

# Audio.com Terms of Use

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THIS TERMS OF SERVICE AGREEMENT ("AGREEMENT") IS A LEGAL AND BINDING AGREEMENT BETWEEN YOU ("YOU," "YOUR," OR "YOURSELF") AND AUDIO.COM ("OUR," "US," "WE," OR "AUDIO"), WHICH GOVERNS YOUR USE OF OUR INTERNET BASED SERVICE TOGETHER WITH ALL INFORMATION, CONTENT, PRODUCTS, MATERIALS, AND SERVICES MADE AVAILABLE TO YOU THROUGH THE SAME BY US AND/OR THIRD PARTIES (COLLECTIVELY, "THE SERVICE"). PLEASE READ THIS AGREEMENT CAREFULLY PRIOR TO USING THE SERVICE. BY REGISTERING FOR, USING, OR OTHERWISE ACCESSING THE SERVICE, OR ANY COMPONENT THEREOF, IN ANY MANNER WHATSOEVER, YOU ARE CONSENTING TO BECOME A PARTY TO THIS AGREEMENT AND AGREEING TO BE BOUND BY AND COMPLY WITH THE TERMS AND CONDITIONS HEREIN AND OUR [PRIVACY POLICY](#). IF YOU DO NOT ACCEPT AND AGREE TO ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT, PLEASE DISCONTINUE THE REGISTRATION PROCESS AND DO NOT ACCESS OR USE THE SERVICE IN ANY MANNER.

When we refer to the "use" of the Service in this Agreement, we mean any actual or attempted access or use of the Service, including, without limitation, any transaction, exchange of information or communication associated with the Service. These terms and conditions together with any other terms of use applicable to other Audio owned or controlled web sites and any other policies, rules, and provisions which are described, linked or otherwise referred to and form a part of this Agreement, including, without limitation our Privacy Policy constitute the entire agreement between you and us, superseding any and all prior or inconsistent understandings, representations or agreements regarding the Service.

## 1. ACCESS TO THE SERVICE

1.1 You may use the Service only if you can legally form a binding contract with Audio, and only in compliance with these Terms and all applicable laws. When you create your Audio account, you must provide us with accurate and complete information. If you're based in the EEA, you may only use Audio if you are over the age at which you can provide consent to data processing under the laws of your country or if verifiable parental consent for your use of Audio has been provided to us. Using Audio may include downloading software to your computer, phone, tablet, or other device. You agree that we may automatically update that software, and these Terms will apply to any updates.

1.2 Subject to certain limitations as described herein, you are granted the right to access our text, files, images, photos, video, sounds, musical works, works of authorship, applications, or any other materials (collectively, "Content") under certain terms and conditions as set forth in this Agreement. In order to use the Service, you must obtain access to the Internet and pay any service fees associated with such access. In addition, you must provide all equipment necessary to make such connection to the internet and be able to access the digital Content files. Download and use of software content may be subject to an additional license agreement. All areas and functions of the Service requires registration.

## **2. YOUR REGISTRATION OBLIGATIONS**

You agree to provide your email address as prompted by the Service registration process (such information being the "Registration Data"). You further consent and authorize us to verify your Registration Data as required for your use of an access to the Service, as applicable. The information used to register for the Service will be the log-in credentials connected with your account (collectively referred to herein as "IDs"). You agree that you will not allow another person to use you IDs to access and use the Service under any circumstances. You are solely and entirely responsible for maintaining the confidentiality of your IDs and for any charges, damages, liabilities, or losses incurred or suffered as a result of your failure to do so. We are not liable for any harm caused by or related to the theft of your IDs, your disclosure of your IDs, or your authorization to allow another person to access or use the Service using your IDs. Furthermore, you are solely and entirely responsible for any and all activities that occur under your account including any charges incurred relating to the Service. You agree to immediately notify us of any unauthorized use of your account or any other breach of security known to you. You immediately notify us of any unauthorized use of your account or any other breach of security known to you. You acknowledge that the complete privacy of your data and messages transmitted while using the Service cannot be guaranteed. A person who completes the registration process for the Service is sometimes referred to herein as a "Registered User." A Registered User may only maintain one active account on Audio. Audio reserves the right to terminate any and all multiple accounts by a single Registered User.

## **3. AUDIO PRIVACY POLICY**

Audio takes your privacy seriously and operates under the policies and principles outlined in its Privacy Policy, which contains important information and disclosures relating to the collection and use of your personally identifiable information in connection with your use of the Service. Our Privacy Policy is set forth [here](#).

