

Device Usage Agreement

Last updated: _____

This Device Usage Agreement is between you and Cursor Electronics, LLC ("**Cursor**", "**our**", or "**we**"). This Device Usage Agreement, our Terms of Use located at cursorpc.com/terms-of-use, our Privacy Notice located at cursorpc.com/privacy-notice, and all other applicable rules, policies, and terms available on or through the "**Cursor Device**" (defined below) or found at cursorpc.com (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. By using the Cursor Device, you agree to be bound by the terms of this Agreement on behalf of yourself and others who use the Cursor Device. If you do not accept the terms of this Agreement, then you may not use the Cursor Device, and you may return it in accordance with the applicable return policy. You may need your own user account to register and use your Cursor Device, and you may be required to be logged in to the account and have a valid payment method associated with it.

1. **Definitions.** For the purpose of this Agreement:

"**Advertising Surface**" means the integrated advertising display and other technology integrated into the Cursor Device used to serve targeted advertisements to Cursor Device users.

"**Cursor Device**" means each device provided by Cursor that links to this Agreement or otherwise includes this Agreement in its documentation.

"**Digital Content**" means digitized content (including third-party content), such as books, newspapers, magazines, journals, music, videos, apps, games, skills, photos, audio, and related features and functionality.

"**Software**" means all software we make available to you for use on a Cursor Device, but excludes third-party Digital Content.

2. **Advertising Supported Device.**

- (a) **Subsidy.** Cursor Devices are provided pursuant to an advertising-supported subsidy model. The Cursor Device is offered at no upfront cost to you based on anticipated advertising revenue generated through use of the Cursor Device and its Advertising Surface. You acknowledge that the fair market value of the Cursor Device exceeds the amount paid at the time of receipt, if any, and that continued compliance with this Agreement, including required advertising through the Advertising Surface, is a material condition of retaining the Cursor Device.
- (b) **Minimum Device Usage Requirements.** As a material condition of receiving and retaining a Cursor Device, you agree that the Cursor Device must remain powered on and connected to the internet for a minimum average usage of eight (8) hours per weekday (Monday through Friday). Compliance with this requirement shall be measured over a rolling thirty (30) day period. Cursor reserves the right to verify compliance through device telemetry, connectivity logs, and uptime monitoring. Temporary outages or interruptions will not constitute a breach provided the rolling 30-day average is maintained. Failure to meet the minimum usage requirement for a sustained period constitutes a material breach of this Agreement.

- (c) **Advertising Surface Requirements.** You are strictly prohibited from disabling, obstructing, muting, altering, covering, or otherwise interfering with the Advertising Surface. The installation of unauthorized software or firmware that interferes with advertising functionality, manipulation or falsification of usage metrics, and any attempt to bypass system-level monetization processes are also expressly prohibited. Any such actions shall constitute a material breach of this Agreement.

3. **Features and Software.**

- (a) **Location Services.** Your Cursor Device may have a feature that allows maps, other applications, and Cursor to use and access location and related information from your device. If you are using location services on your Cursor Device for navigation, you are solely responsible for driving safely, observing all traffic rules, and using your own judgment while driving and selecting routes. Cursor does not guarantee the accuracy or completeness of any location services.
- (b) **Other Image, Video, and Audio Services.** Some Cursor Devices have features that allow you to capture images, video, or audio. When you use these features, you are solely responsible for all Digital Content.
- (c) **Use of the Software.** Except as provided in this section, you may use the Software only on a Cursor Device. For additional terms that apply to the Software, see the terms contained in the legal or similar section in the settings menu of your Cursor Device or companion app. Software licensed under an open-source license is governed solely by the terms of that open-source license.

4. **Other Obligations.**

- (a) **Prohibited Uses.** You may not: (a) use the Cursor Devices or Software or any part thereof for any unlawful purpose or in violation of any applicable law or regulation; (b) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code or underlying structure, ideas, or algorithms of the Cursor Device or Software; (c) infringe upon or violate the intellectual property rights or proprietary rights of Cursor or any third party; (d) use the Cursor Device or Software to transmit, distribute, or store material that is defamatory, obscene, threatening, abusive, or otherwise unlawful or tortious; (e) interfere with or disrupt the integrity or performance of the Cursor Device or Software or the data contained therein; or (f) attempt to gain unauthorized access to the Cursor Device or Software or its related systems or networks.
- (b) **Account Security.** You are responsible for maintaining the confidentiality of your account credentials, including your password, for all activities that occur under your account, and for all activities that occur on the Cursor Device. You agree to promptly notify Cursor of any unauthorized use or suspected breach of security related to your account.
- (c) **Internet and Wireless Connectivity.** Your Cursor Device may require an Internet connection or data plan from a third-party provider to use some features. In such cases, your Internet connection or data plan is subject to the fees, restrictions, terms and limitations imposed by your provider.
- (d) **Availability.** Some services may be unavailable, vary (by device or geography, for example), be offered for a limited time, or require separate subscriptions. In addition, if your Cursor Device requires wireless data services and is in an area where it cannot access such services, you may not be able to use some or all the features of your Cursor

Device. We are not responsible for the unavailability of wireless data services or any corresponding loss of functionality.

