

# Terms & Conditions

Effective as of 26-11-2018

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These terms and conditions (**Terms**) apply to the Libratone and LibraRadio mobile apps (**Apps**).

The Libratone app allows you to browse, select and play audio content from third party content services on your Libratone product (**Product**) and to connect to personalized audio content based on your listening preferences and interactions with the app.

Depending on the model of Product and the date when it was purchased, the LibraRadio app allows you to play certain audio content from playlists that are created based on artists or genres chosen by you and your listening preferences. Please see the specific terms and conditions relating to the LibraRadio app.

By clicking "SIGN UP" you, the end user of the Apps, confirm that you accept these terms and conditions (**Terms**) which will create a legally binding contract between you and us. Please also read our Privacy Policy which also governs your use of the Apps and forms part of the legally binding contract between you and us.

**If you do not agree to these Terms, you should not click "SIGN UP" and you should delete the App(s) from your device. This will not affect your ability to stream audio content to your Product via Bluetooth, Wi-Fi or any other means of connectivity (connectivity options vary between models).**

**YOUR ATTENTION IS PARTICULARLY DRAWN TO SECTION 8 WHICH SETS OUT OUR LIABILITY TO YOU, SECTION 10.d) WHICH RELATES TO MANDATORY UPDATES TO YOUR PRODUCT'S SOFTWARE AND SECTION 12.h) WHICH CONTAINS A CLASS ACTION WAIVER WHICH MAY APPLY TO YOU.**

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## 1. **WHO WE ARE**

The Apps are provided by Libratone A/S. We are a private corporation registered in Denmark under company registration (CVR) number 32647642. Our registered office is at Sundkaj 9, 2150 Nordhavn, Denmark.

## 2. CHANGES TO THESE TERMS

We may make minor changes to these Terms without notifying you, provided such changes do not materially affect your rights. If we make any changes to these Terms which may materially affect your rights, we will try to give you reasonable notice in advance by sending you an email or drawing your attention to such changes from within the Apps. If you do not agree with any changes, you should not confirm your agreement to them and you should delete your account and the App(s) from your device.

## 3. USING THE APPS

- a) Age restrictions: Unless prohibited by the laws of the country in which you reside, you must be 18 or older, or 13 or older with your parent/guardian's consent, to use the Apps. If you are a parent or guardian and are concerned that the Apps may have inadvertently collected personal information from your child, please notify us by sending an email to [support@libratone.com](mailto:support@libratone.com).
- b) Technical requirements: In order to use the Apps you will need a compatible device running a compatible version of the device manufacturer's firmware (though we recommend that you always use the current version for optimal performance).
- c) Third party services: You will not be able to listen to any content via the Libratone App unless you have a current and valid subscription to one or more third party content services (**Content Services**). You are responsible for managing your subscription to any Content Services and for ensuring that you comply with the terms and conditions relating to the use of any Content Services, including but not limited to the payment of any subscription fees.
- d) Charges: Subject to any subscription fees you may pay to access any Content Services through the Libratone App, the Apps are provided free of charge. However you will need internet access to use the Apps and you are responsible for paying the costs of such internet access.

## 4. RESTRICTIONS ON USING THE APPS

- a) Commercial use: You may only use the Apps for private and non-commercial purposes.
- b) You may not transfer the Apps to someone else: The licence granted by us to you under these Terms gives you a personal right to use the Apps. While you may share the device on which the Apps are installed with someone else, you may not otherwise transfer the Apps to someone else. If you sell any device on which the Apps are installed, you must delete the Apps from it.
- c) General restrictions: You agree that, unless permitted by these Terms or the laws of the country in which you reside, you will:
  - i) not rent, lease, sub-license, provide or otherwise make available, the Apps to any person;
  - ii) not copy the Apps, except as part of the normal use of the Apps;
  - iii) not translate, merge, adapt, vary, alter or modify, the Apps nor permit the Apps to be combined with, or become incorporated in, any other programs;
  - iv) not disassemble, de-compile, reverse engineer or create derivative works based on the Apps nor attempt to do any such things;
  - v) not use any script or other automated process to interfere with or manipulate the Apps or the results generated from your use of the Apps;
  - vi) not "crawl", "scrape" or otherwise seek to collect any data or information from the Apps or any of the Content Services that may be accessed by or through the Apps using any automated process (including but not limited to bots, scrapers and spiders);

- vii) not use the Apps in any way that may violate the terms and conditions and licence restrictions applicable to any Content Services;
  - viii) not use the Apps to circumvent any technical mechanisms that protect content (whether or not provided through Content Services) from unlawful reproduction or distribution;
  - ix) not use the Apps to circumvent any geographic/territorial restrictions; and
  - x) comply with all applicable laws in relation to your use of the Apps, including technology control or export laws and regulations that apply to the technology used or supported by the Apps.
- d) Suspension or termination of access: We may suspend or terminate your access to the Apps if we receive notice from any third party that, or we have reason to believe that, you have breached these Terms.

