

EngineEars Terms of Service

Date of Last Revision: January 16, 2024

Acceptance of These Terms of Service

EngineEars, Inc. (“**EngineEars**,” “**we**,” “**us**,” or “**our**”) provides our services (described below) and related content to you through our website(s) located at <https://engineears.com> (the “**Site**”) which offers a platform to book world class third party recording studios and audio engineers (collectively, with the Site including any updated or new features, functionality and technology, the “**Platform**”). All access and use of the Platform is subject to the terms and conditions contained in these Terms of Service (as amended from time to time, these “**Terms of Service**”). By accessing, browsing, or otherwise using the Site, or any other aspect of the Platform, you acknowledge that you have read, understood, and agree to be bound by these Terms of Service. If you are entering into these Terms of Service on behalf of a company, business or other legal entity, you represent that you have the authority to bind such entity and its affiliates to these Terms of Service, in which case the terms “you” or “your” shall refer to such entity and its affiliates. If you do not accept the terms and conditions of these Terms of Service, you will not access, browse, or otherwise use the Platform.

We reserve the right, at our sole discretion, to change or modify portions of these Terms of Service at any time. If we do this, we will post the changes on this page and will indicate at the top of this page the date these Terms of Service were last revised. You may read a current, effective copy of these Terms of Service by visiting the “Terms of Service” link on the Site. We will also notify you of any material changes, either through the user interface of the Platform, a pop-up notice, email, or through other reasonable means. Your continued use of the Platform after the date any such changes become effective constitutes your acceptance of the new Terms of Service. You should periodically visit this page to review the current Terms of Service so you are aware of any revisions. If you do not agree to abide by these or any future Terms of Service, you will not access, browse, or use (or continue to access, browse, or use) the Platform.

PLEASE READ THESE TERMS OF SERVICE CAREFULLY, AS THEY CONTAIN AN AGREEMENT TO ARBITRATE AND OTHER IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS, REMEDIES, AND OBLIGATIONS. THE AGREEMENT TO ARBITRATE REQUIRES (WITH LIMITED EXCEPTION) THAT YOU SUBMIT CLAIMS YOU HAVE AGAINST US TO BINDING AND FINAL ARBITRATION, AND FURTHER (1) YOU WILL ONLY BE PERMITTED TO PURSUE CLAIMS AGAINST ENGINEEARS ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING, (2) YOU WILL ONLY BE PERMITTED TO SEEK RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ON AN INDIVIDUAL BASIS, AND (3) YOU MAY NOT BE ABLE TO HAVE ANY CLAIMS YOU HAVE AGAINST US RESOLVED BY A JURY OR IN A COURT OF LAW.

Your Privacy: At EngineEars, we respect the privacy of our users. For more information please see our Privacy Policy, located at <https://engineears.com/static/frontend/docs/EngineEarsPrivacyPolicy.pdf> (the “**Privacy Policy**”). By using the Platform, you consent to our collection, use and disclosure of personal data and other data as outlined therein.

Additional Terms: In addition, when using certain features through the Platform, you will be subject to any additional terms applicable to such features that may be posted on or within the Platform from time to time. All such terms are hereby incorporated by reference into these Terms of Service.

Access and Use of the Platform

Platform Description: The Platform enables users to publish, offer, search for and book audio engineering services, studio sessions and other related services. Users who offer audio engineering, music production and other related services or access to studio space and equipment (collectively, “**Audio Services**”) through the Platform are referred to as “**Providers**”, and users who search for, book and use

services from Providers through the Platform are referred to as “**Clients**”. Providers approved by EngineEars may offer Clients with access to their respective Audio Services via posted opportunities on the Platform (each a “**Listing**”). Clients who are seeking assistance with creating professional music recordings can respond to Listings to receive the described services from Providers.

Provider Terms: As a Provider, EngineEars offers you the right to use the Platform to connect with Clients to provide your Audio Services. When you accept a Client booking request, or receive a Client’s booking confirmation through the Platform, you are entering into a contract directly with the Client, and are responsible for delivering your Audio Services under the terms and at the price specified in your Listing. Your relationship with EngineEars is that of an independent individual or entity and not an employee, agent, joint venturer, or partner of EngineEars, except that in certain limited circumstances Provider may authorize EngineEars to act as a payment agent as described in the Fees and Payment Section below. EngineEars does not direct or control the content of your Listings, and you agree that you have complete discretion whether and when to provide the services described in your Listings, and at what price and on what terms to offer them.

