

## ACCEPTANCE OF TERMS AND CONDITIONS

1. You acknowledge and agree that the following Terms of Use constitute a legally binding agreement (hereinafter the "Agreement") between you (hereinafter the "CLIENT") and INNOVATIVEMOTIONS, LLC. Chicago, USA (hereinafter "INMO") in relation to your use of INMO's Podcast Hosting platform at INMOSOFTWARE.com (hereinafter "Hosting") and any services that INMO provides (hereinafter "Services"). You represent and warrant to INMO that you have read and understood the Terms of Use, and that you have the legal capacity to enter into this Agreement.
2. INMO reserves the right to change, alter, replace or otherwise modify these Terms of Use at any time. The date of last modification is noted at the end of the Terms of Use. It is the Client's responsibility to check the Terms of Use from time to time for updates.
3. If these Terms of Use are changed to the disadvantage of the CLIENT, INMO will notify CLIENT and the revised Terms of Use will become effective within six (6) weeks after such notification, unless CLIENT terminates his/her account in writing. If CLIENT does not agree to the revised Terms of Use, Client's may also immediately cancel his/her CLIENT account and stop using INMO's Software and Services.
4. In the future, INMO may release new services and/or features including the release of new tools and resources on its Website and Social Networks. Such new features or services shall also be subject to the present Terms of Use as well as any additional Terms of Use that INMO may release for those new features or services.

## DESCRIPTION OF SERVICE

1. INMO is a hosting service provider providing CLIENTS with a Podcasting platform, electronic tools, features and services enabling Clients to share their music, mixing skills and other media content with their listeners.
2. INMO's Hosting and Software Services are provided on an "as is" and "as available" basis. CLIENT acknowledges to use INMO's Hosting and Software Services at their own risk.

## CLIENT ACCOUNT

1. When a CLIENT registers for INMO's Services, CLIENT may choose a domain name unique to their INMO Podcast. An account is created on our Client database. The CLIENT is solely responsible for maintaining the confidentiality and security of his/her Client's name, password and account, and shall be responsible for all uses of his/her Client's name and password, whether or not authorized by CLIENT.
2. CLIENT shall be liable for all activities and transactions occurring under CLIENT's account, except for damages caused by the gross negligent or intentional conduct of INMO.
3. CLIENT shall notify INMO immediately in writing of any unauthorized use of CLIENT's account including, without limitation, unauthorized use of CLIENT's password and/or CLIENT's name, or any other breach of confidentiality or data security.
4. It is strictly prohibited to make use of any electronic tools, including spiders, robots (bots), crawlers, data mining tools, or any other automated means on INMO's Hosting Services, regardless of the purpose and/or configuration and/or mode of operation of such electronic tools. This does not include any legitimate means employed solely for using and connecting the INMO Application Programming Interface ("API").
5. INMO may disallow or remove certain CLIENT's and may, with or without prior notice, close CLIENT's account if and when activities occur on that account which constitute, at INMO's reasonable discretion, a violation of the present Terms of Use and/or an infringement of other applicable laws and regulations or third party rights.



6. CLIENT can cancel his/her account at any time in the profile settings. CLIENT is solely responsible for cancelling his/her account properly. A telephone request or email from CLIENT to cancel the account will not be considered a proper cancellation. Upon cancellation of CLIENT's account, any and all music, photos, pictures, graphics, comments, communications and other content, data or information of CLIENT will be irretrievably deleted by INMO, with the exception of such data INMO may be obligated to store for a certain period of time in accordance with applicable laws and regulations.
7. If CLIENT decides to cancel his account with INMO the domain registered on the CLIENT's behalf can be transferred to the client upon request.
8. Under no circumstances can the client transfer the INMO Software provided to them for use on a third party hosting service before, or during their service or after cancelation of service. Client only has the right to transfer his registered Domain Name/URL NOT INMO Software providing his/her podcast service on the internet.