## 5. YOUR ACCOUNT

- a) Account details: If you choose, or are provided with, a username, password or any other piece of information as part of our security procedures, you must treat such information as confidential and not disclose it to any other person.
- b) If you or we believe your account has been compromised: We have the right to disable your account at any time if you have notified us, or we have reason to believe, that your account has been compromised in any way.

## 6. RIGHTS GRANTED TO YOU

- a) Grant of licence to the Apps: Provided you comply with these Terms, we grant you a limited, non-exclusive, non-transferable licence to access and use the Apps (including all updates and upgrades to the Apps) on devices owned or controlled by you. This licence will continue to be effective unless and until terminated by you (by deleting your account) or us (by suspending or withdrawing the Apps or giving you notice of termination).
- b) Ownership of the Apps: We and our licensors own all intellectual property and other rights in and to the Apps which are licensed, not sold, to you. We and our licensors retain ownership of all copies of the Apps including those installed on your devices.
- c) Third party software: Third party software (for example, open source software libraries) included in the Apps are licensed to you under the relevant third party's licence terms which can be accessed within the Apps.

## 7. SPECIFIC TERMS FOR THE LIBRARADIO APP

**If you are based in the USA or Canada, the following terms apply to your use of the LibraRadio app:**

- a) By installing, copying, or otherwise using the service provided through the LibraRadio app, you acknowledge that you have read and understood these Terms, and agree to be bound by these Terms. If you do not agree to (or cannot comply with) these Terms, do not install, copy, or use the LibraRadio app or any music, images, video, text, or other material available through the Service (**LibraRadio Content**).
- b) You agree that you will not, for any reason whatsoever, reverse engineer, decompile, disassemble, or otherwise tamper with any security components, usage rules or other protection measures applicable to the LibraRadio app or LibraRadio Content. You agree to abide by the rules and policies

established from time to time by us. Such rules and policies will be applied generally in a non-discriminatory manner to users of the LibraRadio app, and may include, for example, required or automated updates, modifications, and/or reinstallations of the LibraRadio app and obtaining available patches to address security, interoperability, and/or performance issues.

- c) You agree not to make any use of the LibraRadio Content that would infringe the copyright therein.
- d) The LibraRadio app may enable you to obtain, listen to, view, and/or read (as the case may be) LibraRadio Content that may be obtained by you in digital form, and you shall do so solely for your personal, non-commercial entertainment use. This LibraRadio Content may be owned by us or by third parties. However, in all circumstances, you understand and acknowledge that your rights with respect to LibraRadio Content will be limited by copyright law. You agree that you will not attempt to modify any software or LibraRadio Content obtained through the LibraRadio app for any reason whatsoever, including for the purposes of disguising or changing any indications of the ownership or source of the LibraRadio Content.
- e) You represent, warrant and agree that you are using the LibraRadio app hereunder for your own personal, non-commercial entertainment use and not for redistribution or transfer of any kind. You agree not to redistribute, broadcast, publicly perform or publicly display any LibraRadio Content, or otherwise transfer any LibraRadio Content obtained through the LibraRadio app.
- f) We and/or the owners of the LibraRadio Content may, from time to time, remove LibraRadio Content from the LibraRadio app without notice.
- g) The owners of LibraRadio Content are intended beneficiaries of these Terms and shall have the right to enforce these Terms against you.
- h) THE LIBRARADIO APP INCLUDING ALL SOFTWARE, LIBRARADIO CONTENT AND OTHER INFORMATION, MATERIALS AND PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE LIBRARADIO APP ARE PROVIDED "AS-IS" AND "AS AVAILABLE" WITHOUT WARRANTIES OF ANY KIND FROM SERVICE PROVIDER OR ANY OWNERS OF LIBRARADIO CONTENT. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, WE AND ALL OWNERS OF LIBRARADIO CONTENT DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER WE NOR ANY OWNER OF LIBRARADIO CONTENT WARRANT THAT THE LIBRARADIO APP OR ANY SOFTWARE, LIBRARADIO CONTENT, INFORMATION, MATERIALS OR PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE LIBRARADIO APP ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.
- i) NEITHER WE NOR ANY OWNER OF LIBRARADIO CONTENT WILL BE LIABLE FOR ANY INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING FROM THE USE OF THE LIBRARADIO APP OR FROM SOFTWARE, CONTENT, INFORMATION, MATERIALS OR PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE LIBRARADIO APP, OR FOR ANY DAMAGES IN EXCESS OF THE AMOUNT PAID FOR THE SPECIFIC ITEM OF CONTENT GIVING RISE TO THE APPLICABLE CLAIM FOR DAMAGES.

