

July, 2003

SOUNDCCLICK TERMS AND CONDITIONS OF WEB SITE USE

Set forth below are the terms and conditions (these "Terms and Conditions") governing the SoundClick Inc web site located at, or linked to through, the root URL www.soundclick.com, which may expand or change from time to time (the "Website"). As used herein, the term "SoundClick" refers to SoundClick Inc., the sole owner and operator of the Website; the term "you" or "your" refers to an individual, representing yourself or, if applicable, acting as legal representative for a group, business entity or corporation.

CAREFULLY READ THESE TERMS AND CONDITIONS. BY AVAILING YOURSELF OF THE WEBSITE OR RELATED SERVICES, YOU ARE CONSENTING TO BE BOUND BY THESE TERMS AND CONDITIONS AS SUCH TERMS MAY BE MODIFIED FROM TIME TO TIME AS DESCRIBED BELOW.

Use of Materials Found on the Website: The information, artwork, text, video, audio, pictures, software and other intellectual property (collectively, "Materials") contained on the Website are protected by copyright and international laws. You may only access and use the Materials for personal or educational purposes or as expressly provided for in applicable SoundClick program terms and conditions. You may not otherwise reproduce, distribute, publicly perform, publicly display, modify or create derivative works of the Materials, unless authorized by the appropriate copyright owner(s). In the event that you print Materials found on the Website, you must include any copyright notice originally included with the Materials on all copies. You may not link directly to any media file located on a SoundClick server, except where explicitly allowed to do so. You should not attempt to claim any Materials as your own work. Any computer software downloadable or otherwise available on the Website is provided subject to the terms of the applicable license agreement. Before using any SoundClick logo or trademark, please contact SoundClick.

Copyright and Trademark Infringement Policy and Notification Procedure:

SoundClick does not own the musical compositions, sound recordings, art or other written or visual images (collectively, the "Content") posted by third parties to the Website. All Content is posted by an individual, group or company (collectively, the "Artist") who has represented and warranted to SoundClick that, among other things, neither the Content nor the names, trademarks and service marks under which Content is promoted (collectively, the "Name") infringes any third party's copyright, patent, trademark, trade secret or other proprietary rights, rights of publicity or privacy, or moral rights (see the section titled 'Representations and Warranties' of the current SoundClick Music Submission Agreement at <http://www.soundclick.com/docs/legal.cfm>).

Since SoundClick is not in a position to determine who has the prevailing claim to use any particular Content or Name posted to the Website, its policy on such matters is that they be resolved directly by the parties alleging misuse of their Content and/or Name (the "Complainants") and the Artists. We recommend that Complainants immediately notify Artists about allegations of infringement by going to the Artist's page on the Website, clicking the Contact link and contacting the Artist directly. It has been SoundClick's experience that most Artists are honest and responsible citizens who may not realize they are engaged in infringing activities. Typically, once notified of a claim, Artists voluntarily cease using such infringing Content and/or Name on the Website and elsewhere.

Complainants may notify SoundClick concerning any Content and/or Name being used on the Website in violation of their rights by sending an email to abuse@soundclick.com. SoundClick only shall use information provided by Complainants in accordance with its then-current Privacy Policy and as reasonably necessary to address any allegations contained therein, which may include disclosing some or all of the information to Artists. In most cases, soon after receiving written notice alleging infringement, SoundClick either will remove the allegedly infringing Content and/or Name from those web pages identified or, at its election, remove those web pages.

Refund policy: SoundClick does not offer refunds. If there are any issues with a premium service or an ordered item please contact SoundClick immediately, we aim to solve any issue amicably. Premium services (recurring billings) can be cancelled anytime for any reason. Cancellations by the individual, group or company that signed up for the premium service (collectively, the "Subscriber") will be effective after the paid period. In case of cancellation by the Subscriber the period that is already paid for will not be reimbursed. The premium service will then remain active until the end of the paid period. SoundClick reserves the right to cancel premium services for any reason at any time without notification. If SoundClick cancels a premium service before its expiration date, Subscriber might be entitled to a pro-rated refund of the last payment. No refund will be given if user violated the Terms and Conditions of Web Site Use, or the Music Submission Agreement.

Premium service can be cancelled by emailing support@soundclick.com with cancellation request and artist name or order ID. Cancellation will be confirmed by email.

Your Conduct: You shall use the Website for lawful purposes only. You shall not post or transmit via the Website any material which violates or infringes in any way upon the rights of others, which is unlawful, threatening, abusive, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane or otherwise objectionable, which encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law, or which, without SoundClick's express prior approval, contains advertising or any solicitation with respect to products or services.

