

## TERMS & CONDITIONS

### 1.0 General Provisions

1.1 Ringtone.com (the Service) is an online wireless enhancement service provided by NCN NetConsulting Ges.m.b.H. (NCN). These Terms and Conditions (the Terms) will apply to all sales of ringtones and graphic logos (Products) made to the customer via this website.

1.2 Please review these terms and conditions carefully before you start using this service. Use of the Service is conditioned on your acceptance without modification of the terms, conditions, and notices. Your use of the Site indicates your agreement to all such terms, conditions and notices. If you do not agree to the Terms, you may not use the Service. NCN reserves the right to modify this agreement at any time without notice. Modifications to this agreement will be effective immediately as of the date that modification is posted on the Service. You are responsible for regularly reviewing these terms and conditions for modifications. Your continued use of the Service indicates your knowledge and acceptance of the agreement and any subsequent modifications.

### 1.3 Contact Information:

Mail Inquiries:  
NCN-NetConsulting Ges.m.b.H.  
Eduard-Bodem-Gasse 6  
A-6020 Innsbruck  
AUSTRIA

Email Inquiries: [support@ringtone.com](mailto:support@ringtone.com)

### 2.0 Use of Site

2.2 This Site may contain and deliver ringtones, graphic logos, and other message or communication services. NCN has no obligation to monitor these services. NCN reserves the right to review and remove communication materials in its sole discretion.

2.3 You assume total responsibility and risk for your use of this Service. NCN does not make any warranties, express or implied, representations or endorsements with regard to the Service, merchants, information, or products offered on this Site.

2.4 NCN does not claim ownership of the materials you provide to NCN (including feedback and suggestions) or post, upload, input or submit to this Site for review by the general public, or by the members of any public or private community. However, by posting, uploading, inputting, providing or submitting ("Posting") your Submission you are granting NCN permission to use your Submission in connection with the operation of their business, including, without limitation, the license rights to: copy, distribute, transmit, publicly display, publicly perform, reproduce, edit, translate and reformat your Submission; to publish your name in connection with your Submission; and the right to sublicense such rights. No compensation will be paid with respect to the use of your Submission, as provided herein. NCN is under no obligation to post or use any Submission you may provide and NCN may remove any Submission at any time in its sole discretion. By Posting a Submission you warrant and represent that you own or otherwise control all of the rights to your Submission as described in these Terms of Use including, without limitation, all the rights necessary for you to provide, post, upload, input or submit the Submissions.

2.5 As a condition of your use of the Site/Service, you will not use the Site/Service for any purpose that is unlawful or prohibited by these terms and conditions. You may not use the Site/Service in any manner that could damage, disable, overburden, or impair the Site/Service, or network, connected to the Site/Service, or interfere with any other party's use and enjoyment of the Site/Service. You may not attempt to gain unauthorized access to the Site/Service, accounts, computer systems or networks

connected to the Site/Service, through any means. NCN reserves the right at all times to disclose any information as NCN deems necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, in its sole discretion.

2.6 Unless otherwise specified, the Site/Services are for your personal and non-commercial use. You may not modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or sell any information, products or services obtained from the Site.

2.7 The NCN Site may contain links to third party Web sites ("Linked Sites"). The Linked Sites are not under the control of NCN and NCN is not responsible for the contents of any Linked Site, including without limitation any link contained in a Linked Site, or any changes or updates to a Linked Site. NCN is not responsible for web casting or any other form of transmission received from any Linked Site nor is NCN responsible if the Linked Site is not working appropriately. NCN is providing these links to you only as a convenience, and the inclusion of any link does not imply endorsement by NCN of the site or any association with its operators. You are responsible for viewing and abiding by the privacy statements and terms of use posted at the Linked Sites. Any dealings with third parties (including advertisers) included within the NCN Site or participation in promotions, including the delivery of and the payment for goods and services, and any other terms, conditions, warranties or representations associated with such dealings or promotions, are solely between you and the advertiser or other third party. NCN shall not be responsible or liable for any part of any such dealings or promotions.

2.8 NCN hereby grants to you, the purchaser, a revocable personal, non-transferable license to use the purchased ringtone or graphic logo in accordance with these Terms, and for no other purpose provided that you keep intact all copyright and other proprietary notices. Any reproduction or redistribution of the Product(s) is expressly prohibited by law, and may result in severe civil and criminal penalties. Violators will be prosecuted to the maximum extent possible.

2.9 NCN reserves the right to terminate your access to the Site/Service at any time, without notice.

### 3.0 Price, Delivery, and Returns

3.1 The price of any Product purchased through the Site will be the price specified in the Site at the time of your purchase. Payment may be made via MasterCard or Visa. Upon presentation of the Card the purchaser warrants that he/she is the cardholder or has the permission of the cardholder to use the cards and that the billing information provided is accurate. NCN will not issue refunds based upon inaccuracies represented by the purchaser. By approving the purchase of the product, you authorize NCN to charge the Card for the purchase.

