

1 Introduction and Description of Service

- 1.1 Welcome to the Society of Sound website, primarily a subscription service music download site where downloaders can access and download digital entertainment and find new music ('B&W Service'). The B&W website is operated by B&W Group Ltd with Company number: 00880499 and registered office address, Dale Road, Worthing, West Sussex BN11 2BH ('B&W'). By using the B&W Service you accept and agree to be bound by the following terms and conditions (the 'Terms of Service'). Where applicable under law, these Terms of Service constitute a 'written agreement signed by you.'

2 Changes to B&W Website Prices and the Terms of Service

- 2.1 We reserve the right, at our sole discretion, to change, modify, add, or delete portions of these Terms of Service and the B&W Service at any time with or without further notice. If we do this, we will post the changes to these Terms of Service on this page and will indicate at the top of this page the Terms of Service's updated date. Your continued use of the B&W Service after any such changes constitutes your acceptance of the new Terms of Service. You are responsible for regularly reviewing these Terms of Service so that you remain apprised of any changes.
- 2.2 The various prices for products on the B&W Service and the prices and any conditions for joining the subscription service will be posted on the B&W Society of Sound website. We reserve the right, at our sole discretion, to change any prices for products on the B&W Service. Furthermore while we try to ensure that all prices on the B&W Service are accurate, from time to time errors may occur and if we discover an error in such prices then we shall provide you with the option of reconfirming your order at the correct price or cancelling it. If we are unable to contact you or you do not provide us with your choice of option within a specified time then we shall treat your order as cancelled.

3 Eligibility and Registration

- 3.1 Our policy is to request that "Minors" (the age of Minors is determined by local law where you reside) do not make purchases or engage in other legal acts on the B&W website without the consent and supervision of a parent or legal guardian, unless permitted by applicable law. By registering for the B&W Service, you represent and warrant that you are not a "Minor" acting without the consent and supervision of a parent or legal guardian and that you have the capacity to understand, agree to and comply with these Terms of Service. You agree to provide true, accurate and complete registration information (and update such information as necessary to keep it accurate) to be able to download and preview digital entertainment on the B&W Service ('Downloader'). As part of the registration process, you will be asked to select a username and password and provide a valid email address (your "ID") and you will be responsible for all activities occurring under your username and for keeping your password secure. We may refuse to grant you a username that impersonates someone else, is or may be protected by trademark or proprietary rights law, or is vulgar, offensive or otherwise inappropriate, as determined by us in our sole discretion. B&W will keep and use your registration information in accordance with its privacy policy which forms part of this Agreement and which you can review at **B&W Privacy Policy**.

4 Agreement to Pay

- 4.1 You agree that any submissions you make for electronic purchases through the B&W Service shall constitute your intent and agreement to pay for such purchases and we may charge your credit card for any such purchases. We may post charges individually to your credit card or aggregate charges with other purchases you make on the B&W Service. In any event we will only charge your credit card once we have verified your card details, received credit authorisation and confirmed product availability.
- 4.2 You are solely responsible for keeping your B&W Service account secure and confidential and you will be responsible for any charges that are incurred by any person through your account. All charges will be billed to the credit card details you provide when you first make a purchase or incur a charge.
- 4.3 If you enter into a trial subscription of the B&W Service you will not be required to provide your credit card details and will not be charged during such trial subscription.

5 Downloader Conduct and Appropriate Content

- 5.1 The B&W Service is made available for your personal use only. You may not use the B&W Service for any illegal or unauthorized purpose. International users agree to comply with all local rules regarding online conduct and acceptable con-

tent, including laws regulating the export of data from the United Kingdom or your country of residence. You are solely responsible for your conduct and any data, text, information, graphics, photos, profiles, audio and video clips, links and other content ('Materials') that you submit, post, and display on the B&W Service.

- 5.2 We may, but shall have no obligation to, remove Materials that we determine in our sole discretion are unlawful, fraudulent, threatening, libellous, defamatory, obscene or otherwise objectionable, or infringes or violates any party's intellectual property or other proprietary rights or these Terms of Service. Further, under no circumstances does B&W have any obligation to check the accuracy or truthfulness of any Materials, nor to monitor any Downloader's use of the B&W Service. B&W cannot and will not be liable for any loss or damage arising from your failure to comply with this paragraph.