Client Terms: You can search for Listings by using criteria like the type of Audio Services you are seeking from Providers, including audio recording engineering, access to recording studios or mixing and mastering services. When you book a Listing, you are agreeing to pay all fees and charges for your booking including the Listing price, applicable fees, taxes, and any other items identified during the booking process. When you receive the booking confirmation, a contract is formed directly between you and the Provider. In addition to these Terms of Service, you will be subject to, and responsible for complying with the cancellation policy and any other rules, standards, policies, or requirements identified in the Listing or during checkout that apply to the Listing. It is your responsibility to read and understand these rules, standards, policies, and requirements prior to booking a Listing.

Ownership of Work Product: Unless clearly stated otherwise in the description of the Provider’s Listing, and automatically upon full payment by the Client, any work product or other deliverables are created by a Provider in connection with its Audio Services on behalf of a Client (“**Client Deliverables**”) will be owned by the corresponding Client. Accordingly, each Provider expressly assigns to the corresponding Client all intellectual property rights in and to the applicable Client Deliverable, and the Provider waives any and all moral rights therein. All transfer and assignment of Client Deliverables to the Client shall be subject to full payment to the Provider for the corresponding Audio Services, and the Client Deliverables may not be used by the Client if payment is canceled or not made by the Client.

EngineEars Role: EngineEars operates a marketplace platform and does not directly provide any Audio Services to Clients. When you make or accept a booking, you are entering into a contract directly with another user. EngineEars is not and does not become a party to or other participant in any contractual relationship between users. EngineEars is not acting as an agent for any user except for where EngineEars acts as a collection agent as provided in the Fees and Payment Section. While we work hard to ensure our users have great experiences using the Platform, we do not and cannot control the conduct or performance of Clients and Providers and do not guarantee (i) the existence, quality, safety, suitability, or legality of any Listings or (ii) the truth or accuracy of any Listing descriptions, or other content provided by users. You acknowledge that EngineEars has no general obligation to monitor the use of the Platform, but has the right to review, disable access to, remove, or edit Content to: (i) operate, secure and improve the Platform (including for fraud prevention, risk assessment, investigation and customer support purposes); (ii) ensure compliance with these Terms of Service; (iii) comply with applicable law or the order or requirement of a court, law enforcement or other administrative agency or governmental body; (iv) address User Content that we determine is harmful or objectionable; (v) take actions set out in these Terms of Service; and (vi) maintain and enforce any quality or eligibility criteria, including by removing Listings that don’t meet quality and eligibility criteria. Where we remove or disable Content, we will notify a user and provide the reasons for such a measure, unless such notification would (a) prevent or impede the detection or prevention of fraud or other illegal activities, (b) harm the legitimate interests of other users or third parties, or (c) contravene applicable laws. You may appeal such a decision by contacting us at [support@engineears.com]. Users agree to cooperate with and assist EngineEars in good faith, and to provide EngineEars with such information and take such actions as may be reasonably requested by

EngineEars with respect to any investigation undertaken by EngineEars regarding the use or abuse of the Platform.

Your Registration Obligations: You may be required to register with EngineEars or provide information about yourself (e.g., name and email address) in order to access and use certain features of the Platform. If you choose to register for the Platform, you agree to provide and maintain true, accurate, current, and complete information about yourself as prompted by the Platform's registration form. Registration data and certain other information about you are governed by our Privacy Policy. If you are under 18 years of age, you are not authorized to use the Platform, with or without registering.

Member Account, Password and Security: You are responsible for maintaining the confidentiality of your password and account details, if any, and are fully responsible for any and all activities that occur under your password or account. You agree to (a) immediately notify EngineEars of any unauthorized use of your password or account or any other breach of security, and (b) ensure that you exit from your account at the end of each session when accessing the Platform. EngineEars will not be liable for any loss or damage arising from your failure to comply with this paragraph.

Modifications to Platform: EngineEars reserves the right to modify or discontinue, temporarily or permanently, the Platform (or any part thereof) with or without notice. You agree that EngineEars will not be liable to you or to any third party for any modification, suspension or discontinuance of the Platform.

