

## KLIPSCH GROUP, INC. ANDROID END-USER LICENSE AGREEMENT

This Klipsch Group, Inc. (“Klipsch”) End-User License Agreement (“EULA”) is a legally binding agreement between you and Klipsch, the licensor of the Klipsch Stream Android Application the “Software”) and from DTS, Inc., (“DTS”) the owner of the Software. This EULA governs your use of the application.

BY CLICKING THE “AGREE” BUTTON, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT THAT YOU ARE AT LEAST 18 YEARS OF AGE; AND (C) AGREE THAT YOU ARE LEGALLY BOUND BY ITS TERMS. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT USE THE APPLICATION AND DELETE IT FROM YOUR DEVICE.

**Limited License.** This EULA describes the rights and restrictions that you have to use and enjoy the Software. Subject to the restrictions defined in this EULA, you are permitted to download, install and use the Software in accordance with its instructions for your personal entertainment and enjoyment purposes only. You are not permitted to download, possess, use, copy or distribute the Software unless you agree to be bound by this EULA, and you observe the following terms and conditions in relation to the Software. All rights in and to the Software are reserved by DTS and Klipsch unless expressly permitted by this EULA. This EULA will apply to all updates and upgrades to the Software, except when such updates and upgrades accompany a new end-user license agreement.

**Ownership of Software.** The Software is DTS’ proprietary software and software obtained from DTS’ third-party licensors. The Software is the sole property of DTS and its licensors. DTS and its licensors retain all rights, title and interest in and to the Software, including without limitation, any and all modifications, updates, derivative works and all associated intellectual property rights therein. Except as expressly granted to you hereunder, DTS does not grant you any right, title or interest in or to the Software. DTS reserves the sole and exclusive right at its discretion to assert claims against third parties for infringement or misappropriation of its intellectual property rights in the Software. The application is licensed, not sold, to you.

**Restrictions.** Except as provided by applicable law and the licensing terms of any open source software, and only in accordance with permissions thereof, you will not, or assist or direct any third person to: (i) take any action to jeopardize, limit or interfere in any manner with DTS’ or its licensors’ ownership of the Software; (ii) delete, remove or otherwise alter any copyright, trademark, confidentiality or other proprietary notice appearing in the Software; (iii) extract, separate, remove or otherwise copy the Software; (iv) disassemble, decompile, reverse engineer or otherwise convert any part of the Software to source code or a human-perceivable form; (v) adapt, modify or create a derivative work of the Software; (vi) distribute, encumber, lease, rent, sell, transmit, transfer, or otherwise dispose of the Software, in whole or in part; or (vii) use the Software with any other product or for any other purpose, including without limitation for commercial or professional purposes.

**Limitation of Transfer.** The Software and this license to use the Software is transferable, provided that: (i) all Software updates are included in the transfer; (ii) You do not retain a copy of the Software; (iii) You transfer the Software upon and as an intact part of a permanent and permissible transfer of the device upon which it is installed; (iv) the transferee agrees to be bound by the terms and conditions of this EULA in connection with the use of the Software, and (v) to the extent of any conflict between this license grant governing your rights to this agreement and the Google Play Developer Distribution Agreement, the Google Play Developer Distribution Agreement shall control. The terms and conditions of this EULA will bind and inure to the benefit of such permitted transferees.

**Personal Information.** You authorize Klipsch and DTS to collect and use technical data, including but not limited to technical information about the device upon which you have downloaded the Software and your Play-Fi™ technology-enabled peripheral devices connected to your device to (i) improve the performance of the Software and Play-Fi™ technology-enabled peripheral devices; and (ii) facilitate the provision of software updates, product support and other services to the Software and Play-Fi™ technology-enabled peripheral devices. Klipsch and DTS will use this technical data in a form that does not personally identify you. Additionally, you authorize the Software to receive, use and store your personal login credentials of third party content service providers, for example, your Pandora account information, and to transmit your personal login credentials to such third party content providers. Klipsch and DTS do not control the access of your personal information that you provide to your third party service accounts and you will indemnify, defend (with counsel approved by Klipsch and/or DTS as applicable) and hold Klipsch and DTS harmless in relation to any third party disclosure of your personal information that you have

provided to your third party service accounts through your use of the Software. Klipsch and DTS may cooperate with and disclose your personal information to any authority, government official or third-party, without giving any notice to you, in connection with any investigation, proceeding or claim arising from an asserted illegal action or infringement due to your use of the Software.

