

SoundsUp Terms of Use

Updated : March 6th, 2019

1. Acceptance of Terms

SoundsUp (“Company,” “us” or “we”), provides the SoundsUp website (“Website” or “Site”) (<http://www.soundsup.io>), as well as copyrighted materials, such as compositions and sound recordings (collectively referred to as “Offerings”), subject to your compliance with the following Terms and Conditions of Use (“Terms”), as well as any other written agreement(s) between us and you.

We reserve the right to change these Terms from time to time with or without notice to you. You acknowledge and agree that it is your responsibility to periodically review this Site and these Terms. Your continued use of this Site and Offerings after such modifications will constitute acknowledgement and acceptance of the modified Terms.

As used in these Terms, references to our “Affiliates” include our owners, licensees, assigns, subsidiaries, affiliated companies, officers, directors, suppliers, partners, sponsors, advertisers, and includes (without limitation) all parties involved in creating, producing, and/or delivering this Site and/or contents and Offerings available on this Site.

BY USING THIS SITE AND OFFERINGS ON THIS SITE, YOU AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT WISH TO BE BOUND BY THE THESE TERMS, PLEASE EXIT THE SITE. YOUR SOLE REMEDY FOR DISSATISFACTION WITH THIS SITE, PRODUCTS, OR OFFERINGS AVAILABLE ON THIS SITE, OR THESE TERMS IS TO CEASE USING THE SITE AND/OR THOSE PARTICULAR PRODUCTS OR OFFERINGS.

2. Offerings

Offerings. Company provides a number of Offerings for users on its Site, including sound recordings and compositions.

No Guarantee. You understand and acknowledge that we cannot promise or guarantee specific results from using the Site or Offerings available on this site.

Temporary Interruptions. You understand and agree that temporary interruptions of the Site may occur as normal events that are out of our control. You also understand and agree that we have no control over the third-party networks or service(s) that we may use to provide you with Offerings. You agree that the Offerings available on this Site are provided “AS IS” and that we assume no responsibility for the timeliness, deletion, mis-delivery or failure to store any user communications or personalization settings.

3. Site Conduct, Posting Policies & Third Party Websites

User-Created Content Guidelines: Your use of the Site is subject to all applicable laws and regulations, and you are solely responsible for any comments or posts you leave on the Site. By posting information on the Site, or by otherwise using any communications service, message board, newsgroup, or other interactive service available on the Site, you agree that you will not post comments, messages, links, code or other information that:

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- i. is unlawful, threatening, abusive, harassing, defamatory, deceptive, fraudulent, tortious, invasive of another's privacy, or includes graphic descriptions of sexual or violent content;
- ii. victimizes, harasses, degrades, or intimidates an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability;
- iii. infringes on any patent, trademark, trade secret, copyright, right of publicity, or other proprietary right of any party;
- iv. consists of unsolicited advertising, junk or bulk email (also known as "spam"), chain letters, any other form of unauthorized solicitation, or any form of lottery or gambling;
- v. contains any form of malicious code, files, or programs that are designed or intended to disrupt, damage, or limit the functionality of any software, hardware, or telecommunications equipment or otherwise causes damage, or allows you to obtain unauthorized access to any data or other information of any third party;
- vi. breaches the security of, compromises or otherwise allows access to secured, protected or inaccessible areas of this Site, or attempts to gain access to other network or server via your account on this Site;
- vii. impersonates any person or entity, including any of our employees or representatives.

No Endorsement. Company neither endorses nor assumes any liability for any material uploaded or submitted by users on any part of the Site, including the Offerings. Although we do not pre-screen, police or monitor comments posted on the Site, we and our agents reserve the right to remove any and all postings that we feel do not comply with these Terms and any other rules of user conduct for our Site, or are otherwise harmful, objectionable, or inaccurate. We are not responsible for any failure or delay in removing such postings.

Third-Party Sites and Information. This Site may redirect or link to other websites on the Internet, or may otherwise include references to information, products or services made available by unaffiliated third parties. While we make every effort to work with trusted, reputable providers, from time to time such sites may contain information, material or policies that some may find inappropriate or personally objectionable. You understand that we are not responsible for the accuracy, completeness, decency or legality of content hosted by third party websites, nor are we responsible for errors or omissions in any references made on those websites. The inclusion of such a link or reference is provided merely as a convenience and does not imply endorsement of, or association with the Site or party by us, or any warranty of any kind, either express or implied.