General Practices Regarding Use and Storage: You acknowledge that EngineEars may establish general practices and limits concerning use of the Platform, including the maximum period of time that data or other content will be retained by the Platform and the maximum storage space that will be allotted on EngineEars' or its third-party service providers' servers on your behalf. You agree that EngineEars has no responsibility or liability for the deletion or failure to store any data or other content maintained or uploaded by the Platform. You acknowledge that EngineEars reserves the right to terminate accounts that are inactive for an extended period of time. You further acknowledge that EngineEars reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

Conditions of Access and Use

User Conduct: You are solely responsible for all code, video, images, information, data, text, software, music, sound, photographs, graphics, messages, and other materials ("**Content**") that you make available to EngineEars, including by uploading, posting, publishing, or displaying (hereinafter, "**upload(ing)**") via the Platform or by emailing or otherwise making available to other users of the Platform (collectively, "**User Content**"). EngineEars reserves the right to investigate and take appropriate legal action against anyone who, in EngineEars' sole discretion, violates this provision, including removing the offending content from the Platform, suspending or terminating the account of such violators, and reporting the violator to law enforcement authorities. You agree to not use the Platform to:

- a) email or otherwise upload any content that (i) infringes any intellectual property or other proprietary rights of any party; (ii) you do not have a right to upload under any law or under contractual or fiduciary relationships; (iii) contains software viruses or any other computer code, files or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; (iv) poses or creates a privacy or security risk to any person; (v) constitutes unsolicited or unauthorized advertising, promotional materials, commercial activities and/or sales, "junk mail," "spam," "chain letters," "pyramid schemes," "contests," "sweepstakes," or any other form of solicitation; (vi) is unlawful, harmful, threatening, abusive, harassing, tortious, excessively violent, defamatory, vulgar, obscene, pornographic, libelous, invasive of another's privacy, hateful, discriminatory, or otherwise objectionable; or (vii) in the sole judgment of EngineEars, is objectionable or which restricts or inhibits any other person from using or enjoying the Platform, or which may expose EngineEars or its users to any harm or liability of any type;
- b) interfere with or disrupt the Platform or servers or networks connected to the Platform, or

- disobey any requirements, procedures, policies, or regulations of networks connected to the Platform;
- c) violate any applicable local, state, national, or international law, or any regulations having the force of law;
 - d) impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with a person or entity;
 - e) solicit personal information from anyone under the age of 18;
 - f) harvest or collect email addresses or other contact information of other users from the Platform by electronic or other means for the purposes of sending unsolicited emails or other unsolicited communications;
 - g) advertise or offer to sell or buy any goods or services for any business purpose that is not specifically authorized;
 - h) further or promote any criminal activity or enterprise or provide instructional information about illegal activities;
 - i) obtain or attempt to access or otherwise obtain any content or information through any means not intentionally made available or provided for through the Platform;
 - j) Use our Platform in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Platform, including their ability to engage in real time activities through the Platform;
 - k) Use any robot, spider or other automatic device, process or means to access the Platform for any purpose, including monitoring or copying any of the material on the Platform;
 - l) Use any manual process to monitor or copy any of the material on the Platform, or for any other unauthorized purpose without our prior written consent;
 - m) circumvent, remove, alter, deactivate, degrade, or thwart any of the content protections in or geographic restrictions on any content (including Platform Content (as defined below)) available on or through the Platform, including through the use of virtual private networks; or
 - n) engage in or use any data mining, robots, scraping, or similar data gathering or extraction methods.

If you are blocked by EngineEars from accessing the Platform (including by blocking your IP address), you agree not to implement any measures to circumvent such blocking (e.g., by masking your IP address or using a proxy IP address or virtual private network).

Competitors: No employee, independent contractor, agent, or affiliate of any competing audio services marketplace is permitted to view, access, or use any portion of the Platform without express written permission from EngineEars. By viewing, using, or accessing the Platform, you represent and warrant that you are not a competitor of EngineEars or any of its affiliates, or acting on behalf of a competitor of EngineEars in using or accessing the Platform.

Fees and Payment

Fees: In order to book a Listing as a Client, you will be required to provide information regarding your credit card or other payment instrument. You represent and warrant to EngineEars that such information is true and that you are authorized to use the payment instrument and that you will pay the corresponding fees associated with the Listing. You will promptly update your account information with EngineEars or the Payment Processor (as defined below), as applicable, of any changes (for example, a change in your billing address or credit card expiration date) that may occur. You agree to pay EngineEars the amount that is specified when making the booking. If you dispute any charges you must let EngineEars know within sixty (60) days after the date that EngineEars charges you, or within such longer period of time as may be required under applicable law. You will be responsible for all taxes associated with the Platform, other than taxes based on EngineEars' net income.