6 Conditions for Use

- 6.1 By using the B&W Service, you acknowledge and agree that you have no right to provide any content obtained through the B&W Service to any other party and you may not authorize, encourage or allow any audio or audiovisual content or any other content obtained by you through the B&W Service to be reproduced, modified, displayed, performed, transferred, distributed, communicated to the public or otherwise used by anyone else and you agree to advise us promptly of any such unauthorised use(s).
- 6.2 If any promotional audio or audiovisual content ("Sample") is available on the B&W Service on a no cost basis to you, then you are entitled to play such Samples as many times as you wish whilst you are connected to the B&W Service subject to you not capturing, copying or downloading any such Sample (unless otherwise authorised by us).
- 6.3 You may only make copies of any file obtained through the B&W Service for your own personal use and subject to this you may keep such file permanently and may (1) save such file to the hard drives of up to three (3) your personal computers and play back at any time, (2) burn to a CD and/or (3) transfer to up to three (3) compatible portable devices. If you have purchased any content from the B&W Service, it is your responsibility not to lose, destroy or damage such content. We shall have no liability to you in the event of any such loss, destruction, or damage.
- 6.4 The burning or transfer permissions provided for herein are the sole rights you have of copying any content obtained from the B&W Service but in any event shall not operate to waive or limit any rights of the copyright owners in such content or any works embodied in them.
- 6.5 You agree to abide by all applicable local, state, national and international laws and regulations and are solely responsible for all acts or omissions that occur under your account made by you including the content of your transmissions through the B&W Service. By way of example, and not as a limitation, you agree NOT to:
- (a) Defame, abuse, harass, stalk, threaten or otherwise violate the rights (such as rights of privacy and publicity) of others.
 - (b) Use other Downloaders' personal data for purposes other than establishing contact that is reasonably expected to be welcomed by such other Downloaders.
 - (c) Submit Materials that are unlawful or promote or encourage illegal activity or that would violate the property rights of others.
 - (d) Submit Materials of any third party without such third party's prior written consent, or Materials that falsely express or imply that such Materials are sponsored or endorsed by B&W.
 - (e) Create a false or misleading identity of, (including, but not limited to), a B&W employee, or falsely state or otherwise misrepresent your affiliation with a person or entity, for the purpose of misleading others as to the identity of the sender or the origin of a message or to harvest or otherwise collect information about others.
 - (f) Transmit, email or post any material that contains in any form software viruses or such programs as including but not limited to, Trojan horses, worms, time bombs, cancel-bots, computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment.

- (g) Use the B&W Service in any unlawful manner or in any other manner that could damage, disable, overburden or impair the B&W website.
- (h) Attempt to gain unauthorized access to the B&W Service, other accounts, computer systems or networks connected to the B&W Service, through password mining or any other means.
- (i) Modify, adapt, translate, or reverse engineer any portion of the B&W Service, or use any robot, spider, site search/retrieval application, or other device to retrieve or index any portion of the B&W Service.
- (j) Reformat or frame any portion of the web pages that are part of the B&W Service.
- (k) Disseminate content that infringes any patent, trademark, trade secret, copyright, rights of privacy or publicity, or other proprietary right of any party or infringes any intellectual property law or any other applicable law.
- (l) Remove any copyright, trademark or other proprietary rights notices contained in or on the B&W Service.
- (m) Disseminate any unsolicited or unauthorized advertising, promotional materials, 'junk mail', 'spam', 'chain letters', 'pyramid schemes', or any other form of such solicitation.
- (n) Interfere with another Downloader's use and enjoyment of the B&W Service.
- (o) Harvest or collect email addresses or other contact information of Downloaders, including user-names, from the B&W website by electronic or other means.

6.6 Because the B&W Service is designed for personal downloading and use, you are not allowed to use any automated system for the selection or downloading of files. B&W reserves the right to immediately and permanently terminate your access to the Service if B&W believes that you are violating such limitation.

