

Seimag Sound

Licence Agreement Non Signature

This licence Agreement ('Agreement') is made between You the artist, individual, band, group, or authorised legal representative for an artist, individual, band, group (hereinafter referred to as "**you**") and "Seimag Sound".

Please read this Agreement and the terms and words used which collectively form the contract. In using this site and the services described in this Agreement **you** indicate that you accept these terms of use and that **you** agree to abide by them. If **you** do not agree please refrain from using this site and the services detailed in this Agreement.

You have developed and own and/or have rights to grant licences for the master sound recordings of music ('the Licensed Recordings'): You agree to upload the Licensed Recordings to Seimag Sound's site to be made available for sale by means of download by any third party ('the Customer') and are willing to grant to Seimag Sound a licence on the terms and conditions set out in this Agreement.

Seimag Sound wish to receive, by means of uploading, the Licensed Recordings for inclusion in the [artists section] of this site known as www.seimagsound.com (being the site owned and operated by Seimag Sound) ('the Site') and to make such Licensed Recordings available for sale by means of download by the Customer.

GRANT OF RIGHTS

You grant to Seimag Sound under the terms of this Agreement, from the date upon which the Licensed Recordings are uploaded to the Site ('the Effective Date'), a non-exclusive licence in the territory of the world ('the Territory') to distribute, make, cause or affect the download of the Licensed Recordings to the Customer.

Our Obligations

Seimag Sound shall use its best endeavours to:-

- a) promote the Licensed Recordings on the Site's artists page by the reproduction of a name, voice, photograph, drawing, likeness, biographical material, any and or words, symbols, logos, trademarks, service marks, trade names or similar items relating to or associated with the individual artist, band or group that perform or composed the Licensed Recordings (hereinafter referred to as "the Promotional Material");
- b) sell, make, cause, distribute or otherwise affect the download of the Licensed Recordings to the Customer in any format including MP3 and all such media formats as may be developed in the Territory;

Your Obligations

You shall:-

- a) deliver to Seimag Sound or upload the Licensed Recordings to an email and then send the Licensed Recordings to Seimag Sound (info@Soundsound.com) one (1) Complete copy of each of the Licensed Recordings, and a 30 to 60 second sample of each, in the form of an MP3 together with a reasonable number of Promotional Materials in order that Seimag Sound can commence promotion and sale of the Licensed Recordings.
- b) allow Seimag Sound to use the Licensed Recordings and Promotional Materials in whole or in part for the purpose of enabling Seimag Sound to comply with its obligations under this Agreement;
- c) allow Seimag Sound to use the Licensed Recordings and Promotional Materials in any audio or video production by Seimag Sound for the purpose of promoting the Licensed Recordings and the Site;

Seimag Sound shall not alter or amend the Licensed Recordings or Promotional Materials except with the prior written approval of **you**.

Seimag Sound shall not assign, grant sub-licences of or sub-contract the licence granted in this Agreement or any part of it other than under the terms provided for within this Agreement without the prior written consent of **you** (such consent not to be unreasonably withheld).

FEES

All payments of download fees payable by the Customer for the Licensed Recordings ('the Fees') shall be paid via the payment service known as Paypal.

Once the Customer has requested the download of the Licensed Recordings they shall be directed to Paypal's site to make payment of the Fees.

Once Paypal are in receipt of the Fees the Customer shall be able to continue to download the Licensed Recordings.

Paypal shall then deduct their charges of 3.4% plus 20 pence per order, placing the remainder in the account of Seimag Sound. Seimag Sound shall upon receipt of the remainder deduct 10% per song and then transfer all remaining monies to your Paypal account. Seimag Sound shall transfer the remainder of monies payable to you into your Paypal account when such amounts reach £20 or more. If you do not have a Paypal account you should obtain one for the purpose of this Agreement.

Any value added or any relevant taxes owing from the sale of the Licensed Recordings shall be the responsibility of **you**.