## 4. USER RESTRICTIONS

4.1 Audio will make reasonable efforts to keep the Service operational. However, certain technical difficulties, routine site maintenance/upgrades and any other events outside the control of Audio may, from time to time, result in temporary service interruptions. Audio also reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, functions of the Service with or without notice. You agree that Audio shall not be liable to you or to any third party for any of the direct or indirect consequences of any modification, suspension, discontinuance of or interruption to the Service.

4.2 By using the Service you agree that you will not duplicate or otherwise reproduce the Content with malicious intent, or any portion thereof, onto any physical medium, memory or device not known or hereinafter devised. In addition, you agree that you will not attempt to, or encourage or assist any other person to, circumvent or modify any Content protection methods.

4.3 You may not use or allow others to use, your IDs and/or the Service, directly or indirectly, nor upload, distribute, transmit, communicate, link to, publish or access any data, information or material through, using or otherwise in connection with the Service, that: (a) is libelous, defamatory, vulgar or obscene, pornographic, sexually offensive or explicit, harmful or harassing, threatening, hateful, racially, culturally, ethnically or otherwise objectionable or offensive, discriminatory or abusive; (b) violates any law or regulation or the rights of others; (c) causes duress, distress or discomfort to another or is likely to deter or discourage others from using the Service; (d) infringes any intellectual property, proprietary rights or confidentiality obligations of others; and/or (e) promotes or advertises products or services other than your own without appropriate authorization. You are solely responsible and liable for any such activity, behavior, use and conduct. We have no liability and you bear the sole and exclusive risk associated with use of or reliance on the accuracy, quality, completeness, reliability or usefulness of any data, information or material in connection with your IDs. You also may not use, nor allow others to use, your IDs, the Service, directly or indirectly, to: (x) attempt to or actually disrupt, impair or interfere with, alter or modify the Service or any information, data or materials posted and/or displayed by us or anyone else; (y) act in a way that affects or reflects negatively on us, the Service, or anyone else; (z) collect or attempt to collect any information from others including, without limitation, personally identifiable information, without such party's prior consent. You agree to comply with all local, state, federal laws, statutes, rules and regulations, as well as any international treaties, which are applicable to your use of the Service.

4.4 You are prohibited from violating or attempting to violate the security of the Service,

including, without limitation: (a) accessing data not intended for you or logging onto a processor, communications or access device or account which you are not authorized to access; (b) attempting to probe, scan or test the vulnerability of the Service or to breach security or authentication measures, regardless of your motives or intent; (c) attempting to interfere with or disrupt the Service or service to any user, processor, host or network, including, without limitation, by submitting a virus, worm or Trojan horse; (d) sending unsolicited e-mail or other information, including promotions or advertising; (e) accessing, searching, or creating accounts for the Service by any means other than our publicly supported interfaces; (f) sending altered, deceptive, or false source-identifying information; selling the Service unless specifically authorized to do so, or purchasing the Service from an unauthorized seller; or (g) harassing or abusing our personnel, representatives, or agents performing services on our behalf. Violations of system or network security or this Agreement may result in civil or criminal liability. We have the right to investigate occurrences, which may involve such violations and we may involve, provide information to and cooperate with, law enforcement authorities in prosecuting users who are involved in such violations.

4.5 In some cases, Audio derives its rights to use the Content offered on the Service from third party content owners, other than Registered Users ("Content Providers") for fixed periods of time. As well, Audio is sometimes required to pull certain Content off the Service for legal reasons. Therefore, certain Content offered or advertised by Audio may not be available when you try to access it, and not all Content is available in all countries or territories.

4.6 You acknowledge and agree to the essential condition that the Content is provided "As Is". Therefore, you are aware and agree that the Content might not be suitable for your purposes or satisfy your expectations or requirements with respect to it. You also acknowledge and agree that the Content could contain errors or other harmful components. Therefore, we recommend that prior to accessing the Content, you ensure, at your cost, that the Content will suit your requirements and needs and will not have any negative impact on your computer and/or your media player system.

## **5. TERMINATION**

5.1 We may terminate this Agreement, restrict, suspend or terminate your use of the Service immediately and without notice or liability, if you violate, breach or fail to comply with this Agreement in any way, and it will not limit any other rights or remedies which are available to us. Without limitation of any other provisions hereof regarding termination, we reserve the right to terminate your use of the Service, without cause, upon reasonable notice.

5.2 You may terminate this Agreement by ceasing to use Service. Termination is your sole right and exclusive remedy if you are not satisfied with the Service.