**Third-Party Content.** With the Software, you may have access to and receive third party content that is obscene, offensive, indecent or otherwise objectionable, and the availability of such third party content through the Software does not constitute or imply Klipsch or DTS' endorsement of such third party content. Not all third-party content services are available in all locations and Klipsch and DTS make no representation as to whether any content or service is available at your location. You use any and all third party content services and access third-party content at your own risk, and Klipsch and DTS will have no liability arising from or relating to your access to, receipt of transmission, perception of or use of any third-party service or third-party content, including without limitation claims relating to the availability of, indecency or quality of such services or content or the infringement of intellectual property rights by or through the use of such services or content. If you access and receive third-party content with the Software, you will abide by the terms of service with all third party service providers, including the restrictions of use and any minimum age-limit requirements. Klipsch and DTS reserve the right to alter, change, discontinue or modify access to any third party content or third party content provider at any time, for any reason. Klipsch and DTS disclaim all warranties and representations that Klipsch and DTS offer or will include, continue access to, offer or support any third party content or third party content provider. Klipsch and DTS have no responsibility or liability for the deletion of, or the failure to store or to transmit, any third party content. Network Conditions and Interference.

**Network Conditions & Interference.** The Software connects to Play-Fi™ Technology-enabled devices by and through the use of wireless network access points. Proper access by the device upon which the Software is downloaded is required as is the appropriate bandwidth and strength of connectivity signal. Not all home wireless network connections may be compatible with the Software. External conditions out of the control of Klipsch or DTS may affect the overall performance of the Software, including without limitation, network configuration, network performance, distances between the device containing the Software and the network connection and/or content sources, other third party devices utilization of the network, or general environmental radio interference with the Software.

**DISCLAIMER OF WARRANTIES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, KLIPSCH AND DTS PROVIDE THE SOFTWARE "AS IS" AND WITHOUT WARRANTY. KLIPSCH AND DTS DISCLAIM ALL COMMON LAW AND STATUTORY WARRANTIES AS TO THE CONDITION, QUALITY, FITNESS, MAINTENANCE AND USE OF THE SOFTWARE, INCLUDING AND WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS. NO KLIPSCH DEALER, AGENT OR EMPLOYEE IS AUTHORIZED TO CREATE, MODIFY, EXTEND OR OTHERWISE MAKE ANY WARRANTY ON BEHALF OF KLIPSCH OR DTS.

**LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL KLIPSCH OR DTS, INCLUDING THEIR SUBSIDIARIES, AFFILIATES, EQUITY HOLDERS, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS, OR ITS SUPPLIERS BE LIABLE TO YOU OR ANY THIRD-PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, REMOTE, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING AND WITHOUT LIMITATION, COSTS OF PROCUREMENT OF SUBSTITUTE OR REPLACEMENT SOFTWARE, LOSS OF INFORMATION, DATA OR CONTENT, LOSS OF REVENUE OR PROFITS OR ATTORNEY'S FEES, ARISING FROM OR CAUSED BY, DIRECTLY OR INDIRECTLY, THE SALE OR USE OF OR INABILITY TO USE THE SOFTWARE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE AT LAW OR IN EQUITY, EVEN IF KLIPSCH AND/OR DTS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION SHALL BE EFFECTIVE EVEN IF ANY REMEDY IN THIS EULA OR OTHERWISE PROVIDED BY KLIPSCH OR DTS FAILS OF ITS ESSENTIAL PURPOSE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL KLIPSCH AND/OR DTS' TOTAL AND AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS UNDER THIS EULA OR ARISING FROM THE SOFTWARE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT

LIABILITY OR OTHERWISE, AT LAW OR IN EQUITY, EXCEED THE PURCHASE PRICE OF THE SOFTWARE.