Payment Processing: To facilitate payment for the Platform via credit card or debit card, we use Stripe, Inc. and its affiliates ("**Stripe**"). We may also permit you to pay for Services via bank account through other third-party payment service providers (collectively, with Stripe, the "**Payment Processors**"). These payment processing services are subject to the Stripe terms and conditions and other policies available at

<https://stripe.com/legal> and Stripe's Global Privacy Policy available at: <https://stripe.com/privacy> (collectively, the "**Stripe Agreements**") or the applicable Payment Processor's terms and conditions, privacy policy, and all other relevant agreements (collectively, the "**Payment Processor Agreements**"). By agreeing to these Terms of Service, users that use the payment functions of the Platform also agree to be bound by the applicable Payment Processor Agreement for the payment function the user is using, as the same may be modified by the applicable Payment Processor from time to time. You hereby authorize the applicable Payment Processor to store and continue billing your specified payment method even after such payment method has expired, to avoid interruptions in payment for your use of the Platform. Please contact the applicable Payment Processor for more information. EngineEars assumes no liability or responsibility for any for any acts or omissions of the Payment Processor. EngineEars is not a money transmitter. When a Provider enrolls in the Service, the Provider authorizes EngineEars to act as Provider's agent for the limited purpose of receiving payments made using Payment Processors other than Stripe and directs EngineEars to collect and process such payments on the Provider's behalf. Receipt of funds by EngineEars from a Client constitutes payment to the applicable Provider and extinguishes the Client's obligation to pay the Provider. If EngineEars receives funds in advance from a Client, Provider shall be obligated to provide services to that Client regardless of whether EngineEars transmits the funds to Provider, notwithstanding any provisions herein to the contrary. A Provider shall have no recourse against any Client in the event EngineEars fails to remit funds to a Provider. For avoidance of doubt, in the event EngineEars transmits funds to a Provider prior to receiving payment from a Client for the rendering of such Audio Services, and such Client fails to remit funds to EngineEars, such Provider shall be under no obligation to repay such funds to EngineEars, and EngineEars shall have no recourse rights, with respect to the applicable payment, against such Provider.

Refunds and Cancellations: Payments made by you hereunder are final and non-refundable, unless otherwise determined by EngineEars. In the event an Client cancels a Listing after the Provider has accepted but prior to the completion of the requested Audio Services, Providers may request partial payments for the Audio Services rendered based on EngineEars' Refund Policy.

Intellectual Property Rights

Platform Content: You acknowledge and agree that the Platform may contain content or features ("**Platform Content**") that are protected by copyright, patent, trademark, trade secret, or other proprietary rights and laws. Except as expressly authorized by EngineEars, you agree not to modify, copy, frame, scrape, rent, lease, loan, sell, distribute, or create derivative works based on the Platform or the Platform Content, in whole or in part, except that the foregoing does not apply to your own User Content (as defined above) that you upload to or make available through the Platform in accordance with these Terms of Service. Any use of the Platform or the Platform Content other than as specifically authorized herein is strictly prohibited.

Trademarks: The EngineEars name and logos are trademarks and service marks of EngineEars (collectively the "**EngineEars Trademarks**"). Other company, product, and service names and logos used and displayed via the Platform may be trademarks or service marks of their respective owners who may or may not endorse or be affiliated with or connected to EngineEars. Nothing in these Terms of Service or the Platform should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any of EngineEars Trademarks displayed on the Platform, without our prior written permission in each instance. All goodwill generated from the use of EngineEars Trademarks will inure to our exclusive benefit.

Third-Party Material: Under no circumstances will EngineEars be liable in any way for any content or materials of any third parties (including users), including for any errors or omissions in any content, or for any loss or damage of any kind incurred as a result of the use of any such content. You acknowledge that EngineEars does not pre-screen content, but that EngineEars and its designees will have the right (but not the obligation) in their sole discretion to refuse or remove any content that is available via the Platform. Without limiting the foregoing, EngineEars and its designees will have the right to remove any content that violates these Terms of Service or is deemed by EngineEars, in its sole discretion, to be otherwise objectionable. You agree that you must evaluate, and bear all risks associated with, the use of any content, including any reliance on the accuracy, completeness, or usefulness of such content.

