

## USER AGREEMENT

Last modified: 8 July 2021

### INTRODUCTION

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#### Welcome to Telkom Music Powered by JOOX!

You have downloaded and subscribed to “*Telkom Music powered by JOOX*” (the “**Service**”). The Service allows you to listen to music, music videos, and other content streamed over the Internet on your mobile phone, computer, tablets, or other devices (collectively, the “**Content**”).

#### Parties

Telkom SA SOC Ltd (“**Telkom**”) makes available and markets the Service to you.

While Telkom has made available and marketed the Service to you, the Service is owned and operated by Tencent Mobility Limited (a Hong Kong company located at Level 29, Three Pacific Place, 1 Queen’s Road East, Wanchai, Hong Kong).

Your contractual relationship is with Tencent Mobility’s affiliate entity, Tencent International Service Pte. Ltd. (a Singaporean company located at 10 Anson Road, #21-07 International Plaza, Singapore 079903).

Collectively Tencent Mobility Limited and Tencent International Service Pte Ltd are referred to herein as “**we**”, “**us**” or “**our**”.

Your agreement with us consist of this User Agreement (“this **Agreement**”) and the documents below:

<b>Terms of Service:</b>	This document sets out the general terms governing our relationship insofar as your use of the Service is concerned
<b>Privacy Notice:</b>	Our privacy notice explains how we collect, store and use your Personal Information
<b>Acceptable Use Policy:</b>	This document explains the rules of good behaviour that we require of you when you use our
<b>General End User Licence Agreement (“EULA”):</b>	This document explains the terms applicable to your use of any software that we may provide to you to use our Service

The User Agreement sets out additional service-specific terms for the purposes of the “*Additional Terms and Policies*” section of the Terms of Service.

### THE SERVICE

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The Service is accessible at <https://www.telkommusic.co.za/> or the “*Telkom Music powered by JOOX*” application on the Android App Store.

You can sign up for the Free or VIP Service:

<b>Free Service</b>	free-of-charge, but supported by advertisements. You may not be able to access all the Content and features of the Service
<b>VIP Service</b>	membership-fee based service. This will give you access to all Content and features of the Service and many more user benefits

You can only access the Service in South Africa.

You may not circumvent any access or availability restrictions implemented by us concerning our authorised countries, including by misrepresenting yourself as being in such a country. We may use various technologies to verify your location from time to time.

Other third party platform terms may apply to your use of the Service if such third party platform accounts are linked to your Service Account.

## YOUR USE OF THE SERVICE

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**The Service is for your personal and non-commercial use only. You may not use the Service for business purposes or public performances.**

We may update or change the Service at any time, either at no cost or subject to additional fees, at our sole discretion. Such changes or updates may include other functionalities or limitations on your use of the Service. Where reasonably practicable, we will provide notice to you of such updates or changes in-app.

At any time and at our sole discretion, we may place limits on the number or types of devices you may use to access the Service. We may record the unique device identifier numbers of your devices to enforce such limits.

Should you experience any issues with your device and its compatibility with the Service, you should lodge a query with the device manufacturer or retailer that sold the device to you. We do not take responsibility or otherwise warrant the performance of your device/s, including the continued compatibility of your device/s with the Service.

### The Content

We grant you a limited, personal, non-exclusive, non-transferable and revocable licence to access the Content within the authorised country where the Service is registered ("**Licence**").

We may use various technologies to verify your location from time to time per our [Privacy Notice](#).

**There may be times that, due to content licensing and other rights restrictions with third-party providers, we may be unable to offer certain Content to you if:**

- **you are not a VIP Service member;**
- **you are located in specific locations around the world; or**
- **we otherwise do not have the right to do so.**

If you are a VIP Service member, you may download one copy of certain Content (as made available by us to you for downloading within the Service) to each of the devices that we permit you to use for accessing the Service. Such downloaded Content will be:

- playable only within the Service and not within any other third party services or software;
- no longer playable following cancellation or expiration of your VIP Service membership with us, unless as expressly otherwise authorised by us;
- not shareable with any other person, whether with other users via the Message Function (if available in your territory) or otherwise (please see the "*UGC Function and Message Function*" below for details).

The Content may be subject to:

- digital rights management restrictions (including, for any downloaded Content, the rules set out in the paragraph immediately above); and/or
- other restrictions as implemented by us from time to time (e.g. Content bit rates).

Any Content accessed (whether streamed, downloaded, or otherwise) by you is subject to the Licence. You will at no time have or acquire any ownership right in any Content. We may add, make available or withdraw Content at any time at our sole discretion.

### Acceptable Use of the Service and the Content

Your use of the Service and the Content is governed by the [Acceptable Use Policy](#), and other applicable provisions of this Agreement.

