

# **Music Boomerang**

## **Terms of Service Agreement**

***Acceptance of Terms.*** Music Boomerang, Inc. (“Music Boomerang”, “We”, “Us”, “Our”) is a music trading service that operates the Web property musicboomerang.com (“Site”), which is an online music trading marketplace that fosters and facilitates trading, bartering, exchanging, and purchasing recorded music in the form of compact disc and vinyl media (“Music”). It includes the functionality for users to post Music available for trade, barter, exchange, and/or purchase; search for Music available for trade, barter, exchange and/or purchase; create and manage a local directory page containing certain personal information and a catalogue of Music information; and participate in community discussions (referred to hereafter as "Content and Services").

These Terms of Service (“TOS”) govern the Site and apply to all users, customers, consumers, or participants (collectively, “Customers”; individually, “You” or “Your”) as of the date on which each Customer first accesses musicboomerang.com. These TOS govern all use of musicboomerang.com, including the purchase of products from the Site.

Please note that Your use of Our Site, including placing and continuing to maintain or place information on Your Site home page, constitutes Your acknowledgment that You have read, understood and agreed to follow and be bound by these TOS in any and all dealings, transactions and interactions, including, but not limited to, trading, bartering, exchanging and/or purchasing Music; or emailing, texting, messaging and/or writing to Us and/or other Customers.

These TOS supersede any written, electronic, or oral communication You may have had with Music Boomerang or any agent or representative thereof, and constitutes the complete and total agreement between the parties. In the event that any provision in these TOS is determined to be invalid or unenforceable, all other provisions shall remain in full force and effect, and said provision shall be reformed only to the extent necessary to make it enforceable.

Music Boomerang reserves the right to change these TOS at any time and for any reason without prior notice and post them at musicboomerang.com. Your use of our Site following any such change constitutes your agreement to follow and be bound by the terms as changed. ***Music Boomerang last updated these TOS on March 5, 2008.***

***User Conduct.*** You are entirely responsible for and liable for every action, interaction, transaction, communication, post or other communication you make to or within musicboomerang.com. Listed below are some, though not all, violations which may result in Music Boomerang deleting your entries and/or suspending or deleting your account. You agree not to do any of the following:

- Harass, threaten, embarrass or slander any person or entity;
- Post, upload, link, text, message or otherwise communicate or transmit to or via musicboomerang.com any information, data, text, files, links, software, chat, communication or other materials that musicboomerang.com, in its absolute and exclusive discretion and judgment, considers to be unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, profane, pornographic, lewd, licentious, obscene, libelous, slanderous, hateful, racially, ethnically or otherwise objectionable;
- Impersonate in musicboomerang.com any business or person, living or dead, famous or not;
- Intentionally or unintentionally violate any applicable local, state, national or international law, including but not limited to any regulations having the force of law while using or accessing musicboomerang.com, or in connection with your use of musicboomerang.com in any manner.

Any conduct that constitutes harassment, fraud, stalking, abuse, or a violation of federal export restriction in connection with use of Music Boomerang services or products is strictly prohibited. Using musicboomerang.com to solicit the performance of any illegal activity also is strictly prohibited, even if the activity itself is not performed. In addition, knowingly receiving or downloading a file that cannot be distributed legally, even without the act of distribution, is strictly prohibited.

***Music Copyright Infringement Restrictions.*** Music Boomerang expressly prohibits You from using its Services, including the Content and Services of its Site to trade, barter, exchange, sell or engage in any transaction involving the disposition of Music to which You do not have valid personal use license. You should not retain any copies, in any form whatsoever, including digital form, of any Music that you trade, barter, exchange, sell or otherwise dispose of through the Site. Making and retaining unauthorized copies of Music is a violation of the law, no matter how many copies You make. If You copy, distribute or use Music in ways that Your personal use license does not allow, You are violating federal copyright law. If caught with pirated Music, You may be liable under both civil and criminal law.

