

PLEASE READ THESE TERMS OF SERVICES CAREFULLY BEFORE ACCESSING OR USING THE SERVICES.

1. THE AGREEMENT WITH US

- 1.1. These are the terms and conditions (“Terms of Services”) relevant to the Services we supply. These Terms of Services refer to the following additional terms which also apply to your use of our Services:-
 - 1.1.1. [Our Terms of Use.](#)
 - 1.1.2. [Our Privacy Policy.](#)
- 1.2. The above terms and conditions and policies are hereby incorporated by reference and together are the agreement (“**Agreement**”) between us and you. If there is any conflict between the above terms of use and/or policy and these Terms of Services, these Terms of Services will prevail. Parties to the Agreement are **Stonebed (Pty) Limited** and **you**, the person or authorised representative and/or any entity you hereby represent, accessing and using our Services (“**you**”).
- 1.3. **By Clicking on “Register” or “Submit” or “Log in” for the first time or “I agree” you acknowledge and warrant that:-**
 - 1.3.1. You are authorised to enter into this Agreement (as yourself or on behalf of the entity which you represent);
 - 1.3.2. You have read and agree to the Terms of Services; and
 - 1.3.3. You will be bound by these Terms of Services when utilizing the Services and/or when downloading and using Assets made available to you via the Services.
- 1.4. **For the supply of Services via the Stonebed website no electronic signature is required; the mere sending of data messages (see definition under the ECT Act) or click on “Register” or “Log In” or “I accept” or “Submit” demonstrates your acknowledgement and agreement to these Terms of Services.**
- 1.5. **We may at any time amend this Agreement without notice. You are responsible for reviewing the Agreement on each occasion that you visit the Stonebed website, and if you continue to use any of the Stonebed Services after the changes are made, you are deemed to have accepted the amended Agreement.**

2. YOUR SERVICE ACCOUNT

- 2.1. In order to download and use any of our Assets, you must register for and maintain an active account (“**Service Account**”). You may only have one Service Account (one Service Account per person/ entity) that provides access to download available Assets and/or allows you to upgrade your account to a premium subscription should you so wish.
- 2.2. To enable us to set up the necessary Service Account we will need certain information about you as prescribed by Stonebed from time to time.
- 2.3. To access the Service Account we will provide you with an initial username and password, whereafter you must use a unique password. You will need to use your username and unique password to login to your Service Account on the Stonebed website in order to acquire Services.
- 2.4. You agree and warrant that your username and password shall:
 - 2.4.1. be used for purposes of utilizing our Services as per our Terms of Services only; and
 - 2.4.2. not be disclosed by you to any third party.
- 2.5. For security purposes you agree to enter the correct username and password whenever utilizing our Services, failing which you will be denied access.
- 2.6. You agree to notify us immediately upon becoming aware of or reasonably suspecting any unauthorised access to or use of your username and password and to take steps to mitigate any resultant loss or harm.
- 2.7. Information on your Service Account: You agree:-
 - 2.7.1. To provide and maintain accurate, complete, and up-to-date information in your Service Account; and
 - 2.7.2. That your failure to submit, maintain accurate, complete, and up-to-date Service Account information, may result in your inability to access and use the Services.
- 2.8. You are responsible for all activity that occurs under the Service Account, and agree to maintain the security and secrecy of the Service Account details at all times. You may not authorize third parties to use your Service Account.
- 2.9. You agree that, once the correct username and password relating to the Service Account have been entered, irrespective of whether the use of the username and password is fraudulent or unauthorised, you will be liable for any activity that occurs during the access to the Services via the Service Account.
- 2.10. You may not assign or otherwise transfer your Service Account to any other person or entity.
- 2.11. Submission of your information for purposes of the Service Account does not automatically give you the right to access the Services. We have the right not to grant you access to a Service Account or Service (see below) or to revoke such right, whether chosen by you or allocated by us, at any time, if in our reasonable opinion you have failed to comply with any of the provisions of these Terms of Service.
- 2.12. **Premium Subscription Services:**
 - 2.12.1. You may select to upgrade your Services Account to a premium subscription in order to download and access certain Services and/or Assets made available to only premium subscription account holders. If you upgrade your Services Account to a premium subscription (via your Services Account on our website), you will be required to pay a monthly subscription fee. Take note that your subscription will be automatically renewed every month unless you have terminated your subscription in accordance with clause 6 below.