**Termination.** This EULA is effective until terminated by Klipsch. Your rights to use the Software will automatically terminate, with or without notice, upon any violation or breach of this EULA by you, in which case you will immediately stop all use of the Software.

**Irreparable Harm.** Your breach or threatened breach of any provision of this EULA will cause irreparable harm to Klipsch and DTS for which a remedy at law would be inadequate. Klipsch and/or DTS is entitled to seek all available remedies at law and in equity, including injunctive relief, to enforce any provision of this EULA and to restrain You from adapting, disclosing, distributing, modifying, publishing, transferring, using or otherwise disposing of the Software, in whole or in part, directly or indirectly, in breach of this EULA.

**U.S. Government Restricted Rights.** Use, duplication and disclosure by the U.S. Government is subject to restrictions set forth in this EULA.

**Export Restrictions.** You will obey the laws and regulations of the United States governing exports and re-exports of the Software.

**Governing Law.** This EULA shall be governed by and construed in accordance with the substantive laws of the state of Indiana, excluding all applicable laws pertaining to conflicts of law and the United Nations Convention on Contracts for the International Sale of Goods.

#### **Legal Disputes.**

**PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR RIGHTS AND WILL HAVE A SUBSTANTIAL IMPACT ON HOW CLAIMS YOU AND KLIPSCH HAVE AGAINST EACH OTHER ARE RESOLVED.**

You and Klipsch agree that any claim or dispute at law or equity that has arisen or may arise between us relating in any way to or arising out of this or previous versions of the EULA, your use of or access to the application, or any products or services sold or purchased through the application, will be resolved in accordance with the provisions set forth in this Legal Disputes section.

##### **A. Applicable Law**

You agree that, except to the extent inconsistent with or preempted by federal law, the laws of the State of Indiana, without regard to principles of conflict of laws, will govern the EULA and any claim or dispute that has arisen or may arise between you and Klipsch, except as otherwise stated in the EULA.

##### **B. Agreement to Arbitrate**

You and Klipsch each agree that any and all disputes or claims that have arisen or may arise between you and Klipsch relating in any way to or arising out of this or previous versions of the EULA, your use of or access to the application, or any products or services sold, offered, or purchased through Klipsch's application shall be resolved exclusively through final and binding arbitration, rather than in court. Alternatively, you may assert your claims in small claims court, if your claims qualify and so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis. The Federal Arbitration Act governs the interpretation and enforcement of this Agreement to Arbitrate.

##### **(1) Prohibition of Class and Representative Actions and Non-Individualized Relief**

YOU AND KLIPSCH 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 OR PRIVATE ATTORNEY GENERAL ACTION OR PROCEEDING. UNLESS BOTH YOU AND KLIPSCH 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, CLASS, OR PRIVATE ATTORNEY GENERAL ACTION OR 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). ANY RELIEF AWARDED CANNOT AFFECT OTHER USERS. If a court decides that applicable law precludes enforcement of any of this paragraph's limitations as to a particular claim for relief, then that claim (and only that claim) must be severed from the arbitration and may be brought in court, subject to your and Klipsch's right to appeal the court's decision. All other claims will be arbitrated.

## **(2) Arbitration Procedures**

Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, and court review of an arbitration award is very limited. However, an arbitrator can award the same damages and relief on an individual basis that a court can award to an individual. An arbitrator should apply the terms of the EULA as a court would. All issues are for the arbitrator to decide, except that issues relating to arbitrarily, the scope or enforceability of this Agreement to Arbitrate, or the interpretation of Section 1 of this Agreement to Arbitrate ("Prohibition of Class and Representative Actions and Non-Individualized Relief"), shall be for a court of competent jurisdiction to decide.

