

[AUDIOTROCITIES, LLC]¹ TERMS OF USE

THIS IS A BINDING LEGAL CONTRACT BETWEEN [AUDIOTROCITIES, LLC], A [UTAH LIMITED LIABILITY COMPANY] (“COMPANY”) AND YOU (“USER”). USERS SHOULD CAREFULLY READ THESE TERMS OF USE (“TERMS OF USE”) BEFORE ACCESSING AND/OR USING ANY OF THE COMPANY’S WEBSITES, APPLICATIONS AND PLATFORMS, INCLUDING ANY MOBILE APPLICATIONS (COLLECTIVELY, THE “SITES”), OR (2) ANY PRODUCTS OR SERVICES PROVIDED BY OR THROUGH THE SITES (COLLECTIVELY, THE “SERVICES”). BY ACCESSING OR USING THE SITES OR SERVICES, THE USER AGREES TO BE BOUND BY THESE TERMS OF USE, AND BE LIABLE TO COMPANY FOR ANY NONCOMPLIANCE WITH THESE TERMS OF USE. IF THE USER DOES NOT AGREE TO THESE TERMS OF USE, AS THESE TERMS OF USE MAY BE MODIFIED FROM TIME TO TIME, THE USER MAY NOT USE THE SITES OR SERVICES.

1. Right to Use. Subject to these Terms, the Company’s grants User a limited, non-exclusive, non-transferable, and revocable license to use the Sites and Services. The Sites and Services may contain copyrighted material, trademarks, and other proprietary information and materials. Except for content that is in the public domain or content that User has permission to use in connection with User’s use of the Sites and Services and in compliance with these Terms of Service, User shall not copy, modify, publish, transmit, distribute, perform, or display any content, nor shall User sell, license, rent, or otherwise use or exploit any content for commercial use or in any way that violates any third party right. The Company may (but is not required to) remove, block, edit or modify any content in Company’s sole discretion at any time for any reason or no reason at all and without notice to the User. The Company reserve the right to access, read, preserve, and disclose any information the Company reasonably believes is necessary to satisfy applicable laws or protect the rights, property or safety of the Company and the Company’s employees, agents, users and the public.

2. Use Restrictions. User shall not: (a) copy, modify, or create derivative works or improvements of the Sites, Services or Intellectual Property (as defined below), except as expressly permitted in these Terms of Use; (b) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Sites, Services or Intellectual Property to any person, except as expressly permitted by these Terms of Use; (c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Sites, Services or Intellectual Property, in whole or in part; (d) bypass or breach any security device or protection used by the Sites, Services or Intellectual Property or access or use the Sites, Services or Intellectual Property other than through the use of his or her own then valid access credentials; (e) input, upload, transmit, or otherwise provide to or through the Sites or Services, any information or materials that are unlawful or injurious, or contain, transmit, or activate any harmful or malicious code; (f) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the Sites, Services, Intellectual Property, or Company’s provision of services to any third party, in whole or in part; (g) remove, delete, alter, or obscure any trademarks, warranties, or disclaimers, or any Intellectual Property or proprietary rights notices from any Sites, Services or Intellectual Property, including any copy thereof; (h) access or use the Sites, Services or Intellectual Property in any manner or for any purpose that infringes, misappropriates, or otherwise violates any right, title, or interest of the Company or other right of any third party (including by any unauthorized access to, misappropriation, use, alteration, destruction, or disclosure of the data of any other user), or that violates any applicable law; (j) access or use the Sites or Services for purposes of competitive analysis of the Sites or Services, the development, provision, or use of a competing service or product or any other purpose that is to the Company’s detriment or commercial disadvantage; (k) access or use the Sites or Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or (l) otherwise access or use the Sites or Services beyond the scope of the authorization granted under these Terms of Use.

(a) “**Intellectual Property**” means any intellectual property of the Company or any third party licensors in any jurisdiction throughout the world, including, but not limited to: (i) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto and all patents, patent applications and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions and reexaminations thereof, (ii) all trademarks, service marks, trade dress, logos, slogans, trade names, corporate names, Internet domain names, uniform resource locators and e-mail addresses, and rights in telephone numbers, together

¹ **NTD**: Has Audiotrocities, LLC been formed. We searched the Utah Division of Corporation’s website for evidence of its formation, but came up empty.

with all translations, adaptations, derivations and combinations thereof and including all goodwill associated therewith and all applications, registrations and renewals in connection therewith, (iii) all copyrightable works, all copyrights, and all applications, registrations and renewals in connection therewith, (iv) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information and business and marketing plans and proposals), (v) all software, including computer programs, machine-readable instruction sets or data in computerized form, whether in source code, object code or other form, and all data, databases and related documentation, (vi) all other proprietary rights and (vii) all copies and tangible embodiments thereof (in whatever form or medium).

