

# End - User License agreement

End - User License agreement

END-USER LICENSE AGREEMENT FOR Sort MP3 Music, Inc. SOFTWARE

**IMPORTANT&mdash;READ CAREFULLY:** This End-User License Agreement ("EULA") is a legal agreement between you (either an individual or a single entity) and Sort MP3 Music, Inc. for the Sort MP3 Music, Inc. software that accompanies this EULA, which includes associated media and Sort MP3 Music, Inc. Internet-based services ("Software"). An amendment or addendum to this EULA may accompany the Software. **YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA BY INSTALLING, COPYING, OR USING THE SOFTWARE. IF YOU DO NOT AGREE, DO NOT INSTALL, COPY, OR USE THE SOFTWARE; YOU MAY RETURN IT TO YOUR PLACE OF PURCHASE FOR A FULL REFUND, IF APPLICABLE.**

1. **GRANT OF LICENSE.** Sort MP3 Music, Inc. grants you the following rights provided that you comply with all terms and conditions of this EULA:

1.1 **Installation and use.** You may:

- (a) install and use a copy of the Software on one personal computer or other device; and
- (b) install an additional copy of the Software on a second, portable device for the exclusive use of the primary user of the first copy of the Software.

1.2 **Alternative Rights for Storage/Network Use.** As an alternative to Section 1.1(a), you may install a copy of the Software on a network storage device, such as a server computer, and allow one access device, such as a personal computer, to access and use that licensed copy of the Software over a private network. You must obtain a license to the Software for each additional device that accesses and uses the Software installed on the network storage device, except as permitted by Section 1.4 of this EULA.

1.3 **License Grant for Remote Desktop.** You may use remote access technologies, such as the Remote Desktop features, to access and use your licensed copy of the Software, provided that only the primary user of the device hosting the remote desktop session accesses and uses the Software with a remote access device. These remote desktop rights do not permit you to use the Software on both the device hosting the remote desktop session and the access device at the same time.

1.4 **License Grant for Remote Assistance.** You may permit any device to access and use your licensed copy of the Software for the sole purpose of providing you with technical support and maintenance services.

1.5 **License Grant for Media Elements.** The Software may include certain photographs, clip art, shapes, animations, sounds, music and video clips that are identified in the Software for your use (together "Media Elements"). You may copy and modify the Media Elements, and license, display and distribute them, along with your modifications as part of your software products and services, including your web sites, but you are not licensed to do any of the following:

- &bull; You may not sell, license or distribute copies of the Media Elements by themselves or as part of any collection, product or service if the primary value of the product or service is in the Media Elements.
- &bull; You may not grant customers of your product or service any rights to license or distribute the Media Elements.
- &bull; You may not license or distribute any of the Media Elements that include representations of identifiable individuals, governments, logos, initials, emblems, trademarks, or entities for any commercial purposes or to express or imply any endorsement or association with any product, service, entity, or activity.
- &bull; You may not create obscene or scandalous works, as defined by federal law at the time the work is created, using the Media Elements.

In addition, you must (a) indemnify and defend Sort MP3 Music, Inc. from and against any claims or lawsuits, including attorneys' fees that arise from or result from the licensing, use or distribution of Media Elements as modified by you, and (b) include a valid copyright notice on your products and services that include the Media Elements.

1.6 **License Grant for Documentation.** The documentation that accompanies the Software is licensed for internal, non-commercial reference purposes only.

1.7 **License Grant for Templates.** The Software may include document templates. You may copy and modify the document templates available as part of the Sort MP3 Music, Inc. software that accompanies this EULA and distribute such templates along with your modifications for use by other licensees of the Software. You also may copy, modify and distribute the templates available through related Internet-based services along with your modifications for use by other licensees of the Software, but only for personal or commercial correspondence involving person-to-person communication. You are not licensed to do any of the following:

- &bull; You may not sell, resell, license, rent, lease, lend, or otherwise transfer for value, the templates.
- &bull; You may not distribute the templates available via Internet-based services as part of any product or service.
- &bull; You may not copy or post any templates available through Internet-based services on any network computer or broadcast it in any media.

You must indemnify and defend Sort MP3 Music, Inc. against any claims or lawsuits, including attorneys' fees, that arise from or result from the licensing or distribution of the templates as modified by you.

