

PRO SOUND EFFECTS SOFTWARE END USER LICENSE AGREEMENT

THE MEDIASPORA LLC D/B/A PRO SOUND EFFECTS ("PSE") END USER LICENSE AGREEMENT ("EULA") GOVERNS THE USE OF PSE SOFTWARE, PSE'S SoundQ[®] SOFTWARE AND SYSTEMS AND PSE'S AUDIO CONTENT, AND OTHER INTELLECTUAL PROPERTY, INCLUDING BUT NOT LIMITED TO THE SOUND EFFECTS AND MUSIC TRACKS DEFINED BELOW, PROVIDED BY PSE TO THE END USER (COLLECTIVELY, THE "PSE SOFTWARE"). PLEASE READ THIS LICENSE AGREEMENT ("LICENSE") CAREFULLY BEFORE USING THE PSE SOFTWARE, AUDIO CONTENT, AND OTHER INTELLECTUAL PROPERTY, AS IT GOVERNS THE TERMS AND CONDITIONS OF YOUR USE.

BY CLICKING AGREE AND CONTINUE AND BY THEREBY PROCEEDING TO USE THE PSE SOFTWARE, AUDIO CONTENT, OR OTHER INTELLECTUAL PROPERTY, YOU ARE HEREBY AGREEING TO BE BOUND BY THE TERMS OF THIS LICENSE. WE MAY MODIFY THE TERMS FROM TIME TO TIME. UNLESS WE INDICATE **OTHERWISE, MODIFICATIONS WILL BE EFFECTIVE AS OF THE DATE THEY** ARE POSTED ON THIS PAGE OR ANY SUCCESSOR PAGE. YOU SHOULD LOOK AT THE TERMS REGULARLY. YOUR CONTINUED USE OF OR SUBSCRIPTION TO A SERVICE AFTER THE EFFECTIVE DATE OF ANY MODIFICATIONS TO THE TERMS OR THE MEANS THAT YOU AGREE TO THE TERMS AS MODIFIED. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, DO NOT CLICK AGREE, SIMPLY CLICK "DECLINE", AND DO NOT USE THE PSE SOFTWARE, AUDIO CONTENT, OR OTHER INTELLECTUAL PROPERTY. IF THE PSE SOFTWARE, AUDIO CONTENT, OR INTELLECTUAL PROPERTY WERE ACCESSED ELECTRONICALLY BY YOU IN ANY MANNER PRIOR TO CLICKING ACCEPT AND CONTINUE TO THE TERMS OF THIS LICENSE, AND IF YOU DO NOT AGREE TO THE LICENSE, YOU MUST PERMANENTLY DELETE ANY OF THE PSE SOFTWARE, AUDIO CONTENT, AND INTELLECTUAL PROPERTY YOU MAY HAVE ACCESSED OR USED AND PERMANENTLY CEASE AND DESIST FROM YOUR USE OF THE SAME.

IMPORTANT NOTE: The software, audio content, and other intellectual property provided by PSE to you may be used by you to create your own original works pursuant to the terms and conditions of this License. You may not use, distribute, or broadcast any of the software, audio content, or other intellectual property in any manner not expressly permitted by this License. If you are uncertain about your rights to use the software, audio content, or other intellectual property, you should contact your legal advisor before proceeding.

- 1. General. The PSE SOFTWARE (without limit, the software, scripts, sound effects, sound effects libraries, audio content, audio loops, sound files, samples, impulse responses, audio processing tools, images, formulas, designs, inventions, works, documentation, fonts, and other intellectual property whether on disk, in read only memory, on any other media or in any other form) provided to you is licensed, not sold, to you by PSE for use only under the terms of this License, and PSE reserves all rights not expressly granted to you. You own the media on which PSE SOFTWARE is recorded but PSE and/or PSE's licensor(s) retain ownership of the PSE SOFTWARE itself. The terms of this License will govern any PSE SOFTWARE upgrades provided by PSE that replace and/or supplement the original PSE SOFTWARE, unless such upgrade is accompanied by a separate license, in which case the terms of that license will govern. Title and intellectual property rights in and to any content displayed by or accessed through the PSE SOFTWARE belongs to the respective content owner. Such content may be protected by copyright or other intellectual property laws and treaties and may be subject to terms of use of the third party providing such content.
- 2. **Permitted License Uses and Restrictions**. You are granted a limited non-exclusive license to use the PSE SOFTWARE as follows, subject to all other terms and conditions of this License:

A. By agreeing to this License you have agreed to the "SoundQ[®] Free" Tier of use of the PSE SOFTWARE ("SoundQ[®] Free") or to the SoundQ[®] Tier (the "SoundQ[®]") use of the PSE SOFTWARE, which will enable you to use the total of the downloadable sound effects (each a "Sound Effect") and certain downloadable music (each a "Music Track", collectively ("Music Tracks") as set forth in the current SoundQ[®] Free" or SoundQ[®] offer, or the terms of any other tier or offer which you have accepted (each, an "Offer") which Offer you have accepted.

i. Under SoundQ[®] (subject any additional terms in the present iteration of the SoundQ[®] Offer you have accepted), the term of the License is co-terminus with your continued payment of the required fees, including any monthly or annual subscriptions set forth in the "SoundQ[®]" Offer which you have accepted, which term terminates upon failure to pay the applicable subscription fee (the "**SoundQ[®] Term**"). Under SoundQ[®], you may use

the Sound Effects and Music Tracks on more than one of your original Productions during the SoundQ[®] Term. Any new use of the Sound Effects and Music Tracks must cease permanently upon your failure to pay any required fees under the SoundQ[®] which failure to pay any required fees shall terminate of the SoundQ[®] Term on a self-effectuating, no-notice required basis. Sound Effects and Music Tracks cannot be used on any Productions after the SoundQ[®] Term.

B. By agreeing to this License, you will also have access to the sound effects database at www.freesound.org (the "Freesound.org Sound Effects"). The Freesound.org Sound Effects are a 3rd party library provided under its own licensing agreement which terms govern your use of the Freesound.org Sound Effects and which use is not governed by this Agreement. Accordingly, your use of the Freesound.org Sound Effects is subject to the terms, conditions, agreements and any other requirements promulgated by www.freesound.org. Read more on freesound.org. As more fully set forth below in Section 12, you further hereby indemnify PSE in full from any claim by www.freesound.org or any other third party related to your use of any sound effects or other materials obtained from www.freesound.org. Further, no warranties or representations are given hereunder for the Freesound.org Sound Effects and you agree and acknowledge that PSE has no liability for the Freesound.org Sound Effects or your use thereof.

C. You may install and use the PSE SOFTWARE using your login and use credentials, and you agree that you will not share your login or use credentials with anyone else, and that if you do so you will be in material breach of this agreement and will no longer be permitted to use any Sound Effects or Music Tracks in any Production. You further and hereby agree to and authorized all security protection measures and related security software that PSE uses in connection with the PSE SOFTWARE. For network or multi-user access information, please contact <u>licensing@prosoundeffects.com</u>.

D. You may use the PSE SOFTWARE to create your own original audio compositions or sound design for your film, video, game, music, audio and sound design projects, and you may broadcast and/or distribute your own original audio compositions that were created using PSE SOFTWARE.

E. You may not use the PSE SOFTWARE to create sounds or other content for any kind of synthesizer, virtual instrument, sound effect pack, sound effects library, sample library, sample-based product, musical instrument, music or sound effects created by AI, computers or machines, or any competitive product without a written fully executed agreement from PSE (contact

<u>licensing@prosoundeffects.com</u> for all inquiries). You may not license, sell, or distribute (commercially or otherwise) either the PSE SOFTWARE or any portion or component parts of the PSE SOFTWARE on a standalone basis or repackage and sell, license, or distribute either the PSE SOFTWARE or any portion or component parts of the PSE SOFTWARE on a standalone basis.

F. You may use the PSE SOFTWARE to compose original audio compositions or soundtracks; or for a Production Music Library, also known as stock music or library music (original compositions or soundtracks created entirely by you using the PSE SOFTWARE that you, in turn, license as an original composition or soundtrack to third parties for use in film, television, radio, or other media), provided the completed composition or soundtrack is created solely by you.

G. Any and all uses of PSE Sound Effects and PSE Sound Effects Libraries are governed by the <u>PSE IEULA</u>.

H. Any and all uses of the Music Tracks are governed by the Music EULA.

I. You may not, and you agree not to, or to enable others to, copy (except as and only to the extent permitted in this License), decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, or create derivative works of the PSE SOFTWARE or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law).

