

## Terms of Use

**Last Modified:** 01/05/2023

Beatclub, Inc. ("**Beatclub**", "**we**", "**us**" or "**our**") operates the Beatclub website (the "**Site**") and mobile apps (a "**Mobile App**"), which provides an online marketplace that enables users to store, manage, organize, track and distribute musical compositions, portions of song compositions, full song compositions, acapellas, song packs, loops without vocals or lyrics, along with other such similar creative works ("**Beat(s)**"), for purchase and/or licensing by other users of the website and/or app, and any other services necessary to provide the Beatclub website and app (together with the Site and Mobile Apps, collectively, the "**Services**"). Your use of the Services, including all information, tools, and services provided through the Services are governed by and conditioned upon your acceptance of all the terms, conditions, policies and notices in these Terms of Use (the "**Terms**").

For purposes of these Terms, "**you**" and "**your**" means you as the user of the Services. If you use the Services on behalf of a company or other entity then "**you**" includes you and that entity, and you represent and warrant that (a) you are an authorized representative of the entity with the authority to bind the entity to these Terms, and (b) you agree to these Terms on the entity's behalf.

**IMPORTANT NOTICE: PLEASE NOTE THAT THESE TERMS REQUIRE THAT ALL DISPUTES (WITH LIMITED EXCEPTION) BE RESOLVED ONLY BY BINDING INDIVIDUAL ARBITRATION (AND NOT BY COURT LITIGATION) IN WEST HOLLYWOOD, CALIFORNIA (OR THE CITY NEAREST TO OUR PRINCIPAL PLACE OF BUSINESS WHERE THE AMERICAN ARBITRATION ASSOCIATION HAS AN OFFICE). THIS MEANS THAT YOU WAIVE ANY RIGHT TO HAVE THOSE DISPUTES DECIDED BY A JUDGE OR JURY, AND THAT YOU WAIVE ANY RIGHT TO PARTICIPATE IN CLASS ACTIONS, CLASS ARBITRATIONS, OR REPRESENTATIVE ACTIONS AGAINST US. PLEASE REVIEW SECTION 17 BELOW ENTITLED "GOVERNING LAW, ARBITRATION AND NO CLASS ACTIONS" FOR COMPLETE DETAILS.**

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## 1. **Acceptance of the Terms of Use.**

- 1.1. By signing up for, installing, accessing and/or using the Services in any manner, you indicate that you have read, understand and agree to the Terms, which incorporates by reference our Privacy Policy located at ([NA](#) | [EU](#)), that you meet the Eligibility requirements provided in the Eligibility section (see below), and that you agree to be bound by these Terms in their entirety. If at any time you do not agree to the Terms, you must cease your use of the Services.
- 1.2. Any new features or tools which are added to the Services shall also be subject to the Terms. You can review the most current version of the Terms at any time on this page. We reserve the right to update, change or replace any part of these Terms by posting updates and/or changes to our website. It is your responsibility to check this page periodically for changes. Your continued use of or access to our Services following the posting of any changes constitutes acceptance of those changes.
- 1.3. To provide the Services, we need information about you. Please refer to our Privacy Policy ([NA](#) | [EU](#)) to help you understand what information we collect, how we use that information and what choices you have regarding your information when you use the Services. Your use of the Services constitutes your acceptance of our Privacy Policy.

## 2. **Eligibility, User Accounts, and Memberships.**

- 2.1. **Eligibility.** You represent and warrant that you (i) are an individual person who is at least the applicable age of majority in your legal state of residence; and (ii) you have not previously been suspended or removed from the Services. If you have not yet reach the applicable age of majority in your legal state of residence, you may not, under any circumstances or for any reason, use the Services.

You are solely responsible for ensuring that these Terms are in compliance with all laws, rules and regulations applicable to you and the right to access the Services is revoked where these Terms or use of the Services is prohibited or to the extent offering or provision of the Services conflicts with any applicable law, rule or regulation. Further, the Services is offered only for your use, and not for the use or benefit of any third party.

We may, in our sole discretion, refuse to offer the Services to any person or entity and change our eligibility criteria at any time.

- 2.2. **User Accounts.** The use of the Services requires you to create an account by providing a valid email address, username, password, and other information as prompted by the registration process (an “**Account**”). You must provide accurate and complete information and keep your Account information updated. If you provide any information that is inaccurate, not current or incomplete, or we have reasonable grounds to suspect that such information is inaccurate, not current or incomplete, or otherwise violates our Terms, we may deny you access to the Services, terminate your Account, and/or take such other action as we deem appropriate, at our sole discretion.
- 2.3. You shall not: (i) select or use as a username a name of another person with the intent to impersonate that person; (ii) use as a username a name subject to any rights of a person other than you without appropriate authorization; or (iii) use, as a username, a name that is otherwise offensive, vulgar or

obscene, as determined by us in our sole discretion. You are solely responsible for the activity that occurs on your Account, and for keeping your Account password and login credentials secure. You may never use another person's user Account or registration information or permit another user to use your Account. You must notify us immediately at support@Beatclub.com of any change in your eligibility to use the Services, breach of security, or unauthorized use of your Account. You should never publish, distribute or post login information for your Account. You shall have the ability to delete your Account, directly by emailing us at support@Beatclub.com.

2.4. You may only establish, maintain, use and control one Account for the Services. Each Account for the Services may only be owned, maintained, used and controlled by one individual. For avoidance of doubt, users may not "co-own" accounts for the Services. In the event Beatclub determines that you have opened, maintained, used or controlled more than one Account, in addition to any other rights that Beatclub may have, Beatclub reserves the right to suspend or terminate any or all of your accounts.

2.5. Without limiting anything in these Terms, we reserve the right, in our sole discretion, to restrict, suspend, or terminate your Account, and/or your access to all or any part of the Services, at any time, for any or no reason, with or without prior notice, and without liability, including in the event that we stop offering any features or portions of the Services. We expressly reserve the right to restrict, suspend and/or terminate your access to any part of the Services if we determine, in our sole discretion, that you have violated any of the terms of these Terms, or if your Account has been inactive for 12 months or longer. We also reserve the right to create verified user accounts and to require additional information from you in order to provide you with a verified user account, should we choose to create such verified user accounts.

2.6. **Memberships.** You agree that if you purchase a recurring membership to any of the Services, your membership will automatically renew at the membership period frequency referenced on your membership page (or if not designated, then monthly) and at the then-current rates, and your payment method will automatically be charged at the start of each new membership period for the fees and taxes applicable to that period. To avoid future membership charges, you must cancel your membership 3 business days before the membership period through the Settings tab in your Account page. We reserve the right to change our membership plans or adjust pricing for the Services in any manner and at any time as we may determine in our sole and absolute discretion. Except as otherwise provided in these Terms, any price changes or changes to your membership plan will take effect following reasonable notice to you. Payments for any memberships to the Services are nonrefundable and there are no credits for partially used periods. Following any cancellation by you, however, you will continue to have access to the paid Services through the end of the membership period for which payment has already been made.