In compliance with the Digital Millennium Copyright Act (the "DMCA"), please send DMCA notifications of claimed copyright infringements to: Music Boomerang, Colorado Springs, Colorado. Music Boomerang will cooperate fully with any civil and/or criminal litigation arising from the violation of this policy.

***Promotional Material Restrictions.*** Music Boomerang expressly prohibits You from using its Services, including the Content and Services of its Site to trade, barter, exchange, sell or engage in any transaction involving the disposition of Music that is stamped, imprinted or otherwise identified as "Promotional", "For Promotion Only", "Advance Copy" or such similar identification.

**Content Restrictions.** You expressly acknowledge and agree that you, at all times, will use musicboomerang.com at your own risk. Music Boomerang shall not be responsible to you for any Content found on musicboomerang.com.

You further acknowledge and agree that You are entirely responsible and liable for the information, images, photos, flags, tags, feedback comments, video, sound, links, messages and other information or data you post on the Site.

Music Boomerang reserves the absolute and exclusive right to remove any Content that does not comply with the TOS, but is not obligated to remove any Content. Further, Music Boomerang may limit the duration and size of posts including the physical size of photos and posts.

The following are examples of the types of Content that is unacceptable and subject to removal:

- **Schemes.** Do not post ads, events, discussions, directory listings or any other Content that contains or links to multi-level-marketing programs, affiliate marketing programs, get-rich-quick programs, bulk email programs, chain letters, or link referral programs. Music Boomerang will remove these entries immediately when discovered.
- **Non-Child Friendly.** Music Boomerang does not review or pre-screen all users, nor does it review or pre-screen entries or other Content posted to musicboomerang.com. By posting Content via the Service, you agree to keep it acceptable for persons under the age of eighteen (18). Musicboomerang.com makes no warranties or guarantees that its Content will be acceptable for persons under the age of eighteen (18). We require that users of the Service must be at least 18 years of age. We will remove posts from people under the age of eighteen (18). If you are under the age of eighteen (18), please seek the assistance of a parent or guardian.
- **Child Pornography on the Internet.** Music Boomerang will cooperate fully with any criminal investigation into a Customer's violation of the Child Protection Act of 1984 concerning child pornography.

According to the Child Protection Act, child pornography includes photographs, films, video or any other type of visual presentation that shows a person who is, or is depicted as being, under the age of eighteen (18) years and is engaged in, or is depicted as engaged in, explicit sexual activity, or the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen (18) years or any written material or visual representation that advocates or counsels sexual activity with a person under the age of eighteen (18) years.

Violations of the Child Protection Act may be reported to the U.S. Customs Agency at 1-800-BEALERT.

- ***Notice of Claims of Infringement.*** You may not post Content that conflicts with the intellectual property rights of others. If you suspect that your intellectual property rights have been infringed upon, please contact us immediately and report the abuse. musicboomerang.com management will remove any posts that infringe on someone else's intellectual property rights, subject, but not limited to, infringements or other violations of the Digital Millennium Copyright Act (DMCA).
- ***Unsolicited Commercial Email/Unsolicited Bulk Email (UCE/UBE).*** Unsolicited commercial email (UCE) is defined by Music Boomerang as any electronic communication (e.g., email, ICQ, IRC, Instant Messenger, etc.) sent for purposes of distributing commercial information of any kind, soliciting the purchase or sale of products or services or soliciting any transfer of funds to a recipient who has not agreed to receive such communication.

Unsolicited bulk e-mail (UBE) is defined by Music Boomerang as any electronic communication (e.g., email, ICQ, IRC, Instant Messenger, etc.) to multiple recipients who have not agreed to receive such communication.

Use of the Music Boomerang network, servers or Services to transmit any unsolicited commercial or unsolicited bulk email is expressly prohibited. Music Boomerang also prohibits the sending of any fraudulent, malicious, harassing, false or misleading electronic communications, including, without limitation, chain letters, pyramid schemes, or emails with forged headers.

Violation of Music Boomerang's UCE/UBE policy may be reported to [webmaster@musicboomerang.com](mailto:webmaster@musicboomerang.com).

