom of Licensee, its business, or its goods or services, or of any third party, its business, or its goods or services.
- 2.3. Licensee's use of the FACTOM Mark must abide by the Trademark Usage Guidelines available on the Factom website at <https://www.factom.com/license-agreement>

3. **Fees and Payment.** Licensee shall pay to Factom a licensing fee in the amount of \$200 per year, in accordance with payment instructions provided by Factom.

## **4. Term and Termination; Effect of Termination.**

- 4.1. Unless otherwise terminated under this Section 4, this Agreement shall automatically terminate five (5) years from the Effective Date (the "Term"), regardless of whether Factom provides notice to Licensee beyond this Section 4.
- 4.2. Either party may terminate this Agreement for any or no reason by providing sixty (60) days written notice to the other party.
- 4.3. Should Licensee breach any of its obligations under this Agreement, including failure to pay under Section 3 above, or otherwise infringe upon any of Factom's intellectual property rights, Factom may terminate this Agreement by providing Licensee with ten (10) days written notice, unless Licensee cures the breach within ten (10) days of receiving such notice and provides written notice to Factom of the cure.
- 4.4. This Agreement shall automatically terminate, without prior notice or action by Factom, should Licensee make any assignments of assets or business for the benefit of creditors, or a trustee or receiver is appointed to conduct its business or affairs, or if Licensee is adjudged in any legal proceeding to be in either a voluntary or involuntary bankruptcy.
- 4.5. Upon termination for any reason, Licensee shall immediately cease all uses of the FACTOM Mark. Licensee shall, in a timely manner, either provide to Factom all tangible items on which it has used the FACTOM Mark or destroy all such items and provide written notice to Factom of having done so.

**5. Ownership and Goodwill of the FACTOM Mark.**

**5.1.** Licensee understands and acknowledges that (a) the FACTOM Mark and all rights therein and goodwill pertaining thereto belong exclusively to Factom; (b) all rights resulting from Licensee's use of the FACTOM Mark inure to the benefit of Factom; (c) nothing in this Agreement conveys to Licensee any right, title, or interest in or to the FACTOM Mark other than the right to use the FACTOM Mark in accordance with this Agreement; and (d) Factom retains the right to use and to license the use of the FACTOM Mark for any and all goods and services.

**5.2.** Licensee agrees that it will not: (a) challenge or attack Factom's rights in and to the FACTOM Mark or the validity of this Agreement; (b) take or fail to take any action that, by the taking of or failure to take such action, results in damage to such rights of Factom; or (c) do anything else inconsistent with Factom's rights.

**6. Future Assistance.** Licensee agrees that Licensee will, without additional consideration, give Factom or its nominee at any time in the future all assistance necessary to perfect the rights and interests granted to Factom in this Agreement, including without limitation the execution, acknowledgement, and delivery of all documents necessary to effectuate the intent of this Agreement.

**7. Quality Standards.**

**7.1.** Licensee agrees that its use of the FACTOM Mark will abide by quality control standards established by Factom, in Factom's sole discretion (the "Quality Standards").

**7.2.** Factom has reviewed samples of the Licensed Products and confirms that they, and all other Licensed Products of the same or substantially similar quality, meet the Quality Standards.

**7.3.** Licensee agrees that the quality of the Licensed Products will remain consistent with that of the samples referred to in Section 7.2 above.

**7.4.** Factom has reviewed samples of the Promotional Uses and confirms that they, and all other Promotional Uses of the same or substantially similar quality, meet the Quality Standards.

**7.5.** Licensee agrees that the quality of the Promotional Uses will remain consistent with that of the samples referred to in Section 7.4 above.

**8. Right to Inspect.** Licensee agrees to provide to Factom, upon its request and in a timely manner, samples of Licensed Products, samples of Promotional Uses, and any other documents, materials, or information that may help Factom to determine whether Licensed Products and Promotional Uses meet the Quality Standards.

**9. Infringement.**

**9.1.** Licensee shall promptly notify Factom in writing of any infringement or unauthorized use of the FACTOM Mark or any other trademark owned by Factom, and of the use of any other trademarks, logos, or trade names that may be confusingly similar to the FACTOM Mark or other trademarks owned by Factom, of which Licensee becomes aware.

