

Artbeats Software, Inc.

Single User License Agreement

NOTICE

PLEASE READ THIS LICENSE AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE BREAKING THE DISC ON MEDIA CONTAINING, DOWNLOADING, INSTALLING OR USING ANY ARTBEATS DIGITAL MEDIA FILES (AS DEFINED BELOW). BY BREAKING THE SEAL ON THE DISC OR DOWNLOADING, INSTALLING OR USING (IN ANY MANNER) ANY DIGITAL MEDIA FILES, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, THEN DO NOT BREAK THE DISC SEAL, DOWNLOAD, INSTALL OR OTHERWISE USE THE DIGITAL MEDIA FILES. IF YOU DO NOT AGREE TO THESE TERMS AND YOU PURCHASED THE COPIES OF DIGITAL MEDIA FILES FROM ARTBEATS OR AN ARTBEATS-AUTHORIZED DISTRIBUTOR, YOU MAY RETURN THE FILES UNUSED, WITHIN THIRTY DAYS AFTER PURCHASE, FOR A FULL REFUND OF YOUR PAYMENT. IF YOU ARE ENTERING THIS AGREEMENT ON BEHALF OF YOUR EMPLOYER, THE LICENSE GRANTED AND RESTRICTIONS AND LIMITATIONS RECITED HEREIN APPLY TO YOUR EMPLOYER AS WELL AS TO YOU AS A REPRESENTATIVE OF YOUR EMPLOYER. SHOULD YOU CEASE WORKING FOR YOUR EMPLOYER, YOUR EMPLOYER MAY CONTINUE TO OPERATE UNDER THIS AGREEMENT.

Definitions

“Digital Media Files” are any images, animations, films, videos or other audio/visual representations recorded in any format that are owned or controlled by Artbeats.

“Royalty Free” indicates that aside from the purchase price, no further fees or compensation are due regardless of how many times the Digital Media files are used or how many projects they are used for, provided that they may be used by only a single user in accordance with the terms and conditions of this Agreement.

“Restrictions” indicate some of the specific uses for the Digital Media Files that are NOT allowed. Regardless of whether a particular use is listed as a Restriction, any use of Digital Media Files that is not expressly permitted by this Agreement is not allowed. Please note that special licensing to obtain additional rights is available by contacting Artbeats.

Grant Of License

You are granted a limited, nonexclusive, personal and nontransferable Royalty Free license to use and modify the Digital Media Files, subject to the terms and conditions below.

Single User License

The Digital Media Files may only be modified or used on one computer at any one time. You may not rent, lease, lend, sell or sublicense the Digital Media Files to another person, company or other entity. Anything you produce using the Digital Media Files must be for your own use, or for the use of your employer, client or customer, who must be the end-user of your work. This is not a concurrent use license. Please contact ARTBEATS for a multi-seat site license if you need to use the Digital Media Files over a network for multiple users.

General Use Grant

The Digital Media Files may be incorporated into a derivative work such as a film feature, video, broadcast, multimedia work, advertisement, live performance, internet website, presentation or print project.

Restrictions on Products for Resale

The Digital Media Files and any derivative work thereof may not, in whole or in part, be used, sold, sublicensed, reproduced, distributed, displayed, incorporated into or otherwise made available as templates, standalone backgrounds, stock elements, effects imagery elements or downloadable files. The Digital Media Files and any derivative work thereof may not, in whole or in part, be included in any other clip media/stock product, library, collection, or set of clips for distribution or resale. These Restrictions apply even if the Digital Media Files have been significantly altered. If Digital Media Files are used in a project that will be reproduced, sold or distributed (DVDs, home videos, music videos, training videos, etc.) the Digital Media Files may not comprise more than 25% of the length of the finished work, even if the Digital Media Files are layered with other graphics, nor may the primary value of the product come from the Digital Media Files. The Digital Media Files are strictly prohibited from being used as screen savers. Additionally, you agree to notify Artbeats in writing and take all steps possible to prevent any third party from duplicating or distributing any of the Digital Media Files included in the finished work. Please note that special licensing to obtain additional rights is available by contacting Artbeats.

No Defamatory Use

The Digital Media Files may not under any circumstances be used in a way that would defame, malign, slander, asperse, libel, or vilify the persons, property, countries, races, customs, cultures, religions, governments or military visible on the Digital Media Files.

Other Restrictions

The Digital Media Files may not under any circumstances be used in or in conjunction with, or as part of pornographic, obscene, fraudulent, libelous, infringing or illegal material.

Credit

When incorporating the Digital Media Files in film features, broadcast productions, or video products, Artbeats kindly requests a credit line that reads "Artbeats Digital Film Library".