User Content: You represent and warrant that you own all right, title and interest in and to such User Content, including all copyrights and rights of publicity contained therein. You hereby grant EngineEars and its affiliates, successors and assigns a non-exclusive, worldwide, royalty-free, fully paid-up, transferable, sublicensable (directly and indirectly through multiple tiers), perpetual, and irrevocable license to copy, display, upload, perform, distribute, store, modify, and otherwise use your User Content, in any form, medium or technology now known or later developed, (a) in connection with the operation of the Platform, (b) to develop and improve the Platform and other EngineEars offerings, (c) for the promotion, advertising or marketing of the foregoing; and (d) as otherwise set forth in our Privacy Policy. You assume all risk associated with your User Content and the transmission of your User Content, and you have sole responsibility for the accuracy, quality, legality and appropriateness of your User Content.

Any questions, comments, suggestions, ideas, feedback, reviews, or other information about the Platform (“**Submissions**”), provided by you to EngineEars are non-confidential and EngineEars will be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgment, attribution, or compensation to you.

You acknowledge and agree that EngineEars may preserve User Content and may also disclose User Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process, applicable laws, or government requests; (b) enforce these Terms of Service; (c) respond to claims that any content violates the rights of third parties; or (d) protect the rights, property, or personal safety of EngineEars, its users, or the public. You understand that the technical processing and transmission of the Platform, including your User Content, may involve (i) transmissions over various networks; and (ii) changes to conform and adapt to technical requirements of connecting networks or devices.

Copyright Complaints: EngineEars respects the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, or that your intellectual property rights have been otherwise violated, you should notify EngineEars of your infringement claim in accordance with the procedure set forth below.

EngineEars will process and investigate notices of alleged infringement and will take appropriate actions under the Digital Millennium Copyright Act (“**DMCA**”) and other applicable intellectual property laws with respect to any alleged or actual infringement. A notification of claimed copyright infringement should be emailed to EngineEars’ Copyright Agent at admin@engineears.com (Subject line: “DMCA Takedown Request”). You may also contact the Copyright Agent by mail:

**5990 Sepulveda Blvd #320
Van Nuys, CA 91411**

To be effective, the notification must be in writing and contain the following information:

- a physical or electronic signature of a person authorized to act on behalf of the owner of the copyright or other intellectual property interest that is allegedly infringed;
- identification of the copyrighted work or other intellectual property that you claim has been infringed, or, if multiple copyrighted works or other intellectual property are covered by a single notification, a representative list of such works or other intellectual property;
- identification of the content that is claimed to be infringing or to be the subject of infringing activity, and where the content that you claim is infringing is located on the Platform, with enough detail that we may find it on the Platform;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright or intellectual property owner, its agent, or the law; and
- a statement by you that the information in your notice is accurate and, under penalty of perjury, that you are the copyright or intellectual property owner or are authorized to act on the behalf of the owner of the copyright or intellectual property that is allegedly infringed.

Counter-Notice: If you believe that your User Content that was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to upload and use the content in your User Content, you may send a written counter-notice containing the following information to the Copyright Agent:

- your physical or electronic signature;
- identification of the content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled;
- a statement by you, made under penalty of perjury, that you have a good faith belief that the content was removed or disabled as a result of mistake or a misidentification of the content to be removed or disabled; and
- your name, address, telephone number, and email address, a statement that you consent to the jurisdiction of the federal court located within the District of Los Angeles and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by the Copyright Agent, EngineEars will send a copy of the counter-notice to the original complaining party informing them that EngineEars may replace the removed content or cease disabling it within ten (10) business days. Unless the owner of the applicable copyrighted work or other intellectual property files an action seeking a court order against EngineEars or the user, the removed content may be replaced, or access to it restored, within ten (10) to fourteen (14) business days or more after receipt of the counter-notice, at our sole discretion.

Repeat Infringer Policy: In accordance with the DMCA and other applicable law, EngineEars has adopted a policy of terminating, in appropriate circumstances and at EngineEars' sole discretion, the accounts of users who are deemed to be repeat infringers. EngineEars may also at its sole discretion limit access to the Platform and/or terminate the accounts of any users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

Indemnification

To the extent permitted under applicable law, you agree to defend, indemnify, and hold harmless EngineEars, its affiliates, and its and their respective officers, employees, directors, service providers, licensors, and agents (collectively, the "**EngineEars Parties**") from any and all losses, damages, expenses, including reasonable attorneys' fees, rights, claims, actions of any kind, and injury (including death) arising out of or relating to your use of the Platform, disputes you have with other users, any User Content, your violation of these Terms of Service, or your violation of any rights of another. EngineEars will provide notice to you of any such claim, suit, or proceeding. EngineEars reserves the right to assume the exclusive defense and control of any matter which is subject to indemnification under this section, and you agree to cooperate with any reasonable requests assisting EngineEars' defense of such matter. You may not settle or compromise any claim against the EngineEars Parties without EngineEars' written consent.

