

**DIGITAL MINDS LTD**  
**Terms of Use**  
**[Music Distribution]**

Last Revised: July 22, 2016

The following Terms of Use (“TOU”) govern all use of the <http://www.digitalminds.com/> website (“Website”) and all content and services available by Digital Minds (“Digital Minds”, “we”, “us”, “our”) at or through the Website - if applicable - (collectively “Services”) and constitute the overall agreement between you (“User”, “you”) and Digital Minds as far as it concerns your cooperation with it.

The Website and Services are owned and operated by Digital Minds Limited, a company incorporated under the laws of England and Wales, with headquarters at 97 Judd Street, London, UK and tax id 09010283 (“Digital Minds”).

Our Services are offered subject to your acceptance without modification of all of the TOU contained herein and all other operating rules, policies and procedures that may be published from time to time on this Website by Digital Minds. If you are under 18 years old, you have to provide us with your parents’ consent in order to use our Services.

Please read the TOU carefully before accessing our Services. By registering for and/or using the Services in any manner and/or by clicking to accept or agree to the TOU when this option is made available to you, you accept and agree to be bound and abide by these TOU and our Privacy Policy, found [here](#), incorporated herein by reference and all other operating rules, policies and procedures that we may publish from time to time on the Website.

If you are just a visitor of our Website, by visiting or browsing the Website, you accept and agree to be bound and abide by these TOU, our Privacy Policy, and all other operating rules, policies and procedures, as referred above, to the maximum extent and as long as they may be applicable.

We encourage you to review the Website and these TOU periodically for any updates or changes. If you do not want to agree to these TOU or the Privacy Policy, you must not access or use the Website.

**1. Definitions:**

As used in these TOU, the following words and expressions shall have the following meanings:

- a. **Artwork** means album cover artwork, screen shots and/or any other artwork relating to the Content that you have cleared for use by Digital Minds pursuant to the terms of these TOU. You shall not provide to Digital Minds any artwork that has not been so cleared.

- b. **Composition** means any composition (including words and/or music) written and/or composed and or controlled in whole or in part (but if in part to the extent of that part) by you.
- c. **Content** means sound recordings and/or compositions and/or audiovisual material and/or Music Videos and/or Artwork and/or Metadata and/or Lyrics owned or controlled, in whole or in part, by you (“Controlled Content”), that you have cleared for use by Digital Minds pursuant to these TOU. You shall not provide to Digital Minds any Content that has not been so cleared.
- d. **Content File** means each file containing Content, applicable Artwork, parental advisory notices, copyright notices, and associated metadata (e.g., artist name, track or video title, track or video title version, territories cleared for sale, copyright notice, ISRC, UPC and corresponding album title and editorial content data, and any Lyrics) suitable for exploitation by Digital Minds.
- e. **Content Distribution** means any transmission, distribution, dissemination or making available of the Content by any means now known or invented in the future including, but not limited to, telephone, satellite, broadcast, wireless, cable, the internet, includes the use of the Content in Mobile Applications and the manufacture, distribution and sale of Discs on Demand but excludes the manufacture, distribution and sale of records (other than Discs on Demand) in physical formats.
- f. **Content Distribution Income** means Digital Minds’ actual net receipts solely and identifiably attributable to Content Distribution of your Recordings and the Music Videos after deduction of: (i) VAT or similar sales or service taxes and (ii) all fees levied upon, commission fee or charges in respect of such Content Distribution including the Content Distribution Partners’ fees and charges.
- g. **Content Distribution Partners** means any third party licensee with whom Digital Minds has entered, or may during the Term enter, into a content distribution agreement that Digital Minds may authorize to partially or in whole by itself or through its own arrangements with third parties to carry out the marketing, distribution or other use of the Content according to the terms and conditions of this agreement.
- h. **Discs on Demand** means records in physical formats that are manufactured specifically for (and shipped to) a consumer following the consumer placing an order through a service offered by a Content Distribution Service.
- i. **Effective Date** means the effective date of the Music Distribution Agreement executed between you and Digital Minds.
- j. **Fulfillment Activities** means sales activities relating to the management of your Content pursuant to the terms and conditions of these TOU.
- k. **Licensing Opportunity Services** means the use of the Recordings in films, television programs, advertisements and video and multimedia games with your prior written consent.