### 3. **Beatclub Intellectual Property.**

3.1. We own or have been granted a license under any and all intellectual property rights relating to the Services, the Beatclub brand, trade name, trade dress, and other content of the Services, including: copyright, trademark, service mark, trade name, trade dress, proprietary logo, insignia, business identifier, and/or other text and graphics that has or provides the "look and feel" of the Beatclub brand image, as well as all of the Content, except User Content and Beats, including the design, text, graphics, visual interfaces, programming, software, computer code, photographs, video and audio contained on the Services (the "**Beatclub Intellectual Property**").

3.2. Your use of the Services does not grant you any rights or licenses relating to the Beatclub Intellectual Property, including, but not limited to, any copyrights, trademark rights, patent rights, database rights,

moral rights, sui generis rights and other intellectual property and proprietary rights therein, except as expressly provided for in these Terms. None of the Intellectual Property may be used, reproduced, published, transmitted, distributed, displayed, performed, exhibited, modified, used to create derivative works, sold, re-sold or used in any sale, or exploited in any way, in whole or in part, except as provided for herein, and unless you obtain our prior written consent. You may not reproduce, modify, display, sell, or distribute the Beatclub Intellectual Property, or use it in any other way for public or commercial purpose. The foregoing limitations include, but are not limited to, copying or adapting the code used on our Services, or the underlying services.

3.3. All other intellectual property, such as User Content, Beats, product names, names of services, trademarks, service marks and other intellectual property is the property of their respective owners and may only be used as permitted by those owners.

#### **4. Limited License to Use the Services.**

4.1. We hereby permit you to use the Services for your personal non-commercial use only, provided that you comply with these Terms in connection with all such use. If any software, content or other materials owned or controlled by us are distributed to you as part of your use of the Services, we hereby grant you, a personal, non-assignable, non-sublicensable, non-transferrable, and non-exclusive right and license to access and display such software, content and materials provided to you as part of the Services (and right to download the Mobile Apps onto your applicable equipment or device), in each case for the sole purpose of enabling you to use the Services as permitted by these Terms.

4.2. Except as expressly permitted in these Terms or under applicable law, you may not (directly or indirectly): (a) copy, modify, translate or create derivative works based on the Services; (b) distribute, transfer, sublicense, lease, lend, or rent the Services to any third party; (c) decipher, reverse engineer, decompile, disassemble, or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Services (including without limitation any application); (d) rent, lease, distribute, or otherwise transfer any of the rights that you receive hereunder, (e) make the functionality of the Services available to multiple users through any means, or (f) use or develop any application that interacts with the Services or Content without Beatclub's written permission. Beatclub reserves all rights in and to the Services not expressly granted to you under these Terms and/or the applicable users or other third parties. You shall abide by all applicable local, state, national and international laws and regulations.

4.3. The Services is intended for your personal use only and may not be used in connection with any commercial endeavors except those that are specifically permitted or approved by us. Any use of the Services in violation of this provision, including but not limited to collecting usernames and/or email addresses of account holders by electronic or other means for the purpose of sending unsolicited email or unauthorized framing of or linking to the Services, is prohibited.

#### **5. Content and Submissions.**

5.1. **Rights Granted to You by Us.** Subject to your compliance with these Terms, Beatclub grants you a non-exclusive, non-transferable, non-sublicensable, revocable, limited license to access and view, the Content solely for your personal and non-commercial use while you are accessing the Services. For clarity, the Content is being provided to you solely for the purpose of browsing our Services, and therefore, may not be used for such purposes as: collecting and reselling/licensing Sample Beats (as defined below) or user information, or any other purpose for which a license is required by a respective seller/licensor. "**Content**" means, without limitation, the text, graphics, photos, Sample Beats (defined below), User Content and information or other materials that are generated, provided, or otherwise made publically available through the Services. "**User Content**" means anything that a user of the

Services provides us or otherwise makes available through the Services, except for Beats. User Content may include, but is not limited to personal biographical and profile information, artwork, images, etc.

**5.2. Content Ownership.** Beatclub does not claim ownership rights in User Content and nothing in these Terms restricts any rights that you may have to use and exploit your own User Content. You or a third-party licensor, as appropriate, retain all intellectual property rights to the User Content. You acknowledge that Content, including User Content, is protected by copyright, trademark, and other laws of the United States and foreign countries. You agree not to remove, alter, or obscure any copyright, trademark, service mark, or other proprietary rights notices incorporated in or accompanying the Services or Content, including User Content.

**5.3. Feedback.** We may offer users the opportunity to provide feedback/suggestions. In the event that you provide us with any feedback, suggestions or ideas regarding the Services, whether solicited or unsolicited, including without limitation: any flaws, errors, bugs, anomalies, problems with the Services; suggestions and/or ideas on how to improve or change the Services; or suggestions and/or ideas otherwise related to the Services (collectively, “**Feedback**”), you hereby assign to us all rights in the Feedback, including but not limited to, the right to use such Feedback and related information in any manner we deem appropriate, without compensation or notice to, or approval from, you and you expressly waive all moral rights you may have therein.

**5.4. Rights Granted by You to Us.** By making any User Content available to Beatclub and/or through the Services, through any media and formats now known or hereafter developed, you grant to Beatclub a worldwide, unrestricted, assignable, sublicenseable, revocable, royalty-free license (or, if not permitted under applicable law, a license for the whole duration, including for any extension thereof, of all relevant rights under any applicable law) to use, copy, modify, create derivative works based upon, publicly display, publish, publicly perform, market, promote, distribute or otherwise make available such User Content, in whole or in part, in any form, media or technology, whether known or hereafter developed, alone or as part of other works, with no payment or other compensation to you, for the purposes of:

- (i) operating and providing the Services and Content to you and to others, as authorized in these Terms, including, but not limited to the copying, reproduction, and display thereof for the purpose of facilitating the purchase, sale, licensing and/or use by other users of Beats;
- (ii) sharing information about your User Content with other users of the Services;
- (iii) to satisfy any law, regulation, or government request; and
- (iv) to use the information in accordance with our Privacy Policy ([NA](#) | [EU](#)).

You also grant us a royalty-free right to use your name, image, voice, and likeness as may be made available by you or on your behalf through the Service, in conjunction with advertising, marketing, or promoting you, your User Content, Beatclub, and/or the Services.

