



A New Way to Promote Your Music

Thank you for considering signing with Tune Tornado to promote your music. We understand what it takes to create original music and we're here to help you get the word out and find your audience.

To Get Started

1. Print and review the attached Master Promotion Agreement with your advisors.
2. Ask us any questions you might have; we're happy to explain!
 - a. call Steve Francis (Tune Tornado artist administration) at 408-221-6058
 - b. email to musicians@tunetornado.com
3. Complete and sign Attachment 1.
4. Send the agreement back to us:
 - a. scan and **email** to musicians@tunetornado.com, **or**
 - b. **fax** to (408) 516-8558, **or**
 - c. **mail** to: Tune Tornado, Inc.
18910 Bellgrove Cir
Saratoga, CA 95070

We will send you a countersigned copy.



Master Promotion Agreement

THIS MASTER PROMOTION AGREEMENT (the "**Agreement**") is entered into by and between Tune Tornado, Inc., a Delaware corporation with its primary address at 18910 Bellgrove Cir, Saratoga, CA 95070 (hereinafter "**TTI**") and the person or persons named on the Artist Information and Confirmation Sheet attached hereto as **Attachment A** and incorporated herein and made a part of this Agreement (hereinafter collectively referred to herein as the "**Artist**"). This Agreement is made effective as of the date of TTI's signature on such Artist Information and Confirmation Sheet (the "**Effective Date**"). If Artist consists of multiple persons as listed in **Attachment A**, then all references to singular "Artist" are intended to refer to all such persons and each person comprising Artist shall sign this Agreement.

1. Purpose

- a. TTI is in the business of promoting the songs (original compositions) of participating artists via TTI's website located at www.tunetornado.com and all corresponding web pages and websites associated with the foregoing URL ("**Site**") and through its member rewards network pursuant to TTI's then current Terms of Service and Privacy Policy posted on the Site which are each incorporated herein and made a part of this Agreement.
- b. Artist, who has not signed an exclusive agreement with any record label or any other third party and who owns or controls each song to be promoted, wishes to enter into an agreement with TTI to promote the Artist's songs via the Site under the terms and conditions of this Agreement and the Terms of Service.

2. Definitions

For purposes of this Agreement, the following capitalized terms are defined as follows:

- a. "**Buyer**" means a person who purchases a Promoted Song from a Promoted Channel following a link from the Site to the applicable Promoted Channel. A Buyer may be a Member.
- b. "**Eligible Sale**" means the sale of a Promoted Song to a Buyer from a Promoted Channel.
- c. "**Member**" means a person who has registered on the Site as a Member as it is defined in the Terms of Service.
- d. "**Promoted Channel**" means an Internet consumer music store accessed via a special link from the Site (e.g. iTunes).
- e. "**Promoted Song**" means a song or songs (i.e. all forms of sound, music, rhythm and lyrics that Artist intends to provide to TTI, including, without limitation, sound recordings, compositions, musical recordings, vocal recordings and vocal solos) that Artist has set forth on the Artist Information and Confirmation Sheet attached as **Attachment A** to be promoted on the Site. Each subsequent submission of a Promoted Song by Artist shall be set forth via the form set forth on **Attachment B** or the on-line equivalent accessed via a password-protected account set up at the Artist's request and will thereafter be incorporated into this Agreement. If there is only one Promoted Song, then all references to the plural "Promoted Songs" are intended to refer solely to such song.
- f. "**Promoted Song's End User Purchase Price**" means the price paid by a Buyer when purchasing a Promoted Song through a Promoted Channel.
- g. "**Terms of Service**" means TTI's then current Terms of Service posted on the Site. TTI reserves the sole right at any time to modify the Terms of Service without notice. All modified terms and/or conditions will be in effect after they are posted on the Site (unless

applicable law requires a longer notice period). By continuing to use or access the Site and/or the TTI Service after TTI makes any such modification, Artist agrees to be legally bound by the revised Terms of Service. The current version of the Terms of Service are attached as **Attachment C** to this Agreement.

- h. "TTI Service"** means the service and rewards program delivered by TTI to its Members as set forth in the Terms of Service.

