

DM355S Audio Codec Bundle Production Object Code Software License Agreement
(Version 1)

IMPORTANT – PLEASE READ THE FOLLOWING LICENSE AGREEMENT CAREFULLY. THIS IS A LEGALLY BINDING AGREEMENT. AFTER YOU READ THIS LICENSE AGREEMENT, YOU WILL BE ASKED WHETHER YOU ACCEPT AND AGREE TO THE TERMS OF THIS LICENSE AGREEMENT. DO NOT PLACE AN ORDER UNLESS: (1) YOU ARE AUTHORIZED TO ACCEPT AND AGREE TO THE TERMS OF THIS LICENSE AGREEMENT ON BEHALF OF YOURSELF AND YOUR COMPANY; AND (2) YOU INTEND TO ENTER INTO AND TO BE BOUND BY THE TERMS OF THIS LEGALLY BINDING AGREEMENT ON BEHALF OF YOURSELF AND YOUR COMPANY.

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1. Delivery. Subject to TI’s Export Control clearance, delivery of the Licensed Materials will be made within ten (10) business days following TI’s receipt of your one-time license fee payment as set forth in Section 5. TI shall deliver the Licensed Materials to you electronically.

2. License Grant and Use Restrictions.

a. Object Code Use License. Commencing as of the Effective Date and continuing for the term of this Agreement and subject to payment of the one-time license fee due to TI as set forth in Exhibit 1 (unless such fee is waived by TI) and subject to the additional restrictions set forth in Section 4, TI hereby grants to you a fee-bearing (unless such fee is waived by TI), non-transferable, non-exclusive, non-assignable, non-sublicensable license to make copies, display internally, distribute internally and use internally the Licensed Materials provided to you for the sole purposes of designing and developing Customer Products, and maintaining and supporting the Customer Products. “Customer Product” means a final product distributed by or for you that consists of both hardware, including one or more TI Orderable Part Numbers, and software components, including executable only versions of the Licensed Materials that execute solely and exclusively on such TI Orderable Part Numbers and not on devices manufactured by or for an entity other than TI.

b. Demonstration License. Commencing as of the Effective Date and continuing for the term of this Agreement and subject to payment of the one-time license fee due to TI as set forth in Exhibit 1 (unless such fee is waived by TI) and subject to the additional restrictions set forth in Section 4, TI grants to you a fee-bearing (unless such fee is waived by TI), non-transferable, non-exclusive, non-assignable, non-sublicensable worldwide license to demonstrate to third parties the Licensed Materials as they are used in Customer Products executing solely and exclusively on TI Orderable Part Numbers, provided that such Licensed Materials are demonstrated in object or executable versions only.

c. Production License. Commencing as of the Effective Date and continuing for the term of this Agreement and subject to payment of the one-time license fee due to TI as set forth in Exhibit 1 (unless such fee is waived by TI) and subject to the additional restrictions set forth in Section 4, TI hereby grants to you a non-exclusive, non-transferable, non-assignable, non-sublicensable, worldwide, fee-bearing (unless such fee is waived by TI) license to make, use, sell, offer to sell, import, export and otherwise distribute the Licensed Materials as part of a Customer Product, provided that such Customer Products include only embedded executable copies of such Licensed Materials that execute solely and exclusively on TI Orderable Part Numbers.

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e. Upgrades and Updates. For a period of one (1) year following the Effective Date of this Agreement (the "Initial Support Period"), TI shall at no additional charge provide you with updates (including error and bug fixes) and upgrades (including new versions, enhanced functionality) to the Licensed Materials (the "Updates and Upgrades") when the Updates and Upgrades become commercially available in TI's sole discretion. Following the Initial Support Period and provided that you are current in your payment of the annual maintenance fee as set forth in Exhibit 1, TI shall provide you Updates and Upgrades when the Updates and Upgrades become commercially available in TI's sole discretion. Updates and Upgrades shall be made available to you electronically and shall be considered part of the Licensed Materials and you may use the Updates and Upgrades only in accordance with the terms and conditions of this Agreement. Notwithstanding the foregoing, nothing in the Agreement will be construed as an obligation for TI to provide you with Updates or Upgrades.