2. **DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS**

2.1 **Mandatory Activation.** THERE ARE TECHNOLOGICAL MEASURES IN THIS SOFTWARE THAT ARE DESIGNED TO PREVENT UNLICENSED USE OF THE SOFTWARE. You may not be able to exercise your rights to the Software under this EULA after a finite number of product launches unless you activate your copy of the Software in the manner

described during the launch sequence. You may also need to reactivate the Software if you modify your computer hardware or alter the Software. Sort MP3 Music, Inc. will use those measures to confirm you have a legally licensed copy of the Software. If you are not using a licensed copy of the Software, you are not allowed to install the Software or future Software updates. Sort MP3 Music, Inc. will not collect any personally identifiable information from your device during this process.

2.2 Internet-Based Services. You may not use any Sort MP3 Music, Inc. Internet-based services associated with the Software in any manner that could damage, disable, overburden, or impair such services or interfere with any other party's use and enjoyment of them. You may not attempt to gain unauthorized access to any service, account, computer systems or networks associated with the Internet-based services.

2.3 Speech/Handwriting Recognition. If the Software includes speech and/or handwriting recognition component(s), you should understand that speech and handwriting recognition are inherently statistical processes; that recognition errors are inherent in the processes; that it is your responsibility to provide for the handling of such errors and to monitor the recognition processes and correct any errors. Neither Sort MP3 Music, Inc. nor its suppliers shall be liable for any damages arising out of errors in the speech and handwriting recognition processes.

2.4 Report-Writing Runtime Software Limitations. The Software may contain report-writing runtime software ("Runtime Software"). Other than use with the Software, you may not use the Runtime Software with any other software application nor use the Runtime Software as part of any process or system that is used to automatically deliver, share or distribute documents or other work created using the Runtime Software.

3. RESERVATION OF RIGHTS AND OWNERSHIP. Sort MP3 Music, Inc. reserves all rights not expressly granted to you in this EULA. The Software is protected by copyright and other intellectual property laws and treaties. Sort MP3 Music, Inc. or its suppliers own the title, copyright, and other intellectual property rights in the Software. The Software is licensed, not sold. This EULA does not grant you any rights to trademarks or service marks of Sort MP3 Music, Inc..

4. LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION, AND DISASSEMBLY. You may not reverse engineer, decompile, or disassemble the Software, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.

5. NO RENTAL/COMMERCIAL HOSTING. You may not rent, lease, lend or provide commercial hosting services with the Software.

6. CONSENT TO USE OF DATA. You agree that Sort MP3 Music, Inc. and its affiliates may collect and use technical information gathered as part of the product support services provided to you, if any, related to the Software. Sort MP3 Music, Inc. may use this information solely to improve our products or to provide customized services or technologies to you and will not disclose this information in a form that personally identifies you.

7. LINKS TO THIRD PARTY SITES. Sort MP3 Music, Inc. is not responsible for the contents of any third-party sites or services, any links contained in third-party sites or services, or any changes or updates to third-party sites or services. Sort MP3 Music, Inc. is providing these links and access to third-party sites and services to you only as a convenience, and the inclusion of any link or access does not imply an endorsement by Sort MP3 Music, Inc. of the third-party site or service.

8. ADDITIONAL SOFTWARE/SERVICES. This EULA applies to updates, supplements, add-on components, or Internet-based services components, of the Software that Sort MP3 Music, Inc. may provide to you or make available to you after the date you obtain your initial copy of the Software, unless they are accompanied by separate terms. Sort MP3 Music, Inc. reserves the right to discontinue Internet-based services provided to you or made available to you through the use of the Software.

9. UPGRADES. To use Software identified as an upgrade, you must first be licensed for the software identified by Sort MP3 Music, Inc. as eligible for the upgrade. After installing the upgrade, you may no longer use the original software that formed the basis for your upgrade eligibility, except as part of the upgraded software.

10. NOT FOR RESALE SOFTWARE. Software identified as "Not for Resale" or "NFR," may not be sold or otherwise transferred for value, or used for any purpose other than demonstration, test or evaluation.

11. ACADEMIC EDITION SOFTWARE. To use Software identified as "Academic Edition" or "AE," you must be a "Qualified Educational User."

12. EXPORT RESTRICTIONS. You acknowledge that the Software is subject to R.F. export jurisdiction. You agree to comply with all applicable international and national laws that apply to the Software, including the R.F. Export Management Regulations, as well as end-user, end-use, and destination restrictions issued by R.F. and other governments.

13. SEPARATION OF COMPONENTS. The Software is licensed as a single product. Its component parts may not be separated for use on more than one device.