6.7 You represent and warrant that you own or otherwise control all of the rights to any Materials that you post to the B&W website and you agree to pay for all royalties, fees, and any other monies owing any person by reason of any Materials posted by you to or through the B&W Service.

6.8 You may not use or allow others to use, your IDs and/or the B&W Service, directly or indirectly, nor upload, distribute, transmit, communicate, link to, publish or access any data, information or material through, using or otherwise in connection with the B&W Service, that:

- (a) is libellous, defamatory, vulgar or obscene, pornographic, sexually offensive or explicit, harmful or harassing, threatening, hateful, racially, culturally, ethnically or otherwise objectionable or offensive, discriminatory or abusive;
- (b) violates any law or regulation or the rights of others;
- (c) causes duress, distress or discomfort to another or is likely to deter or discourage others from using the B&W Service; and/or
- (d) infringes any intellectual property, proprietary rights or confidentiality obligations of others.

You are solely responsible and liable for any such activity, behaviour, use and conduct. We have no liability and you bear the sole and exclusive risk associated with use of or reliance on the accuracy, quality, completeness, reliability or usefulness of any data, information or material in connection with your IDs.

- 6.9 You also may not use, nor allow others to use, your ID(s), the B&W Service, directly or indirectly, to:
- (a) attempt to or actually disrupt, impair or interfere with, alter or modify the B&W Service or any information, data or materials posted and/or displayed by us or anyone else;
 - (b) act in a way that affects or reflects negatively on us, the B&W Service, or anyone else;
 - (c) collect or attempt to collect any information from others including, without limitation, personally identifiable information, without such party's prior consent. You agree to comply with all applicable laws and regulations which are applicable to your use of the B&W Service.
- 6.10 You are prohibited from violating or attempting to violate the security of the B&W Service, including, without limitation:
- (a) accessing data not intended for you or logging onto a processor, communications or access device or account which you are not authorised to access;
 - (b) attempting to probe, scan or test the vulnerability of the B&W Service or to breach security or authentication measures, regardless of your motives or intent;
 - (c) attempting to interfere with or disrupt the B&W Service or service to any user, processor, host or network, including, without limitation, by submitting a virus, worm or Trojan horse; or
 - (d) sending unsolicited e-mail or other information, including promotions or advertising. Violations of system or network security or this Agreement may result in civil or criminal liability. We have the right to investigate occurrences, which may involve such violations and we may involve, provide information to and cooperate with, law enforcement authorities in prosecuting users who are involved in such violations.
 - (e) by attempting (or encouraging others) to capture, copy, publicly perform, communicate to the public or download a streamed track.
- 6.11 You accept that it is your responsibility to install appropriate anti-virus and security software on your computer hardware to protect against a computer security threat which may be transferred to your computer hardware through the use of the B&W Service and/or the B&W website (and any third party software and/or hardware used in order to access the B&W service and/or B&W website) including but not limited to viruses, Trojan horses, time bombs or any other form of programming routine designed to damage or otherwise impair a computer's functionality or operation.
- 6.12 B&W derives its rights to use the musical tracks offered on the B&W Service from artists and record labels for fixed periods of time and, sometimes, for limited territories (B&W Licence Restrictions). B&W is sometimes required to pull certain tracks off the B&W Service for legal reasons. Therefore, certain tracks offered or advertised by B&W may not be available when you try to download, and not all tracks are available in all countries. You are prohibited from violating or attempting to violate any B&W Licence Restrictions either by using international proxies or any other technological measures or otherwise violating or attempting to violate any territorial limitations or other conditions of use or access of tracks.

7 Promotions and Gift Certificates

- 7.1 If you have received a valid promotional code for our subscription service you should follow the instructions that you have received with such promotion to redeem your credits.
- 7.2 If you have properly input a valid promotional offer, you will be able to access the applicable B&W Music Club subscription service membership).
- 7.3 Our promotional offers are subject to any expiry dates that may be communicated with the offer and are not redeemable for cash (and any unused portion may not be returned for cash or any other value).
- 7.4 We reserve the right in exceptional circumstances to alter the availability or duration of, or to terminate at any time, any promotion.

- 7.5 We have the right to request alternative forms of payment and/or close customer accounts if a fraudulently obtained promotional offer is presented.

8 Service Suspensions

- 8.1 B&W will make reasonable efforts to keep the B&W website operational. However, certain technical difficulties, routine site maintenance/upgrades and any other events outside the control of B&W may, from time to time, result in temporary service interruptions. B&W also reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, functions of the B&W Service with or without notice. You agree that B&W shall not be liable to you or to any third party for any of the direct or indirect consequences of any modification, suspension, discontinuance of or interruption to the B&W Service.

9 Proprietary Rights

- 9.1 For the avoidance of doubt B&W does not claim any ownership rights in any Materials that you submit, post, or display on or through the B&W Services or on the B&W website unless otherwise agreed in writing. After submitting, posting or displaying Materials on or through the B&W Services or on the B&W website, you will continue to retain all ownership rights in such Materials, and you will continue to have the right to use your Materials in any way you choose. By submitting, posting or displaying any Materials on or through the B&W Service you will have granted to B&W a limited license to use, modify, publicly perform, stream, publicly display, reproduce, and distribute such Materials.
- 9.2 B&W and its affiliates, business partners and licensors own and retain all rights in the B&W website and B&W Service, which contain proprietary and confidential information that is protected by applicable intellectual property and other laws, including without limitation all (1) text, (2) software, (3) photographs, (4) graphics, (5) albums, tracks or any other audio or audio visual content (6) page layout, and (7) design presented through and as part of the B&W Service by B&W. Except as expressly authorized by B&W you may not copy, modify, publish, transmit, distribute, perform, display or sell any of B&W's proprietary information. You agree that the content rights holders that license their musical or other content to us for use in the B&W Service are intended third party beneficiaries under these Terms of Service with the right to enforce the provisions that directly concern their content.

10 Refunds, Cancellation and Product Availability

- 10.1 Please note that we are unable to accept cancellation of any orders for paid for digital downloads or other digital products or electronic gift certificates, nor offer any refund for such orders, once downloading has commenced. All such sales are final and a sale is confirmed immediately when you begin to download paid for content from the B&W website and you will have no right to cancel your contract once the sale commences. The B&W Service in most cases enables you to preview Samples and this ability to preview content prior to purchase will assist in your decision making prior to purchase.
- 10.2 On occasion, technical problems or expiry of our right to make certain products available on the B&W Service may delay or prevent delivery of purchased product to you and you should note that receipt of your order or request does not guarantee that we can supply the selected products to you. All of the products on the B&W Service are subject to availability and we therefore reserve our right to limit the supply and quantity of products purchased through the B&W Service or to supply only part of an order or to stagger delivery of any orders. Where any of these events occur, we will inform you as soon as possible. Your sole remedy with respect to any products that are not delivered will be either replacement of such products or refund of the price paid for such product at our discretion.

11 Privacy Policy

We take your privacy very seriously and collection and use of personal information is governed by our Privacy Policy.

Click here to review the B&W Privacy Policy.

12 Copyright and Intellectual Property

12.1 Website Content

The B&W website and the underlying computer code used by us to design, operate and maintain the website and all

content and material contained within or available on the website is protected by rights of copyright, trademarks, service marks, patents, database rights, domain name rights, trade secrets and/or other proprietary intellectual property rights and laws throughout the world. Unless expressly authorised by us, you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from materials or content available on the B&W website. Notwithstanding the above, you may use the content and materials on the B&W website in the course of your normal, personal, non-commercial use of the B&W website as per the terms hereof.

12.2 Copyright Complaints

We respect the ownership of copyright and other intellectual property rights of others and we have made all reasonable endeavours to acquire the consent of the copyright owners to the content provided on the B&W website. We will upon notice of any actual or potential infringement of copyright in such content either seek to acquire the consent of the copyright owner to use such content or, if this is not possible, immediately remove the infringing or potentially infringing content from the B&W website.