**5.5. Your Representations and Warranties.** You are solely responsible for all your User Content. By submitting User Content, you represent and warrant that you own all parts of your User Content, or that you have all rights, releases and permissions that are necessary to grant rights in your User Content set forth in these Terms. By including or otherwise depicting any third party in your User Content, you represent and warrant that you have obtained any and all necessary rights, permission and/or releases required to: (i) include or otherwise depict such third party (and, if such third party is a Minor, the consent of the Minor’s parent/legal guardian); and (ii) grant Beatclub the rights set forth in these Terms, which shall include the right to use such third party’s Attributes (defined below). Further, you agree to cooperate with Beatclub, upon its request, in taking any additional action or obtaining any

documentation reasonably requested by Beatclub to effectuate the grant of those rights from such third parties. You also represent and warrant that neither your User Content, nor your use and provision of your User Content to be made available through the Services, nor any use of your User Content by Beatclub or other users of the Services on or through the Services will infringe, misappropriate, defame any third party, or violate a third party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

**5.6. Availability of Content.** We do not guarantee that any Content will be made available on and/or through the Services. We do not practice editorial control over: (i) User Content; or (ii) content posted by third parties; however, we reserve the right to, but do not have any obligation to, (1) remove, edit, modify or otherwise manipulate any Content in our sole discretion, at any time, without notice to you and for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content or if we are concerned that you may have violated these Terms), or for no reason at all and (2) to remove or block any Content from the Services.

**5.7. Information You Provide.** If you choose to provide any personal information via our Services, the information will be used only for certain purposes, as described in our Privacy Policy. Additionally, we may collect or share certain information based on your usage of our Services, as described in our Privacy Policy. The Services may offer you the ability to contact us and other users of the Services. Although we strive to protect and secure our online communications, and use the security measures detailed in our Privacy Policy to protect your information, please note that no data transmitted over the Internet can be guaranteed to be completely secure and no security measures are perfect or impenetrable.

## **6. Selling/Licensing of Beats through the Services.**

**6.1. Governing Terms.** Certain users of our Services will be able to make Beats available for purchase and/or licensing through our Services. The sale and/or license of Beats constitute transactions between the respective users of the Services, separate and apart from, but still subject to these Terms. The prices at which the Beats are offered and sold/licensed are set solely by the users that make them available through the Services.

**6.2. Rights Granted to Us by You.** By providing us with your Beats and/or making your Beats available through the Services, you grant to Beatclub a worldwide, unrestricted, assignable, sublicenseable, revocable, royalty-free license (or, if not permitted under applicable law, a license for the whole duration, including for any extension thereof, of all relevant rights under any applicable law) to use, copy, modify, create derivative works based upon, publicly display, publish, publicly perform, market, promote, distribute or otherwise make available such Beats, in whole or in part, in any form, media or technology, whether known or hereafter developed, alone or as part of other works, with no payment or other compensation to you, for the sole purposes of:

- (i) facilitating the sale/licensing of your Beats through our Services, including, but not limited to the copying, distribution and creating of low quality versions of your Beats ("**Sample Beats**") that Beatclub will make available for download by other users of our Services;
- (ii) allowing your Beats to be played and listened to by other users who are browsing Beats on our Services;
- (iii) allowing for the download and distribution of Beats that are part of a transaction where you sell and/or license a Beat to other users of our Services; and
- (iv) to satisfy any law, regulation, or government request.

For purpose of clarity, the aforesaid rights granted by you include, but are not limited to, the right to reproduce Beats, in whole or in part, by any means and in any form (and make mechanical reproductions of the musical works embodied in such sound recordings), and publicly or privately broadcast and perform sound recordings (and the musical works embodied therein), all on a royalty-free basis. This means that you are granting us the right to use your Beats without the obligation to pay royalties to any third party, including, but not limited to, a sound recording copyright owner (e.g., a record label), a musical work copyright owner (e.g., a music publisher), a performing rights organization (e.g., ASCAP, BMI, SESAC), a sound recording rights organization (e.g., SoundExchange), any unions or guilds, and engineers, producers or other royalty participants involved in the creation of those Beats.

**6.3. Restrictions. DO NOT POST ANY BEATS TO THE SERVICES IF YOU ARE NOT THE COPYRIGHT OWNER OF, OR ARE NOT FULLY AUTHORIZED TO GRANT RIGHTS IN, ALL OF THE ELEMENTS OF THE BEATS YOU INTEND TO MAKE AVAILABLE TO OR THROUGH THE SERVICES.**

In addition, if you only own the rights in and to a Beat, but not to the underlying musical works embodied in such Beat, then you cannot provide that Beat to us, or make such Beat available through the Services unless you have all necessary rights, authorizations, and permissions with respect to such embedded musical works that grant you sufficient rights to sublicense to us pursuant to these Terms. For example, the use of clips of third party sound recordings are not permitted on the Services unless you have cleared all rights to the sampled Beats. You represent and warrant that: (i) you own the Beats you provide to us or make available through the Services or otherwise have the right to grant the license set forth in these Terms, including in Section 6.2 hereof; (ii) providing us or otherwise making available through the Services your Beats does not violate the privacy rights, publicity rights, copyrights, contract rights, intellectual property rights, or any other rights of any person; (iii) providing to us or otherwise making your Beat available through the Services will not require us to obtain any further licenses from or pay any royalties, fees, compensation or other amounts or provide any attribution to any third parties; and (iv) providing us or otherwise making your Beat available through the Services does not result in a breach of contract between you and a third party. You further agree to pay all amounts owed to any person as a result of providing your Beat or otherwise making it available through the Services, including the use thereof by any other users of the Services who have purchased, licensed and used your Beat.

**6.4. Protection.** You understand and agree that you are solely responsible for protecting any of your rights in your Beats and any associated content (such as artwork), including against any other user of our Services, whether that user violates the license you grant to such other user directly and/or pursuant to these Terms, including those set forth in Section 6.2 herein and/or any other terms and conditions that may be applicable. Accordingly, you acknowledge and agree that we are not required to not enforce any violation of these Terms by another user as it pertains to your Beats, but we reserve the right to do so, including terminate the rights of such users to access or use our Services.

**6.5. Reporting; Authorization.** If you are a composer or author of a musical work and have affiliated with a performing rights organization (e.g., ASCAP, BMI, SESAC), you must notify such organization of the royalty-free license you grant to us through these Terms, and to any other user of the Services to whom you have sold Beats and licensed rights thereto. You are solely responsible for ensuring your compliance with the relevant performing rights organization's reporting obligations. If you have assigned your rights to a music publisher, then you must obtain the consent of such music publisher to grant the royalty-free license(s) set forth in these Terms or have such music publisher enter into these Terms with us. Just because you authored a musical work (e.g., composed a Beat) does not necessarily mean that you have the right to grant us the licenses in these Terms.

**6.6. Attributes.** For the sake of clarity, to the extent any Beat you submit includes your name, likeness,

voice, video, or photograph (“**Attributes**”), you acknowledge and agree that the foregoing license rights granted by this Section shall apply to the same. To the extent that any third party is included or depicted in your Beat, you acknowledge and agree to have first obtained any and all necessary rights, permission and/or releases from such third party (or, if a Minor, the rights, permission and/or releases from such Minor’s parent/legal guardian on its behalf) to include or otherwise depict such third party in the Beat, to the use of such third party’s Attributes therein and to grant to Beatclub those rights and permissions as part of the foregoing license, all of which rights are hereby granted by you to Beatclub.