Promotions. From time to time, this Site may include advertisements offered by third parties. You may enter into correspondence with or participate in promotions of the advertisers showing their products on this site. Any such correspondence or promotions, including the delivery of and the payment for goods and services by those third parties, and any other terms, conditions, warranties or representations associated therewith, are solely between you and the advertiser. We assume no liability, obligation or responsibility for any part of any such correspondence or promotion.

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4. Company Intellectual Property

Content. For purposes of these Terms, “content” is defined as any information, communications, software, published works, photos, video, graphics, music, sounds, or other material that can be viewed by users on our Site and is owned by Company or its Affiliates, or persons or entities who uploaded the Offerings to the Site, as applicable.

Ownership of Content. By accepting these Terms, you agree that all content presented to you on this Site is protected by any and all intellectual property and/or other proprietary rights available within the United States, and is the sole property of Company or its Affiliates or persons or entities who uploaded the Offerings to the Site, as applicable.

All custom graphics, icons, logos and service names (including, without limitation, “SoundsUp” and the Company logo) are registered trademarks, trademarks or service marks of Company or its Affiliates. All other trademarks or service marks are property of their respective owners. Nothing in these Terms grants you any right to use any trademark, service mark, logo, and/or the name of Company or its Affiliates unless otherwise expressly stated.

Limitations on Use of Content. Except as permitted by the End-User Copyright License Agreement, you may not copy, reproduce, modify, republish, upload, post, transmit, or distribute any content from this Site in any form or by any means whatsoever without prior written permission from us or the owner of the content, as applicable. Any unauthorized use of Site content violates intellectual property interests and could result in criminal or civil penalties. Please note that any single user is limited to fifty (50) downloads per day from the Site.

Third-Party Infringement. You represent and warrant that (a) all materials that you transmit to us (including compositions and sound recordings) do not infringe any third-party rights and (b) you have the necessary licenses, rights, consents, and permissions to grant the rights set forth in paragraph 5 below and the End-User Copyright License Agreement. Neither we nor our Affiliates warrant or represent that your use of materials displayed on, or obtained through, this Site (including the Offerings) will not infringe the rights of third parties. Any such warranties and representations are provided solely by the owner of the Offerings pursuant to the End-User Copyright License Agreement.

5. Content You Create.

Your Intellectual Property Rights. Subject to our Privacy Policy, any communication or material that you transmit to this Site or to us (other than your sound recordings and compositions), whether by email or other means, for any reason, will be treated as non-confidential and non-proprietary user content (“User Content”). While you retain all rights to the User Content, you grant us (including our employees and Affiliates), a non-exclusive, perpetual, and worldwide right (but not the obligation) to copy, distribute, display, publish, translate, adapt, modify, and otherwise use the User Content for any purpose whatsoever, regardless of the form or medium in which it is used. With regard to your sound recordings and compositions you upload to the Site or otherwise provide to SoundsUp, you hereby grant us a non-exclusive, perpetual, and worldwide license and right (but not the obligation)

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to copy, distribute, display, publish, adapt, modify, sublicense, and otherwise use the same solely in connection with the Site and our third-party distribution and API partners, provided you may terminate said license by providing us written notice at contact@soundsup.io, which shall be effective on the last day of the upcoming calendar quarter after our receipt of such notice.

Notwithstanding the foregoing, your submission or download of sound recordings and/or compositions through the Site shall be subject to the end-user COPYRIGHT license agreement and by uploading or downloading sound recordings and/or compositions to or from the Site, you agree to be bound by the terms of the end-user COPYRIGHT license agreement and, if applicable to you, to allow third parties to download and use your content subject to the end-user COPYRIGHT license agreement. Your sole remedy for infringement of your intellectual property or the end-user COPYRIGHT license agreement shall be against the licensee of the end-user COPYRIGHT license agreement (THAT IS, THE USER OF THIS SITE). In the event of conflict between the end-user COPYRIGHT license agreement and these Terms, the former shall control.

Please note that the submission of User Content and your sound recordings and/or compositions to us does not necessarily mean the same will be posted to the Site. We will review all content submitted by you and determine in our sole discretion what, if any, User Content or sound recordings and/or compositions will be made available on the Site. We may remove content from the Site at any time, with or without notice to you. If you have submitted compositions or sounds recordings that have been posted to the Site and you elect to terminate the license granted herein or we elect to terminate your user account and/or remove your compositions or sounds recordings from the Site, you agree that the same may remain available for download on the Site and/or available to Users through the end of the upcoming calendar quarter.