3. Certain Other Restrictions. In no event will User disassemble, decompile, or reverse engineer the Sites, Services, or Intellectual Property (as defined below) or permit others to do so. Disassembling, decompiling, and reverse engineering include, without limitation: (w) converting the Intellectual Property from a machine-readable form into a human-readable form; (x) disassembling or decompiling the Intellectual Property by using any means or methods to translate machine-dependent or machine-independent object code into the original human-readable source code or any approximation thereof; (y) examining the machine-readable object code that controls the Intellectual Property's operation and creating the original source code or any approximation thereof by, for example, studying the Intellectual Property's behavior in response to a variety of inputs; or (z) performing any other activity related to the Intellectual Property that could be construed to be reverse engineering, disassembling, or decompiling.

4. Submitted Content. The Sites may contain message boards, chat rooms, personal web pages or profiles, forums, bulletin boards and/or other interactive features that may allow User to submit, post, display, publish or transmit comments, feedback, background information, messages, photographs, audio, videos, suggestions, questions, reviews and any other related content through the Sites and/or the Services (the "**Content**"). By submitting the Content, User represents and warrants that: (x) User is the sole author and owner of the Content and (z) the Content supplied by User or an Authorized will not violate these Terms of Use, or any applicable law and will not cause any injury to any person or entity.

(a) User also represents and warrant that the Content is NOT, as determined by the Company in its sole discretion, any of the following: false, inaccurate, misleading, a violation of any local, state, federal, international or other applicable law, or otherwise obscene, derogatory, defamatory, threatening, harassing, abusive, slanderous, hateful or embarrassing to any other person or entity, including as such relates to the harassment, degradation, intimidation, or victimization of an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age or disability; an infringement on the rights of others, such as infringements on any patent, copyright, trademarks, trade secret, publicity or privacy rights; an advertisement, solicitation or spam link to other websites or individuals, except if such an advertisement or solicitation has been expressly consented to in writing by the Company; a chain letter or pyramid scheme, or part of a chain letter or pyramid scheme; an impersonation of, and does not purport to impersonate, another business, person, or entity, including the Company and its employees and agents; or a virus or other harmful computer code, and does not contain a virus or other harmful code.

(b) User expressly agrees that all Content submitted to the Sites will not be considered confidential or proprietary and User automatically grants and/or warrants the Company a royalty-free, perpetual, irrevocable, worldwide, fully-paid up, unlimited, and non-exclusive license to use, reproduce, create derivative works from, modify, publish, edit, translate distribute, perform and display the submission and/or the Content in any media or medium, or any form, format or forum whether now known or hereafter developed. User expressly acknowledges that any Content contributed by User may be publicly accessible or viewable.

(c) User further understands and acknowledges that Company has the right, but not the obligation, to monitor all Content and any submission made to or on the Sites or the Services. Company has the right, in its sole discretion and for any reason, to edit, delete, move, or to refuse to post any Content or any other submission to the Sites or the Services. NOTWITHSTANDING THE FOREGOING, USER IS SOLELY RESPONSIBLE FOR ANY CONTENT AND/OR ANY OTHER SUBMISSION USER MAKES TO OR ON THE SITES OR THE SERVICES, AND USER AGREES TO INDEMNIFY THE COMPANY FOR ALL CLAIMS RELATED TO OR ARISING FROM SUCH CONTENT AND/OR SUBMISSIONS.

5. Eligibility. [THE SERVICES ARE NOT DIRECTED TOWARDS, NOR INTENDED FOR USE BY, ANYONE UNDER THE AGE OF 13. IF YOU ARE UNDER 13, YOU MAY NOT, UNDER ANY CIRCUMSTANCES OR FOR ANY REASON, USE THE SERVICES.]² By accessing or using the Services or Sites, User represents and warrants that User (a) has the right, authority, and capacity to enter into Terms of Use, (b) will abide by all of the terms and conditions of these Terms of Use, and (c) is at least 13 years of age. User hereby expressly acknowledges and agrees that User's eligibility to access and use the Sites and Services shall be contingent on User's continued compliance with the terms of these Terms of Use.

