

End User License Agreement

This End User License Agreement (“**Agreement**”) is a binding agreement between you (“**End User**” or “**you**”) and CUE Audio, LLC, a Delaware limited liability company (“**Company**”). This Agreement governs your use of the Company’s software development kit (SDK), including all related documentation (the “**Product**”). The Product is licensed, not sold, to you.

BY CLICKING THE “AGREE” BUTTON AND USING THE PRODUCT, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER INTO A BINDING AGREEMENT; AND (C) ACCEPT THIS AGREEMENT AND THE COMPANY’S PRIVACY POLICY AND AGREE THAT YOU ARE LEGALLY BOUND BY SUCH TERMS. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT USE THE PRODUCT AND DELETE IT FROM YOUR MOBILE DEVICE.

1. License Grant. Subject to the terms of this Agreement, Company grants you a limited, non-exclusive, and nontransferable license to:

(a) download, install, and use the Product for your personal, non-commercial use on a single mobile device owned or otherwise controlled by you (the “**Mobile Device**”) strictly in accordance with the Product’s documentation; and

(b) on the Mobile Device, access, stream, and use the Content and Services (as defined in Section 5) made available in or otherwise accessible through the Product, strictly in accordance with this Agreement and the Privacy Policy applicable to such Content and Services as set forth in Section 5 (the “**Privacy Policy**”).

2. License Restrictions. You shall not:

(a) copy the Product, except as expressly permitted by this license;

(b) modify, translate, adapt, or otherwise create updates, upgrades, bug fixes, patches, other error corrections, and/or new features (“**Updates**”) or derivative works, whether or not patentable, of the Product;

(c) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Product or any part thereof;

(d) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Product, or any copy thereof;

(e) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Product, or any features or functionality of the Product, to any third party for any reason, including by making the Product available on a network where it is capable of being accessed by more than one device at any time; or

(f) remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Product.

3. Reservation of Rights. You acknowledge and agree that the Product is provided under license, and not sold, to you. You do not acquire any ownership interest in the Product under this

Agreement, or any other rights thereto other than to use the Product in accordance with the license granted, and subject to all terms, conditions, and restrictions, under this Agreement. Company and its licensors and service providers reserve and shall retain their entire right, title, and interest in and to the Product, including all copyrights, trademarks, and other intellectual property rights therein or relating thereto, subject to rights licensed and expressly granted to you in this Agreement. You agree to safeguard the Product from infringement, misappropriation, theft, misuse, or unauthorized access.

4. Collection and Use of Your Information. You acknowledge that when you download, install, or use the Product, Company may use automatic means (including, for example, cookies and web beacons) to collect information about your Mobile Device and about your use of the Product. You also may be required to provide certain information about yourself as a condition to downloading, installing, or using the Product or certain of its features or functionality, and the Product may provide you with opportunities to share information about yourself with others. You represent and warrant that all information you contribute or provide in connection with your use of the Product will be current, complete and accurate, and that you will update it as necessary to maintain its completeness and accuracy. If you choose, or are provided with, a user name, password, or any other piece of information as part of Company's security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity, whether such disclosure is made by written or verbal communication, or via social media, blog, or other media-based platform. You also acknowledge that your account is personal to you and agree not to provide any other person with access to the Product or portions of the Product using your user name, password, or other security information. You agree to notify Company immediately of any unauthorized access to or use of your user name or password or any other breach of security. You are responsible for ensuring that you exit your account at the end of each session. You are responsible for the actions of anyone using your account, whether with or without your permission, and you may be held liable for any losses incurred by Company, its members, managers officers, directors, employees, agents, affiliates, successors, and assigns due to someone else's use of your account, password, or other security information. You should use particular caution when accessing your account from a public or shared network so that others are not able to view or record your password or other personal information. All information Company collects through or in connection with this Product is subject to Company's Privacy Policy as published at www.cueaudio.com/privacy-policy. By downloading, installing, using, and providing information to or through this Product, you consent to all actions taken by Company with respect to your information in compliance with the Privacy Policy.