Music Boomerang reserves the absolute and exclusive right to determine what constitutes a violation of the User Conduct standard. Further, Music Boomerang reserves the absolute and exclusive authority to take any and all actions it, in its sole discretion, determines necessary to address such a violation, up to and including immediate and permanent termination of Your account.

***Use Restrictions.*** You acknowledge and agree that You will not: (a) sell, lease, license or sublicense the musicboomerang.com Content or Services; (b) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the musicboomerang.com Content or Services in any way for any reason; (c) provide, disclose, divulge or make available to, or permit use of the musicboomerang.com Content or Services by, any third party; (d) copy or reproduce all or any part of the musicboomerang.com Content or Services (except as expressly provided for herein); (e) interfere, or attempt to interfere, with the musicboomerang.com Content or Services in any way; (f) engage in spamming, mail bombing, spoofing or any other fraudulent, illegal

or unauthorized use of the musicboomerang.com Content or Services; (g) knowingly introduce into, or transmit through, the musicboomerang.com Content or Services any virus, worm, trap door, back door, timer, clock, counter or other limiting routine, instruction or design; (h) remove, obscure or alter any copyright notice, trademarks or other proprietary rights notices affixed to or contained within the musicboomerang.com Content or Services; or (i) engage in or allow any action involving the musicboomerang.com Content or Services that is inconsistent with the TOS.

**Account.** You may have only one (1) account on musicboomerang.com. Your account may be canceled by the musicboomerang.com management at any time for any reason.

**Purchase Limits.** We may, at our own discretion, limit or cancel quantities purchased per person, per household or per order. We may also reserve the right to refuse any order You place with Us. These restrictions may include orders placed by or under the same customer account, the same credit card, and/or orders that use the same billing and/or shipping address. In the event We change an order, We will attempt to notify You by contacting the email and/or billing address/phone number provided at the time of the order. We reserve the absolute and exclusive right to limit or prohibit sales to dealers, resellers or distributors.

**Account-Holder Identification Information.** You agree that You are the person legally responsible for all of Your access to and use of Music Boomerang and Your musicboomerang.com account. You acknowledge and declare that You are at least 18 years of age. If You are under 18 years of age, You must have parental consent in order to register, and the account must be ordered by a parent or guardian, in his or her own name. You agree to supply Music Boomerang with a current and truthful name, email address, postal address and telephone number for Our records. You acknowledge and agree that You have an ongoing affirmative duty to keep this information current, and that We shall not be responsible for any damages, loss or harm of any and all kind that may result from Your breach of this duty to keep Your account information current.

You further acknowledge and agree that You are an authorized user of any credit card for which You Supply Us the account number and any other information, and You understand and agree that We have an obligation to investigate fully any possible fraudulent credit card use.

**Account Access Rights.** You agree to use reasonable efforts to: (a) be responsible for the security and/or use of Your logon identifier (“password”); (b) not disclose Your password to any person or entity; (c) not permit any other person or entity to use Your password; and (d) use the Music Boomerang Content and Services, including musicboomerang.com in accordance with the TOS. You will be responsible for all of Your obligations under the TOS, including any and all costs and expenses incurred through Your Music Boomerang account. Music Boomerang reserves the absolute and exclusive right to deny, suspend or revoke access to the Music Boomerang Content and Services, including your Music Boomerang account, in whole or in part, if Music Boomerang believes You

or some third party is using or accessing the Music Boomerang Content and Services in a manner inconsistent with this section of the TOS.

***Payments.*** You agree to supply appropriate payment for the goods and services You receive from Music Boomerang. You agree to have Your credit card on file with Music Boomerang billed for any trades transacted via your musicboomerang.com account, as well as any purchase made via the musicboomerang.com store. You further agree to pay for all such charges on a recurring basis. You agree that until and unless you notify Music Boomerang of your desire to cancel your account, you are responsible for, and will remit payment for, any or all goods and/or services you receive through your musicboomerang.com account or via the musicboomerang.com store, up through the time Music Boomerang cancels your account.