5.3 Termination of this Agreement shall not relieve you of any obligations to pay accrued charges.

## **6. INTELLECTUAL PROPERTY RIGHTS**

6.1 The Content available through the Service is the shared property of Audio and its Content Providers and is protected by copyright and other intellectual property laws. Content received through the Service, that isn't modified after acquisition, may be accessed for your personal, non-commercial use only.

6.2 You acknowledge that Audio retains exclusive ownership of the Service and all intellectual property rights associated therewith. The Service contains proprietary and confidential information that is protected by copyright laws and international treaty provisions. Except as expressly provided herein, you are not granted any rights or license to patents, copyrights, trade secrets or trademarks with respect to the Service or the Content, and Audio reserves all rights not expressly granted hereunder.

You may not:

- Frame or mirror any part of the Service without our express prior written consent.
- Create a database by systematically downloading and storing all or any Content.
- Copy, reproduce, transfer or access (except as expressly authorized by this Agreement), re-license, reverse engineer, decompile, disassemble, translate, publish, transmit, distribute, display, broadcast, rebroadcast, redistribute, modify, create derivative works from, capture or store in any physical media, market, rent, sell, lease, sublicense, or participate in any sale of or exploit in any way, in whole or in part, directly or indirectly, the Service or any related software.
- Use any robot, spider, rover, scraper, offline readers, site search/retrieval applications or any other data mining technology or automatic or manual process, system or software to monitor, cache, frame, mask, extract data from, copy or distribute the Content (except as may be a result of standard search engine or internet browser usage) or circumvent the navigational structure or presentation of the Service, without the express prior written consent of Audio.
- Bypass any measures Audio may use to prevent or restrict access to the Service.

You shall promptly notify Audio in writing upon your discovery of any unauthorized use or

infringement of the Service or the Content or Audio's patent, copyright, trade secret, trademarks or other intellectual property rights. Except as expressly provided for herein, any copy or use of any portion of the Service shall constitute an act of copyright infringement and a breach of this Agreement. Furthermore, Audio may in its sole discretion pursue any other available rights or remedies at law or in equity for a violation of this Agreement or such copyright infringement.

6.3 We respect the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please provide our Copyright Agent the following information:

(i) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;

(ii) a description of the copyrighted work or other intellectual property that you claim has been infringed;

(iii) a description of where the material that you claim is infringing is located on the site; (iv) your address, telephone number, and email address;

(v) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;

(vi) a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Our Agent for Notice of claims of copyright or other intellectual property infringement can be reached as follows:

By mail:

MuseCY SM LTD

84, SPYROU KYPRIANOU

4004, LIMASSOL, CYPRUS

By phone: (415) 599-4620, Ext. 2

By fax: (415) 449-3650

By email: [copyright@beat-law.com](mailto:copyright@beat-law.com)

6.4 The Audio logos and other trademarks on the site are the property of their respective owners and are owned by, licensed to, or, where required, used with permission by Audio

and may not be reproduced, copied, or manipulated in any manner without the express, written approval of the trademark owner.

## **7. REGISTERED USERS**

7.1 The Service may, but is not obligated to, offer interactive features that allow Registered Users to, among other things, submit or post Content ("User Generated Content") or links to third party Content on areas of the Service accessible and viewable by other users of the Service and the public. If you are a Registered User, you represent and agree that any use by you of such features, including any User Generated Content or links submitted or posted by you, shall be your sole responsibility, shall not infringe or violate the rights of any other party or violate any laws, contribute to or encourage infringing or otherwise unlawful conduct, or otherwise be obscene, objectionable or in poor taste, and that you have obtained all necessary rights, licenses or clearances. Registered Users also further agree to provide accurate and complete information in connection with your submission or posting of any User Generated Content on the Service. "User Generated Content" includes, without limitation, tablatures (text or electronic), reviews, videos, photos, articles, audio files, applications and any other content whether copyrightable or not.

7.2 Audio does not claim any ownership rights in User Generated Content that you transmit, submit, display or publish ("post") on, through or in connection with the Service. After posting your User Generated Content on, through or in connection with the Service, you continue to retain any such rights that you may have in your User Generated Content, subject to the limited license herein. By posting any User Generated Content on, through or in connection with the Service, you hereby grant to Audio a limited license to use, modify, delete from, add to, publicly perform, publicly display, reproduce, and distribute such User Generated Content solely on, through or in connection with the Service, including, without limitation, through the Service to applications, widgets, websites or mobile, desktop, including, without limitation, distributing part or all of the Service and any User Generated Content included therein, in any media formats and through any media channels, and shall constitute a waiver of any rights, "moral rights," or any similar rights under any jurisdiction.

