

RYTHM DEVICES INC.

TERMS OF USE

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BY USING THE WEBSITE, YOU (a) AGREE TO THESE TERMS OF USE; (b) YOU AFFIRM THAT YOU ARE AT LEAST 18 YEARS OF AGE, OR AN EMANCIPATED MINOR, OR POSSESS LEGAL PARENTAL OR GUARDIAN CONSENT; AND (C) YOU ARE FULLY ABLE AND COMPETENT TO ENTER INTO, ABIDE BY AND COMPLY WITH THE TERMS, CONDITIONS, OBLIGATIONS, AFFIRMATIONS, REPRESENTATIONS, AND WARRANTIES SET FORTH IN THESE TERMS OF USE. IF YOU DO NOT AGREE WITH THE TERMS OF THIS AGREEMENT, THE PRIVACY POLICY OR ANY OTHER GUIDELINES OR RULES POSTED ON THE WEBSITE, THEN DO NOT USE THIS WEBSITE.

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You can view our Website without creating an account. However, to participate on our Website, you must create an account that includes a username and password (“Registration”). You are solely responsible for the information associated with your Registration and anything that happens related to your Registration. You may not license, transfer, sell, or assign your Registration information without our written approval.

PREMIUM ACCOUNT

You may also join our premium membership program, Premium Subscription, by paying a monthly fee. Rythm may change the monthly fee for this premium membership account at any time and shall provide notice to such account holders. This premium account does not confer any benefits other than those listed here rythmdigital.com/premium, it is not currency, it is a member-based service, and its features are subject to change in the future.

PAYMENT INFORMATION

You may also submit your debit or credit card information (“Payment Information”) via the Website as part of the premium membership. We use third party service providers to process your payment information. If you submit Payment Information, you agree to pay all costs that you incur, and you give us permission to charge you when payment is due for an amount that includes any applicable taxes, fees and charges to us or one of our service providers.

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INDEMNIFICATION

You agree to defend, indemnify and hold harmless the Website, Rythm, its parent, affiliates or subsidiary companies and their respective directors, officers, managers, members, employees, shareholders, representatives, and agents from and against any and all claims, actions, suits or proceedings, as well as any and all losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and court costs) arising out of or accruing from (i) your access to or use of this Website; (ii) your violation of these Terms of Use; (iii) your violation of any third party right, including without limitation any intellectual property right, property or privacy right; or (iv) any claim that your use of the Website or its Content (including user content) caused damage to you or a third party. You agree that we may at any time and without notice, suspend or terminate your access to this Website if you fail to comply with these Terms of Use or applicable law.

CHILD PROTECTION NOTIFICATION

This Website contains some content that might be deemed unsuitable to minors. This Website is intended for a mature audience and parents who find any material on this site unsuitable for their children are encouraged to utilize parental control services. Parental control protections (such as computer hardware, software, or filtering services) are commercially available that may assist you in limiting access to material that is harmful to minors. By accessing this Website, you are affirming to Rythm that you are at least 18 years of age, or an emancipated minor, or possess legal parental or guardian consent.

VIOLATION OF THESE TERMS AND SERVICES

You may use our Website only as permitted by law. As further set forth in our Privacy Policy, you agree and acknowledge that we may preserve any communication and information made or disclosed by you through the Website, and we reserve the right to disclose any such communication or information that we deem necessary (i) to comply with any applicable law, regulation, legal process or governmental authority; (ii) to enforce these Terms of Use; (iii) to respond to claims that any such data violates the rights of others; or (iv) to protect the rights, property or personal safety of Rythm, its affiliates, parent, subsidiaries, suppliers and their respective directors, officers, members, managers, shareholders, employees and agents and/or users of or visitors to the Website, and the public.

You also agree that Rythm may, in its sole discretion and without prior notice, suspend or terminate your access to the Website and/or block your future access to the Website if we determine that you have violated these Terms of Use or other agreements or guidelines which may be associated with your use of the Website. You also agree that any violation by you of these Terms of Use will constitute an unlawful and unfair business practice and will cause irreparable harm to Rythm for which monetary damages would be inadequate, and you consent to Rythm obtaining any injunctive or equitable relief that Rythm or its counsel deems necessary in such circumstances. These remedies are in addition to any other remedies we may have at law or in equity.