You **may not**:

- use the Service to download or reproduce any copyrighted materials;
- copy, store, edit, change, prepare any derivative work of, or alter in any way any of the Content available within the Service (including altering any proprietary or legal notices within the Content or the Service);
- make the Service available over any network where it could be accessed by any third parties (this does not prevent you from sharing Content and other materials with other users via the Message Function - see the "*UGC Function and Message Function*" section below);

- circumvent any technology used by us or our licensors to protect the Content or the Service; or
- rent, lease or sublicense the Service, or otherwise allow any third parties to access the Service via your Service Account.

## LISTENING TO THE SERVICE IN THE CAR

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You can use the Service from the media system of specific car manufacturers. Please only use your device when allowed by law and when conditions permit it safe to use for your safety. Please configure the Service and playlists before you drive and avoid interacting with your device while the car is in motion.

## PAYMENTS

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### Billing and pricing: General

You must provide us with valid and current payment information using a payment method that we accept and made available by us (or our third-party payment providers).

Suppose your payment method information is not valid for any reason (whether due to card expiration, insufficient funds, or otherwise). In that case, you will remain responsible for outstanding amounts. Such obligation will survive any expiry or termination of this Agreement.

We may adjust the pricing for any Service features at any time and in any manner from time to time, at our sole discretion. Such adjustment may be due to promotional offers, any change in your location, and/or for any other reason.

Any amount you pay to us regarding membership fees or otherwise is exclusive of applicable taxes, and you agree that we may bill you for any such applicable taxes.

Further information about billing and pricing for the Service is set out within the Service from time to time.

***To the extent permitted by applicable laws and regulations, any payments from you to us are non-refundable and non-creditable.***

### Billing and pricing: VIP Service

Your VIP Service membership's validity is subject to your payment of all applicable membership fees and you fulfilling all relevant eligibility criteria (if any). We may set out further Additional Terms and Policies applying to such payments (including refunds (if any), billing arrangements, and any consequences of failing to make timely payments). You must comply with all such terms concerning your payments to us.

We will bill your membership fee to such a payment method on a forward prepaid basis, based on the membership period that you have selected. Your membership fee will be charged in South African Rand.

We may make available to you automatic, recurring, add-to-bill, or subscription-based payment methods for your VIP Service from time to time. Where you have selected such payment methods, you agree that (subject to applicable laws and regulations):

- such purchases are made by you on an advanced prepaid basis;
- you authorise us to:
  - o save your chosen payment method's information on our systems; and
  - o bill your chosen payment method for the relevant time periods as authorised by you;
- if any payment made via your chosen payment method is rejected, denied, not received by us, or returned unpaid for any reason:
  - o we may suspend or terminate our provision of the Service to you until payment is processed correctly; and
  - o you are liable to us for any fees, costs, expenses, or other amounts we incur arising from such rejection, denial, or return (and we may charge you for such amounts); and
  - o unless you **cancel your VIP Service membership before the end of your membership period** (see "*Termination of VIP Service*" below), **we will automatically renew your membership at the end of your membership period. We will then use the most current payment information you have provided to us and at the then-current price.**

We will provide you with further details within the Service regarding how you may update, manage or cancel your membership, payment methods and/or payment information.

We may change or introduce any charges for the Service at any time, following prior notice by publication within the Service. Such revised charges may be due to promotional offers, changing or adding of membership options, any change in your location and/or for any other reason.

Any revised charges will apply immediately following the relevant notice's publication, except that if you are (at the time of such notice) an existing paid-for VIP Service member, such revised charges will apply only after you have subsequently terminated your paid-for VIP Service membership (if applicable).

Any membership fee you pay to us is exclusive of taxes, and you agree that we may bill you for any applicable taxes in addition to your membership fee.

### Termination of VIP Service

**Your VIP Service membership will continue unless and until either you or we cancel your membership and is subject to your continuing payment of the applicable membership fees.**

Suppose your VIP Service membership included any limited promotional offers at the time of your purchase. In that case, your VIP Service membership will continue without those offers when those offers expire (as notified by us to you).

You may terminate your VIP Service membership by following the instructions provided by us within the Service. Your VIP Service Membership will terminate upon our receipt of your termination notice, provided we received your termination notice at least 24 hours before the end of your then-current membership period. You will then only have a Free Service membership at the end of that period.

***To the extent permitted by applicable laws, any payments made by you to us are non-refundable, non-transferable, and non-creditable.***

### Limited free VIP Service membership

We may provide you with a limited free VIP Service membership if you fulfil specific eligibility criteria, as determined by us at our sole discretion.

Such limited free VIP Service membership may share certain features with, but is not identical to and may not have the same features as, a paid-for VIP Service membership.

Your limited free VIP Service membership will last for a specific time period as specified by us at our sole discretion. We will not renew your limited free VIP Service membership unless you have fulfilled (and/or continue to fulfil) all relevant eligibility criteria.