7.3 The license you grant to Audio is non-exclusive (meaning you are free to license your User Generated Content to anyone else in addition to Audio), fully-paid and royalty-free (meaning that Audio is not required to pay you or anyone else deriving rights from you for the use on the Service of the User Generated Content that you post), sublicensable (so that Audio is able to use its affiliates, subcontractors and other partners such as Internet content delivery networks and wireless carriers to provide the Services), and worldwide (because the Internet and the Services are global in reach).

7.4 Audio reserves the right not to post or publish any User Generated Content, and to delete, remove or edit any User Generated Content, at any time in its sole discretion without notice or liability.

7.5 Audio has the right, but not the obligation, to monitor any information and User Generated Content submitted or posted by you or otherwise available on the Service, to investigate any reported or apparent violation of this Agreement, and to take any action that Audio, in its sole discretion, deems appropriate.

7.6 Rights Granted to Registered Users:

(a) Demonstration Rights. Subject to any third party restrictions, Audio grants to Registered Users a nonexclusive right and license, solely in connection with the Service, to (i) record the Licensed Compositions as audio files, (ii) record the Licensed Compositions in synchronization with visual images; and (iii) perform publicly the Licensed Compositions and any reproductions in conjunction with or in lieu of the Tablatures (collectively the "Rights Granted").

(b) Ownership and Reservation of Rights. Except for the Rights Granted hereunder, and subject to any third party restrictions, the respective Content Providers retain all right, title and interest in and to the Licensed Compositions and nothing in this Agreement shall (or shall be construed to) restrict, impair, transfer, license, convey or otherwise alter or deprive the respective Content Providers of any of their rights or proprietary interests in any intellectual property, content, data, information or any other materials or rights, tangible or intangible ..

## **8. DISCLAIMER OF WARRANTIES**

YOU EXPRESSLY AGREE THAT USE OF AND ACCESS TO THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND AN "AS AVAILABLE" BASIS. WE DO NOT MAKE, AND HEREBY DISCLAIM, ANY REPRESENTATIONS OR WARRANTIES REGARDING THE SERVICE, THE AUDIO SITE AND THE PRODUCTS AND SERVICES OFFERED THROUGH THE SERVICE OR ANY PORTION THEREOF, EXPRESS, IMPLIED OR STATUTORY, INCLUDING (WITHOUT LIMITATION) IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT OF THIRD PARTY RIGHTS. OR ANY WARRANTIES ARISING BY COURSE OF DEALING OR CUSTOM OF TRADE. WE MAKE NO REPRESENTATION OR WARRANTY THAT ANY MATERIAL, CONTENT, PRODUCTS OR SERVICES DISPLAYED ON OR OFFERED THROUGH THE SERVICE ARE ACCURATE, COMPLETE, APPROPRIATE, RELIABLE, OR TIMELY. WE ALSO MAKE NO REPRESENTATIONS OR WARRANTIES THAT THE SERVICE WILL MEET YOUR REQUIREMENTS AND/OR YOUR ACCESS TO AND USE OF THE SERVICE WILL BE



UNINTERRUPTED OR ERROR-FREE, FREE OF VIRUSES, MALICIOUS CODE, OR OTHER HARMFUL COMPONENTS, OR OTHERWISE SECURE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES. ACCORDINGLY, SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

## **9. LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER AUDIO, ITS CONTENT PROVIDERS, SUPPLIERS, PARTNERS, AFFILIATES OR THIRD-PARTY SERVICE PROVIDERS SHALL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY OTHER FORM OF DAMAGES IN ANY MANNER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR YOUR USE OF THE SERVICE, REGARDLESS OF THE FORM OF ACTION OR THE BASIS OF THE CLAIM OR WHETHER OR NOT AUDIO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.

If we cause damage to you and you're a consumer in the EEA, the above doesn't apply. Instead, Audio's liability will be limited to foreseeable damages arising due to a breach of material contractual obligations typical for this type of contract. Audio isn't liable for damages that result from a non-material breach of any other applicable duty of care. This limitation of liability won't apply to any statutory liability that cannot be limited, to liability for death or personal injury caused by our negligence or willful misconduct, or if and to exclude our responsibility for something we have specifically promised to you.