If Rythm does take any legal action against you as a result of your violation of these Terms of Use, we will be entitled to recover from you, and you agree to pay, all reasonable attorneys' fees and costs of such action, in addition to any other relief granted. You agree that Rythm will not be liable to you or to any third party for termination of your access to the Website as a result of any violation of these Terms of Use or as a result of technical problems or modifications to the Site or as otherwise required by law.

In addition, you agree and acknowledge that a breach of this Terms of Use by you would cause Rythm irrevocable injury and damage that cannot be adequately compensated by damages in an action at law. You therefore expressly agree that, without limiting Rythm's rights and remedies at law, including without limitation the right to seek damages for any such breach by you, Rythm shall further be entitled to injunctive and other equitable relief to prevent and/or cure any breach or threatened breach of this agreement, without proof of actual damages.

ASSIGNMENT

Rythm may assign or delegate these Terms of Use and/or Rythm's Privacy Policy, in whole or in part, to any person or entity at any time with or without your consent. You may not assign or delegate any rights or obligations under the Terms of Use or Privacy Policy without Rythm's prior written consent, and any unauthorized assignment and delegation by you is void.

GOVERNINING LAW

You agree that: (i) the Website and all services provided shall be deemed solely based in California; and (ii) the Website and all services provided shall be deemed a passive website that does not give rise to personal jurisdiction over Rythm, its parent, affiliates or subsidiary companies and their respective directors, officers, managers, members, shareholders, employees and agents, in jurisdictions other than California. You agree these Terms of Use shall be governed by the internal substantive laws of the State of California, without respect to its conflict of laws principles. Although you acknowledge that we will have the ability to enforce our rights in any court of competent jurisdiction, you hereby consent to the personal jurisdiction and exclusive venue in Los Angeles, California, U.S.A., regarding any and all disputes relating to these Terms of Use or your access to or use of the Website, including without limitation use of Content. You acknowledge and agree that the warranty disclaimers and liability and remedy limitations in these Terms of Use are material terms of this agreement and that they have been taken into account in the decision by us to provide the Website to you hereunder. Except in instances where Rythm deems it necessary to seek injunctive or other equitable relief (and as otherwise set forth in these Terms of Use), the parties hereby agree to submit any disputes or controversies between them to binding arbitration in Los Angeles, California in accordance with the rules of the American Arbitration Association. All rights to recover consequential, incidental and/or punitive damages are waived by you. In the event of any dispute, you shall not be entitled to and hereby waive all right to any equitable relief whatsoever, including the right to rescind this Terms of Use agreement, or to enjoin, restrain or interfere in any manner with the Website. The prevailing party shall be entitled to its reasonable outside attorneys' fees and costs, including its share of the arbitration costs, from the losing party. All decisions of the arbitrator shall be

final, binding, and conclusive on all parties. Judgment may be entered upon any such decision in accordance with applicable law in any court having jurisdiction thereof.

YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE WEBSITE OR THE SERVICES MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CLAIM OR CAUSE OF ACTION IS PERMANENTLY BARRED.

If any provision of these Terms of Use is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Use, which shall remain in full force and effect. These Terms of Use, the Privacy Policy and any other posted operating rules constitute the entire agreement of the parties with respect to the subject matter hereof, and supersede all prior or contemporaneous communications and proposals, whether oral or written, between the parties with respect to such subject matter. No waiver of any provision or any right granted hereunder will be effective unless set forth in a written instrument signed by the waiving party and no waiver by either party of any breach or default hereunder shall be deemed a waiver of any subsequent breach or default.

CHANGES TO TERMS OF USE

We reserve the right, in our discretion, to modify, change, remove, update or add to these Terms of Use at any time without notice. It is your responsibility and obligation to review these Terms of Use periodically for changes. Unless otherwise specified, such changes shall be effective when they are posted, and your continued use of the Website following the posting of changes will mean that you accept and agree to the changes.