

Empty Sea Audio Media License
End User Agreement

PLEASE READ THIS EMPTY SEA AUDIO MEDIA LICENSE END USER AGREEMENT ("***Agreement***") CAREFULLY. IT EXPLAINS THE TERMS AND CONDITIONS THAT GOVERN YOUR POSSESSION AND USE OF THE EMPTY SEA AUDIO SOUND RECORDINGS ("the Recordings"). THIS IS A LEGALLY BINDING AGREEMENT BETWEEN YOU AND MARK CAMPERELL ("Licensor").

This Click-Wrap End-User License Agreement applies if the Licensee purchased or otherwise acquired the Recordings from Licensor but has not executed a written media license agreement with Licensor. Please read this license carefully before clicking on the "I ACCEPT" button and downloading the Recordings ("the Recordings") or ordering a copy by CD-ROM. By clicking on the "I ACCEPT" button, you (LICENSEE) acknowledge that you have read, understand and agree to be bound by the terms of this agreement. If you do not agree to these terms and conditions, you must click the "CANCEL" button to discontinue the download or ordering process. If you are ordering the Recordings by CD-ROM, the following terms and conditions shall apply notwithstanding any different terms accompanying the CD-ROM.

Your download, receipt and use of the Recordings are subject to the terms and conditions of this Agreement. Empty Sea Audio may, in its discretion, change the terms and conditions of this Agreement upon notice to you, which we may effect by posting this notice on www.empty-sea.com. If you are dissatisfied with any changes to this Agreement, you may terminate your use of the Recordings as further described in Section C (Termination), below.

This Agreement is agreed by and between Empty Sea Audio and Licensee.

In consideration of the mutual promises and undertakings set forth below, the parties agree as follows:

- A. **Scope of this Agreement.** This agreement applies to the Recordings downloaded or received from empty-sea.com and your licensed use thereof. This license is granted for the term of YOUR lifetime on a royalty free basis.
- B. **Use and Restrictions**
1. **RECORDINGS ARE LICENSED, NOT SOLD.** The Recordings, and use thereof, are licensed to you on a non-exclusive basis under the terms and conditions of this Agreement. The Recordings ARE NOT sold. In no event will you be deemed to have purchased the Recordings or to have any ownership or interest in or to the Recordings.
 2. **MECHANICAL RIGHTS.** Licensee is granted the right to re-record, duplicate and release the Recordings as part of your product or production in whatever medium you choose (i.e. video, film, CD-ROM, BLU-RAY™, DVD & TV productions, interactive programs & computer games, radio presentations & commercials, television programs & commercials, live performances, speech & audio book products, web pages & multimedia presentations, PowerPoint & Flash productions, AV & computer generated displays, podcasts, digital formats) with no additional clearances or paperwork required. All such applications hereinafter referred to as "Product/Production."
 3. **SYNCHRONIZATION RIGHTS.** Licensee is granted the right to use the Recordings in a soundtrack "sync'd" with visual images or sounds as part of

your Product/Production, with no additional clearances or paperwork required.

- 4. PUBLIC PERFORMING RIGHTS.** Licensee is granted the right to use the Recording as part of the public viewing or broadcast of your Product/Production, including but not limited to videos, DVD, Blu-Ray, web sites, webcasts, webisodes, podcasts, multimedia presentations, video games, films, television and radio, with no additional clearances or paperwork required.
- 5. LICENSEE MAY:**
 - a. Use the Recordings as part of your Product/Production over any public or private medium that complies with FCC guidelines.**
 - b. Transfer the Recordings to any medium necessary (video, film, reel to reel, digital, etc.) to complete your Product/Production.**
 - c. For audio-only Projects/Productions you must combine the Recordings with other audio elements such that your Product/Production is “substantially different” from the Recording itself. If you have any questions about your particular usage please contact Empty Sea Audio or Mark Camperell.**
 - d. Use the Recordings in any visual productions (film, video, TV, video game, webisode, etc) in their entire length.**
 - e. Use the Recordings as individual sound assets in video game, online game, or any other multimedia platform, across any platform.**
 - f. Licensee may ONLY duplicate, distribute, sell or license Products/Productions that incorporate the Recordings in a manner licensed (allowed) under this Agreement.**
- 6. NO CLAIM OF OWNERSHIP.** You may NOT claim ownership or authorship of the Recordings represented under this Agreement.
- 7. PERSONAL USE ONLY.** You may not rent, lease, lend or allow the use of the Recordings to another. The Recordings are for your personal use only and may not be used by another.
- 8. NO TRANSFERING OR SELLING THIS LICENSE TO OTHERS.** You may NOT assign, transfer, share, rent, sell or sub-lease this license with any other person or party.