14. SOFTWARE TRANSFER. Internal. You may not transfer your copy of the Software to a different device. Transfer to Third Party. If you are the person who initially licensed the Software, you may make a one-time permanent transfer of this EULA, Software and Certificate of Authenticity (if applicable) to another end user, provided that you do not retain any copies of the Software. This transfer must include all of the Software (including all component parts, the media and printed materials, any upgrades, this EULA, and, if applicable, the Certificate of Authenticity). The transfer may not be an indirect transfer, such as a consignment. Prior to the transfer, the end user receiving the Software must agree to all the EULA terms.

15. TERMINATION. Without prejudice to any other rights, Sort MP3 Music, Inc. may terminate this EULA if you fail to comply with the terms and conditions of this EULA. In such event, you must destroy all copies of the Software and all of its component parts.

16. LIMITED WARRANTY FOR SOFTWARE

Sort MP3 Music, Inc. warrants that the Software will perform substantially in accordance with the accompanying materials for a period of thirty (30) days from the date of receipt.

If an implied warranty or condition is created by your state/jurisdiction and federal or state/provincial law prohibits disclaimer of it, you also have an implied warranty or condition, BUT ONLY AS TO DEFECTS DISCOVERED DURING THE PERIOD OF THIS LIMITED WARRANTY (NINETY DAYS). AS TO ANY DEFECTS DISCOVERED AFTER THE NINETY DAY PERIOD, THERE IS NO WARRANTY OR CONDITION OF ANY KIND. Some states/jurisdictions do not allow limitations on how long an implied warranty or condition lasts, so the above limitation may not apply to you. Any supplements or updates to the Software, including without limitation, any (if any) service packs or hot fixes provided to you after the expiration of the ninety day Limited Warranty period are not covered by any warranty or condition, express, implied or statutory.

**LIMITATION ON REMEDIES; NO CONSEQUENTIAL OR OTHER DAMAGES.** Your exclusive remedy for any breach of this Limited Warranty is as set forth below. Except for any refund elected by Sort MP3 Music, Inc., YOU ARE NOT ENTITLED TO ANY DAMAGES, INCLUDING BUT NOT LIMITED TO CONSEQUENTIAL DAMAGES, if the Software does not meet Sort MP3 Music, Inc.'s Limited Warranty, and, to the maximum extent allowed by applicable law, even if any remedy fails of its essential purpose. The terms of Section 18 ("Exclusion of Incidental, Consequential and Certain Other Damages") are also incorporated into this Limited Warranty. Some states/jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. This Limited Warranty gives you specific legal rights. You may have other rights which vary from state/jurisdiction to state/jurisdiction. **YOUR EXCLUSIVE REMEDY.** Sort MP3 Music, Inc.'s and its suppliers' entire liability and your exclusive remedy for any breach of this Limited Warranty or for any other breach of this EULA or for any other liability relating to the Software shall be, at Sort MP3 Music, Inc.'s option from time to time exercised subject to applicable law, (a) return of the amount paid (if any) for the Software, or (b) repair or replacement of the Software, that does not meet this Limited Warranty and that is returned to Sort MP3 Music, Inc. with a copy of your receipt. You will receive the remedy elected by Sort MP3 Music, Inc. without charge, except that you are responsible for any expenses you may incur (e.g. cost of shipping the Software to Sort MP3 Music, Inc.). This Limited Warranty is void if failure of the Software has resulted from accident, abuse, misapplication, abnormal use or a virus. Any replacement Software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer, and Sort MP3 Music, Inc. will use commercially reasonable efforts to provide your remedy within a commercially reasonable time of your compliance with Sort MP3 Music, Inc.'s warranty remedy procedures. Outside the United States, neither these remedies nor any product support services offered by Sort MP3 Music, Inc. are available without proof of purchase from an authorized international source.

17. **DISCLAIMER OF WARRANTIES.** The Limited Warranty that appears above is the only express warranty made to you and is provided in lieu of any other express warranties or similar obligations (if any) created by any advertising, documentation, packaging, or other communications. Except for the Limited Warranty and to the maximum extent permitted by applicable law, Sort MP3 Music, Inc. and its suppliers provide the Software and support services (if any) AS IS AND WITH ALL FAULTS, and hereby disclaim all other warranties and conditions, whether express, implied or statutory, including, but not limited to, any (if any) implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of reliability or availability, of accuracy or completeness of responses, of results, of workmanlike effort, of lack of viruses, and of lack of negligence, all with regard to the Software, and the provision of or failure to provide support or other services, information, software, and related content through the Software or otherwise arising out of the use of the Software.