6.7. **Template Agreements.** As part of selling/licensing Beats through our Services, Beatclub may make available to its users automatically generated license agreements (“**Template Agreements**”) in order to provide a solution for users who choose to prepare their own legal documents. However, Beatclub does not at any time review these Template Agreements for legal sufficiency; draw legal conclusions, provide legal advice, opinions or recommendations about your legal rights, remedies, defenses, options, selection of forms, or strategies; or apply the law to the facts of your particular sale/licensing transaction. Beatclub is not a law firm and may not perform the services performed by an attorney. **BY USING ANY OF THESE TEMPLATE AGREEMENTS, YOU UNDERSTAND AND AGREE THAT BEATCLUB AND ITS TEMPLATE AGREEMENTS ARE NOT A SUBSTITUTE FOR THE ADVICE OR SERVICES OF AN ATTORNEY. FURTHER, THE TEMPLATE AGREEMENTS CONTAINED ON OUR SERVICES ARE NOT LEGAL ADVICE AND ARE NOT GUARANTEED TO BE CORRECT, COMPLETE OR UP-TO- DATE. THEREFORE, YOU SHOULD CONSULT A LICENSED ATTORNEY TO ASSIST YOU WITH YOUR SALE/LICENSING TRANSACTION. AS BEATCLUB IS NOT A LAW FIRM, PLEASE NOTE THAT COMMUNICATIONS BETWEEN YOU, BEATCLUB AND OTHER USERS ARE NOT BY THEMSELVES PROTECTED AS PRIVILEGED COMMUNICATIONS UNDER THE ATTORNEY-CLIENT PRIVILEGE OR WORK PRODUCT DOCTRINE.**

## **7. Purchasing of Beats and Sales/Licenses Between Users of the Services.**

7.1. By purchasing Beat through our Services, you understand and agree that all sales and/or licensing of Beats are transactions between you and the respective seller. All pricing and terms under which Beats are offered and sold/licensed are set solely by the users that make them available through the Services. We urge all users to be responsible about their use of the Services and any sale/licensing transaction entered into as a result.

7.2. We do not own or manage, nor can we contract for, any Beat listed on our Services. Beatclub provides only an online marketplace to allow artists to advertise, sell, license and purchase Beats. Beatclub is not a party to any sale/licensing transaction or other agreement between users. This is true even though our Services enables you to enter into transactions and provide payment directly to sellers/licensors of Beats. As a result, any part of any actual or potential transaction between a buyer and seller/licensor of Beats is responsibility of each user, including determining the quality, condition or legality of the Beats advertised, the truth or accuracy of information related to the Beats listed (including the content thereof or any review relating to any Beat), and/or whether the user can enter into the sale/licensing transaction.

7.3. While we take certain measures with a goal to assist users to avoid potentially fraudulent or other illegal activity of which we become aware, we assume no liability or obligation to take any such measures or actions. When we provide warnings or messages to users about any such activity, we do not warrant that such messages are accurate or that such messages will reach any or all users they should have reached in a timely manner or at all or that such messages or measures will prevent any harm or otherwise have any impact.

## **8. Conduct, General Prohibitions and Enforcement Rights.**

8.1. **Responsibility for Conduct.** As a condition of use, you agree not to use the Services for any purpose



that is prohibited by these Terms. You agree that you are solely responsible for your own activities, conduct, User Content and/or Beats while using the Services, and for any consequences thereof. Violation of our Terms may result in the termination and cancellation of your Account. You acknowledge and agree that we may terminate any Account at any time for any reason (including, but not limited to, our independent assessment or the receipt of claims or allegations from third parties or authorities). You assume all risks associated with your User Content and/or Beats, including anyone's reliance on its quality, accuracy, or reliability. You may expose yourself to liability if, for example, your User Content and/or Beats contain material that is false, intentionally misleading, or defamatory; violates third-party rights; or contains material that is unlawful or advocates the violation of any law or regulation. Additionally, you are solely responsible for maintaining backup copies of any User Content and/or Beats you upload to the Service. We are not responsible for the deletion or unavailability of any User Content and/or Beats. You may use the Service only for its intended purpose. You must use the Service in compliance with all privacy, data protection, intellectual property, and other applicable laws.

**8.2. Your Interactions with Other People.** You agree that in conjunction with your use of the Services, any contact with other users and other people in the real world will be safe and appropriate. You will not harass, threaten or otherwise violate the legal rights of others. You will not trespass, or in any manner attempt to gain or gain access to any property or location where you do not have a right or permission to be, and will not otherwise engage in any activity that may result in injury, death, property damage, nuisance, or liability of any kind. If you have a dispute with any third party relating to your use of the Services, you release and agree to indemnify Beatclub (and our officers, directors, agents, subsidiaries, joint ventures, and employees) from all claims, demands, and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes.

**8.3. Objectionable Actions/Content.** You agree that you shall not, and shall not permit any third party to, (unless applicable law mandates that you be given the right to do so) either (a) take any action that, or (b) upload, download, post, submit or otherwise distribute or facilitate distribution of any Content and/or Beat on or through the Services that:

- collects, solicits, stores or shares any personally identifiable information (such as passwords and phone numbers) of other users without their express permission;
- extracts, scrapes, indexes, intercepts, mines or otherwise collects information about the Services or Content (including information about users);
- uses automation software, bots, hacks, mods or any other unauthorized software designed to modify or interfere with the Services;
- uses the Services or Content, or any portion thereof, for any commercial purpose or in a manner not permitted by these Terms, including but not limited to (a) participating in the Services in exchange for payment outside the Services, (b) selling, reselling, or renting the Services or Content or your Account, unless otherwise provided by these Terms;
- attempts to access or search the Services or Content or download Content from the Services through the use of any technology or means other than those provided by Beatclub through the Services, or other generally available third party web browsers (including without limitation automation software, bots, spiders, crawlers, data mining tools, or hacks, tools, agents, engines, or devices of any kind);
- attempts to decipher, decompile, disassemble, or reverse engineer any of the software used to provide the Services, Content or Beats;

