

SOUNDTAXI Terms of Use

Version: March 22, 2018

1. General Information, Contracting Party

- 1.1. SOUNDTAXI GmbH, Nikolausstrasse 6a, D-70190 Stuttgart ("SOUNDTAXI") provides licenses for the use of music recordings through its online shop and on its website, www.soundtaxi.com ("SOUNDTAXI website"). If domestic or foreign performing rights organizations and/or other collecting societies have no claims or rights to the underlying musical works for such music recordings, SOUNDTAXI indicates this status accordingly ("**Non-PRO**"). If the underlying musical works for the music recordings are registered with a performing rights organization and/or other collecting society, SOUNDTAXI indicates this status accordingly ("**PRO-registered**") and identifies the name of the corresponding organization (e.g., **GEMA, SUISA, BMI, ASCAP, PRS**).
- 1.2. Licenses for the use of the music recordings are acquired by the Customer in accordance with the License Terms set out below in Section 13. After purchasing a license, the Customer also has the option of downloading a copy of the particular music recording. The following Terms of Use ("Terms of Use"), in the version applicable as of the date the contract is formed, govern all products and services supplied to the Customer by SOUNDTAXI.
- 1.3. By confirming his or her registration on the SOUNDTAXI website and with every order placed using this website, the Customer acknowledges the applicability of these Terms of Use. Any terms and conditions stipulated by the Customer that conflict with or differ from these Terms of Use are excluded.

2. Requirements for Use

- 2.1. To use the SOUNDTAXI website, the Customer needs the appropriate online technology and access to the Internet. To play and copy any music recordings downloaded from SOUNDTAXI, the Customer also needs a program that opens (compressed) .zip files, for instance WinZip, and a corresponding audio program (for instance Windows Media Player, Winamp Player, or Real Player).
- 2.2. Additionally, the Customer must register on the SOUNDTAXI website in advance. SOUNDTAXI reserves the right to decline the registration of individuals without providing a reason.
- 2.3. Customer registration is free. When registering, the Customer must provide user information (last name, first name, address, e-mail address, and password). The information a Customer provides about him/herself must be truthful and complete.

If a Customer's user information changes, the Customer must correct the Customer profile on the SOUNDTAXI website without delay. If this is not possible, the Customer is to notify SOUNDTAXI in writing or by e-mail, sending the notification to one of the addresses shown on the SOUNDTAXI website.

- 2.4. Passwords serve to identify the Customer digitally and must not be accessible by third parties. The Customer is liable for all actions taken in connection with the use of the password. SOUNDTAXI assumes no liability for passwords used without authorization and any resulting consequences or loss. If there is reason to suspect that unauthorized parties have discovered the Customer's password, the Customer must change the password immediately.

- 2.5. Only individuals who have reached the legal age of majority may become SOUND TAXI Customers. The Customer must ensure that SOUND TAXI services are used by minors only with the Customer's express consent.
- 2.6. Once the registration form has been sent off, the Customer receives an e-mail from SOUND TAXI with a confirmation link to click on in order to verify the e-mail address. The registration process is finished once this has been successfully verified.
- 2.7. After confirming his or her registration, the Customer receives a SOUND TAXI account with no time limit. After this, the Customer may use SOUND TAXI services, and in particular, acquire licenses for music recordings as set out in Section 13. The Customer can cancel the SOUND TAXI account at any time, effective for the future, by sending a cancellation request by e-mail to info@soundtaxi.com. When the account is canceled, the license arrangements entered into previously with SOUND TAXI remain in force under the terms agreed to.

3. Offer, Contract Formation, Provision of Services

- 3.1. SOUND TAXI makes it possible for Customers to listen to samples of music recordings before purchasing a license. To place an order, the Customer chooses a license for the music recording from the selection offered by SOUND TAXI and adds this to the shopping cart. After clicking on the "checkout" button, the Customer is taken to a screen to enter his or her information. After entering the relevant information and selecting the desired method of payment, the Customer is shown an overview of the order and can correct the information entered. The Customer completes the order process by clicking on the button "Buy now".
- 3.2. By ordering a license, the Customer is making an offer to SOUND TAXI. This offer is then accepted by SOUND TAXI in the form of an e-mail confirmation. This confirmation from SOUND TAXI means that a contract has been formed regarding the use of the relevant music recording(s).