## **8. OUR LIABILITY TO YOU**

**The following terms apply to your use of the Apps except for the LibraRadio App, if you are based in the USA or Canada (see Section 7 above).**

- a) Unlawful exclusions or limitations: We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; liability for fraud or

fraudulent misrepresentation and, if required by the laws of the country in which you reside, gross negligence. The limitations in this section may not apply in some jurisdictions if prohibited by applicable law.

- b) Limitations: Without affecting your statutory and other rights as a consumer under the laws of the country in which you reside, to the fullest extent permitted by such laws:
- i) the Apps are provided on an “as is” and “as available” basis and we make no representations and disclaim any warranties, conditions or guarantees as to satisfactory quality, merchantability, fitness for purpose or non-infringement;
  - ii) we do not warrant or guarantee that the Apps, or any content made available by or through the Apps (whether or not provided through any Content Services) will always be available or be uninterrupted or error-free; and
  - iii) in no event will we (or any person or company associated with us in any capacity) be liable to you for any indirect, special, incidental, punitive, exemplary or consequential damages (even if we have been advised of the possibility of those damages arising).
- c) Your rights and remedies: You acknowledge and agree that, to the fullest extent permitted by the laws of the country in which you reside:
- i) your sole remedy for any problems or dissatisfaction with the Apps shall be to delete your account and uninstall the Apps; and
  - ii) our aggregate liability for all other claims shall be limited to US\$500 (or the equivalent amount in the official currency of the country in which you reside).

## 9. PROMOTIONAL OFFERS

We may offer special promotions on behalf of Content Services and other partners which may be subject to additional terms and conditions. We will draw your attention to any additional terms and conditions relating to special promotions prior to sign-up.

## 10. SUSPENSION, WITHDRAWAL AND UPDATES

- a) Suspension or withdrawal of the Apps: We may suspend, withdraw or restrict the availability of all or any part of the Apps (globally or in respect of any particular jurisdiction) for business, legal and operational reasons at any time. We will try to give you reasonable notice of any suspension or withdrawal. Withdrawal of the Apps will not affect your ability to stream audio content to your Product via Bluetooth, Wi-Fi or any other means of connectivity (connectivity options vary between models).
- b) Termination by you: You may terminate your agreement with us as set out in these Terms at any time by emailing your request to [support@libratone.com](mailto:support@libratone.com) and deleting the App(s) from your device.
- c) Updates to the Apps: We may provide updates to the Apps to improve performance, enhance functionality, reflect changes to your device’s firmware, address security issues or comply with any applicable law or regulation. If you choose not to install such updates, you may not be able to continue using the Apps or the Apps may not perform as they should.
- d) Updates to your Product: We may require you to update your Product’s software (called firmware) in order to continue using your Product. Updates may include functional or security improvements, performance enhancements, support for other devices or implement fixes for known or reported issues.

## 11. SUPPORT AND COMPLAINTS

- a) Support: You can find our support resources within the Apps.
- b) Contacting us, complaints and disputes: If you wish to contact us or you have any complaint or dispute relating to the Apps, your Product, or these Terms, you should contact us in the first instance by emailing [support@libratone.com](mailto:support@libratone.com). If any complaint or dispute cannot be resolved between us within a period of two months from the date that we receive notice of your complaint or dispute and you are based in the European Union, you may choose to submit the complaint or dispute to an out-of-court settlement procedure through the [European platform for alternative and online dispute resolution](#).
- c) How we will communicate with you: If we have to contact you, we will do so by email or SMS using the contact details you have provided to us.