6. Accounts. User may need to sign up for an account with the Company in order to use part or all of the Sites or Services. User must provide accurate and up to date information for User's account, and User further represents and warrants that User has not and will not (i) intentionally impersonate another person by using their name or email address, (ii) use an offensive name or email address, or (iii) use a name or email address for which User does not have proper authorization. The Company reserves the right to require that User change User's username or use another email address. User is prohibited from using another person's account or registration information for the Sites or Services without such other person's permission. User shall be responsible for all activity that occurs on User's account, and for keeping User's password secure. User shall immediately notify the Company if there is any unauthorized use of User's account. User may delete User's account at any time, either directly or through a request to us.³

7. Third Party Software. The Sites, Services and Intellectual Property may contain third party software that requires notices and/or additional terms and conditions. Such required third party software notices and/or additional terms and conditions may be requested from Company and are made a part of and incorporated by reference into these Terms of Use. By accepting these Terms of Use, User is also accepting the additional terms and conditions, if any, set forth therein.

8. Links to Other Websites & Third Party Content. The Sites and Services may contain links to or be linked from other websites and resources located on servers maintained by third parties over which Company has no control ("**Linked Websites**"). The Linked Websites are provided for User's convenience and information only and, as such, User accesses them at its own risk. User agrees and acknowledges that the Company is not responsible for, and does not endorse or warrant, the content of or anything that may be delivered to User or User's computer as a result of accessing any Linked Websites, whether or not the Company is affiliated with the owners of such Linked Websites. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, USER SHALL WAIVE ANY CLAIMS RELATED TO, AND THE COMPANY IS NOT RESPONSIBLE AND SHALL HAVE NO LIABILITY FOR, USER'S ACCESS OF ANY INFORMATION ON OR USE OF THE LINKED WEBSITES, INCLUDING BUT NOT LIMITED TO, ANY VIRUSES OR OTHER ILLICIT CODE THAT MAY BE DOWNLOADED THROUGH A LINKED WEBSITE, OR BY ACCESSING A LINKED WEBSITE.

The information presented on or through the Sites or Services is made available solely for general information purposes and the Company does not warrant the accuracy, completeness, or usefulness of this information. Any reliance User places on such information is strictly at User's own risk. Company disclaims all liability and responsibility arising from any reliance placed on such materials by the User or any other party who may be informed of any the information contained on the Sites or Services. The Sites and Services may include information and content provided by third parties, including the Content and other materials provided by other users, bloggers and third-party licensors, syndicators, aggregators, and/or reporting services ("**Third Party Content**"). ALL STATEMENTS AND/OR OPINIONS EXPRESSED IN THE THIRD PARTY CONTENT, AND ALL ARTICLES AND RESPONSES TO QUESTIONS AND OTHER CONTENT, OTHER THAN THE CONTENT AND MATERIALS PROVIDED BY THE COMPANY, ARE SOLELY THE OPINIONS AND THE RESPONSIBILITY OF THE PERSON OR ENTITY PROVIDING SUCH THIRD PARTY CONTENT. THE THIRD PARTY CONTENT DOES NOT NECESSARILY REFLECT THE OPINION OF THE COMPANY, AND THE COMPANY IS NOT RESPONSIBLE OR LIABLE TO ANY USER OR ANY THIRD PARTY FOR THE ACCURACY OF ANY OF THE THIRD PARTY CONTENT.

9. Reservation of Rights. USER EXPRESSLY ACKNOWLEDGES AND AGREES THAT NOTHING IN THESE

² **NTD:** Client to confirm. This reduces (but doesn't eliminate) the risk under COPPA.

³ **NTD:** Client to confirm that children under 13 will not be allowed to sign up for accounts.

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10. DISCLAIMER OF WARRANTIES. ALL SITES, SERVICES, AND INTELLECTUAL PROPERTY ARE PROVIDED “AS IS.” COMPANY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, COMPANY MAKES NO WARRANTY OF ANY KIND THAT THE SITES OR SERVICES FURNISHED BY COMPANY, OR RESULTS OF THE USE THEREOF, WILL MEET USER’S OR ANY OTHER PERSON’S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. ALL THIRD PARTY MATERIALS ARE PROVIDED “AS IS” AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD PARTY CONTENT, SERVICES, OR INTELLECTUAL PROPERTY IS STRICTLY BETWEEN USER AND THE THIRD PARTY OWNER OR DISTRIBUTOR OF SUCH CONTENT, SERVICES, OR INTELLECTUAL PROPERTY. User further expressly acknowledges and agrees that Company has no control, nor any duty to take action, regarding: (a) any content accessed by the User via the Sites and Services; (b) the effects the content may have on the User; or (c) how the User may interpret the content.

