Beta Test Agreement

Audible Magic Beta Test Agreement

This Beta Test Agreement (the "Agreement") is entered into this on December 4, 202 by and between Audible Magic Corporation, a Delaware corporation ("AM"), with an address at 985 University Avenue, Suite 35, Los Gatos, California 95032 and Customer , a Incorporation corporation ("Customer") with an address at Address .

WHEREAS, AM has developed a product or service as described in Appendix A including modifications, enhancements, improvements, additions, derivative works, documentation and related material ("Product").

WHEREAS, AM desires that the Product be tested prior to general release.

WHEREAS, Customer wishes to participate in a test for such Product ("Beta Test").

NOW, THEREFORE, in consideration of the mutual covenants and premises herein contained, the parties hereto agree as follows:

1. BETA TEST. In consideration for receiving the Product for testing, Customer agrees to participate in a Beta Test for the Product and will notify AM of all problems encountered and ideas for enhancements developed during the period of this Agreement.

2. LICENSE GRANT. AM grants Customer a non-exclusive and non-transferable license to use the Product free of charge for evaluation and trial purposes only for a limited time. Customer may not use the Product for any purpose other than trial and evaluation. Customer may make a limited number of copies of the Product as required to conduct its evaluation, provided each copy is governed by the terms of this Agreement. While AM intends to distribute a commercial version of the Product, AM reserves the right at any time not to release a commercial version of the Product or, if released, to alter prices, features, licensing terms, or other characteristics of the commercial version.

3. PROPRIETARY RIGHTS. Title, ownership rights, and intellectual property rights in the Product shall remain in AM. Customer hereby assigns to AM any invention, work of authorship, mask work, idea, information, feedback or know-how (whether or not patentable) that is conceived, learned or reduced to practice in the course of performance under this Agreement and any patent rights, copyrights (including moral rights; provided that any non-assignable moral rights are waived to the extent permitted by law), trade secret rights, mask work rights, sui generis database rights and all other intellectual and industrial property rights of any sort with respect thereto. Customer agrees to take any action reasonably requested by AM to evidence, perfect, obtain, maintain, enforce or defend the foregoing. Title and related rights in the content accessed through the Product are the property of the applicable content owner and are protected by applicable law. The license granted under this Agreement gives Customer no rights to such content.

4. PRE-RELEASE. Product is prerelease and may not operate at the level of performance or compatibility of a final, generally available product offering. Product may not operate correctly and may be substantially modified prior to first commercial shipment or withdrawn. Product is provided "AS IS" without warranty of any kind. The entire risk arising out of the use or performance of Product remains with Customer.

5. PRODUCT REFERENCE. The Customer upon completion of the Beta test agrees to provide material, statistics, or information that is not deemed confidential to Customer for use in press releases, customer testimonials, and as a reference in marketing and sales initiatives by AM.

6. CONFIDENTIALITY. The Product is Confidential Information. Customer will not disclose Product or any

comments regarding Product to any third party without the prior written approval of AM. Customer will also maintain as Confidential Information any test results from the Beta Test of Product as well as any metadata, business rules, rights or licensing information, hash codes or other unique file identifiers, unique AM identifiers or other information including identification information associating metadata with any identified file, hash code or other unique file identifier. Customer will not be liable for the disclosure of any Confidential Information which is: (a) in the public domain other than by a breach of this Agreement by Customer; or (b) rightfully received from a third party without any obligation of confidentiality; or (c) rightfully known to Customer without any limitation on use or disclosure prior to its receipt from AM; or (d) independently developed by Customer's employees; or (e) generally made available to third parties by AM without restriction on disclosure.

7. RESTRICTIONS. Except as otherwise expressly permitted in this Agreement, and in addition to any other restrictions herein, Customer may not: (i) modify or create any derivative works of the Product or documentation, including translation or localization; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code for the Product (except to the extent applicable laws specifically prohibit such restriction); (iii) redistribute, encumber, sell, rent, lease, sublicense, use the Products in a timesharing or service bureau arrangement, or otherwise transfer rights to the Product; (iv) copy the Product (except as necessary for testing the Product); (v) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Product; (vi) modify any header files or class libraries in the Product; (vii) create or alter tables or reports relating to the database portion of the Product (except as necessary for testing the Product); and (viii) use any metadata, business rules, rights or licensing information, hash codes or other unique file identifiers, unique AM identifiers or other information, including identification information associating metadata with any identified file, hash code or other unique file identifier for purposes other than the Test of the Product.