18. **EXCLUSION OF INCIDENTAL, CONSEQUENTIAL AND CERTAIN OTHER DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL Sort MP3 Music, Inc. OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE SOFTWARE, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES, INFORMATION, SOFTWARE, AND RELATED CONTENT THROUGH THE SOFTWARE OR OTHERWISE ARISING OUT OF THE USE OF THE SOFTWARE, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS EULA, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF Sort MP3 Music, Inc. OR ANY SUPPLIER, AND EVEN IF Sort MP3 Music, Inc. OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

19. **LICENSING.** Sort MP3 Music, Inc. software is distributed on a Try Before You Buy (shareware) basis. If you like this program and decide to keep it, you will need to purchase a registration key.

20. **LIMITATION OF LIABILITY AND REMEDIES.** Notwithstanding any damages that you might incur for any reason whatsoever (including, without limitation, all damages referenced herein and all direct or general damages in contract or anything else), the entire liability of Sort MP3 Music, Inc. and any of its suppliers under any provision of this EULA and your exclusive remedy hereunder (except for any remedy of repair or replacement elected by Sort MP3 Music, Inc. with respect to any breach of the Limited Warranty) shall be limited to the greater of the actual damages you incur in reasonable reliance on the Software up to US\$0.00. The foregoing limitations, exclusions and disclaimers (including Sections 16, 17 and 18) shall apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose.

21. **APPLICABLE LAW.** If you acquired this Software in the United States, this EULA is governed by the laws of the State of Washington. If you acquired this Software in Canada, unless expressly prohibited by local law, this EULA is governed by the laws in force in the Province of Ontario, Canada; and, in respect of any dispute which may arise hereunder, you consent to the jurisdiction of the federal and provincial courts sitting in Toronto, Ontario. If you acquired this Software in the European Union, Iceland, Norway, or Switzerland, then local law applies. If you acquired this Software in any other country, then local law may apply.

22. **ENTIRE AGREEMENT; SEVERABILITY.** This EULA (including any addendum or amendment to this EULA which is included with the Software) is the entire agreement between you and Sort MP3 Music, Inc. relating to the Software and the support services (if any) and they supersede all prior or contemporaneous oral or written communications, proposals and representations with respect to the Software or any other subject matter covered by this EULA. To the extent the terms of any Sort MP3 Music, Inc. policies or programs for support services conflict with the terms of this EULA, the terms of this EULA shall control. If any provision of this EULA is held to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect.

The following Sort MP3 Music, Inc. **GUARANTEE** applies to you if you acquired this Software in any other country: Statutory rights not affected - The following guarantee is not restricted to any territory and does not affect any statutory rights that you may have from your reseller or from Sort MP3 Music, Inc. if you acquired the Software directly from Sort MP3 Music, Inc..

The guarantee - The Software is designed and offered as a general-purpose software, not for any user's particular purpose. You accept that no Software is error free and you are strongly advised to back-up your files regularly. Provided that you have a valid license, Sort MP3 Music, Inc. guarantees that a) for a period of 30 days from the date of receipt of your license to use the Software or the shortest period permitted by applicable law it will perform substantially in accordance with the written materials that accompany the Software; and b) any support services provided by Sort MP3 Music, Inc. shall be substantially as described in applicable written materials provided to you by Sort MP3 Music, Inc. and Sort MP3 Music, Inc. support engineers will use reasonable efforts, care and skill to solve any problem issues. In the event that the Software fails to comply with this guarantee, Sort MP3 Music, Inc. will repair or replace the Software. This guarantee is void if failure of the Software results from accident, abuse or misapplication. Any replacement Software will be guaranteed for the remainder of the original guarantee period or 30 days, whichever period is longer. You agree that the above guarantee is your sole guarantee in relation to the Software and any support services.

Exclusion of All Other Terms - To the maximum extent permitted by applicable law and subject to the guarantee above, Sort MP3 Music, Inc. disclaims all warranties, conditions and other terms, either express or implied (whether by statute, common law, collaterally or otherwise) including but not limited to implied warranties of satisfactory quality and fitness for particular purpose with respect to the Software and the written materials that accompany the Software. Any implied warranties that cannot be excluded are limited to 30 days or to the shortest period permitted by applicable law, whichever is greater.