- bypasses, removes, deactivates, disables, descrambles, or otherwise attempts to circumvent any technological measure implemented by Beatclub, or other third party (including another user) to limit the use of the Services and/or to prohibit copying, or to otherwise protect and/or filter the Services or Content and/or Beats;
- posts, publishes, submits or transmits any Content that infringes, misappropriates, or violates a third party's patent, copyright, trademark, trade secret, moral rights, or other intellectual property rights, or rights of publicity or privacy;
- uses any meta tags or other hidden text or metadata utilizing a Beatclub's trademark, logo, URL, or product name without Beatclub's express written consent;
- accesses, tampers with, or uses nonpublic areas of the Services, Beatclub's computer systems, or the technical delivery systems of Beatclub's providers, if any;
- attempts to probe, scan, or test the vulnerability of any Beatclub's system or network or the Services, or breach any security or authentication measures;
- forges any TCP/IP packet header or any part of the header information in any email or newsgroup posting, or in any way use the Services or Content to send altered, deceptive, or false source identifying information;
- interferes with, or attempts to interfere with, the access of any user, host, or network, including, without limitation, sending a virus, spyware, worm, or other malicious code, overloading, flooding, spamming, or mailbombing the Services;
- deletes, obscures, or in any manner alters any attribution, warning, or link that appears in the Services or the Content;
- makes any unsolicited offer or advertisement to another user of the Services, or collects personal information about another user or third party without consent;
- logs an Account into multiple devices simultaneously;
- sublicenses, rents, leases, sells, trades, gifts, bequeaths or otherwise transfers your Account or your right to use the Services to anyone;
- is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, vulgar, pornographic, offensive, profane, contains or depicts nudity, contains or depicts sexual activity, otherwise violates any law or right of any third party, or is otherwise inappropriate as determined by us in our sole discretion;
- promotes or contains illegal or tortious activities, promotes alcohol, tobacco, pseudo-pharmaceutical or prescription drugs, or conduct that is abusive, violent, threatening, obscene, sexually explicit, discriminatory on the basis of race, sex, religion, nationality, disability, sexual orientation, or age, defamatory or libelous;
- contains criminal or tortious activity, including child pornography, fraud, trafficking in obscene material, drug dealing, gambling, harassment, stalking, spamming, spimming, sending of viruses or other harmful files, copyright infringement, patent infringement, or theft of trade secrets;
- constitutes unauthorized or unsolicited advertising, junk or bulk email ("spamming");
- contains software viruses or any other computer codes, files, content, or programs that are designed or intended to disrupt, damage, limit or interfere with the proper function of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized

access to any system, data, password or other information of ours or of any third party, including other users of the Services;

- is designed or intended to obtain password, Account, or private information from any user of the Services;
- impersonates any person or entity, including any of our employees, representatives, or users;
- promotes or links to affiliate programs, multi-level marketing schemes, sites repurposing existing stories or off-topic content;
- includes anyone's identification documents or sensitive financial information;
- violates any applicable law or regulation, including U.S. export and re-export control laws; or
- encourages, assists, or enables any other individual to do any of the foregoing.

8.4. Although Beatclub is not obligated to monitor access to or use of the Services or Content or to review or edit any Content, we have the right to do so for the purpose of operating the Services, to ensure compliance with these Terms, to comply with applicable law or other legal requirements, and for any other reason in our sole discretion. We have the right to investigate violations of these Terms or conduct that affects the Services. We may also consult and cooperate with law enforcement authorities to prosecute users and others who violate the law.

8.5. We reserve the right to access, read, preserve, and disclose any information as we reasonably believe is necessary to (i) satisfy any applicable law, regulation, legal process or governmental request, (ii) enforce these Terms, including investigation of potential violations hereof, (iii) detect, prevent, or otherwise address fraud, security or technical issues, (iv) respond to user support requests, or (v) protect the rights, property or safety of us, our users and the public.

8.6. If for any reason the Services are not running as originally planned (e.g., if they become corrupted or do not allow the proper usage of the Services, or if infection by a computer virus, bugs, tampering, unauthorized intervention, actions by users, fraud, technical failures, or any other causes of any kind, in the sole opinion of Beatclub corrupts or affects the administration, security, fairness, integrity or proper conduct of the Services), Beatclub reserves the right, in its sole discretion, to take any action we deem appropriate.

8.7. ANY ATTEMPT BY YOU TO DISRUPT OR INTERFERE WITH THE SERVICES, INCLUDING WITHOUT LIMITATION UNDERMINING OR MANIPULATING THE LEGITIMATE OPERATION OF ANY COMPUTER SYSTEM OR APPLICATION, IS A BREACH OF BEATCLUB'S TERMS AND MAY BE A BREACH OR VIOLATION OF CRIMINAL AND CIVIL LAWS.

## **9. Copyright Policy.**

9.1. If you believe that any content, including User Content and/or Beats, or other materials, uploaded, displayed, or offered on or through the Services constitutes an infringement of your copyrights, we will respond promptly to any properly submitted notice containing the information detailed below. Pursuant to the U.S. Copyright Act, Title 17, United States Code, Section 512(c)(2), written notifications of claimed copyright infringement must include the following:

- (i) A physical or electronic signature of person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- (ii) Identification of the copyrighted work claimed to have been infringed, or if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;

- (iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material;
- (iv) Information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number, and if available, an electronic mail address at which the complaining party may be contacted;
- (v) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law;
- (vi) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

9.2. Notices and counter-notices with respect to the Service should be sent by mail to:

Beatclub, Inc.  
9255 Sunset Blvd., Suite 801,  
West Hollywood, CA 90069

Or by email to: support@Beatclub.com

9.3. If you receive a notification from us that User Content and/or Beats you made available on or through the Services has been the subject of a Notification of Claimed Infringement, then you will have the right to provide us with what is called a “**Counter Notification**.” To be effective, a Counter Notification must be in writing, provided to our Designated Agent through one of the methods identified in Section 9.2 above, and include substantially the following information

- (i) Your physical or electronic signature;
- (ii) Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;
- (iii) A statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled; and
- (iv) Your name, address, and telephone number, and a statement that the you consent to the jurisdiction of Federal District Court for the judicial district in which the address is located, or if your address is outside of the United States, for any judicial district in which we may be found, and that you will accept service of process from the person who provided the notification or an agent of such person.

A party submitting a Counter Notification should consult a lawyer or see 17 U.S.C. § 512 to confirm the party’s obligations to provide a valid counter notification under the Copyright Act.

9.4. False Notifications of Claimed Infringement or Counter Notifications. The Copyright Act provides that:

[a]ny person who knowingly materially misrepresents under [Section 512 of the Copyright Act (17 U.S.C. § 512)] (1) that material or activity is infringing, or (2) that material or activity was removed or disabled by mistake or misidentification, shall be liable for any damages, including costs and attorneys’ fees, incurred by the alleged infringer, by any copyright owner or copyright owner’s authorized licensee, or by a service provider, who is injured by such misrepresentation, as the result of [our] relying

upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material or ceasing to disable access to it. 17 U.S.C. § 512(f).

We reserve the right to seek damages from any party that submits a notification of claimed infringement or counter notification in violation of the law. Consult your legal advisor and see 17 U.S.C. § 512 before filing a notice or counter-notice as there are penalties for false claims under the DMCA. The foregoing is not intended to provide you with legal advice.