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h. Termination. This Agreement is effective until terminated. You may terminate this Agreement at any time by written notice to TI. Without prejudice to any other rights, if you fail to comply with the terms of this Agreement, TI may terminate your right to use the Licensed Materials upon written notice to you. Upon termination of this Agreement, you will destroy any and all copies of the Licensed Materials in your possession, custody or control and provide to TI a written statement signed by your authorized representative certifying such destruction. The following sections will survive any expiration or termination of this Agreement: 2(h) (Term and Termination), 3 (Ownership), 6 (Audit Right), 8 (Warranties and Limitations), 9 (Indemnification Disclaimer), 12 (Export Control), 13 (Governing Law and Severability), 14 (PRC Provisions), and 15 (Entire Agreement). The obligations set forth in Section 7 (Confidential Information) will survive any expiration or termination of this Agreement for three (3) years after such expiration or termination.

3. Licensed Materials Ownership. The Licensed Materials are licensed, not sold to you, and can only be used in accordance with the terms of this Agreement. Subject to the licenses granted to you pursuant to this Agreement, TI and TI's licensors own and shall continue to own all right, title, and interest in and to the Licensed Materials, including all copies thereof. The parties agree that all fixes, modifications and improvements to the Licensed Materials conceived of or made by TI that are based, either in whole or in part, on your feedback, suggestions or recommendations are the exclusive property of TI and all right, title and interest in and to such fixes, modifications or improvements to the Licensed Materials will vest solely in TI. Moreover, you acknowledge and agree that when your independently developed software or hardware components are combined, in whole or in part, with the Licensed Materials, your right to use the Licensed Materials embodied in such resulting combined work shall remain subject to the terms and conditions of this Agreement.

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5. **Compensation.** In consideration of the licenses granted in Section 2 of this Agreement, you shall pay to TI a one-time license fee as set forth in Exhibit 1. Additionally, you may pay the annual maintenance subscription fee set forth in Exhibit 1 to be eligible to receive any Updates and Upgrades.
6. **Audit Right.** At TI's request, and within thirty (30) days after receiving written notice, you shall permit an independent auditor selected by TI to have access, no more than twice each calendar year (unless the immediately preceding audit revealed a discrepancy) and during your regular business hours, to all of your equipment, records, and documents as may contain information bearing upon the use of the Licensed Materials. You shall keep full, complete, clear and accurate records with respect to product sales and distributions for a period beginning with the then-current calendar year and going back three (3) years.
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- 9. Indemnification Disclaimer.** YOU ACKNOWLEDGE AND AGREE THAT TI SHALL NOT BE LIABLE FOR AND SHALL NOT DEFEND OR INDEMNIFY YOU AGAINST ANY THIRD PARTY INFRINGEMENT CLAIM THAT RELATES TO OR IS BASED ON YOUR MANUFACTURE, USE, OR DISTRIBUTION OF THE LICENSED MATERIALS OR YOUR MANUFACTURE, USE, OFFER FOR SALE, SALE, IMPORTATION OR DISTRIBUTION OF YOUR PRODUCTS THAT INCLUDE OR INCORPORATE THE LICENSED MATERIALS.
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- 11. Notices.** All notices to TI hereunder shall be delivered to Texas Instruments Incorporated, DSP Catalog Software Operations, 12203 Southwest Freeway, Mail Station 713, Stafford, Texas 77477, Attention: Administrator, DSP Catalog Software Operations, with a copy to Texas Instruments Incorporated, 12203 Southwest Freeway, Mail Station 725, Stafford, Texas 77477, Attention: Legal Department. All notices shall be deemed served when received by TI.
- 12. Export Control.** You hereby acknowledge that the Licensed Materials are subject to export control under the U.S. Commerce Department's Export Administration Regulations ("EAR"). You further hereby acknowledge and agree that unless prior authorization is obtained from the U.S. Commerce Department, neither you nor your customers will export, re-export, or release, directly or indirectly, any technology, software, or software source code (as defined in Part 772 of the EAR), received from TI, or export, directly or indirectly, any direct product of such technology, software, or software source code (as defined in Part 734 of the EAR), to any destination or country to which the export, re-export, or release of the technology, software, or software source code, or direct product is prohibited by the EAR. You agree that none of the Licensed Materials may be downloaded or otherwise exported or reexported (i) into (or to a national or resident of) Cuba, Iran, North Korea, Sudan and Syria or any other country the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's List of Specially Designated Nationals or the U.S. Commerce Department's Denied Persons List or Entity List. You represent and warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list and you will not use or transfer the Licensed Materials for use in any sensitive nuclear, chemical or biological weapons, or missile technology end-uses unless authorized by the U.S. Government by regulation or specific license or for a military end-use in, or by any military entity of Albania, Armenia, Azerbaijan, Belarus, Cambodia, China, Georgia, Iraq, Kazakhstan, Kyrgyzstan, Laos, Libya, Macau, Moldova, Mongolia, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, and Vietnam. Any software export classification made by TI shall be for TI's internal use only and shall not be construed as a representation or warranty regarding the proper export classification for such software or whether an export license or other documentation is required for the exportation of such software.
- 13. Governing Law and Severability.** This Agreement will be governed by and interpreted in accordance with the laws of the State of Texas, without reference to conflict of laws principles. If for any reason a court of competent jurisdiction finds any provision of the Agreement to be unenforceable, that provision will be enforced to the maximum extent possible to effectuate the intent of the parties, and the remainder of the Agreement shall continue in full force and effect. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, or by the Uniform Computer Information Transactions Act (UCITA), as may be enacted in the State of Texas. The parties agree that non-exclusive jurisdiction for any dispute arising out of or relating to this Agreement lies within the courts located in the State of Texas. Notwithstanding the foregoing, any judgment may be enforced in any United States or foreign court, and either party may seek injunctive relief in any United States or foreign court.