- 3. Third Party Software and Service Terms and Conditions. Portions of the PSE SOFTWARE may utilize or include third party software and other copyrighted material. Acknowledgements, licensing terms and disclaimers for such material are contained in the "online" electronic documentation for the PSE SOFTWARE, and your use of such material is governed by their respective terms.
- 4. **Transfer Restriction**: A right to use the PSE SOFTWARE is granted to the original end-user of the product (Licensee) and is NOT transferable. You may not rent, lease, lend, sell, redistribute or sublicense the PSE SOFTWARE

Updates and Upgrades: If an PSE SOFTWARE update completely replaces (full install) a previously licensed version of the PSE SOFTWARE, you may not use both versions of the PSE SOFTWARE at the same time nor may you transfer them separately.

Not for Resale (NFR) Copies: Notwithstanding other sections of this License, PSE SOFTWARE labeled or otherwise provided to you for development, as an

NFR, or on a promotional basis may only be used for development, demonstration, testing and evaluation purposes and may NOT be used for any revenue generating activity that includes the use of the PSE SOFTWARE without the written consent of PSE. If you are not sure which license type you own (LICENSE / NFR), please check your identified security account or contact <u>licensing@prosoundeffects.com</u>.

Educational Copies: You must be an Eligible Educational End User to use the PSE SOFTWARE. "Eligible Educational End Users" means students, faculty, staff and administration attending and/or working at an educational institutional facility (i.e., college campus, public or private K-12 schools). To become an Eligible Educational End User, please contact <u>licensing@prosoundeffects.com</u>.

- 5. **Consent to Use of Data**. You agree that PSE and its subsidiaries may collect and use technical and related information, including but not limited to technical information about your computer, system and application software, and peripherals, that is gathered periodically to facilitate the provision of software updates, security, product support and other services to you (if any) related to the PSE SOFTWARE, and to verify compliance with the terms of this License. PSE may use this information, as long as it is in a form that does not personally identify you, to improve our products or to provide services or technologies to you.
- 6. Termination. This License is effective until terminated.

A. This License will automatically terminate upon the conclusion of any applicable subscription whether under SoundQ[®] Free or SoundQ[®], the terms of any SoundQ[®] Free or SoundQ[®] Offer including as modified or under the terms of any other Offer. Upon the termination of this License, you shall cease all use of the PSE SOFTWARE and delete and destroy all copies, full or partial, of the PSE SOFTWARE. Sound Effects and Music Tracks incorporated into a Production prior to the termination of the License may still be used within that Production, provided they are used solely within that Production and only as previously used and incorporated into that Production.

B. This License can be terminated by PSE at any time and for any reason on thirty (30) days' notice.

C. This License may be terminated by PSE without notice in the event of your breach of this Agreement. Your rights under this License will terminate automatically without notice from PSE if you fail to comply with any term(s) of this License.

- 7. Limited Warranty on Media. PSE warrants the media on which the PSE SOFTWARE is recorded and delivered by PSE to be free from defects in materials and workmanship under normal use for a period of ninety (90) days from the date of the original purchase. Your exclusive remedy under this Section shall be, at PSE's option, a refund of the purchase price of the product containing the PSE SOFTWARE or replacement of the PSE SOFTWARE that is returned to PSE or an PSE authorized representative with a copy of the original receipt. THIS LIMITED WARRANTY AND ANY IMPLIED WARRANTIES ON THE MEDIA INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, OF SATISFACTORY OUALITY, AND OF FITNESS FOR A PARTICULAR PURPOSE. ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF ORIGINAL PURCHASE. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. THE LIMITED WARRANTY SET FORTH HEREIN IS THE ONLY WARRANTY MADE TO YOU AND IS PROVIDED IN LIEU OF ANY OTHER WARRANTIES (IF ANY) CREATED BY ANY DOCUMENTATION OR PACKAGING. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY BY JURISDICTION.
- 8. Disclaimer of Warranties. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, USE OF THE PSE SOFTWARE IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. EXCEPT FOR THE LIMITED WARRANTY ON MEDIA SET FORTH ABOVE AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PSE SOFTWARE IS PROVIDED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND PSE AND PSE'S LICENSORS (COLLECTIVELY REFERRED TO AS "PSE" FOR THE PURPOSES OF SECTIONS 7 AND 8) HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE PSE SOFTWARE, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. PSE DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE PSE SOFTWARE, THAT THE FUNCTIONS CONTAINED IN THE PSE SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE PSE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE PSE SOFTWARE WILL BE CORRECTED. YOU FURTHER ACKNOWLEDGE THAT THE PSE SOFTWARE IS NOT INTENDED OR SUITABLE FOR USE IN SITUATIONS OR