Marketing and Promotion

Unless Artbeats receives written notification from you to the contrary, you hereby grant Artbeats the right to display any derivative works within your possession or control that incorporate one or more of the Digital Media Files at tradeshows, in collateral, and/or via electronic distribution for Artbeats marketing, educational, and promotional purposes as examples of customer usage. At your request, Artbeats will identify you as the author of such derivative work.

Ownership.

All right, title and interest in the Digital Media Files, including any updates or revisions thereto, is and shall remain the exclusive property of Artbeats, its licensors and their successors and assigns. Other than the limited license explicitly set forth in this Agreement, no interest in, or rights or licenses to the Digital Media Files are granted to you and no interest in, or rights or licenses to the Digital Media Files shall inure in or accrue to you, whether by implication, estoppel or otherwise. All rights of any kind in the Digital Media Files which are not expressly granted in this Agreement are entirely and exclusively reserved to and by Artbeats, its licensors and their successors and assigns.

Limitation on Liability

Artbeats will not be liable to you for any special, indirect, consequential, punitive, or incidental damages (including, without limitation, damages for loss of profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use the Digital Media Files. ARTBEAT'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY SHALL BE LIMITED TO THE AMOUNT YOU PAID FOR THE PARTICULAR DIGITAL MEDIA FILES. Your rights may vary from state to state.

Indemnity

You agree to indemnify and hold Artbeats, its licensors, and their officers, directors, agents and employees, harmless from and against any claims, demands, losses, damages, liabilities or expenses of any kind arising from your use of the Digital Media Files in any form, any breach of the terms and conditions of this Agreement, or your negligent act, omission or willful misconduct.

Term and Termination

This Agreement shall be effective as of the earliest of the date you first break the seal on a disc containing, or download, install or use, the Digital Media Files and shall continue in effect until terminated. Unless expressly waived by Artbeats in writing, all license rights granted pursuant to this Agreement shall automatically terminate upon your breach of this Agreement. Your rights under this Agreement shall immediately terminate upon your cessation of business, insolvency, assignment of assets for the benefit of creditors, bankruptcy or appointment of a trustee for all or a portion of your assets. Upon termination of this Agreement for any reason, you shall immediately cease all use of the Digital Media Files in any form and immediately return or destroy all copies of the Digital Media Files in your possession or control. Any provisions in this Agreement that by their sense and context are intended to survive the termination of this Agreement shall survive such termination. Any cause of action that Artbeats may have against you for breach of this Agreement prior to the date of termination shall survive such termination.

Warranty

Artbeats warrants the Digital Media Files to be free from defects in material and workmanship for 90 days from delivery. Your sole and exclusive remedy for a breach of this warranty is the replacement of the Digital Media Files, applicable media or a refund of the purchase price, at the option of Artbeats. ARTBEATS MAKES NO OTHER WARRANTIES OR REPRESENTATIONS WITH REGARD TO THE DIGITAL MEDIA FILES AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT ARE HEREBY DISCLAIMED.

Severability

If any term or provision of this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby. Each term and provision of the Agreement shall be valid and enforced to the fullest extent permitted by law.

Applicable Law; Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, USA, without regard to Oregon conflict of laws principles. The parties agree that any claim asserted in any legal proceeding by one party against the other shall be commenced and maintained exclusively in a state or federal court located within Multnomah County, Oregon, having subject matter jurisdiction with respect to the dispute between the parties (except that a judgment by such courts may be enforced by any court). Both parties hereby submit to the jurisdiction of such courts over each of them personally in connection with such litigation, and waive any objection to venue in such courts and any claim that such forum is an inconvenient forum.

Injunctive and Other Equitable Relief.

You agree that the remedy at law for any breach or threatened breach of this Agreement by you would, by its nature, be inadequate, and that in such case Artbeats will be entitled, in addition to damages, to a restraining order, temporary and permanent injunctive relief, specific performance and other appropriate equitable relief, without showing or providing that any monetary damage has been sustained.

Assignment.

You may not assign or otherwise transfer this Agreement or any rights hereunder without the prior written consent of Artbeats. A transfer of controlling interest in any entity shall constitute an assignment.

Entire Agreement.

This is the entire agreement between the parties with regard to the subject matter hereof. It supersedes all prior or contemporaneous agreements, understandings, or representations with respect to the Digital Media Files. This Agreement may not be modified or amended except in a writing signed by both parties. Any preprinted terms on your purchase order shall be given no force or effect and no terms of a purchase order that conflict with this Agreement shall be binding on Artbeats.