## 12. OTHER IMPORTANT TERMS

- a) Apple® App Store® Terms: If you have downloaded the Apps from the Apple® App Store®, you acknowledge and agree that:
  - i) the agreement set out in these Terms is between you and us, not with Apple Inc. (**Apple**) and that we are solely responsible for the Apps made available via the Apple® App Store®;
  - ii) Apple is not responsible for providing any maintenance and support services with respect to the Apps as described in these Terms or as may be required by applicable law;
  - iii) we are solely responsible for any warranties made in respect of the Apps to the extent not effectively disclaimed under these Terms;
  - iv) in the event of any failure of the Apps to conform to any applicable warranty, you may notify Apple, and, where applicable, Apple will refund the purchase price for the Apps to you; but to the maximum extent permitted by applicable law, Apple will have no other warranty obligation with respect to the Apps and Apple will not be responsible for addressing any claims relating to the Apps or your possession and/or use of the Apps, including (but not limited to), product liability claims; any claims that the Apps fails to conform to any applicable legal or regulatory requirement; and any claims arising under consumer protection or similar legislation;
  - v) Apple is not responsible for the investigation, defence, settlement and discharge of any third party claim that the Apps and/or your possession and use of the Apps, infringes that third party's intellectual property rights;
  - vi) Apple and its subsidiaries are third party beneficiaries of these Terms and, upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary; and
  - vii) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country, nor are you listed on any U.S. Government list of prohibited or restricted parties.
- b) Google® Play™ Store Terms: If you have downloaded the Apps from the Google® Play™ Store, you acknowledge and agree that the terms of the [Google® Play™ Developer Distribution Agreement](#) shall override these Terms to the extent that these Terms conflict with the terms of such agreement and that each member Google's group of companies shall be third party beneficiaries of these Terms and may enforce these Terms against you as a third party beneficiary.
- c) Enforcement by third parties: In addition to sections 12.a)vi) and 12.b) above, you acknowledge and agree that the owners of any Content Services are intended beneficiaries of these Terms and have the right to enforce these Terms directly against you where your failure to comply with these Terms

would put you in breach of the terms and conditions of your agreement with them. However in all other circumstances, these Terms are not intended to grant any rights to anyone other than you and us and in no event shall these Terms create any third party beneficiary rights.

- d) Provisions that will survive termination: Sections 8, 11.b), 12.c), 12.d), 12.f), 12.g), 12.h), 12.i) and 12.j) of these Terms, together with any other provision in these Terms which expressly or by its nature must remain in effect after termination of the agreement between us as set out in these Terms, shall survive termination of such agreement.
- e) We may transfer the agreement between us to someone else: We may transfer our rights and obligations under these Terms to another organization. If you are unhappy with the transfer, you may terminate your agreement with us under section 10.b).
- f) If a court finds part of these Terms illegal, the rest will continue in force: Each section of these Terms operates separately. If any court or other relevant authority decides that any of them are unlawful, the remaining sections will remain in full force and effect.
- g) Even if we delay in enforcing these Terms, we can still enforce them later: If we do not insist immediately that you do anything you are required to do under these Terms, or if we delay in taking steps against you in respect of your breaching the agreement between us, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.
- h) Class action waiver: Where permitted by the laws of the country in which you reside, you and we agree that each of us may bring claims against the other only in an individual capacity and not as claimant/complainant/plaintiff in any purported class or representation action. Unless you and we agree, no arbitrator or judge may consolidate more than one person's claims or otherwise preside over any form of a class or representation action.
- i) Which laws apply to these Terms: Unless otherwise required by the laws of the country in which you reside, any claim, dispute or controversy arising in connection with these Terms (including non-contractual claims or disputes) shall be subject to Danish law (without regard to choice or conflicts of law principles).
- j) Where you may bring legal proceedings: Unless otherwise required by the laws of the country in which you reside, in the event of any claim, dispute or controversy arising in connection with these Terms (including non-contractual claims or disputes), the parties shall try to reach an out-of-court settlement and if no settlement can be reached, such claim, dispute or controversy must be referred to the Danish courts (meaning that no other countries' courts can preside over the matter). We do not accept any codes of conduct as mandatory in connection with these Terms.

Thank you for reading these Terms.

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