Disclaimer of Warranties

YOUR USE OF THE PLATFORM IS AT YOUR SOLE RISK. THE PLATFORM IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE ENGINEEARS PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

THE ENGINEEARS PARTIES MAKE NO WARRANTY THAT (A) THE PLATFORM WILL MEET YOUR REQUIREMENTS; (B) THE PLATFORM WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; (C) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE PLATFORM WILL BE ACCURATE OR RELIABLE; OR (D) THE QUALITY OF ANY PRODUCTS, PLATFORMS, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE PLATFORM WILL MEET YOUR EXPECTATIONS.

Limitation of Liability

YOU EXPRESSLY UNDERSTAND AND AGREE THAT THE ENGINEERS PARTIES WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY DAMAGES, OR DAMAGES FOR LOSS OF PROFITS INCLUDING DAMAGES FOR LOSS OF GOODWILL, USE, OR DATA OR OTHER INTANGIBLE LOSSES (EVEN IF THE ENGINEERS PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, RESULTING FROM: (A) THE USE OR THE INABILITY TO USE THE PLATFORM; (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND PLATFORMS RESULTING FROM ANY GOODS, DATA, INFORMATION, OR PLATFORMS PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE PLATFORM; (C) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (D) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE PLATFORM; OR (E) ANY OTHER MATTER RELATING TO THE PLATFORM. IN NO EVENT WILL THE ENGINEERS PARTIES' TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES, OR CAUSES OF ACTION EXCEED THE AMOUNT YOU HAVE PAID ENGINEERS IN THE LAST SIX (6) MONTHS, OR, IF GREATER, ONE HUNDRED DOLLARS (\$100).

SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OR EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS SET FORTH ABOVE MAY NOT APPLY TO YOU OR BE ENFORCEABLE WITH RESPECT TO YOU. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE PLATFORM OR WITH THESE Terms of Service, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USE OF THE PLATFORM.

IF YOU ARE A USER FROM NEW JERSEY, THE FOREGOING SECTIONS TITLED "INDEMNIFICATION", "DISCLAIMER OF WARRANTIES" AND "LIMITATION OF LIABILITY" ARE INTENDED TO BE ONLY AS BROAD AS IS PERMITTED UNDER THE LAWS OF THE STATE OF NEW JERSEY. IF ANY PORTION OF THESE SECTIONS IS HELD TO BE INVALID UNDER THE LAWS OF THE STATE OF NEW JERSEY, THE INVALIDITY OF SUCH PORTION WILL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF THE APPLICABLE SECTIONS.

Dispute Resolution By Binding Arbitration

PLEASE READ THIS SECTION CAREFULLY AS IT AFFECTS YOUR RIGHTS.

a. Agreement to Arbitrate

This Dispute Resolution by Binding Arbitration section is referred to in these Terms of Service as the "Arbitration Agreement." You agree that any and all disputes or claims that have arisen or may arise between you and EngineEars, whether arising out of or relating to these Terms of Service (including any alleged breach thereof), the Platform, any advertising, or any aspect of the relationship or transactions between us, will be resolved exclusively through final and binding arbitration, rather than a court, in accordance with the terms of this Arbitration Agreement, except that you may assert individual claims in small claims court, if your claims qualify. Further, this Arbitration Agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies, and such agencies can, if the law allows, seek relief against us on your behalf. You agree that, by entering into these Terms of Service, you and EngineEars are each waiving the right to a trial by jury or to participate in a class action. Your rights will be determined by a neutral arbitrator, not a judge or jury. The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement.

b. Prohibition of Class and Representative Actions and Non-Individualized Relief

YOU AND COMPANY AGREE THAT EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED

CLASS OR REPRESENTATIVE ACTION OR PROCEEDING. UNLESS BOTH YOU AND COMPANY AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. ALSO, THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S), EXCEPT THAT YOU MAY PURSUE A CLAIM FOR AND THE ARBITRATOR MAY AWARD PUBLIC INJUNCTIVE RELIEF UNDER APPLICABLE LAW TO THE EXTENT REQUIRED FOR THE ENFORCEABILITY OF THIS PROVISION.

