RAIN{indie} SOFTWARE LICENSE AGREEMENT

1. END USER LICENSING AGREEMENT

You are subject to the following End User Licensing Agreement ("**EULA**") made between the user ("**you**", "**your**") and Rival Theory, Inc. ("**Rival Theory**"), a New Mexico, USA corporation with primary offices at 6330 Riverside Plaza Lane, Suite 230, Albuquerque, NM 87120. You agree that, except as otherwise expressly provided in the EULA, there shall be no third party beneficiaries to this Agreement.

2. ACCEPTING THE TERMS

In order to use the Software, you must first agree to the Terms. You may not use the Software if you do not accept the Terms.

- a. You can accept the Terms by:
 - clicking to accept or agree to the Terms, where this option is made available to you by Rival Theory in the user interface for any Software; or
 - ii. by actually using the Software. In this case, you understand and agree that Rival Theory will treat your use of the Software as acceptance of the Terms from that point onwards.
- b. You may not use the Software and may not accept the Terms if
 - you are not of legal age to form a binding contract with Rival Theory; or
 - ii. you are a person barred from receiving the Software under the laws of the United States or other countries including the country in which you are resident or from which you use the Software.

3. GRANT OF LICENSE

- a. Use Rights. Conditioned upon your compliance with the terms and conditions of this Agreement, Rival Theory grants you a non-exclusive, non-transferable license:
 - i. to install and execute the executable form of the Software, solely for internal use by a single person, and

- ii. if you are an individual or a Legal Entity, to distribute the runtime portion of the Software, on a royalty-free basis, solely as embedded or incorporated into Licensee Content and solely to third parties to whom you license or sell Licensee Content pursuant to an agreement that is equally protective of Rival Theory and its licensors as this Agreement.
- iii. you may not sublicense the rights granted under clause (a)(i), but you may sublicense the rights granted under(a)(ii) solely to third parties to whom you license or sell Licensee Content pursuant to an agreement equally protective of Rival Theory and its licensors as this Agreement.

b. Copies. If you have licensed a version of the Software and you are an individual or a Legal Entity, you may install the Software on both a primary computer and a secondary computer, solely for your convenience, but only for use by a single person. You may make a single copy of the Software solely for backup or archival purposes. Rival Theory may at our sole discretion authorize you to install the Software on an additional computer or computers.

4. LICENSING RESTRICTIONS AND LIMITATION

- a. Except as expressly specified in this Agreement, you may not: copy (except in the course of loading or installing) or modify the Software, including but not limited to adding new features or otherwise making adaptations that alter the functioning of the Software;
 - i. distribute, transfer, sublicense, lease, lend, rent or otherwise provide access to the Software to any third party;
 - ii. make the functionality of the Software available to multiple users through any means, including but not limited to by uploading the Software to a network or file-sharing service or through any hosting, application services provider, service bureau, software-as-a-service (SaaS) or any other type of services; or
 - iii. use the Software to develop a competing product.
- b. You acknowledge and agree that portions of the Software, including but not limited to the source code and the specific design and structure of individual modules or programs, are confidential and constitute or contain trade secrets of Rival Theory and its licensors.

Accordingly, you agree not to disassemble, decompile or reverse engineer the Software, in whole or in part, or permit or authorize a third party to do so, except to the extent such activities are expressly permitted by law notwithstanding this prohibition.

c. You agree not to reproduce, duplicate, copy, sell, trade, resell or exploit for any commercial purposes, any portion of the Software (including your Rival Theory username), Software, or content you do not own, or access to the Software or content you do not own, without the express written consent of Rival Theory.

5. OWNERSHIP

The Software is licensed, not sold. Rival Theory retains ownership of the Software including all intellectual property rights therein. The Software is protected by copyright law and international treaties. Rival Theory reserves all rights in the Software not expressly granted to you in this Agreement. You will not delete or in any manner alter any Rival Theory or third-party copyright, trademark or other proprietary rights notices or markings appearing on the Software or in the Software (including the runtime portion thereof).

6. SUPPORT

Valid license holders may access support resources via third party forums or through Rival Theory's online support forum in accordance with Rival Theory's current policies.

7. RIVAL THEORY'S PRIVACY POLICY

Personal and certain other information about you is subject to our Privacy Policy. As a condition of using the Software, you agree to the terms of the Privacy Policy, as it may be changed from time to time. For more information, see our full Privacy Policy at (http://rivaltheory.com/privacy-policy)

8. SPECIAL ADMONITIONS FOR INTERNATIONAL USE

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable Content. Specifically, you agree to comply with all applicable laws regarding the transmission of technical data exported from the United States of America or the country in which you reside.

10. INDEMNITY

You agree to indemnify and hold Rival Theory, and its subsidiaries, affiliates, officers, directors, agents, co-branders or other partners, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of Content you submit, post, transmit or make available through the Software, your use of the Software, your connection to the Software, your violation of the EULA, or your violation of any rights of another.

11. MODIFICATIONS TO SOFTWARE

Rival Theory reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Software (or any part thereof) with or without notice. You agree that Rival Theory shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Software.

