

PLEASE READ THIS PARTNER PROGRAM AGREEMENT.

To be a Partner of SOUNDMACHINE, you agree to abide by the terms and conditions contained in this Agreement and in the *SOUNDMACHINE Partner Program* that you received directly from SOUNDMACHINE, which are also part of this Agreement. It describes how we will work together and other aspects of our business relationship. It is a legal document so some of the language is necessarily “legalese” but we have tried to make it as readable as possible. These terms are so important though that we cannot have you participate in our Partner Program unless you agree to them. By participating in our Partner Program, you are agreeing to these terms.

THIS IS A LEGAL AGREEMENT BETWEEN THE PARTNER (YOU) AND US (SOUNDMACHINE), WHICH GOVERNS THE TERMS IN THE *SOUNDMACHINE PARTNER PROGRAM*, AND YOUR USE OF THE SOUNDMACHINE PARTNER SITE LOCATED AT: [HTTP://WWW.SOUNDMACHINE.COM/PARTNERPORTAL](http://www.soundmachine.com/partnerportal) (THE “SITE”). USE OF THE SITE CONSTITUTES AGREEMENT TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT USE THE SITE.

1. Definition of the SOUNDMACHINE Music Service. SOUNDMACHINE is the provider of the SOUNDMACHINE Music Service (the “Service”) that is SOUNDMACHINE’s Streaming background music solution designed for businesses. The Service permits business subscribers (“Subscribers”) to quickly and easily create personalized in-store background music for their different locations using fully-licensed music and even insert personalized messages. The Service may be accessed via the Internet and/or the SOUNDMACHINE app, in which cases no specific device is required, or via SOUNDMACHINE players.
2. Partner Rights and Obligations. We grant you, subject to the limitations set in this Agreement, a non-transferable, non-exclusive right to: (i) demonstrate and promote the Music Service to your prospects and customers, and (ii) to provide end Users access to use the Music Service in accordance with this Agreement and the terms in the *SOUNDMACHINE Partner Program* that you received directly from SOUNDMACHINE. You will comply with the terms and conditions of this Agreement at all times.
3. User Account and Security.
 - a. Account and Password. You shall have access to the Site for the purpose of creating and maintaining an account (“Account”). Your Account may be accessed via its own web address, which such web address shall be provided by SOUNDMACHINE, and may be used by

you to advertise and sell the Service as an affiliate of SOUNDMACHINE according to the Partner Program terms. You are solely responsible for maintaining the confidentiality and security of Your Account. You are responsible for all activities that occur on or through Your Account, and You agree to immediately notify SOUNDMACHINE of any unauthorized use of Your Account or any other breach of security. SOUNDMACHINE shall not be responsible for any losses arising out of the use of Your Account.

b. If at anytime the Site allows You to authorize additional users on Your Account, then all such users are subject to these Terms of Use. You are responsible for, and SOUNDMACHINE shall have no responsibility for, activities of any and all users that You authorize including, but not limited to, content modifications and breach of these Terms of Service.

c. Security. You agree not to attempt to, or assist another person to, circumvent, reverse-engineer, decompile, disassemble, or otherwise tamper with any technologies associated with the Site, Service, or any content contained in the Service. SOUNDMACHINE may monitor Your compliance with this Agreement, and SOUNDMACHINE reserves the right to enforce the Agreement with or without notice to You. You shall not access or attempt to access an account that You are not authorized to access. Violations of the Terms of Use and system or network security may result in civil or criminal liability.

4. System Requirements. Use of the Site requires Internet access (fees may apply), and may require obtaining updates or upgrades from time to time. Because use of the Service involves software and Internet access, Your ability to use the Site may be affected by the performance of these factors. You acknowledge and agree that such system requirements, which may be changed from time to time, are Your responsibility.
5. SOUNDMACHINE's Privacy Policy. Except as otherwise expressly provided for in this Agreement, Your use of the Site is subject to SOUNDMACHINE's Privacy Policy, which is expressly made a part of this Agreement.
6. Technical Problems. On occasion, technical problems, acts of God or Public Authority or other events beyond SOUNDMACHINE's control may interrupt the Service. In such event, SOUNDMACHINE shall be excused from its performance for the duration thereof and a reasonable time thereafter.
7. Intellectual Property.
 - a. Acknowledgement and Ownership. You agree that the Service or the Site contain proprietary information and material that is owned by SOUNDMACHINE, its partners and/or its licensors, and is protected by applicable intellectual property and other laws, including but not limited

to copyright, and that You will not use such proprietary information or materials in any way whatsoever except for use of the Site in compliance with the terms of this Agreement. No portion of the Service or the Site may be reproduced in any form or by any means, except as expressly permitted hereunder. You agree not to modify or create derivative works based on the Service or the Site, in any manner, and You shall not exploit the Service or Site in any unauthorized way whatsoever.