9. **NO ACCESS BY ANOTHER.** You may not provide, or allow, remote or direct access to these Recordings to another.
10. **NO RESALE OR TRANSFER OF RECORDINGS TO OTHERS.** You may NOT sell, transfer, or share these Recordings to another. THIS PROVISION DOES NOT PREVENT THE SALE OR TRANSFER OF THESE RECORDINGS AS PART OF LICENSEE'S PRODUCT/PRODUCTION.
11. **NO TRANSFER OF RECORDINGS TO ANOTHER.** You may NOT transfer, re-record, copy or duplicate any of the Recordings, in whole or in part, for any purpose not expressly authorized under the terms of this Agreement. Licensee may not transfer the Recordings in any way, including but not limited to electronically via peer to peer file sharing program, FTP site, service bureau operations, DRS, computer network or in any other way not EXPRESSLY allowed by this Agreement.
12. **NO ILLEGAL OR FRAUDULENT USE.** You agree that you will not use, or allow others to use, the Recordings to violate any applicable federal, state, local or international laws. You agree that you will not use the Recordings to commit a crime or fraud, or to plan, encourage or help others to commit a crime or fraud.
13. **NO INTELLECTUAL PROPERTY RIGHT INFRINGEMENT.** You agree that you will not use the Recordings to create a Product/Production that infringes the intellectual property rights including without limitation patents, copyrights, trademarks or other proprietary rights of any other person or entity.
14. **OWNERSHIP.** Licensor retains all rights, title and ownership in, and to, all of the Recordings and all intellectual property rights embodied therein (including without limitation, patents, copyrights, trademarks and trade secrets), regardless of the form of media on which the original and other copies may exist. ALL RIGHTS NOT SPECIFICALLY GRANTED HEREIN TO YOU ARE RESERVED BY LICENSOR.
15. **NO WARRANTIES; LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW NEITHER MARK CAMPERELL, EMPTY SEA AUDIO AND ITS AFFILIATES DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES AS TO THE SUITABILITY OF THE RECORDINGS FOR YOUR PURPOSES, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL MARK CAMPERELL, EMPTY SEA AUDIO, OR ITS AFFILIATES BE LIABLE FOR ANY DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS OR AN INCIDENTAL, EXEMPLARY, SPECIAL, OR CONSEQUENTIAL DAMAGES,

REGARDLESS OF WHETHER OR NOT MARK CAMPERELL, EMPTY SEA AUDIO, OR ITS AFFILIATES ADVISED OF THE POSSIBILITY OF SUCH DAMAGES REGARDLESS OF WHETHER THE CLAIM IS BASED ON PERFORMANCE OR NON-PERFORMANCE OF ANY RECORDING, BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR OTHER TORT, STRICT LIABILITY, OR OTHER THEORY OF LIABILITY. THE RECORDINGS ARE PROVIDED TO YOU "AS IS", WHERE IS, AND WITH ALL FAULTS AND WITHOUT ANY WARRANTIES OF ANY KIND.

C. Termination of Agreement and Use of Recordings

1. **BY YOU.** You may terminate this Agreement and your use of the Recordings at any time for any reason or no reason. You can do so by contacting Licensor at the email address specified on www.empty-sea.com or by letter 5455 Wilshire Blvd. Suite 1406, Los Angeles, CA 90036.
2. **BY LICENSOR.** You understand and agree that Licensor may suspend and/or terminate this Agreement at any time and without notice if you have breached, violated or otherwise failed to comply with any provision of this Agreement.
3. **EFFECT OF TERMINATION.** Upon termination of this Agreement you will immediately cease using the Recordings in any manner, including but not limited to, those granted by this agreement.

D. Indemnification. YOU WILL INDEMNIFY AND HOLD LICENSOR, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, AND DISTRIBUTORS HARMLESS FROM ALL CLAIMS, ACTIONS, PROCEEDINGS, DAMAGES, LOSSES, LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' AND EXPERTS' FEES) RELATING TO OR ARISING FROM (A) ANY BREACH OF THIS AGREEMENT BY YOU, (B) ANY INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT (INCLUDING, WITHOUT LIMITATION, COPYRIGHT) OR PERSONAL RIGHT (INCLUDING, WITHOUT LIMITATION, RIGHT TO PRIVACY) CAUSED BY YOU, (C) ANY VIOLATION BY YOU OF APPLICABLE LAW OR REGULATION, OR (D) ANY MISUSE OF THE RECORDINGS BY YOU. FOR THE PURPOSES OF THIS SECTION D, "YOU" MEANS YOU OR ANY PARTY YOU PERMIT TO USE OR ACCESS THE RECORDINGS.

E. Choice of Law. This Agreement shall be governed by and interpreted in accordance with the internal laws of the State of California, USA, and, where such laws are preempted by the laws of the United States, by the internal laws of the United States, in each case without regard to (a) conflicts of laws principles and (b) the applicability, if any, of the United Nations Convention on Contracts for the International Sale of Goods. Exclusive jurisdiction and venue for resolution of any dispute arising under this Agreement shall be in the courts located in Los Angeles, California. You acknowledge that damages will be an inadequate remedy if you

violate the terms of this Agreement, or otherwise fail to comply with the provisions hereof. Accordingly, Licensor shall have the right, in addition to any other rights it may have, to obtain in any court of competent jurisdiction, temporary, preliminary and permanent injunctive relief to restrain any breach, threatened breach, or otherwise to specifically enforce any of the obligations in this Agreement. No waiver of or with respect to any provision of this Agreement, nor consent by Licensor to the breach of or departure from any provision of this Agreement, shall in any event be binding on or effective against Licensor unless it be in writing and signed by such party, and then such waiver shall be effective only in the specific instance and for the purpose for which given.

- F. **Severability.** If any provision of this Agreement is held to be invalid, such invalidity shall not render invalid the remainder of this Agreement or the remainder of which such invalid provision is a part. If any provision of this Agreement is so broad as to be held unenforceable, such provision shall be interpreted as closely to its original intent as is enforceable.
- G. **Integration.** This Agreement (as may be updated by Licensor from time to time, as described above), together with the then-current version of the Privacy Policy, and any express additional terms and conditions posted by Licensor on empty-sea.com constitute and embody the entire agreement and understanding between you and Licensor with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous written, electronic or oral communications, representations, or agreements by Licensor. This Agreement may not be modified or amended by Licensee except by a written instrument executed by both parties.