3. GRANT OF RIGHTS

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- 3.1. Subject to the creation of a Services Account and/or payment of the agreed Fees (where applicable, in respect of a premium membership) and the restrictions set out in this par. 3 and the other terms and conditions of these Terms of Services, we hereby grant to you a non-exclusive, non-transferable, non-sublicensable, non-assignable and revocable right to access and use the Services and, where applicable, to download available Assets solely for use by incorporation into your Project(s). Any Assets that are downloaded and used by you **must** be done so in accordance with our [License Agreement](#).
- 3.2. You will not or allow any third party to access, store, distribute or transmit any material during the course of his/her use of the Services that:
 - 3.2.1. is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 3.2.2. facilitates illegal activity;
 - 3.2.3. causes damage or injury to any person or property;
 and we reserve the right, without liability or prejudice to its other rights to you to disable your access to any material that breaches the provisions of this clause.
- 3.3. You will not or allow any third party directly or indirectly to:
 - 3.3.1. access all or any part of the Services in order to build a product/ Asset or service which competes with our Services; or
 - 3.3.2. use our Services and/or Assets to provide similar services to third parties; or
 - 3.3.3. attempt to undermine the security or integrity of Stonebed systems or networks; or
 - 3.3.4. use or misuse the Services and/or Assets in any way which may affect the functionality of the Services, or the ability of any other user to use the Services or in any way which is not in line with the terms and conditions of these Terms of Services and our [License Agreement](#).
- 3.4. You will use all reasonable endeavors to prevent any unauthorised access to, or use of, the Services and/or Assets, in the event of any such unauthorised access or use, promptly notify Stonebed.
- 3.5. The rights provided under this clause 3 are granted to you (as a registered Service Account user) only.

4. PROVISION OF OUR SERVICES

- 4.1. **Services:** Subject to creation of a Services Account and/or payment of the agreed Fees (in respect of a premium membership for access to certain Assets) you will be able to access our Services and/or download Assets to use strictly in accordance with our [License Agreement](#) in your Project(s);
- 4.2. **Service Description:** The information on the Stonebed website is for general information purposes. Although we have made every effort to display the correct content, we cannot guarantee that the content is 100% accurate. For more detailed information about our Services you can contact us.
- 4.3. **Delays outside our control:** We are not responsible for delays outside our control. If our supply of the Services is delayed by an event outside of our control then we will contact you as soon as reasonably possible to let you know and will take steps (where reasonably possible) to minimise the effect of the delay.
- 4.4. **Unable to supply Services/ Assets ordered/downloaded:** if we are unable to perform in terms of the contract on the grounds that the Services ordered/downloaded are unavailable, we will notify you of this fact and refund any payments made in relation to such order/download within 30 days after the date of such notification.
- 4.5. **Reasons we may suspend the supply of Services to you. We may have to suspend the supply of Services to:**
 - 4.5.1. deal with technical problems or make minor technical changes;
 - 4.5.2. update the Services to reflect changes in relevant laws and regulatory requirements;
 - 4.5.3. make changes to the Services as requested by you or notified by us to you.
- 4.6. **Changes to the Service(s):**
 - 4.6.1. **Minor changes to the Services. We may change the Services:**
 - 4.6.1.1. to reflect changes in relevant laws and regulatory requirements; and
 - 4.6.1.2. to implement minor technical adjustments and improvements. These changes will not affect your use of the Services.
- 4.7. **More significant changes to the Services (subsequent to the commencement date of our Services).** We will inform you in advance in writing about any major changes that may affect you. You may subsequent to review of said changes, contact us and request to terminate the Agreement/ Services.
- 4.8. **You obligation to complete and deliver music cue sheets:** As is legally required by the Independent Communications Authority of South Africa (ICASA) it is your responsibility to ensure that, where required and necessary, a Music Cue Sheet is filled in and submitted to ICASA in accordance with the ICASA rules and/or regulations.
- 4.9. You can download a Music Cue Sheet Template by pressing this [LINK](#), which also shows an example of how it needs to be filled in and what information is required. All Metadata for every track you have downloaded is embedded in the data, for ease of reference.

5. SECURITY SAFEGUARDS

- 5.1.1. Appropriate and reasonable technological and organisational measurements shall apply to protect your identity, i.e. unique User profile that is password protected. It is your responsibility to protect your own username and password.