REPORTS AND ACCOUNTING

Seimag Sound will check the accounts within 10 days of the end of each calendar month (except that the first period shall begin on the Effective Date and the last period shall end on the date of the termination of this Agreement) regarding the number of downloads for each of the Licensed Recordings.

Seimag Sound agree to keep true and accurate records and books of accounting containing all data related to this Agreement. You shall be entitled, at your expense and upon giving reasonable notice, to inspect the records and books during business hours for the purpose of verifying the accuracy of Seimag Sound's quarterly reports and of the Fees paid through Paypal.

INTELLECTUAL PROPERTY RIGHTS

Seimag Sound acknowledges your ownership and proprietary rights in the Licensed Recordings and Promotional Materials and agree and acknowledge that:

- a) Seimag Sound shall not have any rights to the intellectual property rights being the copyright, registered designs, and all other intellectual and/or industrial property rights recorded or embodied in the Licensed Recordings and/or Promotional Materials in each case in any part of the Territory whether registered, not registered or registerable ('Intellectual Property Rights') except as expressly granted to Seimag Sound under this Agreement;
- b) Seimag Sound shall not register or attempt to register any of the Intellectual Property Rights in any jurisdiction, except for the registration of the rights granted under this Agreement;
- c) Seimag Sound shall immediately give notice to You in writing if Seimag Sound becomes aware of any infringement or suspected infringement of any of the rights of the Licensed Recordings and/or Promotional Materials and any such Intellectual Property Rights pertaining to the Licensed Recordings and/or Promotional Material and claims made or threatened that the Licensed Recordings and/or Promotional Materials and any such Intellectual Property Rights pertaining to the Licensed Recordings and/or Promotional Materials of any third party are infringed.

WARRANTIES

You agree and acknowledge that:

- a) You warrant that You own and or have rights and have secured all third party consents concerning the Licensed Recordings and/or Promotional Materials and such Intellectual Property Rights pertaining to the Licensed Recordings and/or Promotional Material;
- b) You warrant that the Licensed Recordings and/or Promotional Material and any such Intellectual Property Rights pertaining to the Licensed Recordings and/or Promotional Material are free from any claims or encumbrances and that You are entitled to grant the rights granted under this Agreement;
- c) You warrant that the exercise by Seimag Sound of the rights granted under this Agreement will not infringe the rights of any third party;
- d) You shall be responsible for any costs, damages, or expenses arising out of proceedings brought against Seimag Sound or any Customer for the infringement of the rights of any third party. You shall on request by Seimag Sound and at your expense, provide all assistance as is reasonably necessary to assist Seimag Sound in Seimag Sound's defence of any proceedings;
- e) the obligations of Seimag Sound to comply with this Agreement with regards to the promotion, selling, making, causing, distributing or otherwise affecting the download of the Licensed Recordings to the Customers on this Site shall be suspended in respect of any period during which Seimag Sound is prevented from exercising the rights granted under this Agreement by an order of any court with competent jurisdiction or is advised by a competent intellectual property counsel that the activities under this Agreement, if continued would be likely to expose Seimag Sound to the risk of a claim for infringement of such rights in the Licensed recordings and/or Promotional Materials and any such Intellectual Property Rights pertaining to the Licensed Recordings and/or Promotional Materials by a third party who has a reasonable chance of success;
- f) You shall be liable for and indemnify Seimag Sound against any and all liability, loss, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by Seimag Sound whether direct or consequential, (including without limitation any economic loss or other loss of profit, business or goodwill), arising out of any dispute or contractual tortious or other claim or proceeding brought against Seimag Sound by reason of the use or sale of any Licensed Recordings and/or Promotional Materials.
- g) In no event will Seimag Sound be liable for any damages in excess of the amount of the fee paid to Seimag Sound in connection with any claim or proceeding brought by a third party.

LIABILITY

The services and products referred to in this Agreement are provided by Seimag Sound without any warranties, guarantees or conditions of any kind. Seimag Sound excludes all warranties, guarantees or conditions for security, reliability, timeline, performance, error, interruption of service and or availability of the services and products provided under this Agreement. This disclaimer constitutes a fundamental part of this Agreement.

