

# End User License Agreement

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1.2.1.2 if the Licence is a multi-user or network licence, by the number of concurrent users agreed in writing between you and us;

1.2.2 provided you comply with the provisions in condition 2, make up to two (2) copies of the Software for back-up purposes only;

1.2.3 receive and use any free supplementary software code or update of the Software incorporating “patches” and corrections of errors as may be provided by us at our sole discretion from time to time; and

1.2.4 use any Documents in support of the use permitted under condition 1.2 and make up to two (2) copies of the Documents as are reasonably necessary for their lawful use.

### 2. Restrictions

2.1 Except as expressly set out in this Licence or as permitted by any local law, you undertake:

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2.1.4.1 is used only for the purpose of achieving inter-operability of the Software with another software program; and

2.1.4.2 is not unnecessarily disclosed or communicated without our prior written consent to any third party; and

2.1.4.3 is not used to create any software which is substantially similar to the Software;

2.1.5 to keep all copies of the Software secure and to maintain accurate and up-to date records of the number and locations of all copies of the Software;

2.1.6 where you are acting as a business, to supervise and control use of the Software and ensure that the Software is used by your employees and representatives in accordance with the terms of this Licence;

2.1.7 to include our copyright notice on all entire and partial copies you make of the Software on any medium; and

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2.1.9 not to use the Software via any communications network or by means of remote access, save where you are acting as a business to and providing your employees and representatives with access to the Software, provided always that you ensure that they comply with the foregoing terms of this condition 2.1.

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### 4. Limited warranty

4.1 We warrant that:

4.1.1 the Software will, when properly used and on an operating system for which it was designed, perform substantially in accordance with the functions described in the Documents; and

4.1.2 that the Documents correctly describe the operation of the Software in all material respects, for a period of 90 days from the date of installation of the Software (“Warranty Period”).

4.2 If, within the Warranty Period, you notify us in writing of any defect or fault in the Software as a result of which it fails to perform substantially in accordance with the Documents, we will, at our sole option, either repair or replace the Software, provided that you make available all the information that may be necessary to help us to remedy the defect or fault, including sufficient information to enable us to recreate the defect or fault.

4.3 The warranties set out in condition 4.1 do not apply:

4.3.1 if the defect or fault in the Software results from you having amended the Software; and

4.3.2 if the defect or fault in the Software results from you having used the Software in contravention of the terms of this Licence.

4.4 If you are a consumer, the warranties set out in condition 4.1 are in addition to your legal rights in relation to Software that is faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office.

## 5. Limitation of liability if you are a business user

5.1 You acknowledge that the Software has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Software as described in the Documents meet your requirements.

5.2 If you are a business customer, we only supply the Software and Documents for internal use by your business, and you agree not to use the Software or Documents for any resale purposes.

5.3 We shall not under any circumstances whatever be liable to you, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Licence for:

5.3.1 loss of profits, sales, business, or revenue;

5.3.2 business interruption;

5.3.3 loss of anticipated savings;

5.3.4 loss or corruption of data or information;

5.3.5 loss of business opportunity, goodwill or reputation; or

5.3.6 any indirect or consequential loss or damage.

5.4 Other than the losses set out in condition 5.3 (for which we are not liable), our maximum aggregate liability under or in connection with this Licence whether in contract, delict (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to one hundred and twenty-five percent (125%) of the licence fee payable by you for the Software. This maximum cap does not apply to condition 5.5.

5.5 Nothing in this Licence shall limit or exclude our liability for

5.5.1 death or personal injury resulting from our negligence;

5.5.2 fraud or fraudulent misrepresentation; or

5.5.3 any other liability that cannot be excluded or limited by Scottish law.

5.6 This Licence sets out the full extent of our obligations and liabilities in respect of the supply of the Software and Documents. Except as expressly stated in this Licence, there are no conditions, warranties, representations or other terms, express or implied, that are binding on us. Any condition, warranty, representation or other term concerning the supply of the Software and Documents which might otherwise be implied into, or incorporated in, this Licence whether by statute, common law or otherwise, is excluded to the fullest extent permitted by law.

## 6. Limitation of liability if you are a consumer user

6.1 You acknowledge that the Software has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Software as described in the Documents meet your requirements.

6.2 If you are a consumer, we only supply the Software and Documents for domestic and private use. You agree not to use the Software and Documents for any commercial, business or re-sale purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

6.3 Our maximum aggregate liability under or in connection with this Licence whether in contract, delict (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to one hundred and twenty-five percent (125%) of the licence fee payable by you for the Software. This does not apply to the types of loss set out in condition 6.4.

6.4 Nothing in this Licence shall limit or exclude our liability for:

6.4.1 death or personal injury resulting from our negligence;

6.4.2 fraud or fraudulent misrepresentation; or

6.4.3 any other liability that cannot be excluded or limited by Scottish law.

## 7. Termination

7.1 We may terminate this Licence immediately by written notice to you if you commit a material or persistent breach of this Licence which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so.

7.2 Upon termination for any reason:

7.2.1 all rights granted to you under this Licence shall cease;

7.2.2 you must immediately cease all activities authorised by this Licence; and

7.2.3 you must immediately delete or remove the Software from all computer equipment in your possession, and immediately destroy or return to us (at our option) all copies of the Software and Documents then in your possession, custody or control and, in the case of destruction, certify to us that you have done so.

## 8. Communications between us

8.1 If you are a consumer, if you wish to contact us in writing, or if any condition in this Licence requires you to give us notice in writing, you can send this to us by e-mail to [info@krotosaudio.com](mailto:info@krotosaudio.com). We will confirm receipt of this by contacting you in writing, normally by e-mail.

8.2 If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your order for the Software.

8.3 If you are a business customer, please note that any notice given by you to us, or by us to you, will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

## 9. Events outside our control

9.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this Licence that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in condition 9.2.

9.2 An “Event Outside Our Control” means any act or event beyond our reasonable control, including without limitation failure of public or private telecommunications networks.

9.3 If an Event Outside Our Control takes place that affects the performance of our obligations under this Licence:

9.3.1 our obligations under this Licence will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and

9.3.2 we will use our reasonable endeavours to find a solution by which our obligations under this Licence may be performed despite the Event Outside Our Control.

## 10. Other important terms

10.1 We may transfer our rights and obligations under this Licence to another organisation, but this will not affect your rights or our obligations under this Licence.

10.2 You may only transfer your rights or your obligations under this Licence to another person if we agree in writing in advance of any such transfer.

10.3 If you are a business customer, this Licence and any document expressly referred to in it constitutes the entire agreement between you and us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out in this Licence or any document expressly referred to in it.

10.4 If we fail to insist that you perform any of your obligations under this Licence, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

10.5 Each of the conditions of this Licence operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.

10.6 If you are a consumer, please note that this Licence, its subject matter and its formation, are governed by Scottish law. You and we both agree that the courts of Scotland will have non-exclusive jurisdiction. However, if you are a resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are resident of England, you may also bring proceedings in England.

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**CRYPTON**

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