6. YOUR RIGHTS TO END THE CONTRACT

- 6.1. We retain the right to deactivate your Services Account and/or otherwise restrict you from accessing or using our Services in the event of a violation or alleged violation of these Terms of Service, your disparagement of us, or your act or omission that causes harm to our brand, reputation or business, as determined by us in our sole discretion or as otherwise agreed to.
- 6.2. **Your termination as registered user of the Stonebed website (with an active Services Account):** you can terminate your

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Services Account at any time by contacting our customer support or by using the cancellation feature in your Services Account. On receipt of your notice to terminate your Services Account and confirmation that no charges (if applicable) are outstanding we will terminate our contract with you and your Service Account.

- 6.3. **Your termination as a premium subscription services account holder:** In the event that you have a Services Account with a *premium subscription* (where a monthly subscription payment is required) and you select to terminate your Services Account completely or downgrade from your premium subscription to a normal Services Account (by contacting our customer support or by using the cancellation feature in your Services Account), your subscription will be terminated at the end of your current Billing Period and you will not be charged thereafter.
- 6.4. **Take note, we will only act on instructions from email addresses that match your email address on your Stonebed Services Account.**
- 6.5. **Our termination:** We can terminate this Agreement at any time if, in our sole discretion, you have breached any of the terms and conditions of these Terms of Services or the License Agreement.
- 6.6. **Consequences of termination:** Upon termination of the Agreement for any cause whatsoever, the rights granted to you
- 6.7. under these Terms of Services and the License Agreement will automatically expire, and you hereby undertake to immediately cease accessing, downloading and using any Assets, except as allowed under the License Agreement. You will no longer be able to access the Services if you cancel your Services Account. You may still browse our website; it will, however, be subject to our [Terms of Use](#).

7. REFUND POLICY IN TERMS OF A PREMIUM SUBSCRIPTION

- 7.1. **How we will refund you (where you must be paid a refund).** We will refund you the price you paid for your premium subscription, by the method you used for payment, if you cancel your premium subscription within 14 (fourteen) days from the date of your premium subscription purchase and/or renewal ("Refund Period"). However, you agree and acknowledge that you will not be entitled to any refund if: (i) you download any Asset(s) from the website during the Refund Period.
- 7.2. **When your refund will be made.** We will make any refunds due to you as soon as possible but no later than 30 (thirty) days from the end of the Refund Period.

8. PRICE AND PAYMENT (WITH REGARDS TO A PREMIUM SUBSCRIPTION)

- 8.1. **Charges & Service Fees:** The use and/or downloading of certain of our Assets will be subject to you upgrading your Services Account to a premium subscription Services Account which is subject to a monthly subscription fee. The standard monthly pricing as published on our website or as may be presented to you during registration of your premium subscription Service Account will then apply.
- 8.2. Take note that unless you terminate your Services Account (as per our termination clause above) or downgrade your premium subscription (as per the function on your Service Account), your subscription will automatically be renewed every month. Should you terminate your Services Account or downgrade your premium subscription please see consequences of such downgrade/ termination in clause 6 above.
- 8.3. **Value Added Taxes or other similar tax:**
 - 8.3.1. All Service Fees and/ or costs quoted by us shall be inclusive of all applicable taxes but excluding Value Added Tax ("VAT") or such similar tax, which shall be shown clearly and separately to the agreed charges in terms of the Service.

9. WARRANTIES

- 9.1. **You hereby represent and warrant that:**
 - 9.1.1. you have full power and authority to enter into this Agreement and perform your obligations hereunder; and
 - 9.1.2. you will comply with all applicable laws in your performance of this Agreement.
- 9.2. **We do not warrant that:-**
 - 9.2.1. the Services will be continuously available, or that your use will be uninterrupted or bug or error-free or that the Services or server on which it is hosted will be free from any attack; or
 - 9.2.2. the information we provide about the Services is correct and complete, but nevertheless undertake to use our reasonable endeavours to ensure that all the information we provide on the Services or our website is correct and complete at the time of the last update to the relevant page;
 - 9.2.3. the Services will meet your requirements. The Services are provided "as-is" and it is your responsibility to satisfy yourself that it meets your requirements and is compatible with your hardware and software prior to making use of it;
 - 9.2.4. any defects in the Services will be or can be corrected.
- 9.3. To the extent permitted by law all undertakings and warranties given by us under this Agreement are exclusive and all other terms, warranties, representations, undertakings and conditions express or implied, statutory or otherwise are excluded.