## **CLIENT GENERATED CONTENT**

1. Any and all music, photos, pictures, graphics, comments, and other content, data or information that CLIENT uploads, stores, transmits or submits to INMO's Servers (hereinafter "Content") are generated by the CLIENT, but not by INMO. CLIENT's Content therefore remains in CLIENT's sole property and responsibility and is liable by all copyright and protection laws.
2. INMO does not claim any ownership rights in any Content and other materials which CLIENT uploads, posts, stores or exchanges through INMO's Podcast Hosting Services.
3. CLIENT hereby expressly acknowledges and agrees that CLIENT him-/herself, and not INMO, is fully responsible for all Content that CLIENT uploads, posts, e-mails, transmits or otherwise makes available through INMO's Podcast Hosting Services.
4. CLIENT acknowledges that Content uploaded to, or transmitted through INMO's Podcast Hosting Services may be protected by copyrights, trademarks, service marks, patents or other intellectual property rights and laws. CLIENT must not upload, display, send, transmit or otherwise make available any Content in which CLIENT does not have the appropriate rights to do so. Unauthorized copying, distribution, modification, display, public performance or other unauthorized use of copyrighted works by CLIENT may constitute an infringement of the copyright holders' rights and may result in civil litigation and criminal prosecution.

## **REPRESENTATIONS AND WARRANTIES**

CLIENT represents and warrants to INMO that:

1. CLIENT's Content shall be true, accurate, current, complete and not misleading;
2. CLIENT's Content shall not violate the rights of any third party, including, but not limited to, copyrights, trademark rights and/or any other intellectual property rights;
3. CLIENT's Content shall not create any liability for INMO or any of its respective parents, subsidiaries, affiliates, successors, assigns, employees, agents, directors, officers and shareholders;
4. CLIENT's Content is an original work by CLIENT and/or CLIENT has all necessary rights, licenses, consents and permissions to use, and to authorize INMO to use, any and all copyrights, performance rights or other intellectual property rights in and to CLIENT's Content in order to use the Content on INMO's Podcast Hosting Services;
5. CLIENT has any and all necessary consent, permission or release of any and all persons identifiable in the Content to use the name, photo, picture and likeness or royalty free images of those persons on INMO's Podcast Hosting Services.



## NO LIABILITY FOR CONTENT

1. CLIENT acknowledges that INMO, by providing the CLIENT with the ability to view and distribute CLIENT-generated Content, is merely acting as a passive conduit (hosting service provider) for the distribution of such Content, and that INMO, to the extent permissible by law, does not undertake any obligation or liability relating to the Content or to the CLIENTS' activities.
2. CLIENT acknowledges and agrees that INMO cannot and does not generally review the Content created or uploaded by CLIENT. CLIENT acknowledges and agrees that INMO and its respective parents, subsidiaries, affiliates, successors, assigns, employees, agents, directors, and officers do not undertake or assume any duty to generally monitor their Website for inappropriate Content.
3. INMO and its respective parents, subsidiaries, affiliates, successors, assigns, employees, agents, directors, or officers assume no responsibility or liability which may arise from the Content of INMO's Podcast Hosting Services, including, but not limited to, claims for libel, slander, defamation, invasion of privacy and publicity rights, pornography, obscenity, fraud, or misrepresentation.
4. INMO reserves the right to block, remove or delete any Content, communications, postings, and/or other data or information if INMO, in its own sole and unfettered discretion, has reason to believe that such Content and/or other data or information may infringe the rights of a third party, and in particular if INMO deems such Content and/or other data to be
  - I. misleading, fraudulent, or deceptive; or
  - II. defamatory, abusive, or obscene; or
  - III. possibly in violation of a copyright, trademark, patent, trade secret, or other intellectual property right; or
  - IV. possibly in violation of any applicable law or regulation; or
  - V. other wise unacceptable.
5. INMO will terminate a CLIENT's access to its Servers if, under appropriate circumstances, the CLIENT is determined to be misusing or abusing his server privileges.
6. At no time does a client own the rights or distribution rights to the INMO Software, nor can it be downloaded from the INMO servers for use on third party hosting.

## GRANT OF LICENSE

INMO does not have any ownership rights in CLIENT's Content. After posting your Content on, through or in connection with the Services, you continue to retain any such rights that you may have in your Content, subject to the limited license INMO requires so that it can perform the Service for its CLIENTS:

1. By posting Content to the Podcast Hosting Server, to the extent required to enable the performance of the Services, CLIENT grants INMO and its successors and assigns and other CLIENTs of the INMO Services a limited worldwide, non-exclusive, royalty-free, fully paid up, license to use, copy, transmit or otherwise distribute, publicly perform, digitally perform, publicly display, and/or otherwise make CLIENT's Content available to other CLIENTs of INMO's Podcast Hosting Services.
2. This license does not grant INMO the right to sell CLIENT's Content or otherwise distribute it outside of INMO's Podcast Hosting Services, provided however, that streaming of Content on third party Websites via embedded widgets or the INMO API or similar tools ("Linked Services") shall not be deemed a distribution outside of INMO's Podcast Hosting Services.
3. The license granted under Subsections 1 to 3 will terminate after CLIENT removes the Content from the Website. Notwithstanding the foregoing, CLIENT understands and agrees that once Content is distributed



to a Linked Service, INMO is not obligated to delete or ask other CLIENTs or a Linked Service to delete that Content, and therefore that Content may continue to appear and be used indefinitely.