At the end of your limited free VIP Service membership, your membership will convert into a Free Service membership, unless you have registered for the VIP Service membership, in which case your membership will convert to a VIP Service membership.

### Limited trial VIP Service membership

We may offer you a free trial VIP Service membership, as determined by us in our sole discretion from time to time. Such free trial membership will last for one month or such other period as notified by us to you. We reserve the right to determine which users are eligible for such free trial membership.

You may only redeem one free trial membership.

You must provide valid payment information to us in order to enjoy a free trial membership. At the expiry of your free trial membership, it will automatically convert into a VIP Service membership and you will then be subject to the terms (including membership fees) set out in this "VIP Service" section, unless you terminate your free trial membership (prior to its expiry) in accordance with the "*Termination of VIP Service*" section above.

## INTELLECTUAL PROPERTY AND THIRD PARTY TERMS

You will comply with all applicable laws, the EULA, and other applicable provisions of this Agreement in your use of the Service and Service software, including without limitation with the "**Our Intellectual Property Rights**" and "**Use of your device by our services**" sections of the **Terms of Service**.

Your use of any Service software and the Content may be subject to third-party terms, which we may notify you of from time to time. Third-party terms may apply to your use of third-party services, components, or Content,

including payment methods provided by third parties. You agree to comply with all such third-party terms, as well as the "Third Party Content and Services" section of the Terms of Service and any other applicable provisions of this Agreement.

We may respond to notices of an alleged infringement of rights (including breach of intellectual property rights, defamation, and breach of other civil rights) and other claims and demands. If you have any such infringement-related concerns, please see our Take Down Policy

## TERM AND TERMINATION

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This Agreement will apply, as between you and Tencent International Service Pte Ltd, until either you or we terminate your access to the Service.

We may suspend or terminate your access to the Service at any time in accordance with the "**Termination**" section of the Terms of Service.

## WARRANTY, DISCLAIMER AND LIABILITY FOR OUR SERVICES

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The terms set out in the "**Warranty and Disclaimer**" and "**Liability for Our Services**" sections of the **Terms of Service** will apply in relation to your use of the Service.

## GENERAL

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This Agreement, read with the other documents listed on the first page (ie the Terms of Service, EULA, Privacy Policy and Acceptable Use Policy), is the entire agreement between us in relation to your use of the Service. You agree that you will have no claim against us for any statement which is not explicitly set out in this Agreement.

The terms set out in the "**Governing Law and Dispute Resolution**" section of the Terms of Service will apply in relation to any dispute between you and us in relation to this Agreement.

## OTHER FUNCTIONS

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As part of the Service, we may offer you the ability to create certain User Generated Content ("**UGC**") either via "**BUZZ**" and "**MOMENTS**" or such other functionality as we may add to the Service from time to time (collectively "**UGC Function**").

The UGC Function may enable you to record content (audio recordings being "**User Recordings**") and submit your User Recordings including lyrics to songs, words, photographs, information, musical works, content, text, images, works of authorship or any other content that you create (collectively "**Your Content**") to the Service either by way of upload, post, link to, publish or display .

Your Content will be subject to the terms set out in the "Your Content" section of the Terms of Service.

**You understand and accept that Your Content is uploaded, posted, displayed or linked to the Service at your direction and under your control and that you are responsible for all consequences flowing therefrom.**

We may also offer a message function ("**Message Function**") to send Your Content including User Recordings, playlists, Content and links to Content, including albums, artists, charts and live broadcasts to other users within the Service. You may also share links to users' public profiles via the Message Function. **The views expressed by users within the Service do not represent our views.**

in the event of any inconsistency between the provisions of this Agreement and other conditions, this User Agreement will prevail.

## Acceptable use of the UGC Function and Message Function

If applicable to your package, the UGC Function and Message Function are for your personal and non-commercial use only.

Your use of the UGC Function and Message Function is governed by the Acceptable Use Policy and any other applicable provisions of this Agreement. You agree that you will not (except where we otherwise expressly permit you to do so within the Service):

- use the UGC Function and Message Function in a manner that would infringe upon our copyright or other rights or any third party rights;
- subject any copyrighted materials contained in Content or Your Content to derogatory treatment, including without limitation the use of abusive, offensive, obscene or foul language or defamatory statements;
- falsely attribute any copyrighted materials contained in Your Content to the wrong author;
- include Personal Information (as defined in the Privacy Notice) relating to a third person in Your Content or messages without the consent of that person or otherwise breach applicable data protection laws;
- create any Your Content that contains any content which you are not authorised to record or share or in respect of which you are not authorised to grant a licence to us;
- upload, post, link, publish or display to JOOX any Your Content which you are not authorised to upload, post, link, publish or display or in respect of which you are not authorised to grant a licence to us;
- record, upload or share Your Content that includes content which contravenes any provision of this Agreement (and in particular, this "Acceptable Use of the UGC Function and Message Function" sub-section of this Agreement), or any applicable laws; or
- use any of Your Content or any Content for commercial purposes or any other purpose beyond the licence terms of this Agreement,
- each of the above hereafter referred to as "Objectionable Content".