- (e) **Information Provided To Others.** You are responsible for any information you provide to others, including third-party Digital Content providers, using a Cursor Device. Use of information you provide to these third parties will be subject to any privacy notice or other terms that they may provide to you.
- 5. **Disclaimer of Warranties.** THE CURSOR DEVICE AND SOFTWARE PROVIDED BY CURSOR ARE PROVIDED “AS IS” AND CURSOR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. CURSOR SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. CURSOR MAKES NO WARRANTY OF ANY KIND THAT THE CURSOR DEVICE OR SOFTWARE PROVIDED BY CURSOR OR RESULTS OF THE USE THEREOF, WILL MEET YOUR OR ANY OTHER PERSON’S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR-FREE.
- 6. **Indemnification.** You agree to indemnify, defend, and hold harmless Cursor, its affiliates, officers, directors, employees, and agents from and against any and all claims, damages, liabilities, losses, costs, and expenses (including reasonable attorneys’ fees) arising out of or related to: (a) your breach of this Agreement; (b) your misuse of the Cursor Device or Software, including but not limited to any prohibited uses described in Section 4(a); (c) Digital Content captured by you as described in Section 3(b); or (d) your violation of any applicable law.
- 7. **Limitation of Liability.**
 - (a) **No Consequential or Incidental Damages.** IN NO EVENT WILL CURSOR OR ANY OF ITS REPRESENTATIVES BE LIABLE UNDER THIS AGREEMENT TO YOUR OR ANY THIRD PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION IN VALUE, ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT CURSOR WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.
 - (b) **Maximum Liability.** IN NO EVENT WILL CURSOR'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED ONE HUNDRED DOLLARS (\$100.00).
- 8. **Changes to Terms; Amendments.** We may change, suspend, or discontinue the provision of Cursor Devices at any time without notice. We may amend any of this Agreement's terms at our sole discretion by posting the revised terms on the cursorpc.com website. Your continued use of

the Cursor Device after the effective date of the revised Agreement constitutes your acceptance of the revised terms.

9. **Termination.** Your rights under this Agreement will automatically terminate without notice if you fail to comply with any of its terms, including, but not limited to, the requirements of Section 2(b) or Section 2(c). In case of such termination, Cursor may:
 - (a) limit or deactivate Cursor Device functionality;
 - (b) require return of the Cursor Device; and
 - (c) charge a fee to recover the device ("**Device Recovery Fee**") of up to One Thousand Dollars (\$1,000.00). The parties agree that the Device Recovery Fee constitutes liquidated damages and not a penalty, as the actual damages resulting from failure to return the Cursor Device would be difficult to ascertain with certainty. The parties further acknowledge and agree that the amount of the Device Recovery Fee is a reasonable pre-estimate of such damages at the time of contracting, and that the imposition of this fee is intended to fairly compensate Cursor for losses incurred as a result of non-return or loss of the Cursor Device. The parties expressly intend and agree that this provision shall be enforceable to the fullest extent permitted by applicable law.
10. **Assignment.** Cursor may assign or transfer this Agreement, in whole or in part, at its sole discretion and without restriction. You may not assign or transfer any of your rights or obligations under this Agreement, whether by operation of law or otherwise, without Cursor's prior written consent. Any attempted assignment or transfer by you without such consent will be null and void.
11. **Force Majeure.** If Cursor is prevented from performing any of its obligations under this Agreement due to causes beyond its reasonable control, including but not limited to acts of God, natural disasters, war, terrorism, labor disputes, government actions, or any other event constituting force majeure, such nonperformance shall be excused for the duration of the force majeure event. Cursor shall not be liable for any delay or failure in performance resulting from such events.
12. **Notice.** All notices required or permitted under this Agreement shall be in writing and shall be deemed duly given:
 - (a) to Cursor, when sent by email to support@cursorpc.com, with a written copy addressed to Buckingham, Doolittle & Burroughs, 3800 Embassy Parkway, Suite 300, Akron, OH 44333, ATTN: Lucas Murray; and
 - (b) to you, when sent by email to the current email address associated with your account. It is your responsibility to ensure that your email address associated with your account is current and accurate for the purposes of receiving notices under this Agreement.
13. **General.** This Agreement will be governed by and construed in accordance with the internal laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule (whether of the State of Ohio or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Ohio. Any legal suit, action, or proceeding arising out of or related to this Agreement or the matters contemplated hereunder must be instituted exclusively in the federal courts of the United States or the courts of the State of Ohio in each case located in Delaware County, Ohio, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding and waives any objection based on improper venue or forum non conveniens. **BOTH PARTIES AGREE TO WAIVE ANY RIGHT TO A TRIAL BY JURY FOR ANY AND ALL CLAIMS AND CAUSES OF**

ACTION ARISING FROM OR RELATED TO THIS AGREEMENT. The invalidity, illegality, or unenforceability of any provision herein does not affect any other provision herein or the validity, legality, or enforceability of such provision in any other jurisdiction. No waiver of any right, remedy, power, or privilege under this Agreement (“**Right(s)**”) is effective unless contained in a writing signed by the party charged with such waiver. No failure to exercise, or delay in exercising, any Right operates as a waiver thereof. No single or partial exercise of any Right precludes any other or further exercise thereof or the exercise of any other Right. The Rights under this Agreement are cumulative and are in addition to any other rights and remedies available at law or in equity or otherwise, except to the extent expressly provided for in this Agreement to the contrary. The parties to this Agreement are independent contractors and are not related as partners, joint venturers, by an employment relationship, or otherwise. This Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns. Except for the parties, their successors and permitted assigns, there are no third-party beneficiaries under this Agreement. Any provisions of this Agreement, which by their nature should survive the expiration or termination of this Agreement, will survive the expiration or termination of this Agreement. This Agreement may be executed in counterparts. A party’s execution or delivery of this Agreement, or any other document relating to the transactions to be consummated hereunder, may be evidenced and effected by electronic signature, which will constitute a legal, valid and binding signature and have the same force and effect as a manual signature.