- l. **Licensing Opportunity Services Income** means Digital Minds' actual net receipts solely and identifiably attributable to the rendering of Licensing Opportunity Services by Digital Minds.
- m. **Lyrics** means lyrics associated with your Content that you, in your sole discretion, may deliver to Digital Minds as part of the metadata contained in a Content File or as otherwise permitted by Digital Minds, and that you have cleared for use by Digital Minds pursuant to the terms of these TOU. You shall not provide to Digital Minds any lyrics that have not been so cleared.
- n. **Mechanical Royalties** means royalties paid to phonographic producers, publishing companies and Collecting Societies (i.e. AEPI and to Grammo in Greece) as well as to digital music download service providers (i.e. iTunes, GooglePlay etc).
- o. **Metadata** means the digital information conveying information regarding any of the Recordings and/or Music Videos, such as the names of the artists, authors and composers, the artist biography, the title of the album, the name of the song, the name of the record company, the description of the album, the lyrics of the songs, the track and album pricing information, concert information, music genre and such other elements as may be required by Digital Minds.
- p. **Mobile Application** means any function, facility or application now existing or in the future invented, developed or implemented which is or becomes available for the use or dissemination of sound (including but not limited to use as alert tones, ringtones, ring tones or ring sounds), text (including text messaging, SMS and MMS), graphics, moving and still images of any description, icons, characters, signatures and voice mail by means of any portable device.
- q. **Music Videos** means all audio-visual recordings made before or during the Term that are owned or controlled by you and that are or will be released under your label.
- r. **Music Distribution Agreement** means the customized agreement to be executed between Digital Minds and you and which contains the specific terms of your cooperation with Digital Minds.
- s. **Recordings** means all audio recordings made before or during the Term that are owned or controlled by you and that are or will be released under your label.
- t. **Term** means the term specified in clause 12 of these TOU.

## 2. Introduction - Scope

Digital Minds is an entity that provides services in online management, marketing and promotion of audiovisual material and content in digital form.

You acknowledge that you own or control the Content as described in your Music Distribution Agreement or you have obtained all relevant licenses for its digital distribution

and display. You agree to cooperate with Digital Minds and assign to us the online management of that Content, subject to the terms and conditions set out in these TOU and in the Music Distribution Agreement executed between you and Digital Minds.

You agree that Digital Minds may enter into agreements with third parties in order to provide Fulfillment Activities on its behalf, provided such third parties are subject to terms no less restrictive than the terms Digital Mind is subject to under these TOU. Digital Minds shall be responsible for the performance of such third parties.

### **3. Registration – Account Creation**

In order to use our Services, you must register to our Website and select a password and user name for your personal account (“Account”). You agree to provide us with accurate, complete, and updated registration information. Failure to do so shall constitute a breach of these TOU, which may result in immediate termination of your Account.

You can see our [Privacy Policy](#) for more details regarding the personal information that we collect from you during the registration process and how we use it.

Each Account is personal and non-transferable. Your rights and obligations to Digital Minds are non-transferable either. You are responsible for maintaining the security of your password and Account. You are fully responsible for all activities that occur under this Account and any other actions taken in connection with this Account. You must immediately notify Digital Minds at [musicupload@digitalminds.com](mailto:musicupload@digitalminds.com) regarding any unauthorized uses of your Account or any other breaches of security. Digital Minds will not be liable for any acts or omissions by you, including any damages of any kind incurred as a result of such acts or omissions.

Digital Minds reserves the right to reject any registration request at its sole discretion.

To prevent fraud and abuse, Users are limited to one active Account. Any additional Accounts that are created to circumvent guidelines, promote competitive advantages, or mislead the Digital Minds community shall be disabled. Mass Account creation may result in disabling of all the related Accounts.

### **4. Grant of Rights and Licenses**

**4.1** To enable Digital Minds to perform its obligations under this Agreement, you hereby exclusively, grant to Digital Minds, unless otherwise provided herein, during the Term and throughout the Territory specified in your Music Distribution Agreement, an exclusive, worldwide (if applicable as agreed in the Music Distribution Agreement), royalty-free (if applicable as agreed in the Music Distribution Agreement) license and consent to (including a license, consent and authorization to our Content Distribution Partners) store, reproduce, convert, digitize, copy and encode the Content in any digital format and to manage the Content by Content Distribution including, without limitation, the rights to:

- a.** Distribute, promote, stream, perform and make available the Content in any digital form, as individual tracks, ringtones, entire albums, videos (including videos created using the Recordings with your prior approval, the Cover, the Artwork and the Metadata) to Content Distribution Partners;
- b.** Distribute, promote, stream, perform and make available the Content either on-demand or as part of an internet radio or video service, including but not limited to so called “social media” services such as YouTube or Facebook;
- c.** Use your Content, the names and authorized likenesses of, and biographical material concerning any Content artists, bands, producers, directors (in the case of audio-visual content) and/or songwriters in connection with Content Distribution and Licensing Opportunity Services, including their use in any mixed or unmixed digital compilations with your prior approval and/or in any marketing materials for the digital promotion and digital marketing of your Content, including the creation of music videos using the Recordings with your prior approval, its Artwork and its Metadata, in eventual association or not, with the corresponding lyrics;
- d.** Subject to your prior written approval over the selection of your Recordings and/or Music Videos, use and/or distribute your Recordings and/or Music Videos as free downloads, as part of a campaign to promote your Recordings and/or Music Videos and with a view to increase sales of your Recordings and/or the Music Videos;
- e.** Provide the Licensing Opportunity Services on a non-exclusive basis. However, you hereby grant to Digital Minds an exclusive right to make the Recordings available for synchronization on videos made by users on social media video services such as YouTube subject to your prior written approval.

**4.2** You hereby authorize Digital Minds to use the Content to create new products such as ringtones and music videos.

**4.3** You agree that, at the request and expense of Digital Minds, you will do all further acts, deeds and things and execute all further documents, deeds and instruments from time to time necessary to vest in Digital Minds the rights granted by these TOU and your Music Distribution Agreement and for the protection and enforcement of those rights.

**4.4** Digital Minds may, during the Term, subject to your consent and approval, grant to third parties licenses which extend beyond the Term. Those licences shall not be affected by the expiration of the Term.

**4.5** Digital Minds shall not be authorized to use your Content, Artwork or Lyrics (if any) in any manner or form not expressly authorized herein or in your Music Distribution Agreement (except if it is otherwise agreed upon with you), provided that it is explicitly agreed that Digital Minds may modify metadata as reasonably necessary for Content Distribution.

The web scraping, data harvesting, unauthorized copy, display, transmit or distribute of any material from the Website or our Services in any form and by any means whatsoever is strictly prohibited. Nevertheless, we cannot force the Users and Website’s visitors to comply with these prohibitions and thus we cannot guarantee that the content of your Audiovisual Material and Communications will not appear in any other third party site. Digital Minds will not be responsible or held liable in any way if any other User or Visitor, in breach of the TOU, uses your content for any purpose.

## **5. Brand Features License**

You acknowledge that you also grant to Digital Minds and its partners, including the Content Distribution Partners, a non-exclusive, worldwide, royalty-free license to use any trademarks, trade names, designs and logos that you provide in connection with your Content, as well as your name and your likeness for Digital Minds' promotional activities.

## **6. Representations and Warranties**

### **6.1. Third Parties' Rights – Licenses**

You represent and warrant that you have the full right and authority to abide by these TOU and to grant the rights contained herein and have neither done nor will do anything which would derogate from Digital Minds' rights under these TOU.

You guarantee that the Content license grant to Digital Minds is free from any third party's rights and that you are the legal owner of your Content's intellectual property rights. In addition, you guarantee that all contributors in the Content have granted their intellectual property rights to you by exclusive contracts, and these rights can be freely further granted to Digital Minds, without violating a) the rights of such contributors, b) third parties' rights and c) the applicable law. You further guarantee that no claims are pending against you and the contributors.

### **Indemnification:**

You shall be solely liable for, and shall indemnify, defend and hold harmless Digital Minds and its successors and assigns from any claims, suits, judgments or causes of action initiated by any third party against Digital Minds where such actions result from or arise out of infringement of the intellectual property rights of third party and you shall pay reasonable attorneys' fees, costs and expenses.