Your Content may not be available and/or accessible in other jurisdictions according to applicable laws and regulations in each jurisdiction.

## WAIVER OF RIGHTS

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***By uploading Your Content to the Service, you waive any and all rights of privacy, publicity, or any other rights of a similar nature in connection with any of Your Content, in whole or in part.***

### **Disclaimer and indemnity for copyright infringement and violations of laws**

To the maximum extent permitted by applicable laws and regulations, in no event will we, our partners, Telkom, or any of our affiliate companies accept liability for any infringement of third party copyright or other rights or the breach of applicable laws arising or resulting from your use of the UGC Function or Message Function or your creation, uploading or sharing of Your Content.

***To the maximum extent permitted by applicable laws and regulations, you agree to indemnify us, our partners, Telkom, and our affiliate companies from and against any loss, damage, debt, cost, expense (including litigation costs and attorneys' fees) arising or resulting from any claim, action or demand in connection with any infringement of third party copyright or other rights or breach of any applicable laws and regulations resulting from your use of the UGC Function or Message Function or your creation, uploading, or sharing of Your Content and will promptly execute all necessary documents and provide all assistance, documents and evidence required by us to defend any such claim, action or demand.***

## RIGHT TO REMOVE YOUR CONTENT

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We reserve the right, at any time in our sole discretion, and without notice to you, not to post or publish and to remove, modify or delete Your Content, in whole or in part, and whether or not they contain Objectionable Content.

## GRANT OF LICENSE TO YOUR CONTENT

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***You hereby grant us a worldwide, perpetual, unrestricted, assignable, sublicensable, royalty-free licence to host, reproduce, combine with other works, distribute, publicly display, communicate to the public, publicly perform, make available, create derivative works from and otherwise exploit and use all or any part of Your Content as part of the Service and our other services, including after you delete your Account.***

***You affirm, represent, and warrant that you own or have the necessary licences, rights, consents, and permissions, including but not limited to those related to intellectual property rights, to publish Your Content, and to grant us rights in Your Content under this Agreement. You license to the Service all***

**patent, trade mark, trade secret, copyright, or other proprietary rights you own in and to such Your Content for publication as part of the Service and our other services.**

**Without limitation of the above, if Your Content is or includes a sound recording that contains an underlying musical work, then you must not post such recording unless you have all necessary rights, authorizations, and clearances, concerning such musical work sufficient to grant to us such rights and licenses in and to such Your Content.**

## PERSONAL INFORMATION

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You acknowledge and agree that, by using the UGC Function and/or Message Function, we may collect, use and share Personal Information (whether relating to you or to a third person) contained in Your Content in accordance with the Privacy Notice.

**Insofar as Your Content contains any Personal Information relating to a third person, you warrant that you have obtained the informed consent of such third person for their Personal Information to be collected, used, and shared in accordance with the Privacy Notice.**

However, suppose you or another person chooses to share any of Your Content outside of the Service. In that case, you acknowledge and accept that the handling and use of any Personal Information contained therein are beyond our control and responsibility. You now release us from any liability in respect of such use of any Personal Information.

## COMPLAINTS AND REPORTS

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If you have a query or complaint regarding the Service, please contact:

<b>Self Help</b>	<a href="https://www.telkommusic.co.za/">https://www.telkommusic.co.za/</a>
<b>Telkom Music Powered by JOOX website</b>	<a href="https://www.telkommusic.co.za/">https://www.telkommusic.co.za/</a>
<b>Call centre</b>	081 180 or email <a href="mailto:180@telkom.co.za">180@telkom.co.za</a>

## JURISDICTION-SPECIFIC TERMS: South Africa

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These jurisdiction-specific terms will prevail to the extent of conflict with other terms.

**You accept that Your Content that you upload to the Service is not a professional performance, does not entitle you to any form of compensation, royalties, or fees, including when Your Content is reproduced, broadcast, transmitted, streamed, adapted and/or made available in such other means on the Service.**

You agree that for uploading or sharing any of Your Content to the Service, **you shall not be entitled to:**

- any repeat or residual fees of any nature whatsoever in respect of your participation in or contribution to Your Content; or
- any royalties or any other consideration, as contemplated in the Performers' Protection Act 11 of 1967 or the Copyright Act 98 of 1978, in respect of the reproduction, use, and exploitation of Your Content on the Service and related material incorporating your participation and contribution.

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