## **10. INDEMNITY**

You agree to defend, indemnify and hold us harmless against any losses, expenses, costs or damages (including our reasonable attorneys' fees, expert fees' and other reasonable costs of litigation or proceedings) arising from, incurred as a result of, or in any manner related to any claim or action based upon (a) your breach of, or failure to comply with, the terms and conditions of this Agreement, (b) your use of the Service, and/or (c) the use of the Service by any other person using your IDs. We may, in our discretion, participate in the defense of any such claim or action and any negotiations for its settlement or compromise. No settlement which may adversely affect our rights or obligations shall be made without our prior written approval. We reserve the right, at our own expense and on notice to you, to assume exclusive defense and control of any such claim or action and then your corresponding indemnification obligation will end.

## **11. CHOICE OF LAW AND CONSENT TO JURISDICTION**

The Service is created, operated and controlled by Audio in the State of California, United States of America. The laws of the State of California will govern this Agreement without giving effect to any principles or conflicts of laws. If you are not a consumer in the EEA, the exclusive place of jurisdiction for all disputes arising from or in connection with this agreement is San Francisco County, California, or the United States District Court for the Northern District of California and our dispute will be determined under California law. If you are a consumer in the EEA, this won't deprive you of any protection you have under the law of the country where you live and access to the courts in that country.

## **12. OBJECTIONABLE MATERIAL**

You understand that by using the Service, you may encounter content that may be deemed offensive, indecent, or objectionable, which content may or may not be identified as having explicit language. Nevertheless, you agree to use the Service at your sole risk and that Audio shall have no liability to you for content that may be found to be offensive, indecent, or objectionable. Content descriptions are provided for convenience, and you acknowledge and agree that Audio does not guarantee their accuracy. If you're a consumer in the EEA, we don't exclude or limit any liability for gross negligence, intent, or death or personal injury caused by our negligence or willful misconduct.

## **13. PUBLIC COMMUNICATION**

13.1 Audio believes in building a caring community based around music and will not tolerate antisocial or unlawful behavior in connection with the Service. We expect you to use only language appropriate for general conversation, with no insulting, racist, obscene or sexually explicit remarks

13.2 You are solely responsible for the content of any transmissions you make to the Service or any User Generated Content you add to the Service (the "Communications"). You will not use the Service to: Upload, post, e-mail, transmit, display, copy, distribute, promote, or otherwise communicate to the public;

(a) Communications of any kind that are false, unlawful, threatening, tortious, disparaging (including disparaging of Audio, its parent, subsidiaries or affiliates), anything that adversely affects Audio such as discouraging any person or entity from advertising with, linking to or supplying Audio, abusive, libelous, defamatory, obscene, vulgar, offensive, pornographic, profane, racist, sexually explicit, ethnically or culturally offensive, indecent, or that promotes violence, racial hatred, terrorism, or illegal acts, or are otherwise objectionable in Audio's sole discretion;

(b) Communications of any kind that violate, plagiarize, misappropriate or infringe upon the rights of third parties including, without limitation, copyright (including, offering pirated computer programs or links to such programs, information used to circumvent manufacturer installed copy-protect devices, including serial registration numbers for software programs, rights management information or any type of cracker utilities), trademark, patent, trade secret, rights of privacy or publicity, confidential information or any other proprietary right;

(c) Communications of any kind that contain a virus, Trojan horse, time bombs, worms, spyware, adware, malware, bots, any automated use of the system, such as scripts, or other harmful component or restricts or inhibits any other user's uninhibited use and enjoyment of the Service, interferes with, overburdens, impairs or disrupts the Service or servers or networks connected to the Service, or disobeys any requirements, procedures, policies or regulations of networks connected to the Service;

(d) Communications of any kind that are false or misleading or that constitute or contain false or misleading indications of origin or statements of fact, including, without limitation, by forging any TCP/IP packet header, any part of the header information in any transmission to the Service, or otherwise manipulating identifiers in order to disguise the origin of any content transmitted to or from the Service;

(e) Communications of any kind which include any unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, requests for money, petitions for signature, or any other form of solicitation;

(f) Communications of any kind that encourage, promote, solicit or commit conduct that would constitute a criminal offence, give rise to civil liability or otherwise violate any local, state, national or international law or otherwise make available any material that exploits or harms any individual, corporation or other entity;

(g) Communications of any kind designed to impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity;

(h) Communications of any kind that disrupt the normal flow of dialogue, cause a screen to scroll faster than other users of the Service are able to type, or otherwise act in a manner that negatively affects other users' ability to engage in real time exchanges on the Service;

(i) Communications of any kind designed to stalk, abuse, sexually exploit, violently exploit, groom, act violently toward, threaten or otherwise harass another;

(j) Communications of any kind designed to use or attempt to use another's information, account, password, service or system except as expressly permitted;

(k) Communications of any kind designed to solicit or collect personal data including telephone numbers, addresses, last names, email addresses, or any other kind of information about users, including without limitation, through such means as "screen scraping," "database scraping," harvesting of e-mail addresses, wireless addresses or other contact or personal information, or any other automatic means of accessing, logging-in or registering on the Website or for any services or features offered on or through the Website; and

(l) Communications of any kind that undertake any commercial purpose or activity without the prior written consent of Audio, including, for example and without limitation, inserting your own or a third party's advertising, branding or promotional content into the Service (for example, without limitation, in an RSS feed or a podcast received from Audio or otherwise available through the Service).