- 9.2. Licensee shall promptly notify Factom in writing of any claim of infringement or similar claims made by any third party based on Licensee's use the FACTOM Mark.
- 9.3. Factom shall have the sole right and discretion to enforce its rights against any infringements and to take action to obtain relief from any unauthorized third party use of the FACTOM Mark or any other trademarks or intellectual property owned by Factom.
- 9.4. Factom shall be solely responsible for any costs associated with any such enforcement actions.
- 9.5. Licensee agrees that it will cooperate with Factom in any enforcement or defense action or effort that Factom may take to protect or defend its rights in the FACTOM Mark.
- 9.6. Factom shall be responsible for any expenses reasonably incurred by Licensee in connection with any provision of this Section 9 only to the extent that Licensee obtains Factom's written agreement to do so prior to incurring such expense.

**10. Representations and Warranties.** Licensee represents and warrants that:

- 10.1. it possesses all rights and authority necessary to enter into this Agreement and that entering into this Agreement does not conflict with or infringe upon the rights of any other person or entity; and
- 10.2. it will comply with all laws and regulations applicable to its use of the FACTOM Mark and offering of Licensed Products.

**11. DISCLAIMER; INDEMNIFICATION.**

- 11.1. LICENSEE ACKNOWLEDGES AND AGREES THAT FACTOM ASSUMES NO LIABILITY TO LICENSEE OR TO ANY THIRD PARTIES REGARDING LICENSEE'S USE OF THE FACTOM MARK OR THE QUALITY, CHARACTERISTICS, OR ANY OTHER ASPECT OF LICENSED PRODUCTS OR PROMOTIONAL USES.
- 11.2. LICENSEE AGREES TO INDEMNIFY AND DEFEND FACTOM AND HOLD IT HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, CLAIMS, LIABILITIES, COSTS, CHARGES, AND EXPENSES, INCLUDING REASONABLE FEES OF ATTORNEYS OF FACTOM'S CHOOSING, ARISING OUT OF: (A) LICENSEE'S USE OF THE FACTOM MARK; (B) ANY THIRD-PARTY CLAIMS OR THREATS OF CLAIMS ARISING FROM THE BUSINESS OR GOODS OF LICENSEE; (C) ANY BREACH OF ANY OF LICENSEE'S REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS AGREEMENT; AND (D) ANY THIRD-PARTY CLAIMS OTHERWISE RELATING TO THE MATTERS COVERED BY SUCH REPRESENTATIONS AND WARRANTIES.

**12. Relationship of the Parties.** Nothing contained in this Agreement shall be deemed or interpreted to mean that either party or any of its directors, officers, shareholders, employees, or any other individuals associated with that party, is a partner, agent, independent contractor, employer, or employee of the other party; nor that the parties have entered into a joint venture. Neither party shall have the authority to bind the other or to serve as agent for the other.

**13. Notices.** All notices and payments to be made under this Agreement shall be given or made to the respective addresses of the parties set forth above or as otherwise instructed by the receiving party.

**14. Miscellaneous.**

- 14.1.** This Agreement constitutes the complete understanding of the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements or proposals of the parties relating to the FACTOM Mark.
- 14.2.** Any provision of this Agreement that may be deemed invalid or unenforceable by a court of competent jurisdiction shall in no way invalidate or render unenforceable the remainder of this Agreement, which shall remain in full force and effect.
- 14.3.** For purposes of this Agreement, the singular shall include the plural and vice versa.
- 14.4.** No amendment or waiver of any provision of this Agreement shall be valid unless in writing and signed by both parties.
- 14.5.** The failure or delay of a party at any time to enforce performance of this Agreement shall not be construed as a waiver of the right of such party to enforce performance of this Agreement at any subsequent time.
- 14.6.** This Agreement shall be construed and governed by, and enforced in accordance with, the laws of the United States and the State of Texas.
- 14.7.** Exclusive venue and jurisdiction for any disagreement arising out of or related to the terms of this Agreement shall be the state and federal courts located in Travis County, Texas, United States.
- 14.8.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be considered one and the same document.

***[SIGNATURE PAGE FOLLOWS]***

**AGREED AND ACCEPTED:**

**LICENSEE**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FACTOM, INC.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A  
LICENSED PRODUCTS**