You will be compensated for users' exploitation of your sound recordings and compositions (if any) downloaded from the Site or otherwise distributed by SoundsUp pursuant to our standard payment terms, which shall be provided upon approval of your sound recordings and compositions by us and which are subject to change. We will notify you of any such changes. Your continued use of this Site after such changes will constitute acknowledgement and acceptance of the modified payment terms.

We respect the intellectual property rights of others, and we ask you to do the same. In instances where we are notified of alleged infringing Company or User Content or Offerings through our Designated Agent, a decision may be made to remove access or disable access to such materials, in compliance with the safe harbor provisions of the Digital Millennium Copyright Act, 17 U.S.C. § 512(c). We may also make a good faith attempt to contact the person who submitted the affected material so that they may make a counter-notification.

If you believe that you or someone else's copyright has been infringed on this Site, you (or the owner or rights holder, collectively, "Rights Holder") should send notification to our Designated Agent immediately. Prior to sending us notice, the Rights Holder may wish to consult a lawyer to determine their rights and legal obligations under the DMCA and any other applicable laws. Nothing here or anywhere on this Site is intended as a substitute for qualified legal advice. To file a Notice of Infringing Material, we ask that the Rights Holder provide the following information:

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1. Reasonably sufficient details about the nature of the copyrighted work in question, or, in the case of multiple alleged infringements, a representative list of such works. This should include, title(s), author(s), any U.S. Copyright Registration number(s), URL(s) etc.;
2. Reasonably sufficient details to enable us to identify and locate the material that is allegedly infringing the Rights Holders' work(s) (for example, file name or URL of the page(s) that contain(s) the material);
3. The Rights Holder's contact information so that we can contact them (including for example, the Rights Holder's address, telephone number, and email address);
4. A statement that the Rights Holder has a good faith belief that the use of the material identified above in 2 is not authorized by the copyright owner, its agent, or the law;
5. A statement, under penalty of perjury, that the information in the notification is accurate and that the Rights Holder is authorized to act on behalf of the copyright owner; and
6. The Rights Holder's electronic signature.

Notice may be sent to:

By Mail: ATTN: COOLJAMM 2150 Shattuck Ave Penthouse Berkeley, CA 94704

By e-mail: contact@soundsup.io

Counter-Notification If material that you have posted to our Site has been taken down, you may file a counter-notification that contains the following details:

1. Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;
2. A statement, under penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material in question;
3. Your name, address and telephone number;
4. A statement that you consent to the jurisdiction of federal district court in Davidson County, Tennessee, and that you will accept service of process from the person who provided notification in compliance with section 512 (c)(1)(C) of the DMCA, or an agent of such person.
5. Your physical or electronic signature.

Notice may be sent to:

By Mail: ATTN: COOLJAMM 2150 Shattuck Ave Penthouse Berkeley, CA 94704

By e-mail: contact@soundsup.io

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You also acknowledge and agree that upon receipt of a notice of a claim of copyright infringement, we may temporarily or permanently remove the identified materials from our site without liability to you or any other party. Repeat infringers will be terminated and barred from using the Site.

Confidential Information. As stated above, all communications sent by you to us will be treated as non-confidential and non-proprietary (subject to our Privacy Policy). Please do not submit confidential or proprietary information to us (including patentable ideas, new content suggestions or business proposals) unless we have mutually agreed in writing otherwise. Ideas that we receive unsolicited will be treated as property owned by the Company and will not be returned to you.

6. Payment, Renewal, Cancellation and Refund

Payment. The Offerings from Site are provided free of charge in principle. Provided that, however, partial services (functions) or Offerings may be provided for a monthly paid fee (hereinafter referred to as the “Paid Subscription”).

The matters related to the Paid Subscription (including conversion of the free services into the paid services) are subject to changes based on the Company policies.

The Paid Subscription will be charged on a monthly basis through a third-party payment method by paying subscription fee in advance.

The Site may change the price of Paid Subscription in accordance with the policy of the Company. The price change will take effect at the start of the next subscription period following the date of the price change.

The Company will notify of any change in the price on the Site or otherwise in written form at least 30 days prior to the change.

Renewal. Your Paid Subscription purchased through the third party paid method will automatically renew at the end of the applicable subscription period, unless you cancel your Paid Subscription before the end of the subscription period.

Cancellation. You can cancel your Paid Subscription of the Site at any time, and you will continue to have access to the Offerings through the end of your monthly subscription period.