13.3 Audio reserves the right, in its sole discretion, to terminate your account or take such other action as Audio sees fit in relation to any breach of Audio's Public Communication policy or any of the other terms set forth herein. In extreme cases or as required by law or regulation, Audio reserves the right to take court action and/or report your conduct to the relevant authorities.

13.4 You acknowledge and agree that any Communications made to or by means of any portion of the Service are public. You acknowledge that (i) you have no expectation of privacy in any Communication, and (ii) no confidential, fiduciary, contractually implied or other relationship is created between you and Audio by reason of your transmitting a Communication to any area of the Service.

## **14. INFORMATION PROVIDED**

You acknowledge that any reliance upon any advice, opinion, statement, or other information displayed or distributed through the Service is at your sole risk. Audio reserves the right, in its sole discretion and without notice, to correct any errors or omissions in any portion of the Service, or to deny access to the Service to anyone at any time. You acknowledge and agree that Audio is not responsible for any User Generated Content posted by users of the Service. Prior to making any decisions based on information posted on the Service, you are advised to verify the information. Audio shall not have any liability arising from your acts or decisions based upon the information provided on the Service.

## **15. LINKS TO OTHER SITES**

The Service may contain hyperlinks and pointers to other sites on the Internet that may be maintained by third parties ("Other Sites"). If you use the hyperlinks to access these Other Sites, you will leave the Service and your browser will be re-directed to the Other Sites. The Other Sites may have their own terms of use and privacy policy and those Other Sites may have different practices and requirements than the Service. Audio may not have knowledge of, and is not responsible for, the content, information, services, products or advertisements presented by any Other Site which you use at your own risk. Audio does not warrant or make any representation regarding the legality, accuracy, quality or authenticity of content, information, services or products presented by Other Sites. The hyperlinks to Other Sites do not constitute an endorsement by Audio of any Other Site(s) or resources, or their content, information, services or products. The Service is only providing these links to you as a convenience. The terms of use and privacy policy of any Other Sites shall apply to your access and use of them. Audio accepts no responsibility for the content or conduct of Other Sites.

## **16. CLOUD FEATURE**

**16.1 *Content and Permissions*** Use of the Cloud Feature gives Audio permission to access, store, and scan Content in order to provide features like collaborating, sharing, searching, and saving Content. The permission extends to our affiliates and trusted third parties.

**16.2 *Service Fees*** By registering for the Cloud Feature, you agree to pay the fees designated for the Service level you select and in accordance with this section. Additional charges may include purchases you make or service level changes you request. The term "week" (or "weekly") is defined herein as a 7-day cycle; "month" (or "monthly") is defined herein as a 30-day cycle; "quarter" (or "quarterly") is defined herein as a 90-day cycle; "semiannual" (or "semiannually" or "6-month") is defined as a 180-day cycle; "year" (or "annual" or "annually") is defined as a 360-day cycle; and "biennial" (or "biennially" or "two-year") is defined herein as a 720-day cycle. A "lifetime" subscription is valid as long as the Service is being offered. If you access the Service via the iOS platform, payment will be charged to your iTunes Account at confirmation of purchase.

Your subscription will continue automatically at the fee rate applicable to the Service, which you have selected unless terminated by us or until you notify Audio of your decision to cancel your subscription to the Service via your account portal. See the Section 16.6 entitled "Termination" for cancellation instructions. All subscriptions require a commitment for a minimum period(s) of time ("Service Level Period") and, consequently, cannot be cancelled until the end of the Service Level Period. You may, at any time during your subscription period, set your account to cancel, or select another weekly, monthly, quarterly, semiannual, or annual subscription plan into which to renew, effective at the end of your then-current plan. At the end of your weekly, monthly, quarterly, semiannual, or