To the extent permitted by law, Seimag Sound, other members of Seimag Sound's group of companies and third parties connected to Seimag Sound expressly exclude:

- a) All conditions, warranties and other terms which might otherwise be implied by statute, common law or the law of equity
- b) Any liability for any direct, indirect or consequential loss or damage incurred by any user in connection with this Site or in connection with the use, inability to use, or results of the use of the Site, any websites linked to it and any materials posted on it, including, without limitation any liability for:
 - I. Loss of income or revenue;#
 - II. Loss of business;
 - III. Loss of profits or contract;
 - IV. Loss of anticipated savings;
 - V. Loss of data;
 - VI. Loss of goodwill;
 - VII. Wasted management or office time; and
 - VIII. For any other loss or damage of any kind, however arising and whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable.

This does not affect Seimag Sound's liability for death of personal injury arising from Seimag Sound's negligence, nor our liability for fraudulent misrepresentation or is representation as to a fundamental matter, nor any other liability which cannot be excluded or limited under applicable law.

CONFIDENTIALITY

You shall during the continuance of this Agreement and after its termination:

- a) keep secret and confidential all technical and accounting information obtained from Seimag Sound, whether pursuant to this agreement or prior to it, and all other information that You may acquire from Seimag Sound in the course of this Agreement ('Confidential Information'); and
- b) use the Confidential Information exclusively for the purpose of this Agreement and disclose it only to those authorised representatives to whom and to the extent that, such disclosure is reasonably necessary for the purpose of this Agreement and procure that any disclosure is made under obligations of confidence at least equivalent to the obligations imposed on You under this confidentiality term.

The provision of confidentiality shall not apply to Confidential Information obtained from Seimag Sound which:

- a) prior to receipt from one party was in possession of the other party and at its free disposal; or
- b) is subsequently disclosed to the recipient without any obligations of confidence by a third party who has not derived it directly or indirectly from the other or in breach of any obligation or duty of confidence; or
- c) is or becomes generally available to the public in the United Kingdom through no act or default of the recipient.

The provisions of confidentiality shall survive termination of this Agreement for any reason.

TERMINATION

This Agreement shall commence on the Effective Date and shall continue thereafter until terminated by not less than 3 months' notice in writing from either party to the other.

Either party shall be entitled to terminate this Agreement by written notice to the other in the event of:-

- a) any material breach by the other party of its obligations under this Agreement which, being a breach capable of remedy, is not remedied within 30 days of notice to the party in breach specifying the breach and requiring its remedy; or
- b) in the case of Seimag Sound challenging the validity of any of the Licensed Recordings and/or Promotional Materials and any such Intellectual Property Rights pertaining to the Licensed Recordings and/or Promotional Materials; or
- c) any meeting of creditors of either party being held or any arrangement, moratorium or composition with or for the benefit of its creditors (including any voluntary arrangement as defined in the Insolvency Act 1986) being proposed or entered into by or in relation to the other party; or

- d) a supervisor, receiver, administrative receiver, trustee or other encumbrancer taking possession of or being appointed over, or any distress, execution or other process being levied or enforced (and not being discharged within seven days) on, the whole or any substantial part of the assets of the other party; or
- e) the other party ceasing, or threatening to cease to carry on business or being, becoming or appearing unable to pay its debts within the meaning of section 123 or 268 of the Insolvency Act 1986; or
- f) a petition being presented or a meeting being convened for the purpose of considering a resolution for the making of an order for the winding up, bankruptcy or dissolution of the other party; or
- g) any step being taken with a view to the appointment of any administrator to the other party; or h) the other party being unable for any reason to perform any of its obligations under this
- h) Agreement for a continuous period of 30 days; or
- i) any event analogous to any of the events listed above occurring in relation to the other party in any jurisdiction; or
- j) In the case of termination by Seimag Sound on change of control.