**6.2** You, further, undertake, represent and warrant that:

i) All expenses related to the recording of the Recordings, Music Videos and Cover Artwork (including but not limited to studio fees, Collecting Societies fees, director's crew's-montage fees, royalties, artists' fees, authors-composers fees, graphic fees, licenses fees for content in specific territories, musicians' fees, session fees etc), were or will be paid in full and in no event shall Digital Minds be held responsible for any payment of any amounts related thereto.

ii) You have paid and will pay any and all amounts payable directly or indirectly to any rights holder (including, without limitation, all authors, composers and publishers of musical compositions embodied in the Recordings and/or the Music Videos) in connection with the use of the Content under these TOU, apart from the Mechanical Royalties which shall be paid by the Content Distribution Partners.

iii) None of the Recordings or the Music Videos infringes the rights of any person or company or violates any law or regulation.

iv) You have acquired or will acquire, in writing, from all artists the rights necessary to use their name and/or professional name in the Metadata in connection with the Content Distribution of the Music and the Music Videos.

v) The Content is not defamatory or obscene, does not infringe or violate the rights of any person, and does not violate any law or regulation in any territory authorized for Content Distribution.

vi) You will not incur any liability on behalf of Digital Minds or represent Digital Minds to third parties.

vii) The Compositions will be available by Digital Minds and all Content Distribution Partners, during the Term and in the Territory, for use in connection with Content Distribution:

- at the normal industry rate in each country for the licensing of copyrighted material for Content Distribution; and
- free of charge and without restriction for use in connection with the advertising and promotion of the Recordings and the Music Videos.

**6.3** You shall indemnify Digital Minds and hold Digital Minds harmless from and against any and all reasonable losses, damages and costs, including reasonable legal fees arising out of or by reason of any agreed or adjudicated claim that is inconsistent with or arising out of or by reason of any breach of the your representations, warranties, grants undertakings or agreements under these TOU. If Digital Minds has any claim against you under these TOU, Digital Minds is entitled to withhold from any sums payable to you under these TOU any amount reasonably sufficient to meet such claim, including related damages and costs.

**6.4** In the event Digital Minds is notified of a third party claim in connection with one or several parts of the Content, Digital Minds will have the right to immediately suspend all Content Distribution and Licensing Opportunity Services related to such content and the payment of any amount of Content Distribution Income and Licensing Opportunity Services Income owed to you in connection thereto until the claim has been resolved. Digital Minds shall further be entitled to terminate this agreement and such termination shall not prevent Digital Minds to seek indemnification under this agreement.

## **7. Intellectual Property Rights – Exclusivity**

Digital Minds shall not acquire any intellectual property rights over the Content licensed to Digital Minds under these TOU.

You agree that the cooperation between you and Digital Minds shall be exclusive and with worldwide validity and that this Agreement is on an exclusive basis for you, unless otherwise expressly stated herein, and you shall not enter into similar agreements with any third parties during its terms.

## **8. Parties' Obligations**

**8.1** You shall deliver the Content File to Digital Minds at your expense and as soon as reasonably possible following the Effective date and during the Term, in the delivery format and via the delivery method reasonably specified in your Music Distribution Agreement. Following the delivery of the Content File, Digital Minds undertakes to edit, make the corrections and changes necessary (such as the so-called digitization) to the Content in order

to perform its Content Distribution. Digital Minds also reserves the right to select the Content Distribution Services most appropriate for your Content and to not distribute certain parts of your Content, in which case Digital Minds shall notify you accordingly.

**8.2** You shall immediately notify Digital Minds in case you no longer own or control any of the herein granted rights or in case you become aware of any objection or claim against the use of the Content.

**8.3** Digital Minds shall make its Content Distribution and Licensing Opportunity Services available to you, for the purpose of:

- i) Enabling the Content Distribution process (including Mobile Applications), other than the Excluded Content Distribution Services as described in your Music Distribution Agreement.
- ii) Having you participate in Mobile Applications by means other than (or additional to) the management of the Content via Digital Minds' Content Distribution process.
- iii) Seeking opportunities for your Recordings to be used in films, television programmes, advertisements and other audio-visual media.

## **9. Distribution fees, Reporting and Payment Terms**

**9.1** In consideration of the Content Distribution and Licensing Opportunity Services, you agree that Digital Minds shall be entitled to:

- i. Collect and receive one hundred per cent (100%) of Content Distribution Income and Licensing Opportunity Services Income; and
- ii. Deduct and retain the Distribution Fees from Content Distribution Income and Licensing Opportunity Services Income as agreed in the Music Distribution Agreement concluded among you and Digital Minds.