In addition, SOUND TAXI creates license documentation and invoice for the Customer, which is available to the Customer for download in the Customer's account on the SOUND TAXI website.

- 3.3. SOUND TAXI also offers the licensed music recordings to Customers for downloading in digital form. There is no right to be provided with the download material in any other form (e.g., CD-ROM). After confirmation of the purchase of a license, a link that can be clicked on to start the download is displayed for the Customer. The files containing the music recordings are available in compressed form (.zip) and when downloaded are stored on the Customer's computer.
- 3.4. After a license for a music recording is purchased, the relevant file is available to the Customer for download in the Customer's account on the SOUND TAXI website for a period of one year starting from the date of purchase. If the Customer cancels the SOUND TAXI account, the Customer will no longer be able to re-download music recordings. SOUND TAXI therefore recommends that its Customers make copies of the music recordings associated with the individual licenses.
- 3.5. If the Customer is unable to download the music recording associated with the license purchased for technical reasons, this should be communicated to SOUND TAXI immediately by e-mail. SOUND TAXI will then try to provide the music recording to the Customer within a reasonable timeframe via another method.

4. Breach of Duties or Infringement of Third-Party Rights by Customer

- 4.1. If there are significant breaches of the duties owed by the Customer under these Terms of Use or the License Terms set out in Section 13, SOUND TAXI has the right to lock the Customer out of the account. SOUND TAXI will inform the Customer of the reason that the account is locked. If there are legitimate reasons to suspect a significant breach of the Customer's duties, SOUND TAXI has the right to lock the Customer out of the account or block individual services until such time as the suspicion has been disproven.
- 4.2. If third-party rights are infringed, the Customer is directly liable to such third parties him/herself. The Customer shall release and hold harmless SOUND TAXI from any and all third-party claims and rights that result from a breach of a duty or infringement of rights by the Customer.

5. Notification from Customer of YouTube Content; YouTube Content ID System

- 5.1. SOUND TAXI uses the YouTube Content ID system to pursue rights infringements on the YouTube Internet portal involving music recordings from SOUND TAXI's repository. For this reason, if the Customer uses a music recording on YouTube according to the license purchased, the Customer needs to notify SOUND TAXI and provide the link to the particular YouTube video or YouTube channel.
- 5.2. Such use can only be reported to the YouTube Content ID system as authorized ("whitelisted") if the Customer notifies SOUND TAXI of the corresponding link. If the Customer fails to notify SOUND TAXI or fails to provide sufficient advance notice before use, the video in question may be claimed. SOUND TAXI will have the claim removed only after receiving notification of the link.
- 5.3. The Customer has the option of notifying SOUND TAXI of links as early as during the purchase process, or can do so at a later date by sending an e-mail to SOUND TAXI at any time. If the Customer notifies SOUND TAXI at a later date, the order number for the music recording should always be provided in addition to the link.
- 5.4. The Customer is independently responsible for notifying SOUND TAXI of links. Any and all liability on the part of SOUND TAXI for use restrictions arising from Customer's failure to notify is excluded.

6. Special Terms for the purchase of licenses for third parties

- 6.1. As a general rule, SOUND TAXI will allow the Customer to register (e.g. as an agency or producer) on the SOUND TAXI website to use the services offered to acquire licenses for various clients via a single account of its own. With respect to such purchases of licenses for third parties, the following special terms and conditions apply.
- 6.2. The licenses provided by SOUND TAXI as set out in the License Terms in Section 13 may not be sublicensed or transferred to third parties. Consequently, such licenses must always be acquired by the Customer expressly acting in a representational capacity for their respective clients; once the contract has been formed, those clients become direct Customers of SOUND TAXI and the sole licensees of the relevant music recordings. The Customer hereby affirms that it has the required authority to place the respective order and to consent to these Terms of Use on behalf of its client. When ordering, the Customer must provide the client's name and contact information, thus disclosing the representation.