## **INDEMNIFICATION**

CLIENT agrees to indemnify, defend and hold harmless INMO, its parent company, successors, assigns, affiliates, agents, vendors, distributors, licensors, suppliers, other CLIENTs and their officers, directors and employees from and against any and all claims, obligations, damages, losses, expenses, and costs, including reasonable attorneys' fees, resulting from:

1. any violation of the present Terms of Use;
2. any use of CLIENT's Content by INMO itself (if any), or by INMO's other CLIENTs or by any other person or third party under these terms of use, including, but not limited to, any third party claim of infringement of a copyright or other intellectual property right or invasion of privacy;
3. any activity related to CLIENT's account, be it by CLIENT him-/herself, or by any other person accessing CLIENT's account.

## **NO LIABILITY FOR LINKS, THIRD PARTY WEBSITES AND SERVICES**

1. INMO's Podcast Hosting Services may contain features and functionalities that may link CLIENT to, or provide CLIENT with certain functionalities and access to, third party websites, databases, networks, servers, information, software, programs, systems, directories, applications, products or services (hereinafter "External Websites").
2. INMO does not have any control over those External Websites, and is not responsible for their content or their use. By linking to an External Website, INMO does not represent or imply that it endorses such website, its content or any other information and/or material contained therein.
3. CLIENT is solely responsible for his/her dealings with any third party related to the External Website, including the delivery of and payment for goods and services. CLIENT should make whatever investigation he/she feels necessary or useful before proceeding with any online or offline transaction with any third party related to External Websites. The CLIENT is solely responsible for taking precautions as necessary or useful to protect him-/herself from fraud etc., and his/her computer systems from viruses, worms, Trojan horses, and other harmful or destructive content and material on External Websites.
4. INMO disclaims any responsibility for any harm resulting from CLIENT's accessing External Websites, and CLIENT irrevocably waives any claim against INMO with respect to such sites and third-party content.

## **WAIVER OF CLAIMS**

CLIENT irrevocably waives the right to assert any claim against INMO or any of its respective parents, subsidiaries, affiliates, successors, assigns, employees, agents, directors, or officers in relation to the Content generated, uploaded, transmitted or otherwise used on INMO's Podcast Hosting Services, including, but not limited to, copyright, trademark, unfair competition, invasion of privacy, breach of contract or breach of confidentiality.

## **IN CASE OF ALLEGED RIGHTS INFRINGEMENTS**

General Procedure

1. INMO encourages CLIENT to notify INMO of any Content that CLIENT believes to be in violation of copyright, trademark, any other intellectual property rights, or any other applicable law, or of any Content



that contains undesirable texts or images of, or links or references to, pornography, violence, racism, or content that is otherwise discriminatory or objectionable.

2. In case CLIENT believes that his/her Content has been used by other CLIENTs of INMO's Podcast Hosting Services in a way that constitutes copyright infringement, or a violation of other intellectual property rights, please flag the Content you think is infringing using Client Account link provided at sign up and provide INMO with the following information in writing via email to [contact@INMOSOFTWARE.com](mailto:contact@INMOSOFTWARE.com).
  - I. a specific description of the relevant work protected by copyright or other intellectual property right (hereinafter the "Work"), and where the Work is located on INMO;
  - II. comprehensive evidence that CLIENT claiming the infringement is the owner of the Work and all copyrights or intellectual property rights in and to the Work, or alternately, that CLIENT is fully authorized to act on behalf of the owner of the Work and all related rights;
  - III. a detailed explanation of the facts and circumstances that constitute the alleged copyright infringement or violation of other intellectual property right; and
  - IV. CLIENT's full name and email address.
3. Upon receipt of such notification and all required information and materials, INMO will examine the case, will contact the CLIENT in due course, and will, in its sole discretion, determine if and (if so) what action to take in response to each such notification.

For Infringement Notices from Copyright Owners in the United States, please follow [the following procedure](#).

