

# End User License Agreement of Samplemodeling (EULA)

January 2014

## I. GENERAL

The following information represents the contractual conditions for the use of software, manufactured by Samplemodeling (hereinafter called Samplemodeling), by you, the final user (hereinafter called the Licensee).

By downloading the software on your computer, you are declaring yourself to be in agreement with the contractual conditions, so please read the following text carefully.

If you are not in agreement with these conditions, you must not purchase the software.

### 1. Download Sales

Download sales are final. Samplemodeling does not issue product refunds or cancel any contract for services connected to a download purchase once a download has been completed.

### 2. Updates / Upgrades

If you are owner of Samplemodeling software products, which qualify you to update or to upgrade to the product or the product bundle licensed by this Agreement, the qualifying licences of your software products will expire by accepting the following contractual conditions. Any qualifying product can be used once only to contract an update or an upgrade offer.

In case you have upgraded to a product bundle the following conditions shall apply to the bundle, which may include your software products, subject to the upgrade.

### 3. NFR (Not For Resale) products

Notwithstanding other sections of this License Agreement, any products by Samplemodeling, labelled or otherwise provided to you as a NFR (Not For Resale) copy, may only be used for demonstration, testing and evaluation purposes and may neither be resold or transferred, nor used as a product which qualifies you to update or upgrade offers.

## II. SAMPLEMODELING SOFTWARE LICENSING AGREEMENT

### 1. Object of the Contract

The object of the contract consists of the computer programs available as downloadable files, or recorded on the supplied medium (e.g. DVD, CD-ROM), as well as the relevant usage instructions and program descriptions. These are described hereinafter as "Licensed software".

### 2. Registration / Activation

It is required that you register the Licensed software in order to receive an activation key that enables you to use the Licensed software on your computer. The serial number of your product is embedded in the activation information that is passed from your music computer to the Native

Instruments database. Native Instruments is the company providing the Player software and the copy protection management.

Registration means that the owner's name, address and email address are stored together with the Native Instruments serial number in their registration database. For the registration you need to enter your name, email address and postal address.

Without activation it is not possible to use Samplemodeling products. The Native Instruments SERVICE CENTER utility guides you through the easy-to-follow step by step Native Instruments activation process. Native Instruments SERVICE CENTER requires the installation of the Macromedia Flash Player 9.0.22.0.(or higher). The installer of your Native Instruments product contains a copy of the necessary plug-in which will be installed automatically.

The Native Instruments activation uses information about essential system components of the user's audio computer encoded in the Activation Request File. This information does not contain any personal data. The Activation Request File will be used to create an activation key, which works only on the computer where the Activation Request File has been generated.

In case you want to use your Native Instruments product on a different computer or in case of certain changes on your present computer a re-activation might become necessary.

Should Native Instruments for whatever reasons no longer be able to fulfill its obligations to deliver the activation key, it will provide the Licensee with a key which ensures the continued use of the software independent of changes of the computer.

Native Instruments uses a secure SSL connection with 128-bit- encryption that meets current security standards to transmit your data over the web. Native Instruments does not pass these data to third parties.

You agree that Native Instruments may use this information, observing the Data Protection Laws, as long as it is in a form that does not personally identify you, to improve its products or to provide services or technologies to you and unless you object to such using in writing.

### **3. Scope of use**

Samplemodeling grants the Licensee the non-exclusive right to use the Licensed software on one single computer only (i.e. one CPU) at one single place. If this single computer is connected to a multi-user system, this License shall apply to all users of the system.

The Licensee may personally use the licensed software or hardware temporarily on one other computer, on condition that the said software and hardware is normally used regularly on one particular computer. Use above and beyond these limits is not permissible.

The proper use of the licensed software according to the terms of this agreement is condition for Licensee's right to use it.

The Licensee is not allowed to transfer/sell the Licensed software to a third party.

### **4. Exclusivity of Licensed software and hardware**

The Licensee is to use the licensed Samplemodeling software, all copies thereof, and all pertinent documentation exclusively for his own purposes, and must keep it separate from third parties.

He must ensure that no third party or any of his own employees, unless authorised, will have access to the licensed software, may copy part or all of the licensed software, or be given any opportunity to do so. The Licensee bears legal liability towards Samplemodeling for any loss or damage - including any subsequent losses incurred by Samplemodeling - resulting from the Licensee not keeping the programs for exclusive use, or not doing so with sufficient assiduity.

Occasional use by a third party is only permissible if this is absolutely essential for the Licensee's use. Renting or lending out the licensed software is expressly forbidden..

## **5. Guarantee and legal liability**

Samplemodeling and the Licensee are aware that functional defects in the licensed software cannot be totally ruled out, despite the present state of technical knowledge, even if the very greatest care is taken. The unrestricted functionality of the licensed software and/or the rectification of all faults therefore cannot be totally guaranteed.