ENVIRONMENTS WHERE THE FAILURE OF, OR ERRORS OR INACCURACIES IN THE CONTENT, DATA OR INFORMATION PROVIDED BY THE PSE SOFTWARE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE, INCLUDING WITHOUT LIMITATION THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, LIFE SUPPORT OR WEAPONS SYSTEMS. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY PSE OR AN PSE AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SHOULD THE PSE SOFTWARE PROVE DEFECTIVE, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU.

- 9. INDEMNIFICATION: You shall indemnify and hold harmless PSE, and its parent, subsidiaries and commonly owned or controlled affiliates and their respective members, officers, directors and employees from the cost of defense (including reasonable attorneys' fees) and all damages, liabilities, settlement payments and expenses (including reasonable attorneys' fees) arising out of or as a result of claims by third parties relating to Your use of any Sound Effects outside the scope of this License, or your breach of the License, or your breach or failure to observe the terms of any license, agreement or other terms or understandings with <u>www.freesound.org</u>. Procedure: At your option and at your sole cost and expense (including all attorneys' fees), you may assume the handling, settlement or defense of any claim or litigation, in which event PSE shall cooperate in the defense of any such claim or litigation as may reasonably be requested by you. PSE shall have the right to participate in such litigation, at its expense, through counsel selected by PSE, provided that such counsel shall not be "counsel of record."
- 10. Limitation of Liability. TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL PSE BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE PSE SOFTWARE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF PSE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY

NOT APPLY TO YOU. IN NO EVENT SHALL PSE'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) EXCEED THE AMOUNT OF NINETY NINE DOLLARS (\$99.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

- 11. **Export Control**. You may not use or otherwise export or reexport the PSE SOFTWARE except as authorized by United States law and the laws of the jurisdiction in which the PSE SOFTWARE was obtained. In particular, but without limitation, the PSE SOFTWARE may not be exported or reexported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the PSE SOFTWARE, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use the PSE SOFTWARE or any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons.
- 12. Government End Users. The PSE SOFTWARE and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States.
- 13. **Controlling Law and Severability**. This License will be governed by and construed in accordance with the laws of the State of New York, as applied to agreements entered into and to be performed entirely within New York between New York residents. This License shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. If for any reason a court of competent jurisdiction finds any provision, or portion thereof, to be unenforceable, the remainder of this License shall continue in full force and effect.
- 14. <u>Non-Judicial Dispute Resolution</u>. Before resorting to litigation, each Party agrees to use commercially reasonable, good faith efforts to resolve disputes without litigation as hereinafter provided. In the event of a dispute which the Parties cannot resolve directly between themselves, the Parties agree to institute confidential mediation located in

New York City with a mediator selected from Judicial Arbitraiton and Mediation Services ("JAMS") roster of mediators to attempt to resolve the dispute through private confidential mediation. If the dispute remains unresolved after thirty (30) days after the mediation is conducted, the Parties hereby agree that their exclusive dispute resolution mechanism will be private confidential arbitration, located in New York City, using a JAMS mediator and all Parties further agree that they waive any right to bring an action in any court of law, and waive any right to any court or jury trials in any court of law and further agree that JAMS arbitration is the sole and exclusive forum, venue and mechanism for dispute resolution of any disputes related to this Agreement.

15. **Complete Agreement; Governing Language**. This License constitutes the entire agreement between the parties with respect to the use of the PSE SOFTWARE licensed hereunder and supersedes all prior or contemporaneous understandings regarding such subject matter. No amendment to or modification of this License will be binding unless in writing and signed by PSE. Any translation of this License is done for local requirements and in the event of a dispute between the English and any non-English versions, the English version of this License shall govern.