



# Terms & Conditions

## SO MUSIC TERMS AND CONDITIONS FOR THE SUPPLY OF THE SIMFY SERVICE

### 1. Entering into the Agreement

- 1.1 You agreed, during the course of a telephone conversation between you and us (or our direct marketing agents), to let us provide you with the Services, on certain terms and conditions. This document records the additional terms and conditions of the supply of the Services to you.
- 1.2 The terms and conditions agreed during the above mentioned telephone conversation and the terms and conditions recorded in this document constitute the entire agreement regarding the provision of the Services to you.
- 1.3 We have defined some of the words which have particular meanings in clause 12 of the Agreement.
- 1.4 **If there are any words or terms and conditions which you have difficulty understanding, please contact our customer service department at support@somusicdigital.co.za or alternatively call us on 0861 333 035 and we will assist you.**

### 2. Duration and Termination

- 2.1 We will provide you with the Services from the conclusion of the Agreement, until such time as the Agreement is terminated by you (or us).
- 2.2 Either you or us may, for any reason, terminate this Agreement. Any notice by you to terminate the Agreement must be sent to support@somusicdigital.co.za or alternatively call us on 0861 333 035.

### 3. The Services

- 3.1 We will take all reasonable steps within our control to provide you with the Services.
- 3.2 The Services can only be accessed via an internet connection .
- 3.3 **We cannot always guarantee that the Services will be fault-free. The Services can be affected by factors outside of our control, including, amongst other things, your and our internet connectivity and faults experienced by our respective internet service providers.**
- 3.4 **The upgrading and maintenance of the Website may result in interruptions or unavailability of the Services from time to time. Where possible, we will advise you of this in advance.**
- 3.5 For general terms and conditions around using Simfy music streaming service please go to: <http://corporate.simfyafrika.com/index.php/terms>

### 4. Payment for the Services

- 4.1 You have agreed to pay an agreed monthly subscription for the Services.
- 4.2 You have authorised us to collect payment for the Services by way of a monthly debit order on a date nominated by you. **In the event that a monthly debit order fails, for any reason, we shall be entitled to debit your account on any other date for that month's subscription.**
- 4.3 You cannot cancel your monthly debit order without our prior written consent.
- 4.4 If the date of your debit order falls on a Sunday or public holiday, you agree that your debit order will go off on the last Business Day before the Sunday or public holiday.

### 5. Changes in price

The prices payable for goods are inclusive of VAT. This service runs at a monthly cost to you of R60.00. Annual escalation applies. So Music reserves the right to increase the Simfy charges on an annual basis, provided that such an increase is reasonable.

### 6. Failure to pay for the Services

If you do not pay for the Services in full and on time, via the debit order, you will be in breach of the Agreement and we may cease providing you with the Services, and can implement the provisions of clause 10.

## 7. Complaints

We have a complaints department which is used to resolve disputes when they first arise. If you have a complaint, please contact the customer service department at support@somusicdigital.co.za or alternatively call us on 0861 333 035.

## 8. Information and disclosure

- 8.1 In entering into the Agreement with you and providing the Services to you, we will come into possession of information pertaining to you. Insofar as it is permissible in law, save for your banking details, we will hold that information as our own and will be entitled to disclose it to such third parties as we deem appropriate.
- 8.2 You warrant and guarantee that all information supplied to us is true and correct.
- 8.3 Should your address, or any other information which you have given to us, change you must inform us of the change immediately in writing to support@somusicdigital.co.za or alternatively call us on 0861 333 035.

## 9. Indemnity and waiver

- 9.1 You indemnify us, our employees and agents against any loss or damage which any person (including ourselves) may suffer arising directly or indirectly from the Agreement, the accessing of the Website and the provision of the Services.
- 9.2 To the extent permitted by law, we exclude and you waive all liability against us, our employees and agents, for any direct, indirect or consequential loss, costs, expenses or damage incurred by you or anyone else, whether in common law, in terms of statute or otherwise arising directly or indirectly from the Agreement, the accessing of the Website and the provision of the Services, save for instances of gross negligence on our part.

## 10. Breach.

- 10.1 In the event that you breach the Agreement we have the right to:
  - 10.1.1 enforce the Agreement; or
  - 10.1.2 terminate the Agreement.

## 11. General.

- 11.1 Notwithstanding anything to the contrary, a written notice actually received by you will be adequate written notice.
- 11.2 You acknowledge that in entering into this Agreement, you have not relied on any promises, representations or other statements made by us or on our behalf.
- 11.3 If you are under the age of 18 years you warrant that you have the assistance of a parent or guardian in entering into the Agreement.
- 11.4 If any term or condition is found to be invalid or unenforceable, that term will be removed and the invalid or unenforceable term will not affect the validity of the remainder of this Agreement, which will remain effective.
- 11.5 If the Agreement arose through direct marketing you may terminate the Agreement, in writing, within 5 Business Days' after the date on which the Agreement was concluded.

## 12. Definitions.

- 12.1 "the Agreement" means the terms and conditions agreed to by you and us during the course of a telephone conversation between you and us (or our direct marketing agents) and the terms and conditions recorded in this document;
- 12.2 "Business Days" means all days, excluding Saturdays, Sundays and public holidays. When calculating business days, one must exclude the first day on which the event occurs and include the last day;



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- 12.3 **"the Services"** Access to music via Simfy Africa's internet based music service on no more than 3 electronic devices;
- 12.4 **"we", "us" and "our"** means So Music Digital, its affiliates, subsidiaries or its successors-in-title;
- 12.5 **"Website"** means [www.somusic.co.za/simfy](http://www.somusic.co.za/simfy); and
- 12.6 **"you" and/or "your"** means you the customer who applies for and receives the Services.

**IMPORTANT: The clauses printed in bold relate to issues which may pose some risk for you or which may limit our liability or which you may not ordinarily expect. Please pay special attention to these clauses. By entering into the Agreement you, in addition to accepting all the terms of the Agreement, also specifically signify that you understand the bold clauses and accept them.**