5. Content and Services. The Product may provide you with access to Company's website located at <https://www.cueaudio.com/> (the "**Website**") and products and services accessible thereon, and certain features, functionality, and content accessible on or through the Product may be hosted on the Website (collectively, "**Content and Services**"). Your access to and use of such Content and Services are governed by the Website's Privacy Policy, which is incorporated herein by this reference. Your access to and use of such Content and Services may require you to acknowledge your acceptance of such Privacy Policy and/or to register with the Website, and your failure to do so may restrict you from accessing or using certain of the Product's features and functionality. Any violation of such Privacy Policy will also be deemed a violation of this Agreement.

6. Consent to Receive Email from Company. You may receive periodic email communications regarding the Product, updates or changes to the Product or this Agreement, or the functionality of the Product, which you cannot opt out of receiving. You may also receive periodic promotions and other offers or materials Company believes might be of interest to you. You can opt out of receiving these promotional messages at any time by (a) following the unsubscribe instructions contained in the email, newsletter, or promotion; or (b) changing the email preferences in your account.

7. Geographic Restrictions. The Content and Services are based in the state of Colorado in the United States and provided for access and use only by persons located in the United States. You acknowledge that you may not be able to access all or some of the Content and Services outside of the United States and that access thereto may not be legal by certain persons or in certain countries. If you access the Content and Services from outside the United States, you are responsible for compliance with local laws..

8. Updates. Company may from time to time, in its sole discretion, develop and provide Updates for the Product (collectively, including related documentation, “**Company Updates**”). Company Updates may also modify or delete in their entirety certain features and functionality. You agree that Company has no obligation to provide any Company Updates or to continue to provide or enable any particular features or functionality. Based on your Mobile Device settings, when your Mobile Device is connected to the internet either:

(a) the Product will automatically download and install all available Company Updates; or

(b) you may receive notice of or be prompted to download and install available Company Updates.

You shall promptly download and install all Company Updates and acknowledge and agree that the Product or portions thereof may not properly operate should you fail to do so. You further agree that all Company Updates will be deemed part of the Product and be subject to all terms and conditions of this Agreement.

9. Third-Party Materials. The Product may display, include, or make available third-party content (including data, information, Products, and other products, services, and/or materials) or provide links to third-party websites or services, including through third-party advertising (“**Third-Party Materials**”). You acknowledge and agree that Company is not responsible for Third-Party Materials, including their accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality, or any other aspect thereof. Company does not assume and will not have any liability or responsibility to you or any other person or entity for any Third-Party Materials. Third-Party Materials and links thereto are provided solely as a convenience to you, and you access and use them entirely at your own risk and subject to such third parties’ terms and conditions.

10. Term and Termination.

(a) The term of Agreement commences when you download the Product and acknowledge your acceptance and will continue in effect until terminated by you or Company as set forth in this Section 10.

(b) You may terminate this Agreement by permanently deleting the Product and all copies thereof from your Mobile Device.

(c) Company may terminate this Agreement at any time without notice. Furthermore, Company may terminate this Agreement if it ceases to support the Product, which Company may do in its sole discretion. In addition, this Agreement will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement.

(d) Upon termination:

- (i) all rights granted to you under this Agreement will also terminate; and
- (ii) you must cease all use of the Product and permanently delete all copies of the Product from your Mobile Device and account.
- (e) Termination will not limit any of Company's rights or remedies at law or in equity.

11. Disclaimer of Warranties. THE PRODUCT IS PROVIDED TO YOU "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, COMPANY, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE PRODUCT, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, COMPANY PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE PRODUCT WILL MEET YOUR REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE, OR WORK WITH ANY OTHER SOFTWARE, PRODUCTS, SYSTEMS, OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS, OR BE ERROR-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES OR THE LIMITATIONS ON THE APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO SOME OR ALL OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU.

12. No Reliance on Information. The information provided on or through the Product or in connection with the Product is made available for your convenience and for general information purposes only and is subject to change without notice. COMPANY DOES NOT WARRANT THE ACCURACY, TIMELINESS, COMPLETENESS, OR USEFULNESS OF THIS INFORMATION OR THAT THE INFORMATION WILL SERVE YOUR PARTICULAR PURPOSES. ALL INFORMATION IS SUBJECT TO CHANGE. Any reliance you place on such information is strictly at your own risk. Company disclaims all liability and responsibility arising from any reliance placed on such information or materials by you, or by anyone who may be informed of any of its contents.

13. Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL COMPANY OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, HAVE ANY LIABILITY ARISING FROM OR RELATED TO YOUR USE OF OR INABILITY TO USE THE PRODUCT OR THE CONTENT AND SERVICES FOR:

- (a) PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS OR SERVICES, LOSS OF DATA, LOSS OF GOODWILL, BUSINESS INTERRUPTION, COMPUTER FAILURE OR MALFUNCTION, OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES.

(b) DIRECT DAMAGES IN AMOUNTS THAT IN THE AGGREGATE EXCEED THE AMOUNT ACTUALLY PAID BY YOU FOR THE PRODUCT.

THE FOREGOING LIMITATIONS WILL APPLY WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR COMPANY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS OF LIABILITY SO SOME OR ALL OF THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.

14. Indemnification. You agree to indemnify, defend, and hold harmless Company and its members, managers, officers, directors, employees, agents, affiliates, successors, and assigns from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, arising from or relating to your use or misuse of the Product or your breach of this Agreement, including but not limited to the content you submit or make available through this Product.

15. Export Regulation. The Product may be subject to United States export control laws, including the United States Export Administration Act and its associated regulations. You shall not, directly or indirectly, export, re-export, or release the Product to, or make the Product accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. You shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise using or accessing the Product outside the US.

16. Severability. If any provision of this Agreement is illegal or unenforceable under applicable law, the remainder of the provision will be amended to achieve as closely as possible the effect of the original term and all other provisions of this Agreement will continue in full force and effect.

17. Governing Law. This Agreement is governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule. In the event of a direct conflict between the provisions of this Agreement and any mandatory provision of applicable law, the mandatory provision of applicable law will control; in all other events, the provisions of this Agreement will control.

18. Arbitration. You agree that any dispute, claim, or controversy between you and Company relating in any way to this Agreement or to your use of the Product (whether based in contract, tort, malpractice, negligence, misrepresentation, or any other legal theory, and whether the claims arise during or after the termination of the Agreement) will be resolved by mandatory binding individual arbitration. Arbitration is more informal than a lawsuit in court. There is no judge or jury, but instead an appointed arbitrator, usually with an experienced background in the area of the dispute. There may be more limited discovery than in court. An arbitrator can award the same damages and relief as a court (including attorney fees), except that the arbitrator may not award declaratory or injunctive relief to anyone but the parties to the arbitration. This arbitration provision will survive termination of the Agreement.

Either you or Company may demand and/or file arbitration proceedings. Arbitration between you and Company will be conducted under the then-current American Arbitration Association's ("AAA") Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (the "AAA Rules"). Arbitration will take place at a location to be agreed upon in

Denver, Colorado, provided that if the claim is for \$10,000 or less, you may request that the arbitration to be conducted be based on documents submitted to the Arbitrator or through a non-appearance based telephonic hearing; or by an in-person hearing as established by the AAA Rules. Your arbitration fees and costs will be subject to any limitations set forth in the AAA Rules with the remainder (if any) paid by Company.

In the event that Company makes any future change to this arbitration provision, you may reject any such change by sending written notice within thirty (30) days of the change and ceasing all use of the Product deleting the all copies of the Product from your Mobile Device within the same notice period.

19. Limitation of Time to File Claims. ANY CAUSE OF ACTION, CLAIM, OR DEMAND FOR ARBITRATION YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PRODUCT MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION FIRST ACCRUES OTHERWISE SUCH CAUSE OF ACTION OR CLAIM WILL BE PERMANENTLY BARRED. If applicable law prohibits a one-year limitation period for asserting claims, any claim must be asserted within the shortest time period permitted by applicable law.

20. Entire Agreement. This Agreement and Company's Privacy Policy constitute the entire agreement between you and Company with respect to the Product and supersede all prior or contemporaneous understandings and agreements, whether written or oral, with respect to the Product.

21. Waiver. No failure to exercise, and no delay in exercising, on the part of either party, any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of that or any other right hereunder. In the event of a conflict between this Agreement and any applicable purchase or other terms, the terms of this Agreement shall govern.