9.5. It is our policy to terminate the Account of anyone who repeatedly infringes the copyright rights of others.

**10. Apple Device and Application Terms.** In the event you are accessing the Services via a Mobile App from the Apple App Store (in either case, a “Mobile App”), the following shall apply:

- (i) Both you and Beatclub acknowledge that these Terms are concluded between you and Beatclub only, and not with Apple, and that Apple is not responsible for the Mobile App or the Content;
- (ii) The Mobile App is licensed to you on a limited, non-exclusive, non-transferable, non-sublicensable basis, as provide in Section 4 (Limited License to Use the Services), solely to be used in connection with the Services for your private use, subject to all the terms and conditions of these Terms as they are applicable to the Services;
- (iii) You will only use the Mobile App in connection with an Apple device that you own or control;
- (iv) You acknowledge and agree that Apple has no obligation whatsoever to furnish any maintenance and support the Services with respect to the Mobile App;
- (v) In the event of any failure of the Mobile App to conform to any applicable warranty, including those implied by law, you may notify Apple of such failure; upon notification, Apple’s sole warranty obligation to you will be to refund to you the purchase price, if any, of the Mobile App;
- (vi) You acknowledge and agree that Beatclub, and not Apple, is responsible for addressing any claims you or any third party may have in relation to the Mobile App;
- (vii) You acknowledge and agree that, in the event of any third party claim that the Mobile App or your possession and use of the Mobile App infringes that third party’s intellectual property rights, Beatclub, and not Apple, will be responsible for the investigation, defense, settlement and discharge of any such infringement claim;
- (viii) You represent and warrant that you are not located in a country subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country, and that you are not listed on any U.S. Government list of prohibited or restricted parties;
- (ix) You acknowledge and agree that, in your use of the Mobile App, you will comply with any applicable third party terms of agreement which may affect or be affected by such use; and
- (x) Both you and Beatclub acknowledge and agree that Apple and Apple’s subsidiaries are third party beneficiaries of these terms, and that upon your acceptance of these terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these terms against you as the third party beneficiary hereof.

**11. Third Party Services and Resources.**

**11.1. Third Party Links.** The Services may contain links to third party websites or resources. Beatclub provides these links only as a convenience and is not responsible for the content, products, or services

on or available from those websites or resources, or links displayed on such websites. We do not monitor or control the linked sites and make no representations regarding, and are not liable or responsible for the accuracy, completeness, timeliness, reliability or availability of, any of the content uploaded, displayed, or distributed, or products, or services available at these sites. The presence of a link to a third party site does not constitute or imply our endorsement, sponsorship, or recommendation of the third party or of the content, products, or services contained on, or available through, the third party site. We reserve the right to disable links from or to third party sites. To the extent permitted under applicable law, you acknowledge sole responsibility for and assume all risk arising from, your use of any third party websites or resources.

11.2. **Third Party Resources.** Beatclub is not responsible for the availability or quality of your devices or any third party services ("**Third Party Resources**"), including cell phone networks, hotspots, wireless internet and other services. Such Third Party Resources may affect your ability to utilize the Services and you hereby waive and release Beatclub and any other party involved in creating or delivering the Services from all claims, demands, causes of action, damages, losses, expenses or liability which may arise out of, result from, or relate in any way to such third party services.

11.3. **Third Party Merchants / Providers.** The Services may enable you to order and receive products, information and services from businesses that are not owned or operated by us. The purchase, payment, warranty, guarantee, delivery, maintenance, and all other matters concerning the merchandise, services or information, opinion or advice ordered or received from such businesses are solely between you and such businesses. We do not endorse, warrant, or guarantee such products, information, or services, and are not liable for the accuracy, completeness, or usefulness of such information or the quality or availability of such products or services. We will not be a party to or in any way be responsible for monitoring any transaction between you and third-party providers of such products, services, or information, or for ensuring the confidentiality of your credit card information. Any separate charges or obligations you incur in your dealings with these third parties are your responsibility.

11.4. **Third Party Accounts.** In addition, the Services may prompt you to establish an account with a third-party service provider not owned or operated by us. Your agreement and understanding with any such third-party service provider is solely between you and such service provider. We will not be a party to or in any way be responsible for your agreement with such third-party service provider. Any disputes you may encounter with such third-party service provider shall be settled solely between you and the service provider.

11.5. **Third Party Service Providers.** By using our Services, you will also be interacting with software and/or applications that we have incorporate into our Services or that we use to provide our Services, such as software owned by and/or licensed from third parties.

11.6. **Third Party Processors.** Payment processing services for users on the Services are provided by third parties. As a condition of Beatclub enabling payment processing services, you agree to provide Beatclub with accurate and complete information about you and your business, and you authorize Beatclub to share it and transaction information related to your purchases or payouts to our third party payment processors. To receive payouts from Beatclub, you must provide Beatclub accurate and complete information about you and your business, and you authorize Beatclub to share it and transaction information related to your payout with our payment processors.

## 12. Termination.

12.1. We may suspend or terminate your access to and use of the Services, at our sole discretion, at any time and without notice to you, including if (a) you fail to comply with these Terms; (b) we suspect

fraud or misuse by you of Content or the Services; (c) we suspect any other unlawful activity associated with your Account, or (d) for any reason, in our sole and absolute discretion. We may also change, suspend, or discontinue any aspect of the Services at any time. You agree that if we terminate your access to and use of the Services, we will not refund you any monetary amounts that you may have paid to us, nor will be liable for any damages you may incur as a result of our termination of your access to and use of the Services. If your Account is inactive (i.e., not used or logged-into) for a period of time, we will notify you via the Services and/or by email prior to termination of your Account.

12.2. You may terminate your Account at any time directly by emailing us at support@beatclub.com or using any termination functionality that may be offered through the Services. Upon termination of these Terms for any reason, all of your User Content and/or Beats may be made inaccessible through the Services, although copies of your User Content and/or Beats may remain stored on back-up storage media maintained by or for us. You grant us a royalty-free license to retain such back-up copies of your User Content and/or Beats on storage media maintained by or for us. If you stop using the Services but keep User Content and/or Beats on the Services, then these Terms will continue to apply in full force and effect for so long as such User Content and/or Beats is available on or through the Services. Upon termination of the Services, your Account, or these Terms, for any reason, the following provisions of these Terms will survive: "Content and Submissions" excluding "Rights Granted to You", "Conduct, General Prohibitions and Enforcement Rights", "Apple Device and Application Terms", "Third Party Services and Resources", "Waiver of Unknown Claims under California Civil Code § 1542", "Disclaimer of Warranties", "Limitations of Liability", "Indemnification", "Governing Law, Arbitration and No Class Actions", "Miscellaneous" and any other provision that provides for itself for survival or which by its nature should survive termination of these Terms.

13. **Waiver of Unknown Claims under California Civil Code § 1542.** It is possible that other claims not known to you will develop or be discovered arising from your use of the Services, the Content, User Content, Beats or from the activities discussed throughout these Terms. You acknowledge that your releases, indemnifications and waivers provided under these Terms are expressly intended to cover and include all such claims, including all rights of action therefor. You acknowledge that the claims released in those sections, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims. California Civil Code § 1542 reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

You acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

14. **Disclaimer of Warranties.**

14.1. THE SERVICES, CONTENT, USER CONTENT AND BEATS ARE PROVIDED "AS IS", "AS AVAILABLE" AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. BEATCLUB, AND OUR AFFILIATES AND EACH OF OUR AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, CONTRACTORS, SUPPLIERS, PARTNERS, SUBSIDIARIES AND/OR RELATED COMPANIES DO NOT WARRANT THAT: (I) THE SERVICES WILL BE SECURE OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (II) ANY DEFECTS OR

ERRORS WILL BE CORRECTED; (III) ANY CONTENT, USER CONTENT, BEATS OR SOFTWARE AVAILABLE AT OR THROUGH THE SERVICES IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR (IV) THE RESULTS OF USING THE SERVICES WILL MEET YOUR REQUIREMENTS. YOUR USE OF THE SERVICES IS SOLELY AT YOUR OWN RISK.