The arbitration will be conducted by the American Arbitration Association ("AAA") under its rules and procedures, including the AAA's Consumer Arbitration Rules (as applicable), as modified by this Agreement to Arbitrate. The AAA's rules are available at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879. The use of the word "arbitrator" in this provision shall not be construed to prohibit more than one arbitrator from presiding over an arbitration: rather, the AAA's rules will govern the number of arbitrators that may preside over an arbitration conducted under this Agreement to Arbitrate.

A party who intends to seek arbitration must first send to the other, by certified mail, a completed form Notice of Dispute ("Notice"). You may download a form Notice at <http://assets.klipsch.com/files/Klipsch-Notice-of-Dispute.pdf>. The Notice to Klipsch should be sent to Klipsch Inc., Attn: Legal Department, Re: Notice of Dispute, 3502 Woodview Trace, Suite 200, Indianapolis, IN 46268. Klipsch will send any Notice to you to the physical address we have on file associated with your Klipsch account; it is your responsibility to keep your physical address up to date. All information called for in the Notice must be provided, including a description of the nature and basis of the claims the party is asserting and the relief sought.

If you and Klipsch are unable to resolve the claims described in the Notice within 30 days after the Notice is sent, you or Klipsch may initiate arbitration proceedings. A form for initiating arbitration proceedings is available on the AAA's site at [www.adr.org](http://www.adr.org). In addition to filing this form with the AAA in accordance with its rules and procedures, the party initiating the arbitration must mail a copy of the completed form to the opposing party. You may send a copy to Klipsch at the following address: Klipsch Inc., Attn: Legal Department, Re: Notice of Dispute, 3502 Woodview Trace, Suite 200, Indianapolis, IN 46268. In the event Klipsch initiates an arbitration against you, it will send a copy of the completed form to the physical address we have on file associated with your Klipsch account. Any settlement offer made by you or Klipsch shall not be disclosed to the arbitrator.

The arbitration hearing shall be held in the county in which you reside or at another mutually agreed location. If the value of the relief sought is \$10,000 or less, you or Klipsch may elect to have the arbitration conducted by telephone or based solely on written submissions, which election shall be binding on you and Klipsch subject to the arbitrator's discretion to require an in-person hearing, if the circumstances warrant. In cases where an in-person hearing is held, you and/or Klipsch may attend by telephone, unless the arbitrator requires otherwise.

The arbitrator will decide the substance of all claims in accordance with applicable law, including recognized principles of equity, and will honor all claims of privilege recognized by law. The arbitrator shall not be bound by rulings in prior arbitrations involving different users, but is bound by rulings in prior arbitrations involving the same Klipsch user to the extent required by applicable law. The arbitrator's award shall be final and binding and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

### **(3) Costs of Arbitration**

Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules, unless otherwise stated in this Agreement to Arbitrate. If the value of the relief sought is \$10,000 or less, at your request, Klipsch will pay all filing, administration, and arbitrator fees associated with the arbitration. Any request for payment of fees by Klipsch should be submitted by mail to the AAA along with your Demand for Arbitration and Klipsch will make arrangements to pay all necessary fees directly to the AAA. If (a) you willfully fail to comply with the Notice of Dispute requirement discussed above, or (b) in the event the arbitrator determines the claim(s) you assert in the arbitration to be frivolous, you agree to reimburse Klipsch for all fees associated with the arbitration paid by Klipsch on your behalf that you otherwise would be obligated to pay under the AAA's rules.

### **(4) Severability**

With the exception of any of the provisions in Section 1 of this Agreement to Arbitrate ("Prohibition of Class and Representative Actions and Non-Individualized Relief"), if an arbitrator or court decides that any part of this Agreement to Arbitrate is invalid or unenforceable, the other parts of this Agreement to Arbitrate shall still apply.