12. RIVAL THEORY'S PROPRIETARY RIGHTS

a. *Trademarks*. Trademarks of Rival Theory, its Affiliates, Service Providers and Business Partners may not be copied, imitated, or used, in whole or in part, without the prior written permission of Rival Theory. All page headers, customer graphics, button icons, and scripts are Software marks, trademarks and or/or trade dress of Rival Theory, its Affiliates, Service Providers or Business Partners, and may not be copied, imitated, or used in whole or in part, without the prior written permission of Rival Theory. "Rival Theory", "Rival{Theory}", "RAIN", "RAIN{indie}", and their respective logos are trademarks and Software marks of Rival Theory (collectively, the "Rival Theory Marks"). Without Rival Theory's prior permission, you agree not to display or use in any manner, the Rival Theory Marks.

b. *Patents*. Some of Rival Theory's products and processes and those of its Affiliates, Service Providers and Business Partners used on the Site may be covered by one or more patents and are subject to other trade secret and proprietary rights. Rival Theory, its Affiliates, Service Providers and Business Partners reserve all such rights. You agree not to infringe upon such rights or decompile, reverse engineer, or disassemble any of the products or processes of Rival Theory, its Affiliates, Service Providers or Business Partners. Any software, including any files, images generated by the software, code and data accompanying the software used or accessible through the Site may be used by you solely for accessing and using the Site for purposes expressly stated on the Site, provided that such uses are not

competitive with or derogatory to Rival Theory, its Affiliates, Service Providers and Business Partners. Rival Theory, its Affiliates, Service Providers and Business Partners retain full and complete title to all intellectual property rights they may own in the Software. You agree not to copy, distribute, sell, modify, decompile, reverse engineer, disassemble or create derivative works from any Software.

13. DISCLAIMER OF WARRANTIES

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

a. YOUR USE OF THE SOFTWARE IS AT YOUR SOLE RISK. THE SOFTWARE, AND ANY GOODS PROCURED VIA THE SOFTWARE, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. RIVAL THEORY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

b. RIVAL THEORY MAKES NO WARRANTY THAT

- i. THE SOFTWARE WILL MEET YOUR REQUIREMENTS;
- ii. THE SOFTWARE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE;
- iii. THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SOFTWARE WILL BE ACCURATE OR RELIABLE;
- iv. THE QUALITY OF ANY PRODUCTS, SOFTWARES, INFORMATION OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SOFTWARE WILL MEET YOUR EXPECTATIONS; AND
- v. ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.
- c. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SOFTWARE IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.
- d. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM RIVAL THEORY OR THROUGH OR FROM THE

SOFTWARE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE EULA.

14. LIMITATION OF LIABILITY

- a. YOU EXPRESSLY UNDERSTAND AND AGREE THAT RIVAL THEORY SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF RIVAL THEORY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM:
 - i. THE USE OR THE INABILITY TO USE THE SOFTWARE;
 - ii. THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SOFTWARE RESULTING FROM ANY GOODS, DATA, INFORMATION OR SOFTWARE PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SOFTWARE;
 - iii. UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA;
 - iv. STATEMENTS OR CONDUCT OF ANY THIRD PARTY
 INCLUDING, WITHOUT LIMITATION, ADVERTISERS OR
 MERCHANTS ON THE SOFTWARE; OR
 - v. ANY OTHER MATTER RELATING TO THE SOFTWARE

15. EXCLUSIONS AND LIMITATIONS

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS SET FORTH IN PREVIOUS SECTIONS ABOVE MAY NOT APPLY TO YOU.

16. NOTICE

Rival Theory may provide you with notices by email, regular mail, or postings on the Software, personal or public.

17. GENERAL INFORMATION

- a. Entire Agreement. The EULA constitutes the entire agreement between you and Rival Theory and governs your use of the Software, superseding any prior agreements between you and Rival Theory with respect to the Software. You also may be subject to additional terms and conditions, posted policies (including but not limited to the Privacy Policy), guidelines or rules that may apply when you use or purchase certain elements of the Software, affiliate, merchant, or advertiser services, third-party content, or third-party software.
- b. Independent Contractors. Nothing contained in the EULA shall be construed to constitute either party as a partner, employee or agent of the other party, nor shall either party hold itself out as such. Each party has no right or authority to incur, assume or create, in writing or otherwise, any warranty, liability or other obligation of any kind, express or implied, in the name of or on behalf of the other party, it being intended by both parties that each shall remain an independent contractor, responsible for its own actions.
- c. Choice of Law and Forum. The EULA and the relationship between you and Rival Theory shall be governed by the laws of New Mexico without regard to its conflict of law provisions. You and Rival Theory agree to submit to the personal and exclusive jurisdiction of the courts located within the county of Bernalillo, New Mexico.
- d. Waiver and Severability of Terms. The failure of Rival Theory to exercise or enforce any right or provision of the EULA shall not constitute a waiver of such right or provision. If any provision of the EULA 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 the EULA remain in full force and effect.
- e. Statute of Limitations. 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 Software or the EULA must be filed within one (1) year after such claim or cause of action arose or be forever barred.
- f. Violations. Please report any violations of the EULA by contacting Rival Theory Support at support@rivaltheory.com