**9.2** Within seventy (70) days after the end of each calendar quarter, Digital Minds shall make available to you a statement of the Content Distribution Income and Licensing Opportunity Services Income received by Digital Minds during such calendar quarter, the deductions from such Content Distribution Income and Licensing Opportunity Services Income made pursuant to clause 9.1 ii and the net amount of such Content Distribution Income and Licensing Opportunity Services Income payable to you. If the net amount of such Content Distribution Income and Licensing Opportunity Services Income payable to the you exceeds one hundred (€100) Euros, you shall be able to issue a request for payment in writing and Digital Minds shall pay you by wire transfer or through PayPal as follows: requests for payment received before the 14th of the month will be paid on the 15<sup>th</sup> and requests for payment received after the 14th will be paid on the 30<sup>th</sup> or 31<sup>st</sup> of the month. To Any amount not paid to you, will be rolled into the following calendar quarter. You shall bear all expenses and commissions incurred in relation to any payments to you. You shall also be responsible for paying the applicable taxes on the compensation that you received by Digital Minds.

**9.3** The net amount of Content Distribution Income and Licensing Opportunity Services Income payable by Digital Minds under these TOU is inclusive of royalties and other

payments which are due to any individual producer, mixer or re-mixer of the Recordings and/or Music Videos or any other person to whom a royalty or other money is payable, all union and similar payments and the owner of Recordings and/or Music Videos if that is someone other than you but exclusive of all Mechanical Royalties payable hereunder.

#### **9.6 Collecting Societies**

In the event that you are a member of and you have assigned to any Collecting Society, the management of your intellectual property rights, you agree that any claim of any Collecting Society will reduce your compensation derived from the Content Distribution and Licensing Opportunity Services. In case that any Collecting Society questions Digital Minds' right of consideration as stipulated herein and requests from Digital Minds to pay any amount for the management of the above rights, you shall pay such amount on behalf of Digital Minds. In the event that you do not pay such amount to the Collecting Society, Digital Minds shall pay it and you shall indemnify Digital Minds by paying that amount in full within five (5) days from the date of Digital Minds' payment to the Collecting Society. In the event that you do not pay the owed amount, Digital Minds may set off the compensation owed to you pursuant to these TOU, until full repayment of the owed amount.

You shall have the same indemnification and payment obligation towards Digital Minds as described above, in the event that you make a false statement as to whether you have transferred the Content's intellectual property right to any Collecting Society.

#### **10. Your Obligations concerning the Use of the Website and Services**

a) You agree to provide accurate and complete information about you and to maintain and update that information. If the information you provide is untrue, inaccurate, incomplete or not current, we reserve the right, in our sole discretion, to suspend or terminate your Account. Furthermore, you represent and warrant that there are currently no legal proceedings, criminal, civil or administrative, instituted against you that will prevent you from performing the services. If those conditions are not fulfilled, we reserve the right to act at our sole discretion and we may suspend or terminate your Account.

b) Except as expressly stated in our [Privacy Policy](#), any material, information or other communication that you post, upload or submit to the Website or that is displayed on the Website at your direction (collectively "Communications") will be considered non-confidential and non-proprietary, and Digital Minds shall be under no obligation to maintain the confidentiality of any information, in whatever form, contained in any such Communication.

c) You are responsible for ensuring that all of your Communications do not violate or infringe any copyright, trade secret, trademark or other personal or proprietary rights of another person or entity, or defame any person, or violate any law or regulation or any of these TOU. You shall be solely liable for any damages resulting from any infringement or violation or any other harm resulting from your uploading, posting, or submission of any Communication to the Website. Digital Minds has the right to terminate any Services offered to you and to remove any Communication posted on the Website at its sole

discretion, without any compensation or recourse in the event that the relevant Communication is in breach of any of the provisions herein.

d) The content available on our Website and Services is provided for the sole purpose of Content Distribution Income and Licensing Opportunity Services. You may use, print and download information from the Website for this purpose only and for no other personal or commercial purpose. You may not otherwise copy, display, transmit or distribute any material from the Website. If you perform an unauthorized use of the content of our Website, we have the right to immediately stop providing our Services to you and terminate your Account.

e) You are responsible for taking precautions as necessary to protect yourself and your computer systems from viruses, worms, Trojan horses and other harmful or destructive content.