The cancellation will take effect the day after the last day of the current subscription period, and you will be downgraded to the free service (‘Basic’).

To cancel Paid Subscription, you must cancel directly with the third-party payment method. (You can either directly visit your account with the applicable third party or visit via the link of Site from “My Account” – “My Subscription & Payment”

Refund. The Company do not provide refunds for any partial subscription periods.

1. Refund Criteria

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You can require refund if all conditions satisfy with followings. Even though you satisfy all the criteria, due to the result of examination you may be rejected from refund demand.

- Requirement within 7 days after payment
- In case of undesirable payment
- In case that the subscription (including any downloads of Offerings from the Site) has never been used for premium features after payment

2. Refund Process

Only for the cases those are satisfied with all of upper condition (1. Refund Criteria), you can require refund by sending an email to SoundsUp customer service (hello@soundsup.io) or clicking the email address from the bottom of "My Account". You may be rejected by the reason such as unsuitable reason or lack of information.

For more detail process, please refer the [request a refund for a PayPal payment](#).

7. Disclaimer

ALL CONTENT AND OFFERINGS ON THIS SITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THE WARRANTY OF NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, WE MAKE NO WARRANTY THAT (A) THE CONTENT OR OFFERINGS WILL MEET YOUR REQUIREMENTS, (B) THE CONTENT, OFFERINGS OR SITE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (C) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE CONTENT OR OFFERINGS OFFERED WILL BE EFFECTIVE, ACCURATE OR RELIABLE, OR (D) THE QUALITY OF ANY CONTENT OR OFFERINGS OBTAINED BY YOU FROM THE SITE FROM US OR OUR AFFILIATES WILL MEET YOUR EXPECTATIONS OR BE FREE FROM MISTAKES, ERRORS OR DEFECTS.

THIS SITE COULD INCLUDE TECHNICAL OR OTHER MISTAKES, INACCURACIES OR TYPOGRAPHICAL ERRORS. WE MAY MAKE CHANGES TO THE CONTENT AND OFFERINGS AT THIS SITE, INCLUDING THE PRICES AND DESCRIPTIONS OF ANY PRODUCTS OR OFFERINGS LISTED HEREIN, AT ANY TIME WITHOUT NOTICE. THE CONTENT OR PRODUCTS AVAILABLE AT THIS SITE MAY BE OUT OF DATE, AND WE MAKE NO COMMITMENT TO UPDATE SUCH CONTENT OR PRODUCTS.

THE USE OF THE OFFERINGS OR THE DOWNLOADING OR OTHER ACQUISITION OF ANY PRODUCTS OR CONTENT THROUGH THIS SITE IS DONE AT YOUR OWN DISCRETION AND RISK AND WITH YOUR AGREEMENT THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM SUCH ACTIVITIES.

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WE MAKE NO WARRANTY REGARDING ANY TRANSACTIONS EXECUTED THROUGH A THIRD PARTY, OR IN CONNECTION WITH THIS SITE, AND YOU UNDERSTAND AND AGREE THAT SUCH TRANSACTIONS ARE CONDUCTED ENTIRELY AT YOUR OWN RISK. ANY WARRANTY THAT IS PROVIDED IN CONNECTION WITH ANY OFFERINGS OR CONTENT AVAILABLE ON OR THROUGH THIS SITE FROM A THIRD PARTY IS PROVIDED SOLELY BY SUCH THIRD PARTY, AND NOT BY US OR ANY OTHER OF OUR AFFILIATES.

WE RESERVE THE SOLE RIGHT TO EITHER MODIFY OR DISCONTINUE THE SITE, INCLUDING ANY OFFERINGS OR FEATURES THEREIN, AT ANY TIME WITH OR WITHOUT NOTICE TO YOU. WE SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY SHOULD WE EXERCISE SUCH RIGHT. MODIFICATIONS MAY INCLUDE, BUT ARE NOT LIMITED TO, CHANGES IN THE PRICING STRUCTURE, THE ADDITION OF FREE OR FEE-BASED SERVICES, OR CHANGES TO LIMITATIONS ON ALLOWABLE CONTENT, FILE SIZES OR FILE TYPES. ANY NEW FEATURES THAT AUGMENT OR ENHANCE THE THEN-CURRENT OFFERINGS ON THIS SITE SHALL ALSO BE SUBJECT TO THESE TERMS.

SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. PLEASE CONSULT THE LAWS IN YOUR JURISDICTION.