### **(5) Opt-Out Procedure**

IF YOU ARE A NEW KLIPSCH APPLICATION USER, YOU CAN CHOOSE TO REJECT THIS AGREEMENT TO ARBITRATE ("OPT-OUT") BY MAILING US A WRITTEN OPT-OUT NOTICE CONTAINING YOUR FULL NAME, STREET ADDRESS, CITY, STATE, AND ZIP CODE AND EMAIL ADDRESS ASSOCIATED WITH THE KLIPSCH ACCOUNT TO WHICH THE OPT-OUT APPLIES ("OPT-OUT NOTICE"). YOU MUST SIGN THE OPT-OUT NOTICE FOR IT TO BE EFFECTIVE. THE OPT-OUT NOTICE MUST BE POSTMARKED NO LATER THAN 30 DAYS AFTER THE DATE YOU ACCEPT THE EULA FOR THE FIRST TIME. YOU MUST MAIL THE OPT-OUT NOTICE TO KLIPSCH INC., ATTN: LEGAL DEPARTMENT, RE: OPT-OUT NOTICE, 3502 WOODVIEW TRACE, SUITE 200, INDIANAPOLIS, IN 46268. THIS PROCEDURE IS THE ONLY WAY YOU CAN OPT OUT OF THE AGREEMENT TO ARBITRATE. IF YOU OPT OUT OF THE AGREEMENT TO ARBITRATE, ALL OTHER PARTS OF THE AGREEMENT AND ITS LEGAL DISPUTES SECTION WILL CONTINUE TO APPLY TO YOU. OPTING OUT OF THIS AGREEMENT TO ARBITRATE HAS NO EFFECT ON ANY PREVIOUS, OTHER, OR FUTURE ARBITRATION AGREEMENTS THAT YOU MAY HAVE WITH US.

### **(6) Future Amendments to the Agreement to Arbitrate**

Notwithstanding any provision in the EULA to the contrary, you and we agree that if we make any amendment to this Agreement to Arbitrate (other than an amendment to any notice address or site link provided herein) in the future, that amendment shall not apply to any claim that was filed in a legal proceeding against Klipsch prior to the effective date of the amendment. The amendment shall apply to all other disputes or claims governed by the Agreement to Arbitrate that have arisen or may arise between you and Klipsch. We will notify you of amendments to this Agreement to Arbitrate by posting the amended terms on [www.Klipsch.com](http://www.Klipsch.com) at least 30 days before the effective date of the amendments and by providing notice through the Klipsch Message Center and/or by email. If you do not agree to these amended terms, you may discontinue use of the application within the 30-day period and you will not be bound by the amended terms.

## **C. Judicial Forum for Legal Disputes**

Unless you and we agree otherwise, in the event that the Agreement to Arbitrate above is found not to apply to you or to a particular claim or dispute, either as a result of your decision to opt out of the Agreement to Arbitrate or as a result of a decision by the arbitrator or a court order, you agree that any claim or dispute that has arisen or may arise between you and Klipsch must be resolved exclusively by a state or federal court located in Marion County, Indiana. You and Klipsch agree to submit to the personal jurisdiction of the courts located within Marion County, Indiana for the purpose of litigating all such claims or disputes.

**Entire Agreement.** This Agreement is the complete and final agreement between you and Klipsch with respect to the subject matter of this Agreement. To the extent that any terms of any Klipsch policies or programs for support services conflict with the terms of this Agreement, the terms of this Agreement shall control.

**Severability.** If any court or other tribunal of competent jurisdiction finds or holds any provision of this Agreement to be void, invalid, illegal or otherwise unenforceable the remaining provisions of this Agreement will remain in full force and effect.

**Notice and Contact Information.** For questions or concerns, please email us at [support@klipsch.com](mailto:support@klipsch.com) or contact us at: <http://www.klipsch.com/support>.

**Copyright Notices, Attributions and Licenses.** From time to time, some of DTS' licensors require the reproduction of certain copyright notices and authorship attribution in DTS' documentation. If such notices are required, they will be posted on the company website.