annual subscription period(s), your subscription will automatically renew (the "Renewal Date") and you will be billed for a weekly, monthly, quarterly, semiannual, annual or biennial subscription respectively at your then-current plan level at the rates in effect when the charges were incurred, unless you elect to terminate the Service pursuant to Section 16.6. All fees and charges are nonrefundable. We will send an email notice to the email address associated with your account approximately 30 days prior to the Renewal Date. The notice will let you know that your current subscription term is about to end and the Renewal Date when your subscription will be renewed and your account charged. Please keep a record of when your subscription term ends and the next Renewal Date. You are responsible for timely canceling your subscription regardless of whether you receive any notice from us. Weekly, monthly or yearly subscriptions automatically renew unless auto-renew is turned off at least 24-hours before the end of the current period. The account will be charged for renewal within 24-hours before the end of the current period. You can manage your subscription - change or cancel auto-renewal - in your Account Settings after purchase.

Payment must be made by a major credit card accepted by Audio, or any other methods of payment as we may accept from time to time. If we do not receive payment from the credit card issuer or its agent, you agree to pay all amounts due upon demand by us. Your card issuer agreement governs your use of your designated card in connection with the Service, and you must refer to that agreement and not this Agreement to determine your rights and liabilities as a cardholder. **YOU, AND NOT AUDIO, ARE RESPONSIBLE FOR PAYING ANY AMOUNTS BILLED TO YOUR CREDIT CARD BY A THIRD PARTY, WHICH WERE NOT AUTHORIZED BY YOU.** If you want to designate a different credit card or there is a change in credit card validity or expiration date, or if you believe someone has accessed the Service using your IDs without your authorization, you must contact us immediately at [social@audio.com](mailto:social@audio.com).

If we do not receive the full amount of your Service account balance within thirty (30) days of the Billing Date, a late payment charge of one and one-half percent (1.5%) per month (or the highest amount allowed by law, whichever is lower) may be added to your bill and immediately become due and payable. Unless you notify us of any discrepancies within sixty (60) days after they first appear on your account statement, they will be deemed accepted by you for all purposes, including resolution of inquiries made by your card issuer. You release Audio from all liabilities and claim of loss resulting from any error or discrepancy that is not reported to us within sixty (60) days of its first appearance on an invoice or credit card statement.

You agree to pay us all reasonable attorney's fees and costs incurred by Audio to collect any past due amounts. Your account may be deactivated without further notice if payment is past due, regardless of the dollar amount. You agree to pay any outstanding balance in full within thirty (30) days of cancellation or termination of your Service account.

The fees, charges and payments hereunder do not include and you are solely responsible for paying any taxes, duties, government levies or other charges imposed by a taxing or other regulatory authority relating to your use of the Service. You are solely responsible for arranging payment for any and all additional or premium charges for your use of any third party services via the Service.

**AUDIO RESERVES THE RIGHT, AT ANY TIME, TO CHANGE ITS FEES AND BILLING**

METHODS, INCLUDING THE ADDITION OF SUPPLEMENTAL FEES OR SEPARATE CHARGES FOR CONTENT, OR SERVICES PROVIDED BY US. If any such change is unacceptable to you, you may cancel your subscription to the Service, as provided in Section 16.6. YOUR CONTINUED USE OF THE SERVICE FOLLOWING THE EFFECTIVE DATE OF A CHANGE TO SUCH FEES AND BILLING METHODS SHALL CONSTITUTE YOUR ACCEPTANCE OF SUCH CHANGE.

**16.3 *Modifications*** We may change the Cloud Feature where such change is required to comply with applicable law, where such change is expressly permitted in this agreement, or where such change:

- (1) Is commercially reasonable;
- (2) Does not result in a material reduction of the security of the Services;
- (3) Does not expand the scope of or remove any restrictions on Audio's processing of your personal data; and
- (4) Does not otherwise have a material adverse impact on your rights.

**16.4 *Discontinuation of Services*** Audio will notify you at least 3 months before discontinuing any Service (or associated material functionality) via the email associated with your account, unless Audio replaces such discontinued Service or functionality with a materially similar Service or functionality. You will have access to your files for three months after the notice is sent, after which they will be removed. You will only be able to access files that you own, public access will no longer be available. All weekly and monthly payments will stop processing after the service closes. Yearly subscriptions will be refunded based on the months that were not used after the service closes.

Nothing in this section 16.4 (Discontinuation of Services) limits our ability to make changes required to comply with applicable law, address a material security risk, or avoid a substantial economic or material technical burden.

**16.5 *Beta Service*** The Cloud Feature is released as a product that we are still testing and evaluating. The Cloud Feature may not be as reliable as our other services. The Cloud Feature is made available so that we can collect user feedback, and by using it, you agree that we may collect such feedback.