### **11. Non-permitted use of our Website and Services**

The following actions/activities are not permitted on our Website:

- Adult services & pornography: Digital Minds does not allow any exchange of adult oriented or pornographic materials and services;
- Inappropriate behavior & language: Communication on Digital Minds should be friendly, constructive, and professional. Digital Minds condemns bullying, harassment, and hate speech towards others;
- Phishing & spam: Digital Minds takes its Users' security seriously. Any attempts to publish or send malicious content with the intent to compromise another User's account or computer environment is strictly prohibited. Please respect our Users' privacy by not contacting them for commercial purposes without their consent;
- Content: You shall not (and shall not permit any third party to) either (a) take any action or (b) upload, download, post, submit or otherwise distribute or facilitate distribution of any content on or through the Services, including without limitation any content, that:
  - infringes any third party right or violates any law or contractual duty;
  - You know is false, misleading, untruthful, unlawful, threatening, abusive, harassing, defamatory, fraudulent, pornographic, or is otherwise inappropriate as determined by us in our sole discretion;
  - constitutes unauthorized or unsolicited advertising, junk or bulk e-mail ("spamming");
  - contains software viruses or any other harmful computer codes, files, or programs;
  - includes anyone's identification documents or sensitive financial information;
  - otherwise interferes with the Services.

Digital Minds shall have the right to terminate any Services offered to you and to remove any content posted on the Website at its sole discretion, without any

compensation or recourse in the event that the relevant content is in breach of any of the provisions above.

- Fraud / unlawful use - You may not use our Website for any unlawful purposes or to conduct illegal activities;
- Targeted abuse: We do not tolerate Users who engage in targeted abuse or harassment towards other Users on our Website. This includes creating new multiple accounts;
- Selling accounts: You may not buy or sell Digital Minds' Accounts;
- You agree that you will not use any robot, spider, scraper or other automated means to access the Website for any purpose without our express written permission.

Further, when using our Website and Services, you shall not:

- take any action that imposes an unreasonable or disproportionately large load on our (or our third party providers') infrastructure;
- interfere with the proper working of the Services we provide or any activities conducted on the Services;
- attempt to bypass or circumvent any measures we may use to prevent or restrict access to the Services;
- run any form of auto-responder or 'spam' on the Services;
- use manual or automated software, devices, or other processes to "crawl" or "spider" any page of the Website;
- harvest or scrape any content from the Services;
- otherwise take any action in violation of our guidelines and policies;
- decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Services, except to the limited extent applicable laws specifically prohibit such restriction;
- modify, translate, or otherwise create derivative works of any part of the Services;
- copy, rent, lease, distribute, or otherwise transfer any of the rights that you receive hereunder;
- act in such a way that the Services are damaged, interrupted or made less efficient;
- manipulate or abuse the Services, or act in such a way that it creates an unreasonable strain on the Services.

## **12. Term**

The term of this Agreement shall commence on the date of acceptance of these TOU and shall remain in effect for the period specified in your Music Distribution Agreement.

All provisions of these TOU which by their nature should survive termination, shall survive termination, including, without limitation, confidentiality, intellectual property, warranty disclaimer, indemnification and limitation of liability provisions.

## **13. Suspension & disablement of your Account**

Digital Minds reserves the right at any time to immediately terminate or suspend your Account or your access to the Website without notice, if you breach any of TOU or violate

any law or regulation. An event that may result in the termination or suspension of your Account can include but is not limited to: a) providing inaccurate information, b) any circumvention of the Digital Minds marketplace by you or by others at your direction, c) your creation and/or management of more than one Account.

Regarding any breach of TOU or any violation of the law or any regulation, Digital Minds also reserves the right to take further action as in its sole discretion considers appropriate or necessary, including removing any material which it deems abusive, illegal, disruptive or inappropriate without the obligation to make any refunds. Digital Minds shall have the sole and absolute discretion to decide whether you have breached any of the TOU, and such decision shall be final. In case Digital Minds has not exercised the right under this paragraph, it shall not be deemed to be a waiver.

Users who have violated our TOU and had their Account disabled may contact our customer support team at [musicupload@digitalminds.com](mailto:musicupload@digitalminds.com) for more information surrounding the violation and status of the Account.

#### **14. Links to third party sites**

The Website and Services may contain links to sites owned or operated by third parties. Such links are provided for your reference only and we do not control such sites and we are not responsible for their content. We reserve the right to terminate a link to a third party site at any time and the fact that we provide a link does not mean that we endorse, authorize or sponsor that site. You are not allowed to upload links of any kind.

#### **15. Service Availability Disclaimer**

We will make all reasonable efforts to ensure that the Website and the Services are available at all times. However, we cannot guarantee that the Website and the Services or any individual function or feature of the Website will always be available and/or error free. The Website and the Services may be unavailable during periods when we are implementing upgrades or carrying our essential maintenance on the Website.