- 6.3. Where Customer acting as representatives acquire licenses for their clients as set out in number 6.2 above, SOUND TAXI grants to such Customers the non-exclusive right to also use the music recordings themselves in the context of typical industry promotional activities referencing the specific “projects” of its clients for whom the respective music recordings were licensed. In any such instance, where creator credits are used, Customer shall credit Soundtaxi.com as being the source and provider of music.

7. Warranty, Liability

- 7.1. SOUND TAXI provides no guarantee that the music recordings offered in association with the licenses will be usable for the specific purpose intended by the Customer.
- 7.2. The Customer must examine the downloaded music files immediately after receipt, insofar as doing so is feasible in the ordinary course of business, and report any defects discovered to SOUND TAXI without delay.
- 7.3. Warranty claims made by the Customer are initially limited to correction or replacement by SOUND TAXI. If efforts to correct or replace fail, the Customer has the right, at the Customer’s choice, to a reduction in the fee or to demand that the contract be rescinded.
- 7.4. Furthermore, SOUND TAXI may be held liable only in accordance with the following provisions:

(1) For loss caused through willful misconduct or gross negligence on the part of SOUND TAXI or its legal representatives, senior staff members, or parties acting solely to assist SOUND TAXI with performance, SOUND TAXI may be held liable without limitation.

(2) In the event of a non-material breach of contract arising out of slight negligence, SOUND TAXI may not be held liable. In the event of a material breach of contract (breach of duties the compliance with which the other party should be able to trust in as a matter of course and the satisfaction of which is central to proper performance of the contract occurring at all), SOUND TAXI’s liability for loss caused by slight negligence is limited to such loss as may typically be anticipated to occur in connection with the respective contractual relationship (typically foreseeable loss). This also applies to breaches of contract arising out of slight negligence on the part of legal representatives, senior staff members, or parties acting solely to assist SOUND TAXI with performance.

(3) The above limitation of liability does not apply in the event of fraud, loss of life and limb, health, or well-being, the breach of guarantees, or to claims arising under product liability law.

8. Offsetting and Withholding Payment

The Customer has the right to offset only where the Customer’s counterclaims have been upheld by a court or are uncontested. The Customer may exercise a right to withhold payment only where the Customer’s counterclaim is based on the same contractual relationship.

9. Contract Term, Right to Cancel

- 9.1. Except as otherwise provided and insofar as there is no limit to the license duration stated for the licenses described in number 13.2.2, the Customer receives a license without a time limit as set out in the License Terms presented in Section 13 below.

- 9.2. SOUND TAXI will provide the Customer separately with the cancellation policy, which informs the Customer about the right to cancel.

10. Online Dispute Resolution

Online dispute resolution pursuant to Art. 14 (1) of the “Regulation on online dispute resolution for customer disputes”: The European Commission provides a platform for online dispute resolution (ODR), which you can find at <http://ec.europa.eu/consumers/odr/>. SOUND TAXI is not under any obligation and is not prepared to take part in dispute resolution processes before a consumer dispute resolution panel.

11. Data Privacy

For the collected and processed customer data, SOUND TAXI's [Privacy Policy](#) applies.

12. Payment Terms and Default

- 12.1. The applicable license fees are those indicated during the order process and stated on the SOUND TAXI website at the time of the order.
- 12.2. The license fees stated include the value-added tax (VAT) stipulated by law. No VAT is charged to Customers outside of the European Union or to Customers from EU member states (with the exception of Germany) who provide a valid VAT ID number. For those Customers, after registering and successfully logging on to the SOUND TAXI website, the license fees will be displayed without VAT.
- 12.3. The Customer must also pay fees that come about due to the actions of other users of the account. This also applies in the event of unauthorized use insofar as the Customer fails to prove that no breach of contract can be attributed to the Customer.
- 12.4. As a general rule, licenses are provided upon payment in advance. SOUND TAXI accepts the payment systems stated on the order page, most notably credit cards and PayPal. As a rule, payment is collected by the particular service provider authorized to do so for the payment process. If in any given situation the authorized service provider incorporates its own terms and conditions, they will apply in addition to the SOUND TAXI Terms of Use. In addition to advance payment, SOUND TAXI also has the right to accept payment after the invoice has been issued.
- 12.5. If license fees are not required to be paid in advance and an invoice is issued instead, the fees are due and payable within 10 business days of receipt of the invoice from SOUND TAXI. If the Customer defaults on payment, SOUND TAXI has the right to charge interest for late payment at the rate stipulated by law. SOUND TAXI reserves the right to assert a claim for more extensive damages due to the delay.