3.2 Delivery: Delivery of Product(s) purchased pursuant to these Terms will be made directly to your cellular phone. The details of the delivery process will be provided to you at the time of purchase. Delivery is conditional. In order for proper delivery, your cellular phone must be turned on; capable of receiving the Product(s); set to receive text messages (Please note that not all mobile phones allow the storage of new ringtones). Ordered Product(s) can only be delivered when the cellular phone is on a compatible network, a full list of which is available on the order form. Provided that the cellular phone and cellular phone provider's network will accept the Product(s), delivery of the Product will occur within 24 hours of completion of the order. Typically, delivery of the Product(s) occurs within a matter of seconds. We will attempt to deliver the ordered Products a total of three times to the same cellular phone. If the Product(s) has not been successfully delivered, please notify us within 7 days. If you do not notify us within this period, we will presume that the Product(s) has been received. If the Product(s) cannot be delivered, NCN will refund the payment, provided that the Product's non-delivery to the cellular phone is not the result of the Purchaser's error. If the Purchaser's error caused the non-delivery, payment will not be refunded.

**Please note:** The User is responsible for ensuring that his cellular phone is compatible with the service. If the user is unsure, he is urged to utilize the Ringtone.com **US-Testorder** section to test his cellular phone. If the user does not receive the Product ordered through the Ringtone.com **US-Testorder** section, he should not join this service. Refunds are not given if the users cellular phone is not compatible.

## 4.0 Privacy Policy

4.1 NCN and its agents or associates may, at its discretion, use your name and the cellular telephone number provided at the time of purchase to market additional products and services. If you do not wish to receive additional offers, please contact us at the contact information contained in Section 1.3.

## 5.0 Liability

5.1 The information, Products and Services included in or available through the NCN Site may include inaccuracies or typographical errors. Changes are periodically made to the NCN site and to the information therein. NCN and/or its authorized agents may make improvements and/or changes in the NCN Site at any time. NCN and its authorized agents make no representations about the suitability, reliability, availability, timeliness, lack of viruses or other harmful components and accuracy of the information, products, services and related graphics contained within the NCN site for any purpose. All such information, products, services and related graphics are provided "as is" without warranty of any kind. NCN and its authorized agents hereby disclaim all warranties and conditions with regard to this information, software, products, services and related graphics, including all implied warranties and conditions of merchantability, fitness for a particular purpose, workmanlike effort, title and non-infringement. You specifically agree that NCN shall not be responsible for unauthorized access to or alteration of your transmissions of data and for any material or data sent or received or not sent or received. You specifically agree that NCN is not responsible or liable for any threatening, defamatory, obscene, offensive or illegal content or conduct of any other party or any infringement of another's rights, including intellectual property rights.

5.2 Damages: In no event shall NCN or its authorized agents be liable for any direct, indirect, punitive, incidental, special, consequential damages or any damages whatsoever including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the use or performance of the NCN Site/Service, with the delay or inability to use the NCN Site/Service or related services, the provision of or failure to provide services, or for any information, products, services and related graphics obtained through the NCN Site/Service, or otherwise arising out of the use of the NCN Site/Service, whether based on contract, tort, negligence, strict liability or otherwise, even if NCN or any of its authorized agents have been advised of the possibility of damages. Because some states/jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages, the above limitation may not apply to you. If you are dissatisfied with any portion of the NCN Site, or with any of these terms of use, your sole and exclusive remedy is to discontinue using the NCN Site.

## 6.0 Miscellaneous

6.1 This agreement is governed by the laws of the Republic of Austria. You hereby irrevocably consent to the exclusive jurisdiction and venue of courts in the Republic of Austria in all disputes arising out of or relating to the use of the NCN Site. You agree that no joint venture, partnership, employment, or agency relationship exists between you and NCN as a result of this agreement or use of the NCN Site. You agree to indemnify and hold NCN, its parents, subsidiaries, affiliates, officers and employees, harmless from any claim, demand, or damage, including reasonable attorneys' fees, asserted by any third party due to or arising out of your use of or conduct on the NCN Site. NCN reserves the right to disclose any personal information about you or your use of the NCN Site, including its contents, without your prior permission if NCN has a good faith belief that such action is necessary to: (1) conform to legal requirements or comply with legal process; (2) protect and defend the rights or property of NCN or its affiliated companies; (3) enforce the terms or use; or (4) act to protect the interests of its members or others. NCN's performance of this agreement is subject to existing laws and legal process, and nothing contained in this agreement is in derogation of NCN's right to comply with governmental, court and law enforcement requests or requirements relating to your use of the NCN Site or information provided to or gathered by NCN with respect to such use. If any part of this agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the agreement shall continue in effect. Unless otherwise specified herein, this agreement constitutes the entire agreement between the user and NCN with respect to the NCN Site (RingtoneMall) and it supersedes all prior or

contemporaneous communications and proposals, whether electronic, oral or written, between the user and NCN with respect to the NCN Site. A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

SUBJECT TO CHANGE WITHOUT NOTICE