#### **16. Warranty disclaimer / limitation of liability**

DIGITAL MINDS DOES NOT GUARANTEE ANY RESULTS FROM USING THE SERVICES. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. USE OF THE SERVICES IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM DIGITAL MINDS OR THROUGH THE SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE FOREGOING, DIGITAL MINDS, ITS SUBSIDIARIES, ITS LICENSORS AND AFFILIATES, DO NOT WARRANT THAT THE CONTENT IS ACCURATE, TRUE, RELIABLE, CORRECT OR COMPLETE, THAT THE SERVICES WILL MEET YOUR REQUIREMENTS, THAT THE SERVICES WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE,

THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED OR THAT THE SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DOWNLOADED AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD OR YOUR USE OF THE SERVICES.

IN NO EVENT SHALL DIGITAL MINDS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER. THIS LIMITATION ON LIABILITY INCLUDES, BUT IS NOT LIMITED TO, (I) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR USE OF THE WEBSITE, (II) ANY LOSS OR DAMAGE DUE TO UNAUTHORIZED ACCESS TO OR USE OF OUR SERVERS AND/OR ANY AND ALL BUSINESS INFORMATION STORED THEREIN, (III) ANY LOSS OR DAMAGE DUE TO INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM OUR WEBSITE OR INTEROPERABILITY PROBLEMS, (IV) ANY LOSS OR DAMAGE DUE TO BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH OUR WEBSITE BY ANY THIRD PARTY, (V) ANY ERRORS OR OMISSIONS IN ANY CONTENT, (VI) ANY DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY, (VII) ANY STATEMENT OR CONDUCT OF ANY THIRD PARTY ON THE WEBSITE (VIII) ANY LOSS OR DAMAGE RESULTING FROM YOUR USE, OR INABILITY TO USE, ANY PORTION OF OUR WEBSITE OR FOR ANY LOSS OR DAMAGE OF ANY KIND IN YOUR DATA, (IV) ANY LOSS OF YOUR REVENUE, PROFITS, GOODWILL OR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PURE ECONOMIC LOSS, COSTS, DAMAGES, CHARGES OR EXPENSES . THE LIMITATIONS ON LIABILITY APPLY WHETHER LIABILITY IS BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT DIGITAL MINDS IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE FOREGOING LIMITATIONS OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

#### **17. Indemnification**

You agree to defend, indemnify and hold Digital Minds and its contractors, its licensors, its affiliates and their respective directors, officers, employees and agents harmless from any and all liabilities, costs, and expenses, including attorneys' fees, arising out of your use of our Services, including but not limited to (i) the use of the Website and Services or your placement or transmission of any message or information on this Website by you, (ii) your violation of any of the TOU (iii) your violation of any third party right, including without limitation any right of privacy, publicity rights or intellectual property rights, (iv) your violation of any law, rule or regulation, (v) any claim or damages that arise as a result of your use of our Services or (vi) any other party's access and use of the Website with your unique username, password or other appropriate security code.

In the event that you have a dispute with any creator or right holder of Content or with any other third party, you release Digital Minds (and our officers, directors, agents, subsidiaries, licensees, promotional partners, joint ventures and employees) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes.

### **18. Intellectual property**

These TOU do not transfer from Digital Minds to you any Digital Minds or third party intellectual property, and all right, title and interest in and to such property will remain (as between the parties) solely with Digital Minds. Digital Minds' logo and all other trademarks, service marks, graphics and logos used in connection with the Website are trademarks of Digital Minds. Other trademarks, service marks, graphics and logos used in connection with the Website may be the trademarks of other third parties. Your use of the Website and Services grants you no right or license to reproduce or otherwise use any Digital Minds or third-party trademarks. You expressly declare and undertake not to register any domain name that includes the words " Digital Minds " neither to use the words "Digital Minds " in any way that may cause confusion on any advertising service on the internet.

### **19. Copyright infringement**

As Digital Minds asks others to respect its intellectual property rights, it respects the intellectual property rights of others. If you believe that material located on or linked to by Digital Minds violates your copyright, you are encouraged to notify Digital Minds at [musicupload@digitalminds.com](mailto:musicupload@digitalminds.com). Digital Minds will respond to all such notices, including as required or appropriate by removing the infringing material or disabling all links to the infringing material. Digital Minds will terminate a User's access of the Services if, under appropriate circumstances, the User is determined to be a repeat infringer of the copyrights or other intellectual property rights of Digital Minds or others.