Samplemodeling's legal liability for programming errors in the Licensed Software, including later updates provided for under this contract, is therefore restricted to any case of Samplemodeling acting with intent or gross negligence.

Having stated this, Samplemodeling takes on the guarantee towards the Licensee that, at the point in time when the contract is concluded, the licensed software and hardware will prove to be free of all material and technical defects under normal operating conditions.

Should the Medium prove defective, the Licensee can demand their replacement during a period of twelve months from receipt of the licensed software. In this instance he must return the Medium containing the licensed software to Samplemodeling.

Samplemodeling undertakes, for a period of twelve months from the conclusion of this contract, to undertake everything that is necessary to ensure the functionality of the licensed software in compliance with the specifications and the program description. The provision for this guarantee is that the licensed software be operated in the configuration provided for, and under appropriate operating conditions. Samplemodeling does not guarantee uninterrupted and faultless operation.

All guarantee claims on behalf of the Licensee become invalid if he tampers with the licensed software, or modifies them in any way whatsoever, regardless of the extent of such modifications. The translation of the licensed software into any other program language is also to be regarded as a modification.

Where Samplemodeling is answerable for a defect of the licensed software, the Licensee's right shall be confined to subsequent performance. At Samplemodeling election such subsequent performance shall either consist of rectifying the defect or delivery of a substitute item. In the event that subsequent performance fails, the Licensee shall be reserved the right either to reduce the purchase price or withdraw from the contract. Subsequent performance shall be deemed to have failed if Samplemodeling is unwilling or unable to rectify the defect/make substitute delivery or if rectification/substitute delivery is delayed beyond adequate time limits for reasons which Samplemodeling is answerable for or if attempts at rectification have failed twice. More extensive claims, no matter on which legal reason, shall be excluded.

In the instances when, within the context of the guarantee, the scope of the licensed software would have to be changed, in particular if more memory capacity is needed for the program, the Licensee can make no claims of any kind against Samplemodeling.

The Licensee has no rights over and above the aforementioned. Samplemodeling bears no liability for any loss or damage to the licensed software, or to other programs being used, for the

loss of working results, turnover, or profit, or for direct or indirect loss or damage suffered by the Licensee or any third party, unless such loss or damage has been caused by Samplemodeling acting with intent or gross negligence.

Samplemodeling in particular provides no guarantee that the licensed software meets the Licensee's requirements and purposes, or can work in conjunction with other programs he may have selected. The responsibility for the correct selection and for the use of the licensed software, and for the results aimed for or achieved, is borne by the Licensee.

## **6. Concluding stipulations**

This contract shall be exclusively subject to the laws of the state of Italy.

If any stipulation of this License contract should be or become invalid, either completely or in part, this shall not affect the validity of the remaining stipulations. The parties undertake instead to replace the invalid stipulation with a valid regulation which comes as close as possible to the purpose originally intended.

## **III. SAMPLEMODELING SOUND LICENSE AGREEMENT**

Please read the following sound license agreement carefully. When installing the sound library on your computer system, you are legally bound to the following license agreement terms.

### **Samplemodeling Sound License Agreement**

This license agreement is an agreement between you and Samplemodeling. It governs your use of the sound library / sound libraries incorporated in the downloaded product or on a CD / DVD supplied to you. By downloading, installing or otherwise using the samples, ensembles, instruments, presets or any other included content, you agree to be legally bound by the terms of this license agreement.

The provided samples, instruments and presets can be used for commercial or non-commercial music and audio productions without the prior permission from Samplemodeling under the terms of this agreement. The usage of this product (in particular samples, instruments and presets) for the creation of a sound library or as a sound library for any kind of synthesizer, virtual instrument, sample library, sample-based product or other musical instrument is strictly prohibited. Individual samples, sound sets or audio loops may not be distributed (commercially or otherwise) standalone. Furthermore these samples, sound sets or audio may not be repackaged in whole or in part as audio samples, sound libraries or sound effects.

With the purchase of this sound library you have acquired a single license. Any other use in whole or in parts (giving, trading, lending, renting, re-issuing, re-distribution or re-sale of this product or any of the contained samples) is expressly prohibited, without the prior written permission of Samplemodeling.

This license will terminate automatically without notice by Samplemodeling if you fail to comply with any provision of this license. Upon termination you shall destroy all copies of the samples, ensembles, instruments, presets or other contents of the sound library / sound libraries.

In case this product contains third party's sounds, third party's sound libraries or third party's software which are not subject to other terms, such sounds, libraries or software shall be protected by the afore mentioned terms.

#### **IV. SPECIAL CONDITIONS**

##### **1. Owners of The Trombone 1 upgrading to The Trombone 3.0 at reduced price.**

Owners of Samplemodeling The Trombone v.1 upgrading to The Trombone v. 3 accept the conditions reported under General/ Update/upgrade.

While v.1 will remain viable in existing installations, the qualifying licence of this software product will expire, and all the rights pertaining to the product will be transferred to v. 3.0.

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