***Late Payments.*** If Your credit card is declined for any reason, or you cancel your credit card before making a payment, and You fail to pay any charges and/or fees when due, Music Boomerang will have the right to: (a) assess late charges in an amount equal to the greater of five percent (5%) per month or the maximum allowable under applicable law; and/or (b) suspend access to any or all of the Music Boomerang Services and/or performance of the services provided by Music Boomerang hereunder and/or terminate your Music Boomerang Account.

Any such suspension or termination shall not relieve You from your responsibility to pay any outstanding payments and fees, plus interest and/or late charges. You will be responsible for any costs associated with collecting such late or missed payments and fees including, without limitation, legal costs, attorneys' fees, court costs and collection agency fees.

***Refund and Disputes.*** You are solely responsible for reporting any and all overcharges or billing disputes to Music Boomerang within sixty (60) days of the time the dispute occurs. Failure to provide this timely notice will result in full and complete waiver of any claim of right to any amount in dispute.

***Product Information.*** Most products displayed for sale at the Site are available while supplies last. The prices displayed at the Site are quoted in U.S. Dollars and are valid and effective only in the United States.

***Inaccuracy Disclaimer.*** From time to time there may be information on musicboomerang.com that contains typographical errors, inaccuracies, or omissions that may relate to product descriptions, pricing, and availability. We reserve the right to correct any errors, inaccuracies or omissions and to change or update information at any time without prior notice (including after You have submitted your order). We apologize for any inconvenience this may cause You. If You are not completely satisfied with Your musicboomerang.com purchase, You may return it with Your invoice to Music Boomerang by U.S. mail.

***Refusal or Discontinuation of Service.*** Music Boomerang reserves absolute and exclusive authority, right and discretion to refuse or discontinue continued use of any Customer's account and/or other use of Music Boomerang Services, including using and/or accessing musicboomerang.com. Music Boomerang may deny You access to all or part of its Services, including use of musicboomerang.com, with or without notice and for any reason, including, but not limited to, conduct or activities that Music Boomerang in its absolute and exclusive discretion and judgment believes violates any of the TOS. Music Boomerang shall have no responsibility to notify any third-party providers of services, merchandise, or information, nor any responsibility for any consequences resulting from such refusal, discontinuance or lack of notification thereof. You agree that Music Boomerang has the absolute and exclusive right to monitor the service electronically from time to time and to disclose any information as necessary to satisfy the law, or to protect itself or its customers.

***Account Cancellation Procedure.*** To cancel your Music Boomerang account, You must send an email to Music Boomerang Support and request account cancellation. A Music Boomerang representative will verify that You wish to terminate Your account and will issue You a cancellation confirmation number. The cancellation confirmation number will serve as Your proof that Music Boomerang has cancelled Your account. You acknowledge and agree that You are responsible for paying all Music Boomerang charges up to the time Music Boomerang issues Your account cancellation number.

***Non-Exclusivity.*** You acknowledge and agree that you understand that Music Boomerang will providing access to and use of Music Boomerang Services, including musicboomerang.com Content and Services, to multiple Customers simultaneously, and that Music Boomerang, therefore, provides all Services, including musicboomerang.com Content and Services non-exclusively.

***Availability.*** Music Boomerang shall use commercially reasonable efforts to keep the musicboomerang.com Content and Services available on a 24-hour, 7-day basis, subject to scheduled downtime for maintenance purposes, unscheduled maintenance and systems outages. You acknowledge and agree that, because the Internet is neither owned nor controlled by any one entity, Music Boomerang cannot and does not guarantee that any given User will be able to access Music Boomerang Services, including musicboomerang.com Content or Services, at all times, or at any given time, and Music Boomerang shall not be liable to You for inaccessibility to Music Boomerang Services, including musicboomerang.com Content or Services.