c. Pre-Arbitration Dispute Resolution

EngineEars is always interested in resolving disputes amicably and efficiently, and most customer concerns can be resolved quickly and to the customer's satisfaction by emailing customer support info@engineears.com. If such efforts prove unsuccessful, a party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Dispute ("**Notice**"). The Notice to EngineEars should be sent to info@engineears.com ("**Notice Address**"). The Notice must (i) describe the nature and basis of the claim or dispute and (ii) set forth the specific relief sought. If EngineEars and you do not resolve the claim within sixty (60) calendar days after the Notice is received, you or EngineEars may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by EngineEars or you will not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or EngineEars is entitled.

d. Arbitration Procedures

Arbitration will be conducted by a neutral arbitrator in accordance with the American Arbitration Association's ("**AAA**") rules and procedures, including the AAA's Consumer Arbitration Rules (collectively, the "**AAA Rules**"), as modified by this Arbitration Agreement. For information on the AAA, please visit its website, <https://www.adr.org>. Information about the AAA Rules and fees for consumer disputes can be found at the AAA's consumer arbitration page, <https://www.adr.org/consumer>. If there is any inconsistency between any term of the AAA Rules and any term of this Arbitration Agreement, the applicable terms of this Arbitration Agreement will control unless the arbitrator determines that the application of the inconsistent Arbitration Agreement terms would not result in a fundamentally fair arbitration. The arbitrator must also follow the provisions of these Terms of Service as a court would. All issues are for the arbitrator to decide, including issues relating to the scope, enforceability, and arbitrability of this Arbitration Agreement. Although arbitration proceedings are usually simpler and more streamlined than trials and other judicial proceedings, the arbitrator can award the same damages and relief on an individual basis that a court can award to an individual under these Terms of Service and applicable law. Decisions by the arbitrator are enforceable in court and may be overturned by a court only for very limited reasons.

Unless EngineEars and you agree otherwise, any arbitration hearings will take place in a reasonably convenient location for both parties with due consideration of their ability to travel and other pertinent circumstances. If the parties are unable to agree on a location, the determination will be made by AAA. If your claim is for \$10,000 or less, EngineEars agrees that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator will issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based.

e. Costs of Arbitration

Payment of all filing, administration, and arbitrator fees (collectively, the "**Arbitration Fees**") will be governed by the AAA Rules, unless otherwise provided in this Arbitration Agreement. To the extent any Arbitration Fees are not specifically allocated to either EngineEars or you under the AAA Rules, EngineEars

and you shall split them equally; provided that if you are able to demonstrate to the arbitrator that you are economically unable to pay your portion of such Arbitration Fees or if the arbitrator otherwise determines for any reason that you should not be required to pay your portion of any Arbitration Fees, EngineEars will pay your portion of such fees. In addition, if you demonstrate to the arbitrator that the costs of arbitration will be prohibitive as compared to the costs of litigation, EngineEars will pay as much of the Arbitration Fees as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive. Any payment of attorneys' fees will be governed by the AAA Rules.

f. Confidentiality

All aspects of the arbitration proceeding, and any ruling, decision, or award by the arbitrator, will be strictly confidential for the benefit of all parties.

g. Severability

If a court or the arbitrator decides that any term or provision of this Arbitration Agreement (other than the subsection (b) above titled "Prohibition of Class and Representative Actions and Non-Individualized Relief" above) is invalid or unenforceable, the parties agree to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Arbitration Agreement will be enforceable as so modified. If a court or the arbitrator decides that any of the provisions of subsection (b) above titled "Prohibition of Class and Representative Actions and Non-Individualized Relief" are invalid or unenforceable, then the entirety of this Arbitration Agreement will be null and void, unless such provisions are deemed to be invalid or unenforceable solely with respect to claims for public injunctive relief. The remainder of these Terms of Service will continue to apply.

h. Future Changes to Arbitration Agreement

Notwithstanding any provision in these Terms of Service to the contrary, EngineEars agrees that if it makes any future change to this Arbitration Agreement (other than a change to the Notice Address) while you are a user of the Platform, you may reject any such change by sending EngineEars written notice within thirty (30) calendar days of the change to the Notice Address provided above. By rejecting any future change, you are agreeing that you will arbitrate any dispute between us in accordance with the language of this Arbitration Agreement as of the date you first accepted these Terms of Service (or accepted any subsequent changes to these Terms of Service).