In addition, if we feel that a user abuses the SoundClick site in any way, we reserve the right to share certain information with third parties. Abuses include (but are not limited to) possible copyright infringement, possible libel and slander, possible credit card fraud. SoundClick reserves the right to refuse service, terminate accounts, and/or cancel orders at its sole discretion and without notification..

Content: The Website offers a wide selection and variety of content to our members and users. Content may contain profanity or otherwise inappropriate or offensive material for children or other members and/or users. Members and/or users must evaluate and bear the risk associated with the use of the Website and related services. SoundClick suggests that parents should supervise their children's on-line activities and consider using parental control tools available to help provide an appropriate on-line environment for their children. Users are also encouraged to contact SoundClick for evaluation of possible offensive material. SoundClick reserves the right to act on such notices at its sole discretion.

Warranty Disclaimer. YOU EXPRESSLY AGREE THAT USE OF THE WEBSITE AND RELATED SERVICES IS AT YOUR SOLE RISK. THE WEBSITE, MATERIALS AND RELATED SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. SOUNDCLICK INC MAKES NO REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE WEBSITE OR ANY MATERIALS

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Limitation of Liability. By availing yourself of the Website, Materials or related services, you agree to release and hold SoundClick and the employees, officers, directors, shareholders, agents, representatives of SoundClick, its affiliates, subsidiaries, advertising, promotion and fulfillment agencies, any entity controlling, controlled by or under common control with SoundClick, any third-party providers or sources of information or data and legal advisers (collectively, "SoundClick Affiliates") harmless from any and all losses, damages, rights, claims and actions of any kind arising from or related to the Website, Materials or related services including but not limited to: (a) telephone, electronic, hardware or software, network, Internet or computer malfunctions, failures or difficulties of any kind; (b) failed, incomplete, garbled or delayed computer transmissions; (c) any condition caused by events beyond the control of SoundClick that may cause the Website or related services to be disrupted or corrupted; (d) any injuries, losses or damages of any kind arising in connection with or as a result of your use of the Website, Materials or related services; or (e) any printing or typographical errors in any materials associated with the Website, Materials or related services. In addition, you agree to defend, indemnify and hold SoundClick Affiliates harmless from any claim, suit or demand, including reasonable attorney's fees, made by a third party due to or arising out of your utilizing the Website, Materials or related services, your violation or breach of these Terms and Conditions, your violation of any rights of a third party, or any other act or omission by you. IN NO EVENT WILL SOUNDCLICK BE LIABLE FOR ANY INDIRECT, STATUTORY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR ANY LOSS OF REVENUE ARISING OUT OF YOUR AVAILMENT OF MATERIALS (HOWEVER ARISING, INCLUDING NEGLIGENCE), EVEN IF SOUNDCLICK WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

General Provisions: You agree to comply with all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside. Your correspondence or business dealings with, or participation in promotions of or with parties found on or through the Website, including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations applicable to such dealings, are solely between you and such parties. These Terms and Conditions are governed in all respects by the laws of the State of California as such laws are applied to

agreements entered into and to be performed entirely within California between California residents. Legal proceedings related to the matters herein shall be brought in and adjudicated solely in the courts of Sunnyvale, California, United States of America. Both parties consent to extra-territorial service of process and submit to the jurisdiction of said courts. If any provision of these Terms and Conditions is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. SoundClick's failure to act with respect to a breach by you or others does not waive its right to act with respect to subsequent or similar breaches. These Terms and Conditions set forth the entire understanding and agreement of the parties as to the subject matter hereof and supersede all prior proposals, discussions or agreements with respect thereto. A printed version of these Terms and Conditions and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms and Conditions to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

Age requirements for use of the Service: This Service is available for individuals aged 13 years or older. If you are 13 or older but under the age of 18, you should review these terms and conditions with your parent or guardian to make sure that you and your parent or guardian understand these terms and conditions.

Modification of Terms and Conditions: From time to time SoundClick may modify these Terms and Conditions in its sole discretion. When such modification is made, SoundClick will post a revised version of these Terms and Conditions on the Website. Modifications will be effective when they are posted. SoundClick is not required to provide you with notification that any such modification has been made. It is your responsibility to review these Terms and Conditions from time to time to be aware of any such modifications. Each time you log on to the Website, you will be deemed to have accepted any such modifications.