**16.6 *Termination*** You may stop using the Cloud Feature at any time. Audio reserves the right to suspend or terminate your access to the Services with notice to you if we reasonably believe:

- (1) You are in breach of these Terms;
- (2) Your use of the Services would cause a real risk of harm or loss to us or other users,  
or
- (3) You don't have a Paid Account and haven't accessed our Services for 12 consecutive months.

Audio will provide you with reasonable advance notice via the email address associated with your account to remedy the activity that prompted us to contact you and give you the opportunity to export your Content from our Services. If after such notice you fail to take the steps we require, we will terminate or suspend your access to the Services.

We will not provide notice or an opportunity to export your Content before termination or

suspension of access to the Services where we reasonably believe:

- (1) You are in material breach of these Terms,
- (2) Doing so would cause Audio legal liability or compromise our ability to provide the Services to other users, or
- (3) Audio is prohibited from doing so by law.

Once Audio suspends or terminates your access to the Services, you will not be able to access or export your Content.

If you cancel your subscription, we will not refund any remaining portion of your subscription fees except as expressly provided for herein.

In order to terminate, follow the cancellation instructions on the website located [here](#).

- For weekly subscriptions, you may cancel your weekly subscription anytime during the week however, you will not receive a refund for the current week's subscription (which will remain active for the remainder of that week's subscription term) and your payment method will not be charged for any subsequent weekly billing periods; as a courtesy to you we will convert your account to a free account.
- For monthly subscriptions, you may cancel your monthly subscription anytime during the month however, you will not receive a refund for the current month's subscription (which will remain active for the remainder of that month's subscription term) and your payment method will not be charged for any subsequent monthly billing periods; as a courtesy to you we will convert your account to a free account.
- For subscriptions other than weekly and monthly subscriptions, if you cancel your subscription during the first fourteen (14) days of your subscription term you will receive a refund of the difference between the then-in-effect and current subscription fee to which you are subscribed and the then-in-effect and current monthly subscription fee. Your account will not auto-renew for any recurring periodic charges at the end of the subscription term. As a courtesy to you we will convert your Account to a free account at the end of the 30-day period.

Your non-termination or continued use of the Service reaffirms that Audio is authorized to charge your payment method. Audio may submit those charges for payment and you agree that you will be responsible for such charges. This does not waive our right to seek payment directly from you.

## **17. OTHER IMPORTANT PROVISIONS**

17.1 Use of the Service is unauthorized in any jurisdiction that does not give effect to all provisions of these terms and conditions, including without limitation this Section 17.

17.2 You shall not use the Service in any manner contrary to local, state or federal law. Audio disclaims any and all responsibility or liability for any action by you that is contrary to such law(s) by you and reserves the right to terminate your Service immediately upon notice of your failure to comply with any such local, state or federal



law.

17.3 Our performance of this Agreement is subject to existing laws and legal process, and nothing contained in this Agreement is in derogation of our right to comply with governmental, court and law enforcement requests or requirements relating to your use of the Service or information provided to or gathered by us with respect to such use.

17.4 If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the Agreement shall continue in effect.

17.5 No failure or delay in enforcing any provision, exercising any option or requiring performance, shall be construed to be a waiver of that or any other right in connection with this Agreement.

17.6 You may not assign your rights under this Agreement without our prior written permission and any attempt by you to do so shall be void from inception. If you're a consumer in the EEA, Audio may assign this agreement, and any rights and licenses granted under it, to a third party. In case of such an assignment, you are entitled to terminate the agreement with immediate effect by deactivating your account. Audio will provide you with reasonable notice of any such assignment.

17.7 This Agreement, together with our [Privacy Policy](#) and any other rules, regulations, procedures and policies which we refer to and which are hereby incorporated herein by this reference, constitutes the entire agreement between you and us with respect to the Service and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, between you and us with respect to the Service.

17.8 Any provision which must survive in order to allow us to enforce its meaning shall survive the termination of this Agreement.

17.9 A printed version of this Agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

## **18. CHANGES OR MODIFICATIONS**

We reserve the right to add, delete, change, or modify parts of this Agreement at our sole

discretion and at any time without notice or liability to you. If we do this, we will post the changes to the Terms of Use on this page and will indicate the effective date of the Terms of Use at the bottom of the page. It is important for you to refer to this Agreement from time to time to make sure that you are aware of any additions, revisions, or modifications that we may have made to this Agreement. Your continued use of the Service constitutes your acceptance of the new Terms of Use.