Termination

You agree that EngineEars, in its sole discretion, may suspend or terminate your account (or any part thereof) or use of the Platform and remove and discard any content within the Platform, for any reason, including for lack of use or if EngineEars believes that you have violated or acted inconsistently with the letter or spirit of these Terms of Service. Any suspected fraudulent, abusive, or illegal activity that may be grounds for termination of your use of the Platform, may be referred to appropriate law enforcement authorities. EngineEars may also in its sole discretion and at any time discontinue providing the Platform, or any part thereof, with or without notice. You agree that any termination of your access to the Platform under any provision of these Terms of Service may be effected without prior notice, and acknowledge and agree that EngineEars may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or the Platform. Further, you agree that EngineEars will not be liable to you or any third party for any termination of your access to the Platform.

User Disputes

The Platform is designed to connect Clients and Providers whose professional qualifications have been verified, to the best of EngineEars' ability, through independent verification tools; EngineEars is not directly involved in the services offered by the Providers through the Listings (including verifying the quality of the work product provided by the Providers). You agree that you are solely responsible for your interactions

with any other user (including Clients and/or Providers, as applicable) in connection with the Platform, and EngineEars will have no liability or responsibility with respect thereto. EngineEars will have no liability or responsibility with respect thereto; however, if you have any concerns or disputes regarding another user, please let us know and we will use commercially reasonable efforts to assist you in addressing the issue.

General

These Terms of Service (together with the terms incorporated by reference herein) constitute the entire agreement between you and EngineEars governing your access and use of the Platform, and supersede any prior agreements between you and EngineEars with respect to the Platform. You also may be subject to additional terms and conditions that may apply when you use Third-Party Platforms, third-party content or third-party software. These Terms of Service will be governed by the laws of the State of California without regard to its conflict of law provisions. With respect to any disputes or claims not subject to arbitration, as set forth above, you and EngineEars submit to the personal and exclusive jurisdiction of the state and federal courts located within Los Angeles County. The failure of EngineEars to exercise or enforce any right or provision of these Terms of Service will not constitute a waiver of such right or provision. If any provision of these Terms of Service is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms of Service remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Platform or these Terms of Service must be filed within one (1) year after such claim or cause of action arose or be forever barred. A printed version of these Terms of Service and of any notice given in electronic form will be admissible in judicial or administrative proceedings based upon or relating to these Terms of Service to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. You may not assign these Terms of Service without the prior written consent of EngineEars, but EngineEars may assign or transfer these Terms of Service, in whole or in part, without restriction. The section titles in these Terms of Service are for convenience only and have no legal or contractual effect. As used in these Terms of Service, the words "include" and "including," and variations thereof, will not be deemed to be terms of limitation, but rather will be deemed to be followed by the words "without limitation." Notices to you may be made via either email or regular mail. The Platform may also provide notices to you of changes to these Terms of Service or other matters by displaying notices or links to notices generally on the Platform. EngineEars will not be in default hereunder by reason of any failure or delay in the performance of its obligations where such failure or delay is due to civil disturbances, riot, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or unavailability of electrical power, network access or equipment, or any other circumstances or causes beyond EngineEars' reasonable control.

Notice for California Users

Under California Civil Code Section 1789.3, users of the Platform from California are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Platforms of the California Department of Consumer Affairs may be contacted (a) via email at dca@dca.ca.gov; (b) in writing at: Department of Consumer Affairs, Consumer Information Division, 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834; or (c) by telephone at (800) 952-5210 or (800) 326-2297 (TDD). Sacramento-area consumers may call (916) 445-1254 or (916) 928-1227 (TDD). You may contact us at EngineEars, Inc
5990 Sepulveda Blvd #320
Van Nuys, CA 91411

Special Notice for International Use: Export Controls

EngineEars is headquartered in the United States. Whether inside or outside of the United States, you are solely responsible for ensuring compliance with the laws of your specific jurisdiction. Software available in connection with the Platform (the "**Software**") and the transmission of applicable data, if any, is subject to United States export controls. No Software may be downloaded from the Platform or otherwise exported or re-exported in violation of U.S. export laws. Downloading, accessing or using the Software or Platforms is

at your sole risk.

U.S. Government Restricted Rights

The Platform is made available to the U.S. government with “RESTRICTED RIGHTS.” Use, duplication, or disclosure by the U.S. government is subject to the restrictions contained in 48 CFR 52.227-19 and 48 CFR 252.227-7013 et seq. or its successor. Access or use of the Platform (including the Software) by the U.S. government constitutes acknowledgement of our proprietary rights in the Platform (including the Software).

Questions? Concerns? Suggestions?

Please contact us at info@engineears.com to report any violations of these Terms of Service or to pose any questions regarding these Terms of Service or the Platform.

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