### **20. Confidentiality/Non-Disclosure**

As a result of the provision of our Services to you, and whether due to any intentional or negligent act or omission, we may disclose to you or you may otherwise learn of or discover, our documents, business practices, object code, source code, management styles, day-to-day business operations, capabilities, systems, current and future strategies, marketing information, financial information, software, technologies, processes, procedures, methods and applications, or other aspects of our business ("Information"). You hereby agree and acknowledge that any and all of our Information is confidential and shall be our sole and exclusive intellectual property and proprietary Information. You agree to use our Information only for the specific purposes as allowed in these TOU. Any disclosure of our Information to a third party specifically including a direct competitor is strictly prohibited and will be vigorously challenged in a court of law. All obligations contained herein shall survive the termination of these TOU. Furthermore, you acknowledge that our Information

is proprietary, confidential and extremely valuable to us, and that we would be materially damaged by your disclosure of our Information. You acknowledge and agree that monetary damages provide an insufficient remedy for the breach of this confidentiality obligation, and that we shall be entitled to injunctive relief.

### **21. Assignment**

Digital Minds may assign and transfer in any way and for any cause all rights and obligations arising under this Agreement, to any legal entity, existing or future, under any form, which is controlled by it, or – in the event that it modifies its legal status – to the new company which will be constituted following this modification. Such transfer or modification of Digital Minds' legal status shall be immediately notified to you and it shall not affect in any way your rights and obligations arising out of this Agreement.

You may not transfer or assign any of its rights, or delegate any of its duties, under these TOU, either in whole or in part (including by merger or operation of law), without the prior written consent of Digital Minds. To the extent the license or any rights or obligations hereunder are transferred, assigned or delegated in a manner that is permitted by these terms, these terms shall be binding upon all your successors and assigns hereto (including any transferee or assignee of all or substantially all your assets and any successor by merger or operation of law).

### **22. Independent Parties**

Nothing in this Agreement will render you an employee, worker, or agent of Digital Minds and you shall not hold yourself out as such. This Agreement does not create a joint venture or agency relationship or any kind of relationship other than that of independently contracting parties.

### **23. Modification**

Digital Minds may amend these TOU at any time by posting a revised version on the Website. Each revised version will state its effective date, which will be on or after the date posted by Digital Minds. If the revised version materially reduces your rights or increases your responsibilities, we may post it in advance of the effective date to give you notice. Notification will be provided through the Website user interface, or be sent to the email address associated with your Account or otherwise; or you will be asked to opt-in or otherwise expressly agree to the changes or a version of these TOU incorporating the changes.

### **24. Applicable Law**

The present TOU are in conformity with the laws of England and Wales. Digital Minds makes no representations that our Services are appropriate or available for use in other countries. Those who access or use our Services from other jurisdictions do so at their own risk and are responsible for compliance with local laws.

## **25. Notices**

Any notice to be served on or documentation to be sent to any party to these TOU shall be deemed to be properly served if sent by email or by registered post or delivered by hand to the following email: musicupload@digitalminds.com, and address: 97 Judd Street, WC1H 9JG , London UK.

## **26. User's Approval**

If Digital Minds is required to obtain your approval on any matter, it shall be written and it shall not be unreasonably withheld or delayed and is deemed given if you fail to notify Digital Minds of its disapproval in writing within five (5) working days of approval being requested.

## **27. General Terms**

These Terms shall endure for the benefit of and be binding upon the respective administrators, successors and assigns of each party hereto.

All terms, conditions and warranties in these terms are essential terms and a breach or non performance hereto of any terms, conditions, warranties, schedules hereof shall entitle Digital Minds to either terminate your Account and claim damages or terminate without any claim for damages or claim damages without terminating your Account.

No failure or delay by Digital Minds in exercising any right or remedy provided by law under or pursuant to these terms shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

Termination of the Account shall not affect the accrued rights of Digital Minds arising in any way out of these TOU as at the date of termination and, in particular but without limitation, the right to recover damages against the other, and all provisions of these TOU which contemplate or are capable of operation after termination shall survive the termination of the license and shall remain in full force and effect.

If any of the provisions of these TOU become invalid, illegal or unenforceable in any respect under any applicable law, the validity and enforceability of such provision shall not be considered affected in any other jurisdiction and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired and all of them shall remain in full force and effect so long as the economic or legal substance of the transactions contemplated by these TOU is not affected in any manner materially adverse to any party. Upon such determination that any provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify these terms so as to

effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled.