

## **TERMS AND CONDITIONS**

### **1. DEFINITIONS**

The following words have the following meanings:

- 1.1. "Content" means any data, text, files, information, images, graphics, photos, art, profiles, audio clips, video clips, audio and video clips, sounds, musical works, works of authorship, applications, usernames, links and other content or materials that is submitted, posted or displayed on the Platform, and includes electronic messages or videos; digital communications.
- 1.2. "Parties" means the User and Us,
- 1.3. "Platform" refers to the Babble application, website and affiliated applications or sites providing access to the Service.
- 1.4. "Privacy Policy" means the Our privacy policy available at <https://www.babblechat.me/>.
- 1.5. "Service" refers to features provided by the Platform including the display or provision of audio, video, other digital products, personalized experiences, any products or services which includes the purchase of audio, video, other digital products, personalized experiences, memberships and subscriptions.
- 1.6. "Talent partner" means a well-known individual being paid by a user.
- 1.7. "Terms" means these Terms and Conditions, together with the Privacy Policy.
- 1.8. "You or the user" refers to any individual, business or account using the service in any manner, on any application, and includes talent partners as far as reasonably possible.
- 1.9. "We, Us, Our" means Babble Chat (Pty) Ltd 2023/178633/07 of 48 Vukutu Street Southernwood Mthatha; Tel: 0767487056; email: babblechat.me@gmail.com.

### **2. INTRODUCTION**

- 2.1. The Platform allows users to make calls to talent partners and share these calls over social media. Calls are charged on a per minute basis.
- 2.2. By using the Platform you agree to these Terms, which will continue to apply until such time as you cease using the Platform, the Services, and the Content.

### **3. OBLIGATIONS OF THE USERS**

- 3.1. The user must be at least 18 years old to use the platform.
- 3.2. The user is solely responsible for his/her conduct and any Content. The user is responsible for any activity that occurs through their account including any use by a third party authorised to use by the user.
- 3.3. The user may not post, submit or display content that is unlawful, hateful, discriminatory, violent, invasive of privacy, infringing, libelous, nude, partially nude, pornographic, or sexually suggestive via the Platform. The user may not defame, stalk, bully, abuse, harass, threaten, or intimidate people or entities via the Platform.
- 3.4. The user will not post private or confidential information via the Platform, including without limitation, your or any other person's credit card information, national identity numbers, non-public phone numbers or non-public email addresses.

- 3.5. The user will not sell, transfer, license or assign their account, followers, username, or any account rights. Only businesses or people that are expressly authorised to create accounts on behalf of their employers or clients may create an account for someone other than themselves.
- 3.6. The user confirms that all information provided to the Platform upon registration and at all other times is true, accurate, current and complete and they agree to update their information as necessary to maintain its truth and accuracy.
- 3.7. The user will not use the Platform for any illegal or unauthorised purpose. The user must comply with all applicable laws, rules and regulations (including all intellectual property and copyright laws).
- 3.8. The user will not restrict or attempt to restrict another user from using or experiencing the Platform and must not encourage or facilitate violations of these terms or Privacy Policy. The user agrees to not solicit, collect or use the login credentials of other users.
- 3.9. The user is responsible for keeping their password secret and secure. The user must notify the Us of any known or suspected unauthorised use of their account, or any known or suspected breach of security, including loss, theft or unauthorised disclosure of their password or credit card information. The user acknowledges that the We may disclose personal information related to their use of the Platform or included in their account to third parties if there is an investigation regarding abuse or misuse of the Platform. We reserve the right to forward this information to applicable law enforcement bodies.
- 3.10. The user must not change, modify, or adapt the Platform's service, or another online site in a manner that falsely implies an association with the Platform.
- 3.11. The user will not draft or submit unwanted email, comments, likes or other forms of communications or content to any other user in a harassing manner. The user will not create or submit Content that consists of or contains software viruses, mass mailings, or any form of "spam" or unsolicited commercial electronic messages.
- 3.12. The user may not use impersonate another person or entity or mislead in any way the source of Content, including using a false email address. We reserve the right to remove or adapt such Content. We have no obligation, however, to review Content.
- 3.13. Prior written consent must be obtained from Us should the user wish to use domain names or web URLs in their username.
- 3.14. The user must not interfere or disrupt the Platform, servers or networks connected to the Service. This includes transmitting any worms, viruses, spyware, malware, or any other code of a destructive or disruptive nature. The user may not inject content or code or otherwise alter or interfere with any element of the Platform or the way any element is displayed in any form.
- 3.15. The user must not create accounts on the Platform through unauthorised means, which includes using any kind of automated device or bots. Accessing the Platform via automated means is prohibited, unless express consent is obtained from Us.
- 3.16. The user may not copy, display, distribute or use individual elements of the Content or remove any watermarking or attributive text generated in connection with the Content.
- 3.17. We encourage users to back up their own Content, as the Platform is not a backup service. Content removed from the Platform may continue to be stored by the Platform including in order to comply with legal obligations. However, Content may not be retrievable without a valid court order. The Platform is also not to be used as a media storage service. The user acknowledges we are not obligated to provide storage space and cannot guarantee the quality of any Content saved on the Platform. The Platform also reserves the right to reduce the size or resolution of any Content in order to make it compatible with the Platform's storage, systems and processes.

#### **4. CONTENT OWNERSHIP AND USE**

- 4.1. We do not claim ownership of any Content posted on or through the Platform. You hereby grant us a perpetual, irrevocable, non-exclusive, fully paid and royalty-free, transferable, sub-licensable, worldwide license to use the Content posted by the user on or through the Platform, subject to the Our Privacy Policy. We and any sub licensees are granted the right to use the name and other information that the Platform posts in connection with such Content.
- 4.2. We are hereby granted the right to use the Content for marketing purposes, as agreed between the Us and the specific talent partner.
- 4.3. The user grants the talent partner a perpetual, nonexclusive, fully paid and royalty free, transferable, sub-licensable, worldwide license to use the Content that the user posts on or through the Platform, subject to the Our Privacy Policy.
- 4.4. The user grants the talent partner a perpetual, nonexclusive, fully paid and royalty free, transferable, sub-licensable, worldwide license to the use the Content the user posts on or through the Platform, subject to the Our Privacy Policy, when posting or creating Content through the Platform in the form of requesting Content from the talent partner. The user grants the talent partner the right to use their name, other information and Content related to the Content.
- 4.5. The user represents and warrants they own or otherwise control all of the rights to the Content they post and that the use of the Content supplied does not violate these terms or the privacy policy and that the use will not cause injury to any third party.
- 4.6. The user represents and warrants that:
  - 4.6.1. You own, or have the right to grant the rights or a license in relation to the Content you post, on or through the Platform;
  - 4.6.2. The Content you post and use does not violate, infringe on or misappropriate the rights of any third party which includes intellectual property rights or privacy rights;
  - 4.6.3. The use of the Content supplied in no way violates these terms or will cause harm to any third party;
  - 4.6.4. You have paid for all fees or monies owed in respect of any Content posted on or through the Platform;
  - 4.6.5. The user indemnifies the Platform against any claims resulting from or in relation to the Content; and
  - 4.6.6. The user has the capacity and legal right to enter into these Terms.
- 4.7. The user agrees that We are not responsible for and in no way endorses Content posted or displayed on the Platform.
- 4.8. The user agrees that We may place advertising and promotions on the Platform or on, about or in conjunction with the user's Content. The manner, mode and extent of such advertising and promotions are subject to change without specific notice. The user acknowledges that We may not always identify paid services, sponsored content or commercial communications.
- 4.9. Our Content, which We own, is protected by copyright, trade mark, patent, trade secret and other laws, and you own and retain all the rights in the Your Content. The compilation of all Content, which includes Our name and logo is also Our exclusive property. The user agrees not to remove, alter or conceal any copyright, trade mark incorporated in or used in conjunction with Our Content. The user must obtain written permission from Us to use, copy or imitate Our trade marks.
- 4.10. Our Content may not be exploited by the user. This includes reproducing, modifying, adapting, creating derivative works, performing, displaying, selling, licensing, distributing, transmitting or broadcasting. Any unauthorised use of text or images may violate South African and international

intellectual property and applicable regulations. We do not warrant or represent that the users use of any Content will not infringe rights of third parties.

- 4.11. We are not liable for any interruption or modification in the Platform, or for any loss of Content. The user acknowledges that the internet may be subject to breaches of security, which could result in the posting, displaying or submission of information or Content may not be secure.
- 4.12. Any information you transmit to the Platform will be treated as non-confidential and non-proprietary and will become Ours, except payment or financial information. This information may be used for any purpose including reproduction, solicitations, disclosure, transmission, publication, broadcast, and posting. We will be free to use any ideas, concepts, know how or techniques contained in any communication the user sends to the Platform for any purpose by any means. This includes developing and marketing products and services using such information.
- 4.13. All Content will be non-confidential and non-proprietary and will not be liable for any use or disclosure of Content, except as otherwise described in Our Privacy Policy.

## **5. LICENCE FOR USER-GENERATED CONTENT**

- 5.1. The user is granted the limited, revocable permission to engage in the following personal uses of Content received using the Platform, that includes the ability to share Content with others, subject to the restriction in these terms:
  - 5.1.1. Sending Content to friends or posting or displaying a copy of Content on a personal, non-commercial website: This is only permitted as long as there is no charge for access to the Content and/or there is no association with advertising in any way;
  - 5.1.2. Posing and/or displaying a copy of the Content on a third-party website that permits users to post content: This is only permitted if allowed in the Terms and if that the third party website does not charge for access to those materials or associate those materials with advertising.
- 5.2. The user agrees they will not post any performance claims about the Platform through that use and that only We may make such statements or promises.
- 5.3. The user agrees they will not imply that they are in any way affiliated with the Platform or that the Platform approves in any way of the user's personal uses of the Content.
- 5.4. The user may not distribute, make use of any license, reproduce or otherwise exploit any part of the Content, except as otherwise permitted by these terms. The Platform reserves the right to revoke any permission granted for any personal use of Content, at any time for any reason, and the user agrees to immediately cease all such use upon notice of revocation and to comply with any terms we post in connection with this form of use.

## **6. PAYMENT**

- 6.1. A method of payment will be provided on the Platform. We will charge the applicable price to the user's payment method. Service fee charges are non-refundable.
- 6.2. The user agrees that they will pay all fees that may be accrued by or in connection with their account. The platform reserves the right in its sole discretion to bill fees and charges to any payment method provided.
- 6.3. The user agrees they are responsible for all data charges incurred through use of the Platform.
- 6.4. The user acknowledges that all information provided to the Platform or any relevant third-party payment processor is accurate, up to date and complete. The user further acknowledges, warrants and represents that they have the legal right to use any credit card(s) or other payment method used.

- 6.5. The user agrees that rates may change at any time and that the Platform does not provide price protection or refunds. All purchase prices include applicable tax in effect at the time of purchase and will be based on the bill-to address provided in the account. No customers are eligible for tax exemptions for purchases made on this Platform.
- 6.6. The user agrees that the Platform may require information provided be verified prior accepting an order.
- 6.7. Transactions are typically in South African Rand (ZAR) unless otherwise specified at point of purchase and will accordingly be affected by the exchange rate applicable to your local currency on the date upon which payment is made.
- 6.8. If a request for Content cannot be or has not been fulfilled within the time frame posted on the listing (excluding Content purchased through an Apple platform), the Platform will make a refund for the initial amount charged for that Content to the requester.
- 6.9. If a request for Content is fulfilled by a talent partner, but We are not successfully paid in full by the requestor due to refunds, charge-backs, disputes, fraud, discounts, promotions, or other events which caused Us not to retain payment (in whole or in part) for the transaction the We will only pay the talent provider based on the amount We successfully collected.
- 6.10. The We reserve the right on decision making in the event of a dispute regarding payment. We will make reasonable efforts to achieve customer satisfaction.

## **7. LIMITATIONS OF LIABILITY**

- 7.1. The user is solely responsible for their interaction with other users of the Platform (online or offline). The user agrees that We are not responsible or liable for the conduct of any user.
- 7.2. The user acknowledges that the platform does not provide refunds for Content that is not delivered due to technical issues, including a user's poor internet connection.
- 7.3. The use indemnifies Us from all claims resulting from the Content supplied by the user.
- 7.4. We take no responsibility and assumes no liability for any content posted by the user or third parties.
- 7.5. We do not have any obligation to pre-screen, monitor, edit or remove any Content. If any Content posted violates these terms, the user may bear legal responsibility for that Content.
- 7.6. There will be times when the Platform may be interrupted including (without limitation), for scheduled maintenance or upgrades, for emergency repairs, or due to failure of telecommunications links and/or equipment.
- 7.7. We cannot provide the user with legal advice or assistance including in regard to the acquisition of intellectual property rights relating to using the Content for commercial purposes as per any agreement between the user and talent partner. An attorney should be consulted as to whether the appropriate rights have been obtained.
- 7.8. We take no responsibility for mobile devices and carriers that are incompatible with the Platform.
- 7.9. We will not be liable for any bank or related fees that result directly or indirectly from any debits to an applicable payment method.
- 7.10. This limitation of liability will apply to the fullest extent permitted by law in the applicable jurisdiction. The user agrees and acknowledges that We will not be responsible or liable for Content or offensive, illegal or defamatory conduct of a third party and that any resulting in risk, damage or harm entirely on the user.

- 7.11. The Platform operates from South Africa. We make no representations or warranties that the Platform will function appropriately or is available in other locations. If a user uses the Platform in another jurisdiction, they do so at their own risk and at their own volition. The user must further comply with the local laws of that jurisdiction.
- 7.12. We are not responsible for failures in the performance of any application or feature on the Platform, including the delivery of digital videos or messages as a result of technical issues. We are not responsible if Content is not delivered because:
- 7.12.1. The recipient declines delivery;
  - 7.12.2. The recipient uses an unsupported carrier;
  - 7.12.3. The recipient's mobile device or computer cannot display video messages;
  - 7.12.4. The recipient's plan does not provide for video messaging;
  - 7.12.5. The recipient's carrier is unable to deliver messages to the recipient;
  - 7.12.6. The recipient's network connection is interrupted during message delivery; or
  - 7.12.7. Either your or the recipient's carrier does not support video messaging.
- 7.13. We do not provide refunds for Content that is not delivered due to technical issues for which We cannot be held responsible.
- 7.14. To the extent permitted by the applicable law, the user agrees to indemnify, defend and hold Us harmless from any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from:
- 7.14.1. The use and access to the Platform;
  - 7.14.2. The user's violation of any third party right including any copyright, intellectual property or privacy right;
  - 7.14.3. The user's violation of these Terms;
  - 7.14.4. Any claim that your Content caused damage to a third party;
  - 7.14.5. Any errors, mistakes, or inaccuracies of content;
  - 7.14.6. Personal injury or property damage, of any nature whatsoever, resulting from your access to and use of our products and services;
  - 7.14.7. Any unauthorized access to or use of our secure servers and/or any and all personal information and/or financial information stored therein;
  - 7.14.8. Any interruption or cessation of transmission on the Platform;
  - 7.14.9. Any bugs, viruses, trojan horses, or the like, which may be transmitted to or through our products and services by any third party.
- 7.15. The user acknowledges and agrees that this indemnification will survive the user's use of the Platform and these terms.

## **8. WARRANTY**

- 8.1. The user agrees that their use of the Platform is at their own risk. To the fullest extent by law, We disclaims all warranties.

- 8.2. We make no warranties or representations about the accuracy or completeness of the Platform's Content or any site linked.
- 8.3. We make no warranties, endorsements, guarantees or assumes responsibility in any way for any Content advertised or offered by a third party through the Platform. We will further not be a party to or in any way be responsible for monitoring any transaction between the user and third-party providers of products or services. The user should always use caution where appropriate.

## **9. BREACH OR CANCELTION**

- 9.1. We reserve the right to modify or terminate the Platform or the user's access to the Platform for any reason, without notice and without liability to user. The user can deactivate their account by sending an email to Us. In the event We terminate the user's access to the Platform or deactivate the user's account, the user's profile, videos, photos, audio, comments and all other data and Content will no longer be accessible through the user's account. However, this Content may persist and appear on the Platform (for example if the Content has been re-shared by others or We use it for marketing purposes). Upon termination all licenses and other rights granted to the user in relation to these terms will immediately cease.
- 9.2. If any of these terms are violated, in Our sole discretion, the user's account will be terminated. If the spirit of these terms are violated or the user creates a risk or possibility of legal exposure for Us, We reserve the right to stop providing all or part of the Platform to the user.
- 9.3. The user acknowledges, understands and agrees that We are not and will not be responsible for the Content posted on the Platform. The Platform is used at the user's own risk. Users must exercise common sense and best judgement when interacting with others, including when content or personal or other information is requested, submitted or posted.
- 9.4. We reserve the right to refuse access to the Platform to anyone for any reason at any time.
- 9.5. We reserve the right, in our sole discretion, to change the Terms at any time. The user agrees that We may notify the user of the new terms by posting them on the Platform, and that their use of the Platform after the effective date of the updated terms constitutes the user's agreement to the updated terms. The updated terms will be effective as of the time of posting, or such later date as may be specified. The updated terms will apply to the user's use of the Platform from that point forward. These terms will govern any dispute arising before the effective date of the updated terms.
- 9.6. We reserve the right to force forfeiture of any username or URL for any reason.
- 9.7. We reserve the right to remove, edit, block or monitor Content or accounts containing Content that We, in Our sole discretion, views as a violation of these Terms
- 9.8. We reserve the right to monitor or become involved in disputes between users. We further reserve the right to monitor, edit or remove any activity or Content posted on the Platform.
- 9.9. We reserve the right to remove any Content from the Platform for any reason without prior notice.

## **10. THIRD PARTY SITES OR LINKS**

- 10.1. There may be links from the Platform or communications you receive from Us, or in images or comments within the Platform, to third party web sites or features. We do not control, maintain or endorse the Content or any resulting correspondence occurring, on these sites. Functionality on the Platform may also permit interactions between the Platform and third-party websites or features. The user utilises this functionality at their own risk.
- 10.2. The user agrees and acknowledges that We are in no way liable or responsible for any such third-party service or feature.

- 10.3. Third party applications may interact with, connect or source information from the user's account on the Platform. By using third party applications, the user agrees that:
  - 10.3.1. The user is consenting to information contained in their profile on the Platform being shared, if the third-party site is used to share information;
  - 10.3.2. The use of third-party websites may result in personal information being publicly disclosed or associated with you; or
  - 10.3.3. The use of third-party websites is at the user's own risk, and the We may not be held liable for any such use.
- 10.4. The Platform may feature links to third party websites, social media platforms or other services (in the form of text links, advertisements, banners, buttons, integrated gift services, digital cash, digital gift certificates, or otherwise.) The user accordingly acknowledges and agrees that the Platform is in no way affiliated with these sites, or responsible or liable for the user's use of any such third-party sites or online features. Further, the use of such sites is subject to the terms and policies of said sites.
- 10.5. The information, content, products or services available through any third-party links are offered by independent entities that have no affiliation to the Platform. The user expressly acknowledges and agrees that that the We are not responsible for or liable to the user in any way for their use or purchases in relation to third party sites.
- 10.6. We will not reimburse or indemnify the user for any losses incurred due to transaction with any third party.
- 10.7. No representations or warranties in relation to any information contained in or at these other sites is made by Us. We are not liable for any damages or injury arising from the content of these other sites and does not endorse the entity or individuals responsible for the other sites.

## **11. CAPACITY AND AGE RESTRICTION**

- 11.1. The user affirms they are at least 18 years of age and are fully able and competent to enter into the terms and conditions, obligations, affirmations, representations and warrants set forth in these Terms, and to abide by and comply with these terms.
- 11.2. If you are under 18 years of age you may not use the Platform.

## **12. GENERAL**

- 12.1. The terms, rights and licenses granted may not be transferred or assigned by the user, but may be assigned by Us without limitation or restriction
- 12.2. The user agrees that these terms will be governed by the laws of South Africa. Any claim or dispute that arises in whole or in part from the Platform shall be decided by a competent court of jurisdiction in the Western Cape.
- 12.3. These terms and the privacy policy and any other legal notice published by Us constitutes the entire agreement between the user and Us.
- 12.4. If any provision of these terms is deemed invalid by a court of competent jurisdiction, the invalidity of that provision will not affect the validity of the remaining provisions of these terms, which will remain in force and effect. A waiver of one clause in these terms shall not be deemed a further or continuing waiver of such term or any other term. Our failure to assert any clause under these Terms shall not constitute a waiver of that right or provision.

## **13. ADDITIONAL TERMS APPLICABLE FOR USERS ON APPLE BRANDED PRODUCTS**

- 13.1. Acknowledgement: Apple is not a party to these Terms. The Parties acknowledge that these Terms are concluded between the Parties only, and not with Apple. The Parties, not Apple, are solely responsible for the Platform, the Services, and the Content thereof.
- 13.2. Scope of License: The license granted to the user in relation to the Platform is limited to a non-transferable license to use the Platform on any Apple-branded Products that the User owns or controls and as permitted by the Usage Rules set forth in the Apple Media Services Terms and Conditions, except that the Platform may be accessed and used by other accounts associated with the purchaser via Family Sharing or volume purchasing.
- 13.3. Maintenance and Support: Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Platform.
- 13.4. Warranty: To the extent not effectively disclaimed, in the event of any failure of the Platform, to conform to any applicable warranty, the user may notify Apple, and Apple will refund the purchase price for the Platform; and, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Platform, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be Our sole responsibility.
- 13.5. Product Claims: The Parties acknowledge that the Parties, not Apple, are responsible for addressing any claims of the user or any third party relating to the Platform or the user's possession and/or use of the Platform, including, but not limited to: (i) product liability claims; (ii) any claim that the Platform fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection, privacy, or similar legislation, including in connection with the Platform's use of the HealthKit and HomeKit frameworks. These Terms do not limit Our liability to the user beyond what is permitted by applicable law.
- 13.6. Intellectual Property Rights: The Parties acknowledge that, in the event of any third-party claim that the Platform or the user's possession and use of the Platform infringes that third party's intellectual property rights, the Parties, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.
- 13.7. Legal Compliance: The user represents and warrants that (i) he/she is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) he/she is not listed on any U.S. Government list of prohibited or restricted parties.
- 13.8. Developer Name and Address: Any user questions, complaints or claims with respect to the Licensed Application should be directed to:
  - 13.8.1. Name: Specno
  - 13.8.2. Address: Centennial Place, West Block, First Floor, Bridge Street, Century City Cape Town 7441
  - 13.8.3. E-mail address: info@specno.com
- 13.9. Third Party Terms of Agreement: The user must comply with applicable third-party terms of agreement when using the Platform.
- 13.10. Third Party Beneficiary: The Parties acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of the Terms, and that, upon the user's acceptance of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce the Terms against the user as a third party beneficiary thereof.

**January 2024**