- b. Copyrights. All copyrights in and to the Service, and software, are owned by SOUNDMACHINE, its partners and/or its licensors, who reserve all their rights in law and equity. THE USE OF ANY PART OF THE SERVICE, EXCEPT FOR USE OF THE SERVICE AS PERMITTED IN THIS AGREEMENT, IS STRICTLY PROHIBITED AND INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF SOUNDMACHINE AND/OR OTHERS AND MAY SUBJECT YOU TO CIVIL AND CRIMINAL PENALTIES, INCLUDING POSSIBLE MONETARY DAMAGES, FOR COPYRIGHT INFRINGEMENT. In the event of a copyright dispute over Content, the decision of the licensor shall prevail.
 - c. Trademarks. SOUNDMACHINE, SOUNDMACHINE trademarks, service marks, graphics, and logos used in connection with the Service are trademarks or registered trademarks of SOUNDMACHINE in the U.S. and/or other countries. Other trademarks, service marks, graphics, and logos used in connection with the Service may be the trademarks of their respective owners. You grant to us a nonexclusive, nontransferable, royalty-free right to use and display your trademarks, service marks and logos ("Partner Marks") in connection with the Partner Program and this Agreement. During the term of this Agreement, you may use SOUNDMACHINE trademarks as long as you follow the usage requirements in this section. You must: (i) only use the images of SOUNDMACHINE trademark that we make available to you, without altering them in any way; (ii) only use SOUNDMACHINE trademarks to promote SOUNDMACHINE Music Service and/or in connection with the Partner Program and this Agreement; and (iii) immediately comply if we request that you discontinue use. You must not: (i) use SOUNDMACHINE trademark in a misleading or disparaging way; (ii) use SOUNDMACHINE trademark in a way that implies we endorse, sponsor or approve of your services or products; or (iii) use SOUNDMACHINE trademark in violation of applicable law or in connection with an obscene, indecent, or unlawful topic or material.
8. Enforcement. Steps to enforce and/or verify compliance with any part of this Agreement (including but not limited to SOUNDMACHINE's right to cooperate with any legal process relating to Your use of the Service and/or Content, and/or a third party claim that Your use of the Service and/or Content is unlawful and/or infringes such third party's rights). You agree that SOUNDMACHINE has the right, without liability to You, to disclose any information to law enforcement authorities, government officials, and/or a

third party, as SOUNDMACHINE believes is reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement.

9. Disclaimer of Warranties; Liability Limitations.

- a. SOUNDMACHINE does not guarantee, represent, or warrant that your use of the site will be uninterrupted or error-free.
- b. You expressly agree that your use of, or inability to use, the site is at your sole risk. The site and all content and services delivered to you through the site are (except as expressly stated by SOUNDMACHINE) provided "as is" and "as available" for your use, without warranties of any kind, either express or implied, including all implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. Because some jurisdictions do not allow the exclusion of implied warranties, the above exclusion of implied warranties may not apply to you.
- c. In no case shall SOUNDMACHINE, its directors, officers, employees, affiliates, agents, contractors, or licensors be liable for any direct, indirect, incidental, punitive, special, or consequential damages arising from your use of the site or for any other claim related in any way to your use of the site, because some states or jurisdictions do not allow the exclusion or the limitation of liability for consequential or incidental damages, in such states or jurisdictions, SOUNDMACHINE's liability shall be limited to the extent permitted by law.
- d. SOUNDMACHINE shall use reasonable efforts to protect information submitted by you in connection with the site, but you acknowledge and agree that your submission of such information is at your sole risk, and SOUNDMACHINE hereby disclaims any and all liability to you for any loss or liability relating to such information in any way.
- e. SOUNDMACHINE does not represent or guarantee that the site will be free from loss, corruption, attack, viruses, interference, hacking, or other security intrusion, and SOUNDMACHINE disclaims any liability relating thereto.

10. WAIVER AND INDEMNITY. BY USING THE SITE, YOU AGREE TO INDEMNIFY AND HOLD SOUNDMACHINE, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, AND LICENSORS HARMLESS WITH RESPECT TO ANY CLAIMS ARISING OUT OF YOUR BREACH OF THIS AGREEMENT, YOUR USE OF THE SITE, OR ANY ACTION TAKEN BY SOUNDMACHINE AS PART OF ITS INVESTIGATION OF A SUSPECTED VIOLATION OF THIS AGREEMENT OR AS A RESULT OF ITS FINDING OR DECISION THAT A VIOLATION OF THIS AGREEMENT HAS OCCURRED. THIS MEANS THAT YOU CANNOT SUE OR RECOVER ANY DAMAGES FROM

SOUNDMACHINE, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, AND LICENSORS AS A RESULT OF ITS DECISION TO TAKE ANY OTHER ACTION DURING THE INVESTIGATION OF A SUSPECTED VIOLATION OR AS A RESULT OF SOUNDMACHINE'S CONCLUSION THAT A VIOLATION OF THIS AGREEMENT HAS OCCURRED. THIS WAIVER AND INDEMNITY PROVISION APPLIES TO ALL VIOLATIONS DESCRIBED IN OR CONTEMPLATED BY THIS AGREEMENT.

11. Changes. SOUNDMACHINE reserves the right, at any time, to update, revise, supplement, and otherwise modify this Agreement and the terms of *SOUNDMACHINE Partner Program*, and to impose new or additional rules, policies, terms, or conditions on Your use of the Site and your *Partner Program*. Such updates, revisions, supplements, modifications, and additional rules, policies, terms, and conditions (collectively referred to in this Agreement as "Additional Terms") will be effective immediately and incorporated into this Agreement. Your continued use of the Site following these updates will be deemed to constitute your acceptance of any and all such Additional Terms. All Additional Terms are hereby incorporated into this Agreement by this reference.
12. Jurisdiction and Applicable Laws. These Terms of Use are made in the State of California. Any controversy, claim or dispute arising out of or relating to these Terms and Conditions shall be settled solely and exclusively by binding arbitration in Los Angeles, California, according to the laws of the State of California, without regard to conflict of laws, and the arbitrator's judgment on the law of the jurisdiction shall be final and binding.

Last modified: February 16, 2016