8. TERM AND TERMINATION. This Agreement may be terminated by AM for any reason or no reason upon ten (10) days' written notice to Customer at the address listed above, or immediately upon notice of any breach by Customer of the provisions of this Agreement, and in any case will terminate on the last day of the term identified in Exhibit A. Upon any termination, the license granted hereunder will terminate, and Customer shall immediately cease all use of the Technology and immediately return or destroy all Confidential Information to AM (including all copies and extracts thereof) and so certify the foregoing to AM. The provisions of this Agreement which by their nature should survive termination shall survive.

9. INDEMNIFICATION BY AM. AM will defend and indemnify Customer against any claims, lawsuits, or proceeding, and pay any damages and expenses (including reasonable attorneys' fees) resulting from such claim, lawsuit, or proceeding, brought against Customer for any use of the Product as contemplated by this Agreement to the extent it is based on a claim that the Product furnished by AM under this Agreement constitutes an infringement of any third party's intellectual property rights. Customer shall provide AM with prompt written notice of any indemnifiable claim. AM shall have full authority to defend or settle the claim at the option of AM with counsel of AM's choosing. If AM assumes control the defense of such claim, it shall permit Customer to participate in the suit in an advisory capacity and Customer shall cooperate with AM and shall at all times have the right fully to participate in such defense at its own expense. AM's indemnification obligations will not apply to Product that has been (i) modified after its delivery by AM; (ii) combined with hardware, services, software, products, content or materials where the infringement claim would not have been caused absent such combination; (iii) failed to be updated (if use of the then current version would have avoided such infringement claim) or about which AM has notified Customer not to use; or (iv) any Customer on-line service linkages where the infringement claim would not have been caused absent such linkage.

10. INDEMNIFICATION BY CUSTOMER. Customer will defend and indemnify AM against any claims, lawsuits, or proceeding, and pay any damages and expenses (including reasonable attorneys' fees) resulting from such claim, lawsuit, or proceeding, brought against AM to the extent that such arise from the Customer's noncompliance with the terms of this Agreement, the Customer's failure to comply with applicable law as it applies to this Agreement, and/or the Customer's negligence or willful misconduct. AM shall provide Customer with prompt written notice of any indemnifiable claim. Customer shall have full authority to defend or settle the claim at the option of Customer with counsel of Customer's choosing. If Customer assumes control the defense of such claim, it shall permit AM to participate in the suit in an advisory capacity and AM shall cooperate with Customer and shall at all times have the right fully to participate in such defense at its own expense.

11. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL AM OR ITS SUPPLIERS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE PRODUCT, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED. IN ANY CASE, AM'S ENTIRE LIABILITY UNDER ANY PROVISION OF THIS AGREEMENT SHALL NOT EXCEED THE FEES CUSTOMER PAID FOR THIS LICENSE (IF ANY), WITH THE EXCEPTION OF DEATH OR PERSONAL INJURY CAUSED BY THE NEGLIGENCE OF AM TO THE EXTENT APPLICABLE LAW PROHIBITS THE LIMITATION OF DAMAGES IN SUCH CASES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS EXCLUSION AND LIMITATION MAY NOT BE APPLICABLE. AM IS NOT RESPONSIBLE FOR ANY LIABILITY ARISING OUT OF CONTENT PROVIDED BY CUSTOMER OR A THIRD PARTY THAT IS ACCESSED THROUGH THE PRODUCT AND/OR ANY MATERIAL LINKED THROUGH SUCH CONTENT.

12. MISCELLANEOUS. (a) This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof. (b) This Agreement may be amended only by a writing signed by both parties. (c) This Agreement shall be governed by the laws of the State of California, U.S.A., excluding its conflict of law provisions. (d) Unless otherwise agreed in writing, all disputes relating to this Agreement (excepting any dispute relating to intellectual property rights) shall be subject to final and binding arbitration in Santa Clara County, California with the losing party paying all costs of arbitration. (e) This Agreement may be executed in two counterparts, each of which shall be an original and together which shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a .pdf format data file, such signature shall create a valid and binding obligation of the party executing with the same force and effect as if such facsimile or .pdf signature page were an original thereof.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on the date set forth above.

CUSTOMER

By: Name

Its: Title

EXHIBIT A

Term: 6 months from the date set forth above of this Agreement

Product: The Customer will be accessing the AMLive Content Management System (CMS) and application programming interfaces (API's) and the Hit Dashboard API and related data. This data will include match data from transactions and certain user data from participating platforms.

X ————————————————— X *JE McNeill, Jr.*

Signed By Jim McNeill
Signed On: September 9, 2019

Signature Certificate

Document name: Beta Test Agreement

🔒 Unique Document ID: 90A36AF36213FA714C3725EA0E2BDAA24D9B0D38

LEGALLY SIGNED USING
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This audit trail report provides a detailed record of the online activity and events recorded for this contract.

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