If you believe that your work or the work of a third party has been used on the B&W website in such a way that constitutes copyright infringement, you can **contact us via the web** or write to us at Bowers & Wilkins, Dale Road, Worthing, West Sussex, BN11 2BH and provide us with the written information specified below:

- An electronic or physical signature of the person authorised to act on behalf of the owner of the copyright protected content;
- A description of the copyrighted protected content that you believe has been infringed upon;
- A full description of where on the B&W website this content can be found (including the relevant URL and/ or screen shot);
- Your address, telephone number, and e-mail address;
- A written statement by you that in your reasonable belief the use of the content is not authorised by the copyright owner, its agent, or the law;
- A written statement by you that the information contained in this notice, and any other information we may reasonably require from you in order to enable us to resolve the issue of copyright infringement (whether actual or alleged) is accurate and that you are either the copyright owner or authorised to act on the copyright owner's behalf.

13 Internet Access

13.1 B&W shall not be responsible for any connection or access to the B&W website by you or the quality of the transmission of any information passing between you and the website. You will be responsible for providing your own communications equipment to access the B&W website via the Internet, and the Internet access charges thereon.

14 Termination of the B&W Service

14.1 These Terms of Service will apply to your use of the B&W Service. At any time, you can terminate your account which will remove your profile and other personal information from view by **contacting us via the web**. We may terminate your downloader status immediately at any time, for any reason. Once your downloader status terminates, you will have no right to use the B&W Service. Our proprietary rights, disclaimer of warranties, indemnities, limitations of liability and miscellaneous provisions shall survive any termination of your downloader status.

14.2 B&W may also, in its sole discretion and at any time, discontinue temporarily or permanently providing the B&W Service, or any part thereof, with or without notice. You agree that any termination of access to the B&W Service under any provision of the Terms of Service may be effected without notice, and acknowledge and agree that B&W may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or the B&W Service. Where possible, B&W will use reasonable efforts to give Downloaders fair notice of termination or suspension of their access to the B&W Service. Further you agree that B&W shall not be liable to you

or any third party for any termination or suspension of access to the B&W Service or modification of the B&W Service save that if B&W discontinues the B&W Service and terminates your access to it at its own discretion and not due to any breaches of these Terms of Service by you, then you will be entitled to a pro rata refund based on the balance of the subscription service payments actually received by us and not utilised by you through purchases on the date of termination.

15 Disclaimer of Warranties

- 15.1 B&W, and its affiliates, licensors, partners, suppliers, employees, consultants and agents ('the B&W Family') disclaim any and all responsibility or liability for the accuracy, content, completeness, legality, reliability, or operability or availability of information or Materials displayed on the B&W Service.
- 15.2 The B&W Family further expressly disclaims (1) that the B&W Service will meet your requirements and will be uninterrupted, error-free, timely, or secure, (2) that defects or errors will be corrected, (3) that the B&W Service or the server that makes it available are free of viruses or other harmful components, and (4) that the use of or the results of the use of the B&W Service or the content made available as part of the B&W Service will be correct, accurate, timely, or otherwise reliable.
- 15.3 B&W Family expressly disclaims any and all responsibility and liability for the conduct of any other Downloader, and expressly disclaims that any content and Materials of the B&W Service input by other Downloaders is correct or accurate.
- 15.4 THE B&W SERVICE, AND ALL MATERIALS, INFORMATION (INCLUDING, WITHOUT LIMITATION, TEXT, GRAPHICS, LINKS OR ANY INFORMATION OR MATERIALS OBTAINED OR ACCESSED THROUGH THE B&W SERVICES), PRODUCTS AND SERVICES INCLUDED THEREIN ARE PROVIDED 'AS IS,' 'WITH ALL FAULTS', 'AS AVAILABLE', WITH NO WARRANTIES WHATSOEVER. B&W EXPRESSLY DISCLAIMS TO THE FULLEST EXTENT PERMITTED BY LAW ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, FREEDOM FROM COMPUTER VIRUS, TITLE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS. SOME TERRITORIES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES, SO THE ABOVE DISCLAIMERS AND EXCLUSIONS MAY NOT APPLY TO YOU.
- 15.5 YOU AGREE THAT YOUR USE OF THE B&W SERVICE IS ENTIRELY AT YOUR OWN RISK.

16 Hold Harmless and Indemnity

- 16.1 You agree to hold harmless and indemnify, and at B&W's request defend, B&W, its parents, subsidiaries, and affiliates, and their respective owners, officers, managers, agents, and employees, from and against any third party claim arising from or in any way related to your use of or conduct on the B&W Service, including any liability or expense arising from all claims, liabilities, losses, damages (actual and consequential), suits, judgments, litigation costs, expenses, and attorneys' fees, of every kind and nature. In such a case, B&W will provide you with written notice of such claim, suit or action.

17 Limitation of Liability

- 17.1 YOUR USE OF THE B&W SERVICE IS AT YOUR SOLE RISK. UNDER NO CIRCUMSTANCES WILL B&W, ITS PARENTS, SUBSIDIARIES, AND AFFILIATES, AND THEIR RESPECTIVE OWNERS, OFFICERS, MANAGERS, DOWNLOADERS, AGENTS, AND EMPLOYEES, BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OR LOSSES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES), WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH USE OF, OR INABILITY TO USE, THE B&W SERVICE, WHETHER OR NOT B&W HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSS. SUCH LIMITATION OF LIABILITY SHALL APPLY (I) WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF AND RELIANCE ON THE B&W SERVICE, FROM INABILITY TO USE THE B&W SERVICE, OR FROM THE INTERRUPTION, SUSPENSION, OR TERMINATION OF THE B&W SERVICE (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES), AND (II) NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND TO THE FULLEST EXTENT PERMITTED BY LAW. IF YOU ARE DISSATISFIED WITH THE B&W SERVICE OR ANY PART OF THE B&W SERVICE YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE B&W SERVICE AND ITS RELATED WEBSITE. SOME TERRITORIES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU. UNDER NO CIRCUMSTANCES SHALL B&W BE

LIABLE TO YOU FOR ANY AMOUNT EXCEEDING ONE HUNDRED POUNDS £100.00).

18 Notices

18.1 B&W may provide you with notices regarding the B&W Service or these Terms of B&W Service by regular mail, email, or postings to this Web site.

19 Legal Compliance

19.1 You shall comply with all applicable domestic and international laws, statutes, ordinances, regulations, contracts and applicable licenses regarding your use of the B&W Services.

20 Miscellaneous

20.1 These Terms of Service will be governed by and construed in accordance with the laws of England and Wales, without giving effect to its conflict of laws provisions or your actual state or country of residence. The parties agree to submit to the exclusive jurisdiction of the courts located in London, England.

20.2 If links to third party websites are located on the B&W Service then you agree that we shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with your use of or in reliance on any content of any such website or goods or services available through any such site.

20.3 If for any reason a court of competent jurisdiction finds any provision or portion of these Terms of Service to be unenforceable, the remainder of the Terms of Service will continue in full force and effect.

20.4 You shall not assign these Terms of Service or assign any rights or delegate any obligations hereunder, in whole or in part, whether voluntarily or by operation of law, without our prior written consent. Any such purported assignment or delegation will be null and void and of no force or effect.

20.5 Without limiting the foregoing, under no circumstances shall B&W be held liable for any delay or failure in performance resulting directly or indirectly from acts of nature, forces, or causes beyond its reasonable control, including, without limitation, Internet failures, computer equipment failures, telecommunication equipment failures, other equipment failures, electrical power failures, strikes, labour disputes, riots, insurrections, civil disturbances, shortages of labour or materials, fires, floods, storms, explosions, acts of God, war, governmental actions, orders of domestic or foreign courts or tribunals, non-performance of third parties, or loss of or fluctuations in heat, light, or air conditioning.

20.6 These Terms of Service constitute the entire agreement between you and B&W with respect to the subject matter hereof and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter.

20.7 Any waiver of any provision of these Terms of Service by a party will be effective only if in writing and signed by a party.