10. LIMITATION OF LIABILITY

- 10.1. We have taken all reasonable steps to ensure that content shown on the Website is complete and accurate. However, we are a market place for Assets and rely on the accuracy of the Asset information we receive from various suppliers. As a result the following will apply:
 - 10.1.1. Unless otherwise determined by law, under no circumstances (including negligence) will we, our subsidiaries, affiliates, officers, directors, employees, agents, suppliers or any other party involved in creating, producing, transmitting or distributing our Website or related services be liable for any indirect, incidental, special or consequential damages arising from or in

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connection with the use or inability to use the Website, Asset or any content provided by or through the Website, or resulting from any unauthorised access to or alteration of your transmissions or data, or other information sent or received, including but not limited to, damages for loss of profits, data or other intangibles, even if we have been advised of the possibility of such damages.

- 10.1.2. Our liability to you in connection with any order will not exceed the total price charged for the Asset.
- 10.1.3. The purchase of an Asset is your choice. We will not be liable for any damages or losses as a result of your choice.
- 10.1.4. Except as otherwise determined by law, we will not be liable for your or a third party's (where you have supplied an Asset to such third party) use of an Asset.

11. INDEMNITIES

11.1. You and where you are acting on behalf of an entity, the entity (jointly or severally) will defend, indemnify and hold us harmless against claims, demands, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with your breach or violation of these Terms of Services; or any use of the Services or Assets you have downloaded (by you or a third party whom you supplied such Asset to); or any use you make of the Services or Assets that are in violation of any applicable law or third-party rights.

12. HOW WE MAY USE YOUR PERSONAL INFORMATION

12.1. We will use your Personal Information in accordance with [Our Privacy Policy](#).

13. INTELLECTUAL PROPERTY

- 13.1. As specified in these Terms and further the [License Agreement](#), you are:
- 13.1.1. forbidden from using the original Assets names and/or the artists names or artistic names.
 - 13.1.2. You hereby acknowledge and confirm that you do not and will not have any ownership and/or intellectual property rights in the content on our website (including any trade marks – see our Terms of Use Policy) and/or recordings and/or the Assets posted on our website, and that your rights are restricted to the limited rights granted to you in these Terms of Services and in the License Agreement.
- 13.2. The License Agreement grants you an authorization to use the website and the Assets strictly in accordance with the provisions of the License Agreement and is conditioned by your undertaking not to violate or be involved in any activities that violate any terms of the License Agreement or the terms of this Terms of Services, and specifically in activities which cause the violation of intellectual property rights and/or deviation from the provisions of the License (as per the License Agreement).
- 13.3. **Copyright:**
- 13.3.1. We take copyrights protection very seriously. If you believe that any Assets infringe your intellectual property or other rights, please see our Copyright Infringement Notification Policy. If we are notified that any Assets infringes third party copyright or other rights, we may, in our sole discretion, remove such Assets from the website and Services or take other steps that we deem necessary, without any prior notification.

14. Electronic Communications

- 14.1. By registering a Services Account, you agree that we may send you informational/ notifications via your preferred selected communication option as part of the normal business operation of your use of the Services. You may opt-out of receiving such electronic communications by unsubscribing from the electronic communication as per the available unsubscribe functionality or sending a message via our [Contact Us](#) page.
- 14.2. Take note, that unsubscribing from electronic communications from us to you may result in certain functions of the Services not working.

15. DISPUTE RESOLUTION

Any Service dispute arising from the Agreement shall be subject to the following dispute resolution procedures –

- 15.1. **Informal dispute resolution:** Prior to referring any dispute to arbitration, we would like to resolve the dispute, involving our senior management. We will then discuss the problem and attempt to resolve the dispute with you, without the necessity of any formal proceeding, within 14 (fourteen) days of the dispute having been referred.
- 15.1. **Informal dispute resolution does not reduce Parties' rights:** Proceedings in terms of this clause 15.1 shall not be construed to prevent a Party from instituting formal proceedings earlier to obtain urgent or interim relief, avoid the expiration of any applicable limitations period, or preserve a superior position with respect to other creditors.
- 15.2. **Institution of Formal Proceedings:** Subject to the provisions of clauses 15.1 and 15.2, we both agree that either of us may elect to refer any dispute which may arise to either the High Court of South Africa or to arbitration proceedings as contemplated in clause 15.4. Upon election by a Party initiating the relevant dispute proceedings, the other Party will be bound by such election for the purposes of the dispute in question.
- 15.3. **Arbitration:** If we are unable to resolve any dispute informally and either of us has elected to commence arbitration proceedings to resolve the dispute in terms of clause 15.3, then such dispute shall on written demand by the electing Party be submitted to arbitration at Arbitration Foundation of Southern Africa as per the Expedited Rules and arbitration shall be held in Cape Town.
- 15.4. **Status of arbitration ruling:** The decision of the arbitrator shall be binding on the Parties to the arbitration after the expiry of the period of 20 (twenty) days from the date of the arbitrator's ruling if no appeal has been lodged by any Party or upon the issue of determination by the appeal panel, as the case may be. A decision, which becomes final and binding in terms

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of this clause 15.5 may be made an order of court at the instance of any Party to the arbitration. The parties agree to keep the arbitration confidential and not to disclose it to anyone except for purposes of obtaining an order as contemplated herein.