***Music Boomerang's Licensors.*** You acknowledge and agree that certain Music Boomerang Services, including musicboomerang.com Content and Services, are provided, in some cases, by third-parties to Music Boomerang, ("Third Parties"). For all Music Boomerang Services, including musicboomerang.com Content or Services, provided by Third Parties pursuant to license, You acknowledge and agree with and shall abide by all Third Parties' license terms and conditions, if any. Any such additional terms and conditions are in addition to and supplement the terms and conditions provided in these TOS. You acknowledges and agree that you will be subject to all additional

terms and conditions and that all such additional terms and conditions shall be incorporated into the terms and conditions of these TOS as if set forth fully herein.

You acknowledge and agree that Music Boomerang may, at its sole and exclusive discretion, change any of its Third Parties under this Agreement, or add or delete discrete Services, including Content and Services on musicboomerang.com, for any reason and without advance notice. If Music Boomerang changes any of its Third Parties, Music Boomerang may provide Customer with notification of such changes and refer You to information posted on musicboomerang.com relative to that change which shall become additional terms and conditions for the purposes of this Agreement.

**No Warranties.** Music Boomerang makes no warranties or representations of any kind for the Services it offers. Music Boomerang provides Services on an "as is" and "as available" basis without warranties of any kind, either express or implied, including but not limited to warranties of title, non-infringement, or implied warranties of merchantability or fitness for a particular purpose. No advice or information given orally, in writing or electronically by Music Boomerang or its agents or employees shall create a warranty in contravention to this disclaimer.

Music Boomerang provides no warranty that its Services or the Content at musicboomerang.com will be uninterrupted, error free, or meets your particular requirements, or that any information accessible on musicboomerang.com is free from viruses or other harmful components. Moreover, Music Boomerang makes no warranty as to the results that may be obtained from using musicboomerang.com, or as to the accuracy or reliability of any information obtained through musicboomerang.com.

Under no circumstances shall Music Boomerang be liable for any direct, indirect, special, punitive, or consequential damages that result in any way from Your use of or inability to use its Services, and/or for Your access or use of any Content at musicboomerang.com, or Your or any third parties' reliance on or use of information, services, or merchandise provided as part of Music Boomerang's Services or available at musicboomerang.com, or that result from mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation or transmission, or any failure of performance. If You are dissatisfied with Music Boomerang service or any of its terms, conditions, rules, policies, guidelines, or practices, Your sole and exclusive remedy is to discontinue using the Services.

You understand that by placing information on musicboomerang.com that such information becomes available to all Internet users and that Music Boomerang has no way of limiting or restricting access to such information or protecting such information from copyright infringement. You assume total responsibility and risk for your use of Music Boomerang's servers, musicboomerang.com and the Internet. You are solely responsible for evaluating the accuracy, completeness, and usefulness of all opinions, advice, services and other information, and the quality and merchantability of all merchandise provided through Music Boomerang, musicboomerang.com or on the Internet generally.



Your use of the Content and Services is at your sole risk. Music Boomerang is not responsible for files and data residing on your account. You agree to take full responsibility for files and data that you transfer or add to your account, and to maintain all appropriate backup of files and data you add, upload, enter, contribute or otherwise store or house on musicboomerang.com and/or Music Boomerang servers. You agree not to interfere with the operation of Music Boomerang's computer system, including, but not limited to, musicboomerang.com. You further agree not to interfere with the proper operation of other systems reachable through the Internet, including any attempt at unauthorized access to any site or system. Music Boomerang reserves the absolute and exclusive right to monitor any and all communications through or with our facilities. You agree that Music Boomerang is not considered a "secure communications medium" for the purposes of the ECPA, and that no expectation of privacy is afforded.

***Limitation of Liability.*** You agree that under no circumstances will Music Boomerang be held liable for any indirect, direct, special, incidental, consequential or exemplary damages, including in any and all circumstances where Music Boomerang had been advised of the possibility of such damages which could result from any indirect use, direct use, misuse, interruption, modification, suspension, alteration, or termination of the Services. This limitation also will apply to damages incurred by the use of other services, products advertised in, linked to, or received through Content contained in musicboomerang.com. These limitations will apply to the fullest extent permitted by law. Some jurisdictions prohibit some limitations of liability, in which case some of the limitations listed above may not apply to you.