The termination of this Agreement for whatever reason shall not affect any provision of this Agreement which is expressed to survive or operate in the event of termination of this Agreement, and shall not prejudice or affect the right of any party against the other party in respect of any breach of this Agreement or in respect of any sum payable by one party to the other in relation to any period prior to termination.

POST TERMINATION

Subject to the provisions below, Seimag Sound shall not accept uploads and shall cease to make use of the Licensed Recordings and Promotional Materials on the Site after the date on which Seimag Sound has by notice been informed or has informed **you** that this Agreement will be terminated.

On termination of this Agreement (other than termination by Seimag Sound) Seimag Sound shall have the right for a period of 30 days from the date of termination to complete any download requests in force at the date of the notice.

FORCE MAJEURE

Neither party shall be liable to the other for any delay or non-performance or its obligations under this Agreement arising from an act of God, governmental act, war, fire, flood, explosion or civil commotion ('Force Majeure Event') but then only if the party concerned could not have reasonably have been expected to anticipate and take action from any effect on this Agreement of the Force Majeure Event. Subject to the affected party promptly notifying any other party in writing of the Force Majeure Event and its likely duration, the performance of the affected party's obligations, to the extent effected by the Force Majeure Event shall be suspended during the period that the Force Majeure Event persists provided that if performance is not resumed within 30 days after the notice the other party may, by notice in writing, terminate this Agreement.

NOTICES

Any notice given under this Agreement shall be in writing and shall be delivered to the relevant party or sent by recorded delivery or email to the address or email address of that party previously given by that party, or such other address or email address as may be notified by that party for this purpose, and shall be effected notwithstanding any change of address not notified.

Unless provided otherwise a notice shall be deemed to have been received if sent by letter 48 hours after the date of posting and if delivered by hand or sent by email during the hours of 9am to 6pm on any day that is not a Saturday, Sunday or bank holiday, when left at the relevant address or transmitted, (as applicable), and otherwise on the next working day.

SEVERABILITY

If any provisions of this Agreement is unenforceable, the parties shall in good faith consult with each to agree an alternative provision which achieves a result as similar as possible to the result which would have been achieved by the unenforceable provisions.

Subject to the severability provisions of this Agreement if any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of this Agreement shall continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provisions eliminated.

In the event of the holding of invalidity so fundamental as to prevent the accomplishment for the purpose of this Agreement You and Seimag Sound shall immediately commence negotiations to remedy such invalidity.

WAIVERS

The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any subsequent breaches of the same or any other provision of this Agreement. No delay or omission on the part of either party in exercising or availing itself of any right, power or provision that it has or may have under this Agreement shall operate as a waiver of that right or power or any breach of default by the other party.

REMEDIES

The rights and remedies of the parties under this Agreement are cumulative and in addition to any rights and remedies provided by law.

AMENDMENTS

No provision of this Agreement may be amended, modified, varied, discharged or terminated or otherwise than by the express written agreement of both parties nor may any breach of any provision of this Agreement be discharged except with the express written consent of the party not in breach.

NO PARTNERSHIP OR AGENCY

Nothing in this Agreement shall be deemed to constitute a partnership between the parties nor constitute either party being the agent of the other party for any purpose.

ENTIRE AGREEMENT

Each party confirms that this Agreement constitutes the entire Agreement between the parties as to its subject matter and supersedes all private or contemporaneous Agreements with respect to the subject matter, except in respect of any fraudulent misrepresentation made by either party.

RIGHTS OF THIRD PARTIES

No term of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party, but this does not affect any right or remedy of any person who is not a party which exists or is available apart from under that Act.

GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with English law and it is irrevocably agreed that the courts of England have jurisdiction to settle any claim or matter arising in relation to this Agreement. However, nothing in this clause shall limit the right of Seimag Sound to take any action or proceeding arising out of or in connection with any obligations of You in any other Court or of competent jurisdiction, whether concurrently or not with any of the proceedings or actions taken against You in any jurisdiction.

You agree by sending the Licensed Recordings and Promotional Materials to Seimag Sound for inclusion on the Site that you are indicating your agreement to the terms outlined in this Agreement.