- 15.5. **Rapid resolution of disputes:** We both will use commercially reasonable efforts to resolve disputes arising as rapidly as possible.
- 15.6. **Confidentiality:** All disputes will be dealt with in confidentiality;
- 15.7. **Excluded relief:** This clause 15 shall not preclude either of us from seeking urgent or interim relief from the High Court of South Africa or any other competent organs of state created for the specific purpose of regulating the business or industry activities in which the Parties are engaged.
- 15.8. **Agreed Jurisdiction:** the Parties hereby consent to the jurisdiction of the Western Cape High Court (Cape Town) in respect of proceedings referred to in clause 15.3 above.

16. FORCE MAJEURE

WE WILL NOT BE LIABLE TO YOU FOR ANY DEFAULT OR DELAY IN THE PERFORMANCE OF THE SERVICES IF AND TO THE EXTENT THAT SUCH DEFAULT OR DELAY IS CAUSED BY ANY ACT OF GOD, WAR OR CIVIL DISTURBANCE, COURT ORDER, OR ANY OTHER CIRCUMSTANCE BEYOND OUR REASONABLE CONTROL INCLUDING FLUCTUATIONS IN COMMUNICATIONS OR UTILITY SERVICES ("FORCE MAJEURE") AND PROVIDED WE ARE OBVIOUSLY WITHOUT FAULT IN CAUSING SUCH DEFAULT OR DELAY, AND SUCH DEFAULT OR DELAY COULD NOT HAVE BEEN PREVENTED BY US THROUGH THE USE OF ALTERNATIVE SOURCES, WORKAROUND PLANS OR OTHER MEANS.

17. GENERAL

- 17.1. **We may transfer this agreement to someone else.** We may transfer our rights and obligations under these terms to another organisation.
- 17.2. **You need our consent to transfer your rights to someone else (except that you can always transfer our guarantee).** You may only transfer your rights or your obligations under these terms to another person if we agree to this in writing. We may require the person to whom the guarantee is transferred to provide reasonable evidence that they are now the owner of the relevant item or property.
- 17.3. **Nobody else has any rights under this contract (except someone you pass your guarantee on to).** This contract is between you and us. No other person shall have any rights to enforce any of its terms.
- 17.4. **If a court finds part of this contract illegal, the rest will continue in force.** Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 17.5. **Even if we delay in enforcing this Agreement, we can still enforce it later.** If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us from taking steps against you at a later date.
- 17.6. **Notices and Address:** to delivery or receive any legal notices you should refer to our Terms of Use.
- 17.7. **Which laws apply to this contract and where you may bring legal proceedings.** These terms are governed by the Republic of South Africa law and you can bring legal proceedings (subject to clause 15) in respect of the Services in the South African courts.

18. DEFINITIONS

- 18.1. **Applicable Laws:** any present or future constitution, decree, judgment, legislation, order, ordinance, regulation, statute, treaty, directive, rule, guidance or code, practice note issued by any relevant authority or regulatory body and, if applicable, Data Protection Laws.
- 18.2. **Assets:** means music and sound effects downloaded (via subscription) from Stonebed's website.
- 18.3. **Billing Period:** the monthly period commencing on the first calendar day of the month and each subsequent monthly period during the Term (or, in the case of the last period, a shorter period that ends on the same date as the end of the Term).
- 18.4. **Date of Contract for a specific Service** means for purposes of electronic contract – the acceptance by us of the data message subsequent to you clicking on the "Register" or "Login" or "I agree" button.
- 18.5. **Fees:** means the fees applicable to a premium subscription as stated on our website for a particular year;
- 18.6. **License:** means Stonebed's no-limits license (via registration of a Services Account) as per our License Agreement.
- 18.7. **Project(s):** means sound and visual media which are human made and not auto-generated.
- 18.8. **Services:** for purposes of the Terms of Services, means the Services made available on the Stonebed website by Stonebed from time to time.
- 18.9. **Virus:** anything or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by rearranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

We recommend you print these terms and conditions for your records