14. PRC Provisions. If you are located in the People's Republic of China ("PRC") or if the Licensed Materials will be sent to the PRC, the following provisions shall apply and shall supersede any other provisions in this Agreement concerning the same subject matter as the following provisions:

a. *Registration Requirements.* You shall be solely responsible for performing all acts and obtaining all approvals that may be required in connection with this Agreement by the government of the PRC, including but not limited to registering pursuant to, and otherwise complying with, the PRC Measures on the Administration of Software Products, Management Regulations on Technology Import-Export, and Technology Import and Export Contract Registration Management Rules. Upon receipt of such approvals from the government authorities, you shall forward evidence of all such approvals to TI for its records. In the event that you fail to obtain any such approval or registration, you shall be solely responsible for any and all losses, damages or costs resulting therefrom, and shall indemnify TI for all such losses, damages or costs.

b. *Governing Language.* This Agreement is written and executed in the English language. If a translation of this Agreement is required for any purpose, including but not limited to registration of the Agreement pursuant to any governmental laws, regulations or rules, you shall be solely responsible for creating such translation. Any translation of this Agreement into a language other than English is intended solely in order to comply with such laws or for reference purposes, and the English language version shall be authoritative and controlling.

c. *Export Control.*

(i) *Diversions of Technology.* You hereby agree that unless prior authorization is obtained from the U.S. Department of Commerce, neither you nor your subsidiaries or affiliates shall knowingly export, re-export, or release, directly or indirectly, any technology, software, or software source code (as defined in Part 772 of the Export Administration Regulations of the U.S. Department of Commerce ("EAR")), received from TI or any of its affiliated companies, or export, directly or indirectly, any direct product of such technology, software, or software source code (as defined in Part 734 of the EAR), to any destination or country to which the export, re-export, or release of the technology, software, software source code, or direct product is prohibited by the EAR.

(ii) *Assurance of Compliance.* You understand and acknowledge that products, technology (regardless of the form in which it is provided), software or software source code, received from TI or any of its affiliates under this Agreement may be under export control of the United States or other countries. You shall comply with the United States and other applicable non-U.S. laws and regulations governing the export, re-export and release of any products, technology, software, or software source code received under this Agreement from TI or its affiliates. You shall not undertake any action that is prohibited by the EAR. Without limiting the generality of the foregoing, you specifically agree that you shall not transfer or release products, technology, software, or software source code of TI or its affiliates to, or for use by, military end users or for use in military, missile, nuclear, biological, or chemical weapons end uses.

(iii) *Licenses.* Each party shall secure at its own expense, such licenses and export and import documents as are necessary for each respective party to fulfill its obligations under this Agreement. If such licenses or government approvals cannot be obtained, TI may terminate this Agreement, or shall otherwise be excused from the performance of any obligations it may have under this Agreement for which the licenses or government approvals are required.

15. Entire Agreement. This is the entire Agreement between you and TI, and absent a signed and effective software license agreement related to the subject matter of this Agreement, this Agreement supersedes any prior agreement between the parties related to the subject matter of this Agreement. Notwithstanding the foregoing, any signed and effective software license agreement relating to the subject matter hereof will supersede the terms of this Agreement. No amendment or modification of this Agreement will be effective unless in writing and signed by a duly authorized representative of TI. You hereby warrant and represent that you have obtained all authorizations and other applicable consents required empowering you to enter into this Agreement.

Exhibit 1

TI Orderable Part Numbers:	DM355SZCE216 DM355SZCE270 DM355SZCE135 DM355SZCEA216 DM355SZCEA135
Licensed Materials:	mp3 encode
	mp3 decode
	WMA encode
	WMA decode
	MPEG-4 AAC LC encode
	MPEG-4 AAC LC decode
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