13. Licenses

13.1. Rights

- 13.1.1. All of the music recordings offered by SOUND TAXI are protected by copyright in Germany and abroad by the German Copyright Act (*Urheberrechtsgesetz*, UrhG), international contracts, and other governing laws.

SOUNDTAXI Customers receive a license to use the music recordings in accordance with the License Terms provided in the following.

- 13.1.2. The Customers of SOUNDTAXI acknowledge that all rights to the music recordings provided by SOUNDTAXI, including any copyrights, licenses, or other rights or comparable legal statuses vis-à-vis the Customer, accrue exclusively to SOUNDTAXI and that they may not be used without SOUNDTAXI's prior written consent. In particular, Customers may not produce and use any arrangement or adaptation of the music recordings. Any use of the musical work more extensive than that permitted to the Customer via the license is prohibited.
- 13.1.3 The music recordings offered by SOUNDTAXI are, in the context of these License Terms, free from rights held by third parties (e.g., musicians, composers, conductors, and producers). Claims by performing rights associations and/or other collecting societies, for instance ASCAP, PRS or BMI, form an exception to the foregoing. For the relevant music recordings, SOUNDTAXI explicitly indicates that they are "**PRO-registered**" and identifies the name of the corresponding organization (e.g., **GEMA, SUISA, BMI, ASCAP, PRS**). In this regard, it will be explicitly indicated to Customers that they need to obtain rights for particular forms of use – even if such rights might be viewed as encompassed by the license issued here – from the respective organization (e.g., obtain public performance rights from BMI), for which separate fees will also need to be paid to the organization. Customers are independently responsible for obtaining rights from these organizations. SOUNDTAXI provides no guarantee that licensed music recordings identified as "PRO-registered" may be used without the separate approval of the performing rights associations. In this regard, Customers must make the required inquiries themselves and, if applicable, obtain the required rights.

SOUNDTAXI also offers its Customers music recordings that are free from claims or rights by domestic or foreign performing rights organizations and other collecting societies to the particular musical works used. SOUNDTAXI indicates accordingly that such music recordings are not safeguarded by performing rights organizations ("**Non-PRO**").

- 13.1.4. Under Sec. 13 and Sec. 74 (1) sentence 1 of the German Copyright Act, composers and artists have the right to be identified by name. If music recordings are used in television or film productions, you must indicate the artist in the closing credits: Soundtaxi ©Composer, Track. You must similarly identify the artist for every other use of music recordings except where providing such reference is unreasonable for technical reasons, where governing law permits a different approach, or where providing such reference is atypical in the industry.

13.2. Acquisition and scope of rights of use

- 13.2.1. Once the license fees have been paid in full, SOUNDTAXI Customers acquire, subject to the provisions set out in number 13.1, a basic, non-exclusive, non-transferrable right to use a music recording for personal or commercial purposes in connection with a "project" to be specified more precisely by the Customer. Insofar as no agreements to the contrary have been entered into, and provided that a right to use the licenses described in number 13.2.2 below is not stipulated as being restricted with respect to time and/or place, the Customer is granted in connection with the specified project the right to use without restriction as to time and place. SOUNDTAXI Customers are not permitted to grant sublicenses for use of the music recordings to third parties. Furthermore, transferring the usage rights acquired pursuant to these License Terms to third parties is prohibited.
- 13.2.2. The music recordings may be used by the Customer for only one project in the context of the "license groups" described below, which the Customer selects when ordering.