8. Limitation of Liability & Indemnification

IN NO EVENT SHALL WE OR OUR AFFILIATES BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOSS OF USE, DATA OR PROFIT LOSS, WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THIS SITE OR OF ANY WEBSITE REFERENCED OR LINKED TO FROM THIS SITE. IN THE EVENT THAT APPLICABLE LAW DOES NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY OR DAMAGES, YOU AGREE THAT IN NO EVENT SHALL THE TOTAL LIABILITY OF COMPANY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION OF ANY KIND EXCEED ONE HUNDRED DOLLARS (\$100.00).

FURTHER, WE SHALL NOT BE LIABLE IN ANY WAY FOR THIRD PARTY PROMISES REGARDING OFFERINGS OR CONTENT OR FOR ASSISTANCE IN CONDUCTING COMMERCIAL TRANSACTIONS WITH THE THIRD PARTY THROUGH THIS SITE, INCLUDING WITHOUT LIMITATION THE PROCESSING OF ORDERS.

SOME JURISDICTIONS PROHIBIT THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. PLEASE CONSULT THE LAWS IN YOUR JURISDICTION.

You agree to defend, indemnify, and hold us and our Affiliates harmless from all liabilities, claims, and expenses, including attorneys' fees that may arise from your use or misuse of this Site and your violation of any third-party rights, including, without limitation, copyright. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with us in asserting any available defenses.

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9. Termination of Use

Grounds for Termination. You agree that we may, at our sole discretion, terminate or suspend your access to all or part of the Site with or without notice and for any reason, including, without limitation, breach of these Terms. Any suspected fraudulent, abusive or illegal activity may be grounds for barring your access to this Site, and reporting you to the proper authorities, if necessary.

No Right to Offerings Upon Termination. Upon termination and regardless of the reason(s) motivating such termination, your right to use the Offerings available on this Site will immediately cease. We shall not be liable to you or any third party for any claims for damages arising out of any termination or suspension or any other actions taken by us in connection therewith.

10. Miscellaneous Provisions

International Use. Although this Site may be accessible worldwide, we make no representation that materials on this Site are appropriate or available for use in locations outside the United States. Those who choose to access this Site from other locations do so on their own initiative and at their own risk. If you choose to access this Site from outside the United States, you are responsible for compliance with local laws in your jurisdiction, including but not limited to, the taxation of products purchased over the Internet. Any offer for any product, Service, and/or information made in connection with this Site is void where prohibited.

Governing Law. This Site (excluding any third-party websites) is controlled by us from our offices in Tennessee, and the statutes and laws of the State of Tennessee shall be controlling, without regard to the conflicts of laws principles thereof. You agree and hereby submit to the exclusive personal jurisdiction and venue of the stated and federal courts in Davidson County with respect to such matters controlled by such courts.

Notices. All notices to a party shall be in writing and shall be made either via email or conventional mail. Notices to us must be sent to the attention of Customer Service at contact@soundsup.io if by email, or to our address at ATTN: COOLJAMM 2150 Shattuck Ave Penthouse Berkeley, CA 94704 ., if by conventional mail. You agree to allow us to submit notices to you either through the email address provided, or to the address we have on record. Any notices or communication under these Terms will be deemed delivered to the party receiving such communication (1) on the delivery date if delivered personally to the party; (2) two business days after deposit with a commercial overnight carrier, with written verification of receipt; (3) five business days after the mailing date, if sent by U.S. mail, return receipt requested; (4) on the delivery date if transmitted by confirmed facsimile; or (5) on the delivery date if transmitted by confirmed email.

No Resale Right. You agree not to sell, resell, reproduce, duplicate, distribute, copy or use for any commercial purposes any portion of this Site, or use of or access to this Site or Offerings provided through this Site, beyond the limited rights granted to you under these Terms or the End-User Copyright License Agreement, as applicable.

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Savings Clause. If any part of these Terms is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect.

No Waiver. Any failure by us to enforce or exercise any provision of these Terms or related rights shall not constitute a waiver of that right or provision.

Entire Agreement. These Terms (and the End-User Copyright License Agreement, if applicable) constitute the entire agreement and understanding between the parties concerning the subject matter hereof and supersedes all prior agreements and understandings of the parties with respect thereto. These Terms may NOT be altered, supplemented, or amended by the use of any other document(s). To the extent that anything in or associated with this Site is in conflict or inconsistent with these Terms, these Terms shall take precedence. In the event of conflict between these Terms and the End-User Copyright License Agreement, the End-User Copyright License Agreement shall control.