14.2. YOU ASSUME ALL RISKS RELATING TO YOUR ONLINE OR OFFLINE COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE SERVICES AND WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE SERVICES. YOU UNDERSTAND THAT BEATCLUB DOES NOT SCREEN OR INQUIRE INTO THE BACKGROUND OF MOST USERS OF THE SERVICES. BEATCLUB MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE CONDUCT OF USERS OF THE SERVICES. YOU AGREE TO TAKE REASONABLE PRECAUTIONS IN ALL COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE SERVICES AND WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE SERVICES, PARTICULARLY IF YOU DECIDE TO MEET OFFLINE OR IN PERSON.

14.3. The views and opinions of the users of the Services are their own and not necessarily representative of the views and opinions of Beatclub or its officers, directors and/or employees, and Beatclub assumes no responsibility for the Content, User Content, Beats, accuracy, or views of or opinions expressed by such users of the Services.

#### **15. Limitation of Liability.**

15.1. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, YOU AGREE THAT NEITHER BEATCLUB, NOR OUR AFFILIATES AND EACH OF OUR AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, CONTRACTORS, SUPPLIERS, PARTNERS, SUBSIDIARIES AND/OR RELATED COMPANIES WILL BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR GOODWILL, SERVICE INTERRUPTION, DEVICE DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE SERVICES, ARISING OUT OF OR IN CONNECTION WITH THESE TERMS, OR FROM THE USE OF OR INABILITY TO USE THE SERVICES , CONTENT, USER CONTENT AND/OR BEATS ON THE SERVICES, OR FROM ANY COMMUNICATIONS, INTERACTIONS, OR MEETINGS WITH OTHER USERS OF THE SERVICES OR PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT BEATCLUB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

15.2. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL THE TOTAL LIABILITY OF BEATCLUB, AND EACH OF OUR OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, PARTNERS, SUBSIDIARIES AND/OR RELATED COMPANIES, ARISING OUT OF OR IN CONNECTION WITH THESE TERMS, OR FROM THE USE OF OR INABILITY TO USE THE SERVICES, CONTENT, USER CONTENT AND/OR BEATS EXCEED THE LESSER OF (i) ANY AMOUNTS THAT YOU HAVE PAID TO US; OR (ii) ONE HUNDRED DOLLARS (\$100.00 USD). THE EXCLUSIONS AND LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN BEATCLUB AND YOU.

15.3. THE LAWS OF CERTAIN JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO A USER, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO SUCH USER, AND SUCH USER MAY HAVE ADDITIONAL RIGHTS.



16. **Indemnification.** YOU SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS BEATCLUB, AND OUR AFFILIATES AND EACH OF OUR AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, CONTRACTORS, SUPPLIERS, PARTNERS, SUBSIDIARIES AND/OR RELATED COMPANIES FROM ALL LIABILITIES, CLAIMS, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, THAT ARISE FROM OR RELATE TO YOUR USE OR MISUSE OF, OR ACCESS TO, THE SERVICES, CONTENT, OR OTHERWISE FROM YOUR USER CONTENT, BEATS, VIOLATION OF THESE TERMS, OR INFRINGEMENT BY YOU, OR ANY THIRD PARTY USING YOUR ACCOUNT OR IDENTITY THROUGH THE SERVICES, OF ANY INTELLECTUAL PROPERTY OR OTHER RIGHT OF ANY PERSON OR ENTITY, INCLUDING OTHER USERS AND THIRD PARTIES. WE RESERVE THE RIGHT TO ASSUME THE EXCLUSIVE DEFENSE AND CONTROL OF ANY MATTER OTHERWISE SUBJECT TO INDEMNIFICATION BY YOU (WITHOUT LIMITING YOUR INDEMNIFICATION OBLIGATIONS WITH RESPECT TO THAT MATTER), IN WHICH EVENT YOU WILL ASSIST AND COOPERATE WITH US IN ASSERTING ANY AVAILABLE DEFENSES.

17. **Governing Law, Arbitration and No Class Actions.**

17.1. **GOVERNING LAW.** YOUR USE OF THE SERVICES AND ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THE SERVICES, INCLUDING, WITHOUT LIMITATION, THE TERMS AND THE PRIVACY POLICY, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAWS PROVISIONS.

17.2. **ARBITRATION.** YOU UNDERSTAND AND AGREE THAT ALL CLAIMS, DISAGREEMENTS, DISPUTES OR CONTROVERSIES (COLLECTIVELY, "**CLAIM**") BETWEEN YOU AND BEATCLUB, AND ITS OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, PARTNERS, AFFILIATES, SUBSIDIARIES AND/OR RELATED COMPANIES ARISING OUT OF OR RELATING TO THE SERVICES, TO THE USE OR ACCESS THEREOF, OR OTHER SERVICES RELATED ACTIVITY/OPPORTUNITY, TO THE ADVERTISING AND OTHER CONTENT ON THE SERVICES, TO THE PRODUCTS, SERVICES, MATERIALS, PROGRAMS OR OTHER FEATURES OFFERED, ADVERTISED, MARKETING, SOLD AND/OR MADE AVAILABLE ON OR THROUGH THE SERVICES, AND/OR TO THESE TERMS OF USE SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION (INCLUDING THRESHOLD QUESTIONS OF ARBITRABILITY OF THE CLAIM), WHICH MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER SUCH CLAIM ARISES. BECAUSE THE SERVICES CONCERN INTERSTATE COMMERCE, THE FEDERAL ARBITRATION ACT ("FAA") GOVERNS THE ARBITRABILITY OF ALL DISPUTES. HOWEVER, APPLICABLE CALIFORNIA STATE OR U.S. FEDERAL LAW MAY ALSO APPLY TO THE SUBSTANCE OF ANY DISPUTES. THE ARBITRATION SHALL TAKE PLACE IN WEST HOLLYWOOD, CALIFORNIA, OR IN THE CITY NEAREST TO OUR PRINCIPAL PLACE OF BUSINESS WHERE THE AMERICAN ARBITRATION ASSOCIATION ("AAA") HAS AN OFFICE. THE ARBITRATION SHALL BE ADMINISTERED BY AAA IN ACCORDANCE WITH TITLE 9 OF THE U.S. CODE (UNITED STATES ARBITRATION ACT) UNDER THE AAA'S COMMERCIAL DISPUTE RESOLUTION PROCEDURES AS SUPPLEMENTED BY THE SUPPLEMENTARY PROCEDURES FOR CONSUMER- RELATED DISPUTES (AND AS STATED THEREIN, IF THERE IS A DIFFERENCE BETWEEN THE COMMERCIAL DISPUTE RESOLUTION PROCEDURES AND THE SUPPLEMENTARY PROCEDURES, THE SUPPLEMENTARY PROCEDURES WILL BE USED). YOU AND WE VOLUNTARILY AND KNOWINGLY WAIVE ANY RIGHT YOU OR WE HAVE TO A JURY TRIAL. YOU AND WE AGREE THAT ANY SUIT, ACTION OR PROCEEDING SHALL BE BROUGHT IN THE STATE OF CALIFORNIA AND HEREBY IRREVOCABLY CONSENT TO BE SUBJECT TO THE PERSONAL JURISDICTION THEREOF AND WAIVE ANY CLAIM OF FORUM NON CONVENIENS OR LACK OF PERSONAL JURISDICTION THAT YOU OR WE MAY OTHERWISE HAVE.