11. Indemnification. User shall indemnify, defend, and hold harmless Company and its subcontractors and affiliates, and each of its and their respective officers, directors, employees, agents, successors, and assigns (each, an “**Indemnitee**”) from and against any and all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind (including reasonable attorneys’ fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers), incurred by any Indemnitee arising out of or resulting from, or are alleged to arise out of or result from: (a) User’s Content, including any processing of User’s Content by or on behalf of Company in accordance with these Terms of Use; (b) User’s use or misuse of, or access to, the Sites and/or Services, or otherwise from User’s violation of these Terms, or infringement by User, or any third party using User’s account or identity in the Sites and Services, of any intellectual property or other right of any person or entity; and (c) allegation of facts that, if true, would constitute User’s breach of any of its representations, warranties, covenants, or obligations under these Terms of Use;

12. LIMITATION OF LIABILITY. IN NO EVENT WILL COMPANY OR ANY OF ITS AFFILIATES, LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THESE TERMS OF USE OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SITES OR SERVICES; (c) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE (REGARDLESS OF THE SOURCE OF ORIGINATION); (e) COST OF REPLACEMENT GOODS OR SERVICES; (f) LOSS OF GOODWILL OR REPUTATION; (g) ANY DIRECT DAMAGES IN EXCESS OF \$100.00, OR (h) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

13. Termination. The Company may terminate or suspend User’s account or access to the Sites or Services at any time for any reason, with or without notice to User. Such termination or suspension may result in the loss of some or all information associated with User’s account. **U**Users may also delete their accounts by following the directions

through the Sites or Services.⁴ All provisions of these Terms which by their nature should survive termination shall survive, including without limitation, all ownership, indemnity and limitation of liability provisions, warranty disclaimers, and dispute procedures.

14. Modifications and Amendments. These Terms of Use may be updated or amended by Company at any time, with or without notice to User and User's continued use of the Sites and Services shall constitute User's acceptance of the updated or amended Terms of Use.

15. Assignment. User may not assign all or any part of its rights or obligations hereunder, whether by operation of law, change of control, or in any other manner, without the prior written consent of Company. Any such assignment in violation of this Section will be deemed void. The Company may assign, in whole or in part, its rights, interests, and obligations hereunder without limitation and without providing notice to User.

16. Electronic Communications. The communications between User and Company use electronic means, whether User visits the Sites or sends Company emails, or whether Company posts notices on the Sites or Services or communicates with User via email. For contractual purposes, User (a) consents to receive communications from Company in an electronic form; and (b) agrees that all terms and conditions, agreements, notices, disclosures, and other communications that Company provides to User electronically satisfies any legal requirement that such communications would satisfy if it were in writing. The foregoing does not affect User's non-waivable rights.

17. Third Parties. Company will have the right to use third parties, including, but not limited to, employees of Company's affiliates and subsidiaries ("**subcontractors**"), in performance of its obligations and services hereunder, and for purposes of these Terms of Use, all references to Company or its employees will be deemed to include such subcontractors.

18. Force Majeure. In no event will Company be liable or responsible to any User, or be deemed to have defaulted under or breached these Terms of Use, for any failure or delay in fulfilling or performing any provision of these Terms of Use when and to the extent such failure or delay is caused by any circumstances beyond Company's reasonable control, including, but not limited to, acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, epidemics or pandemics as defined by the Centers for Disease Control and Prevention or the World Health Organization, embargoes or blockades in effect on or after the date of these Terms of Use, whichever is dated earlier, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota, or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation, or any other event beyond the Company's reasonable control making it inadvisable, illegal or impractical to perform its obligations hereunder (each, a "**Force Majeure Event**").

19. Privacy. User understands and acknowledges that User's personal data will be collected, protected, and used by the Company in accordance with the Company's Privacy Policy found [here](#),⁵ which is incorporated into these Terms of Use as if set forth verbatim herein.

20. Entire Agreement. These Terms of Use constitute the entire agreement between the parties regarding the subject matter hereof and supersedes all proposals and prior discussions and writings between the parties with respect to the subject matter contained herein.

21. Governing Law. These Terms of Use are governed by and construed in accordance with the laws of the State of Utah without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Utah. ANY LEGAL SUIT, ACTION, OR PROCEEDING ARISING OUT OF OR RELATED TO THESE TERMS OF USE OR THE RIGHTS OR LICENSES GRANTED HEREUNDER WILL BE INSTITUTED EXCLUSIVELY IN THE FEDERAL COURTS OF THE UNITED STATES OR THE COURTS OF THE STATE OF UTAH IN EACH CASE LOCATED IN THE CITY OF SALT LAKE AND COUNTY OF SALT LAKE, AND EACH PARTY IRREVOCABLY SUBMITS TO

⁴ **NTD**: Client to confirm.

⁵ **NTD**: Client to hyperlink.

THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION, OR PROCEEDING. Service of process, summons, notice, or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

22. WAIVER OF JURY TRIAL. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR ANY TRANSACTION CONTEMPLATED BY THESE TERMS OF USE.