SOUNDTAXI offers usage rights, subject to the provisions set out in number 13.1, in connection with the following license groups:

a) License Group 1

- **Presentation / Show** (i.e., any live public presentation, that is not a video) **or**
- **Student Film Basic** (festivals / online / up to 1,000 copies) **or**
- **Additional language License group 2.**

b) License Group 2

- **Website Background Music** **or**
- **Corporate Film, including Training, Promotional or Educational Video, Online Advertising** (incl. cutdowns / 1 language version / online / exhibitions & events / advertising budget up to \$1,000) **or**
- **Online Editorial or Narrative Film** (1 film intended for online distribution such as internet TV program, webseries, online news or magazine programming, with the exception of commercial productions distributed on major platforms such as Netflix) **or**
- **Hold music** (used for a telephone holding loop / telephone advertising / 1 location) **or**
- **Up to any Combination of Downloads and/or Copies totalling 1,000 Copies.**

c) License Group 3

- **Online Advertising** (advertising budget up to \$10,000 / incl. cutdowns / 1 language version / online / exhibitions & events) **or**
- **Radio/Cinema Advertising, regional** (1 advertising spot / license valid for 1 year) **or**
- **Student Film Extended** (TV & cinema worldwide / festivals / online / up to 5,000 copies) **or**
- **Up to any Combination of Downloads and/or Copies totalling 5,000 Copies.**

d) License Group 4

- **Online Advertising** (advertising budget up to \$20,000 / incl. cutdowns / 1 language version / online / exhibitions & events) **or**
- **Radio / Cinema Advertising, national** (1 advertising spot / license valid for 1 year) **or**
- **TV Advertising, regional** (1 advertising spot / license valid for 1 year) **or**
- **Point-of-Sale (POS) Advertising, national** (1 video / license valid for 1 year) **or**
- **Public Viewing Advertising, national** (1 advertising spot / license valid for 1 year) **or**
- **App / Video Game** (1 app / video game) **or**
- **Up to any Combination of Downloads and/or Copies totalling 10,000 Copies.**

13.2.3. SOUND TAXI's prior written consent must be obtained for forms of use of any kind that do not belong to one of the license groups specifically stipulated by way of a separate licensing agreement within the meaning of number 13.2.2.

13.2.4. In other respects, the usage rights granted also include, subject to the provisions set out in number 13.1, the right to technically convert, to save, and to compress and/or decompress the music recordings into the format required in accordance with the respective technical demands of a project. Furthermore, shortening the music recordings is also permitted, provided the artists' and composers' moral rights are observed.

No other processing or adaptation of the music recordings is permitted, in particular remixes, samples, new recordings, as well as revisions, modifications, or changes to the content of the music recordings. In all other respects, the respective rights holders retain the copyrights and related rights to the music recordings, even in the event of authorized changes and modifications. For this reason, Customers are also not permitted to market or sell modified music recordings in their own name.

13.2.5. Additionally, the music recordings may not be used, distributed, made available, or resold in connection with music archives or databases. The use of music recordings for website templates is likewise prohibited.

Reproduction of music recordings or parts thereof for purposes of individual resale or relicensing is prohibited both in their existing as well as in any amended form (adaptation, arrangement, new recordings, etc.).

Additionally, offering the music recordings for download by or otherwise making them available to third parties in connection with file-sharing platforms or electronic networks is prohibited.

Furthermore, uses that violate the laws of the Federal Republic of Germany, the European Union, or which are contrary to public policy or accepted moral principles are prohibited. This applies in particular to uses of any type that are racist, glorify violence, are pornographic, or incompatible with the constitution.

13.2.6. In the event that the above License Terms are breached, SOUND TAXI reserves the right to take action under civil and criminal law, and furthermore to close the account immediately.

14. Miscellaneous

14.1 These Terms of Use are governed by the laws of the Federal Republic of Germany and the rules found in international private law governing the conflict of laws.

14.2. As permitted by law, the place of performance is Stuttgart, Germany.

14.3. Where the Customer is a business operator, a legal entity under public law, or an entity specially funded under public law, for all disputes arising under or in connection with these Terms of Use or the SOUND TAXI License Terms that follow, venue shall be proper in Stuttgart, Germany. The same applies where the Customer is not subject to a court of general jurisdiction in Germany, or the Customer relocates his or her domicile or usual place of residence outside of the country after the contract has been formed, or the Customer's domicile or usual place of residence is unknown at the time the action is filed.

SOUND TAXI GmbH, Nikolausstrasse 6a, D-70190 Stuttgart, Germany

Phone +49 (0)711- 217 202 291 / E-Mail: info@soundtaxi.com / www.soundtaxi.com

Stuttgart District Court HRB 732578, Managing Directors: Tim Rheinwald, Heiko Willy

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