17.3. The arbitrator will have exclusive authority to determine the scope and enforceability of this Section 17, and to resolve any dispute related to the interpretation, applicability, enforceability or formation of this Section 17, including, but not limited to, any claim that all or any part of this Section 17 is void or voidable. The arbitrator will have the authority to grant motions dispositive of all or part of

any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the arbitral forum's rules, and the Terms (including this Section 17). Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

17.4. A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (signature required) or, only if that other party has not provided a current physical address, then by electronic mail ("Notice of Arbitration"). Beatclub's address for Notice is: Beatclub, Inc., 9255 Sunset Blvd., Suite 801, West Hollywood, CA 90069. The Notice of Arbitration must: (i) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("**Demand**"). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice of Arbitration is received, you or Beatclub may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by you or Beatclub must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any.

17.5. If Beatclub makes any future change to this arbitration provision, other than a change to its address for Notice of Arbitration, you may reject the change by sending us written notice within 30 days of the change to Beatclub's address for Notice of Arbitration, in which case your account with Beatclub will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you rejected will survive.

17.6. **NO CLASS ACTIONS.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE THAT ANY AND ALL DISPUTES, CLAIMS AND CAUSES OF ACTION YOU MAY HAVE IN CONNECTION WITH OR RELATED TO THE SERVICES, TO THE USE THEREOF OR ACCESS THERETO, TO THE ADVERTISING AND CONTENT ON THE SERVICES, TO THE PRODUCTS, SERVICES, MATERIALS, PROGRAMS OR OTHER FEATURES OFFERED, ADVERTISED, MARKETING, SOLD AND/OR MADE AVAILABLE ON OR THROUGH THE SERVICES, AND/OR TO THESE TERMS WILL BE RESOLVED INDIVIDUALLY, WITHOUT RESORT TO ANY FORM OF CLASS ACTION. YOU SHALL NOT BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION BY OR AGAINST OTHER USERS/CONSUMERS OR ARBITRATE, AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY, ANY CLAIM, DISPUTE OR CAUSE OF ACTION IN CONNECTION WITH OR RELATED TO THE SERVICES, TO THE USE THEREOF OR ACCESS THERETO, OR OTHER SERVICES RELATED ACTIVITY/OPPORTUNITY, TO THE ADVERTISING AND CONTENT ON THE SERVICES, TO THE PRODUCTS, SERVICES, MATERIALS, PROGRAMS OR OTHER FEATURES OFFERED, ADVERTISED, MARKETING, SOLD AND/OR MADE AVAILABLE ON OR THROUGH THE SERVICES, AND/OR TO THESE TERMS.

17.7. We are not responsible for any disputes or disagreements between you and any third party you interact with using the Services, including other users. You assume all risk associated with dealing with third parties. You agree to resolve disputes directly with the other party. You release us of all claims, demands, and damages in disputes among users of the Services and will not involve us in such disputes. You should use caution and common sense when using the Services and dealing with other users.

## 18. Miscellaneous.

18.1. **Entire Agreement.** The Terms, together with the Privacy Policy and other policies, constitute the

entire agreement between you and Beatclub governing your use of the Services, superseding any prior agreements between you and Beatclub with respect to the Services.

- 18.2. **Waiver and Severability.** The provisions of these Terms are intended to be interpreted in a manner which makes them valid, legal and enforceable. The failure of Beatclub to enforce any right of the provisions in these Terms shall not constitute a waiver of such right or provision. In the event that any provision of these Terms is found to be partially or wholly invalid, illegal or unenforceable, such provision shall be modified or restricted to the extent and in the manner necessary to render it valid, legal and enforceable. It is expressly understood and agreed that such modification or restriction may be accomplished unilaterally by Beatclub, or alternatively, by disposition of an arbitrator or a court of law. If such provision cannot under any circumstances be so modified or restricted, it shall be excised from these Terms without affecting the validity, legality or enforceability of any of the remaining provisions.
- 18.3. **Force Majeure.** Neither Beatclub, any user, nor any other party involved in creating, producing, or delivering the Services or Content shall be liable with respect to any damages, injuries, nonperformance or delay in performance by reason of any act of God, weather, fire, flood, acts of terror or foreign enemy, satellite or network failure, governmental order or regulation, trade dispute, pandemic, or any other cause beyond its respective control.
- 18.4. **Notice.** Any notices or other communications provided by Beatclub under these Terms will be given: (a) via email; or (b) by posting to the Services. For notices made by email, the date of receipt will be deemed the date on which such notice is transmitted to any email address you provided.
- 18.5. **Waiver.** Beatclub's failure to enforce any right or provision of these Terms will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Beatclub. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise.
- 18.6. **Assignment.** These Terms are not assignable, transferable or sublicensable by you except with our prior written consent. You may not assign or transfer these Terms, by operation of law or otherwise, without Beatclub's prior written consent. Any attempt by you to assign or transfer these Terms, without such consent, is void. Beatclub may freely assign or transfer these Terms without restriction, and the transferor or assignor shall not remain jointly and severally liable. Subject to the foregoing, these Terms will bind and inure to the benefit of the parties, their successors and permitted assigns.
- 18.7. **Headings.** The section and paragraph headings in these Terms are for convenience only and shall not affect their interpretation.
- 18.8. **Relationships.** The Services are not in any way endorsed, sponsored, administered by, or associated with Apple Inc., Google, LLC, or their respective parents, subsidiaries or affiliates.
- 18.9. **Agency.** No agency, partnership, joint venture, or employment relationship is created as a result of these Terms and neither party has any authority of any kind to bind the other in any respect.
- 18.10. **Electronic Communications.** When you use the Services or send emails to us, you are communicating with us electronically. You consent to receive communications from us electronically. We will communicate with you by email or by posting notices on or through the Services. You agree that all agreements, notices, disclosures and other communications that we provide you electronically satisfy any legal requirement that such communications be in writing.
- 18.11. **Contact Information.** If you have any questions about these Terms or the Services, please contact

Beatclub at [support@Beatclub.com](mailto:support@Beatclub.com) or Beatclub, Inc., 9255 Sunset Blvd., Suite 801, West Hollywood, CA 90069.