***Indemnification.*** You agree to indemnify, defend (at Music Boomerang's sole option and at Your sole expense) and hold harmless Music Boomerang, its managers, directors, officers, employees, independent contractors and agents, and defend any action brought against same with respect to any claim, penalty, loss, damages, costs, demand, cause of action, debt or liability, including reasonable attorneys' fees, to the extent that such action is based upon a claim arising directly from, or relating indirectly to, Your use of and/or access to the Music Boomerang Services, or Content and Services provided via musicboomerang.com, or services provided hereunder, including, but not limited to, any claims arising out of the sale or offer for sale of any illegal, infringing, counterfeit products or services or any other misuse of the Music Boomerang and musicboomerang.com Content and Services by You. You specifically acknowledge that Music Boomerang shall not be liable to You for losses, if any, incurred as a result of fraudulent or unauthorized misuse of Music Boomerang Services or musicboomerang.com Content or Services.

***Notices.*** Any written notice required or permitted to be delivered pursuant to these TOS must be written and will be deemed delivered: (a) upon delivery, if delivered in person; (b) three (3) business days after deposit in the United States mail, registered or certified mail, return receipt requested, postage prepaid; (c) upon transmission if sent via facsimile or email; or (d) one (1) business day after deposit with a national overnight courier, in each case addressed, in the case of Customer, to the address listed in Music Boomerang's

records; or, in the case of Music Boomerang, to Colorado Springs, Colorado (or to such other address as may be specified upon notice).

**Assignment.** You acknowledge and agree that you will not assign or otherwise transfer your account, nor delegate or subcontract any of its rights or obligations hereunder, without Music Boomerang's prior written consent, which consent may be withheld, delayed or conditioned in Music Boomerang's absolute and exclusive discretion. Music Boomerang will have the right to assign any of the Services covered by these TOS, in whole or in part, to a third party at any time and for any reason.

**Force Majeure.** Neither party shall have any liability to the other or to third parties for any failure or delay in performing any obligation subject to these TOS due to circumstances beyond its reasonable control including, without limitation, acts of God or nature, actions of the government, fires, floods, strikes, civil disturbances or terrorism, or power, communications, satellite or network failures.

**Waiver.** Any waiver or modification of any of these TOS will not be effective unless executed in writing and signed by an authorized representative of Music Boomerang. The parties expressly disclaim the right to claim the enforceability or effectiveness of: (a) any amendments to these TOS that are not executed by an authorized representative of Music Boomerang; (b) any oral modifications to these TOS; and (c) any other amendments that are based on course of dealing, waiver, reliance, estoppels or similar legal theory. The parties expressly disclaim the right to enforce any rule of law that is contrary to the terms of this section of the TOS. Either party's failure to enforce, or the delay by either party in enforcing, any of its rights under the TOS will not be deemed to be a waiver or modification by such party of any of its rights under these TOS.

**Severability.** If any provision of these TOS is held to be unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of these TOS, unless Music Boomerang, in good faith, deems the unenforceable provision to be essential, in which case Music Boomerang will have the right to terminate any and all Services subject to these TOS.

**Third-Party Beneficiaries.** You acknowledge that some Music Boomerang Services may be provided by Third Parties, which are third-party beneficiaries to these TOS, and there are no other third-party beneficiaries to these TOS.

**Arbitration.** You hereby acknowledge and agree that any dispute, controversy or claim arising out of or relating to goods or services provided by Music Boomerang or any matter governed by these TOS, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules [including the Optional Rules for Emergency Measures of Protection], and judgment on the award rendered by the arbitrator(s) will be binding upon the parties and may be entered in any court having jurisdiction thereof.

Each party shall be responsible for its share of the arbitration fees in accordance with the applicable Rules of Arbitration. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with the arbitrator's award, the other party is entitled to costs of suit, including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award.

To the extent this arbitration clause is deemed unenforceable, the dispute, controversy or claim shall be adjudicated by a court of competent jurisdiction by trial without a jury.