## PROTECTION, PRIVACY AND SECURITY

1. INMO complies with the applicable data protection laws and regulations and uses all commercially viable measures to protect the confidentiality and security of communications transmitted via INMO's Podcast Hosting Services and information stored on servers controlled by INMO.
2. CLIENT shall under no circumstances
  - I. violate or attempt to violate the data security of INMO;
  - II. access data or materials which are not intended for CLIENT;
  - III. log into a server or account which CLIENT is not authorized to access;
  - IV. attempt to probe, scan or test the vulnerability of INMO's servers, system or network or to breach data security or authentication measures of INMO
  - V. attempt to interfere with INMO's service to any CLIENT, host or network, by any means including, without limitation, hacking INMO's servers or systems, submitting a virus, overloading, "mail-bombing", "flooding" or "crashing", or by means of using electronic tools, including spiders, robots (bots), crawlers, data mining tools, or any other automated means on INMO's Website or Services, regardless of the purpose and/or technical configuration of such electronic tools. This does not include any legitimate means employed solely for using and connecting the INMO API. Anyone performing any of the above tasks will be removed from the INMO Server immediately without warning and all data shall be deleted from the INMO Servers.
3. CLIENT's violation of system or network security may result in civil procedures and/or criminal prosecution. INMO reserves the right to investigate occurrences that may involve such violations and may involve and cooperate with law enforcement authorities in prosecuting any CLIENTs who have participated in such violations.



4. Registration data and other personal information about CLIENT are subject to our [Privacy Policy](#). By accepting these Terms of Use, CLIENT is also accepting the terms of the Privacy Policy, which are incorporated herein by reference for all purposes.

## COMPETITIONS

INMO may run, host or support competitions, promotions, prize draws and other opportunities on the Website or in its Services and these opportunities will be subject to separate terms and conditions of the organizer of such opportunities. Details of the specific competition, promotion, prize draw and/or other opportunity and a link to the applicable terms and conditions will be posted on the Website. It is your responsibility to read those terms and conditions for details and any eligibility requirements. INMO does not bear any responsibility or liability for the actions of any third parties who organize or are otherwise involved in any of these opportunities.

## CHANGES OF WEBSITE AND SERVICES

1. INMO may change or modify the products, services and functionalities of the Website and/or Services at any time without notice.
2. CLIENT agrees that INMO and its respective parents, subsidiaries, affiliates, successors, assigns, employees, agents, directors, and officers shall not be liable to CLIENT or to any third party for any changes or modifications of Website and/or Services and/or CLIENT's possibility to use or access INMO's Website and/or Services.
3. CLIENT is responsible for all personal backup data and podcasts. Although regular maintenance is performed to ensure high standards of quality and reliability, INMO is not liable for loss of data in the event of system failure and is not obligated to maintain or replace loss of data in that event.

## TERMINATION OF WEBSITE AND SERVICES

1. INMO reserves the right at any time to suspend, discontinue, terminate or close down its Website and/or Servers (or any part thereof), temporarily or permanently, without notice.
2. CLIENT agrees that, INMO and its respective parents, subsidiaries, affiliates, successors, assigns, employees, agents, directors, and officers shall not be liable to CLIENT or to any third party for any suspension, discontinuance, termination or close down of the Servers and/or Services and/or CLIENT's possibility to use or access INMO's Servers and/or Services.

## ASSIGNMENT OF RIGHTS AND DUTIES TO THIRD PARTIES

INMO and its respective parents, subsidiaries, affiliates, successors, assigns, employees, agents, directors, and officers may assign the rights and duties under the present Terms of Use, in part or in whole, to any third party at any time without notice. CLIENT may not assign this Agreement or the rights and duties herein, in part or in whole, to any party without the prior written consent of INMO.

## APPLICABLE LAW AND JURISDICTION

1. The legal relationship between INMO and CLIENT shall be subject to the laws of the Federal Republic of the United States excluding the UN Convention on Contracts for the International Sale of Goods (CISG) and excluding the principles of conflict of laws (international private law).
2. INMO and the CLIENT agree to submit to the exclusive jurisdiction of the courts at the domicile (registered office) of INMO for resolution of any dispute, action or proceeding arising in connection with these Terms of Use and INMO's Hosting and Services.



## **SEVERABILITY CLAUSE**

Should one or more provision of the present Terms of Use be unlawful, void, or unenforceable, such provision(s) shall be deemed severable and will not affect the validity and enforceability of the remaining provisions of the Terms of Use; the remainder of the Terms of Use will thus remain in full force and effect.

## **ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between INMO and CLIENT with respect to INMO's Website and Services, and supersedes any prior agreement between INMO and CLIENT.

Date: August 4, 2011