***Governing Law & Jurisdiction.*** The terms and conditions of these TOS shall, at all times, be interpreted and construed in accordance with the laws of the State of Colorado, without regard to conflict of law principles. All disputes arising out of this Agreement shall be brought only in the district and federal courts located in or for El Paso County, Colorado. EACH PARTY CONSENTS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, LOCATED IN OR FOR EL PASO COUNTY, COLORADO.

***Trademark and Copyright Legal Notices.*** Music Boomerang, musicboomerang.com, among others, are registered trademarks and/or registered service marks of Music Boomerang, Inc. or one of its subsidiaries, in the United States and other countries. Other brands or product names are trademarks or service marks of their respective owners, should be treated as such, and may be registered in various jurisdictions.

Unless otherwise noted, all materials, including images, illustrations, designs, icons, photographs, video clips, and written and other materials that appear as part of this Site (collectively, the "Contents") are copyrights, trademarks, trade dress and/or other intellectual properties owned, controlled or licensed by Music Boomerang, Inc. collectively, and its subsidiaries and/or affiliates ("Music Boomerang"). The Site as a whole is protected by copyright and trade dress, all worldwide rights, titles and interests in and to which are owned by Music Boomerang.

***Proprietary Rights.*** No right, title or interest of intellectual property or other proprietary rights in and to the Music Boomerang Services, including musicboomerang.com Content or Services, and/or other products or services made available under these TOS is transferred to You hereunder. Music Boomerang and its Third Parties retain all right, title and interests, including, without limitation, all copyright, trade secret, intellectual property and other proprietary rights in and to the Music Boomerang Services, including the Content and Services of musicboomerang.com, and/or other products or services provided under these TOS.

The Contents of our Site, and the Site as a whole, are intended solely for personal, noncommercial (other than for the purchase of merchandise from our site) use by the users of our Site. You may download or copy the Contents and other downloadable materials displayed on the Site for your personal use only. No right, title or interest in any downloaded materials or software is transferred to you as a result of any such downloading or copying. You may not reproduce (except as noted above), publish,

transmit, distribute, display, modify, create derivative works from, sell or participate in any sale of, or exploit in any way, in whole or in part, any of the Contents, the Site, or any related software.

***User Comments, Feedback & Other Communications.*** All comments, feedback, suggestions, ideas, and/or other submissions disclosed, submitted or offered to Music Boomerang on or by this Site or otherwise disclosed, submitted or offered in connection with your use of this Site (collectively, "Comments") shall be and remain Music Boomerang's property. Such disclosure, submission or offer of any Comments shall constitute an assignment to Music Boomerang of all worldwide rights, titles and interests in all copyrights and other intellectual properties in the Comments. Thus, Music Boomerang will own exclusively all such rights, titles and interests and shall not be limited in any way in its use, commercial or otherwise, of any Comments. Music Boomerang is and shall be under no obligation (1) to maintain any Comments in confidence; (2) to pay to user any compensation for any Comments; or (3) to respond to any user Comments.

You agree that no Comments submitted by you to the Site will violate any right of any third party, including copyright, trademark, privacy or other personal or proprietary right(s). You further agree that no Comments submitted by you to the Site will be or contain libelous or otherwise unlawful, abusive or obscene material. You are and shall remain solely responsible for the content of any Comments you make.

You agree that Music Boomerang may use and/or disclose information about your demographics and use of the Site in any manner that does not reveal your identity. By participating in Site sweepstakes, contests, promotions, and/or requesting promotional information or product updates, you agree that Music Boomerang may use your information for marketing and promotional purposes.

***Music Boomerang Communications to You.*** You agree that Music Boomerang may send electronic mail to You for the purpose of advising you of changes or additions to this Site, about any of Music Boomerang's or musicboomerang.com's Content or Services, or for such other purpose(s) as Music Boomerang deems appropriate.

***Links to Other Web Sites and Services.*** To the extent that this Site contains links to outside services and resources, the availability and content of which Music Boomerang does not control, any concerns regarding any such service or resource, or any link thereto, should be directed to the particular outside service or resource.