3. Grant of Rights

- a.** Subject to the terms and conditions of this Agreement, Artist hereby grants TTI during the Term of this Agreement a non-exclusive right and license throughout the world to freely and without restriction use and exercise the following rights in whole or in part, for the purpose of promoting Artist and/or TTI (and its products and services) pursuant to the terms and conditions set forth in this Agreement:
 - i.** use the Promoted Songs and the publishing rights in the musical compositions embodied in Artist's Promoted Songs as necessary to post the Promoted Songs on the Site, make such Promoted Songs available to Members and provide the TTI Service, including but not limited to the right to make and perform clips of the Promoted Songs up to ninety (90) seconds in length on the Site via streaming or download free of charge (the "*Clips*"). Said Clips may be created by TTI or any third party affiliated with TTI by using any consecutive passage of the applicable Promoted Song. In connection with any use by TTI of the Clips, Artist grants TTI a waiver of any digital artist royalties, performance royalties, internet broadcast royalties, or any other fees or royalties, statutory or otherwise that TTI may be obligated to pay Artist or a third party in connection with the use of such Clips, including but not limited to if Artist currently is or becomes a member of a performing rights licensing organization (such as BMI, ASCAP, PRS, GEMA or SACEM);
 - ii.** use the name and likeness, biographical material, logos, trademarks photographs, symbols, emblems, designs, and any other visual representations of the Artist, and any other individuals performing or otherwise represented or whose performance is embodied in the Promoted Songs, as well as track and/or album name, and all artwork related to Artist's Promoted Songs or audiovisual works; and
 - iii.** use, reproduce, distribute, display, deliver and transmit, publicly and privately, by any means now known or hereafter devised, the lyrics of the musical compositions embodied in the Promoted Songs.
- b.** All rights and licenses not expressly granted to TTI under this Agreement are reserved by Artist. Ownership of the Promoted Songs shall remain with Artist and Artist can use the Promoted Songs in any way that Artist chooses, subject to the limitations set forth in Section 15.

4. Account Information; Disclosures

- a. Artist Account Information.** In order to access some features of the Site, including Artist's account information, Artist will have to create an online account with TTI ("**Account**"). Artist hereby represents and warrants that the information Artist provides to TTI upon establishment of Artist's Account will be true, accurate, current, and complete. Artist also hereby represents and warrants that Artist will ensure that Artist's Account information, including Artist's e-mail address, is kept accurate and up to-date at all times during the Term of this Agreement.

- b. Password.** As a registered user of the TTI Service Artist will have login information, including a password. Artist's Account is personal to Artist, and Artist may not share Artist Account information with, or allow access to Artist's Account by, any third party other than an agent authorized to act on Artist's behalf. Artist agrees to notify TTI immediately of any breach in secrecy of Artist's login information. Artist will be solely responsible for the losses incurred by TTI and others (including other users) due to any unauthorized use of Artist's Account.
- c. Disclosure of Information.** Artist acknowledges, consents, and agrees that TTI may access, preserve, and disclose Artist's Account information and Artist's Promoted Songs if required to do so by law or in a good faith belief that such access, preservation or disclosure is reasonably necessary to (i) comply with legal process; (ii) enforce this Agreement; (iii) respond to a claim that any of Artist's Promoted Songs violates the rights of third parties; or (iv) to respond to Artist's requests for customer service.

5. Selection of Promoted Songs

- a.** The parties agree that Artist will have sole control over which songs to submit to TTI to include on the Site as Promoted Songs.
- b.** If Artist was recruited to sign up to use the TTI Service by a TTI Talent Scout (any Member who searches for new artists and recruits them to the TTI Service), then Artist will identify the Talent Scout on the Artist Information and Confirmation Sheet attached as **Attachment A**.
- c.** Artist may add a Promoted Song at any time via the form attached hereto as **Attachment B** or the on-line equivalent accessed via Artist's Account; in addition,
 - i.** forms may be faxed, sent by FedEx or another express or air courier, or mailed w/ return receipt.
 - ii.** TTI will confirm receipt via email and add the Promoted Songs to Site as soon as commercially reasonable.
- d.** Artist may cancel a Promoted Song at any time via the cancellation form attached as **Attachment D** or the on-line equivalent accessed via Artist's Account. Cancellation of a Promoted Song becomes effective ninety (90) days after receipt by TTI of a cancellation request. Cancellation forms may be faxed, sent by FedEx or another express or air courier. TTI will confirm receipt via email.
- e.** Notwithstanding anything to the contrary in this Agreement, TTI may reject or cancel without notice any Promoted Songs which in its sole discretion it considers to be obscene, to condone or incite hate or violence.
- f.** During the Term of this Agreement or until such time as a Promoted Song is cancelled as set forth above in this Section 5, Artist commits to keeping each Promoted Song available for sale on the applicable Promoted Channel; failure to do so is a material breach entitling TTI to terminate this Agreement immediately and without notice.
- g.** The applicable pricing of a Promoted Song available for purchase on an applicable Promoted Channel is at the sole discretion of Artist, provided the price of a Promoted Song may not be reduced below \$0.49 without explicit written permission from TTI (of course Artist may cancel any Promoted Song as set forth above and such restriction no longer applies after the Promoted Song has been removed from the TTI Service).

6. Member Rewards

- a.** TTI will administer the payment of rewards for each Eligible Sale to Members on Artist's behalf according to the reward schedule and policies defined in the then-current TTI Terms of Service.
- b.** Rewards for Eligible Sales to Members will never exceed 25% of the applicable Promoted Song's End-User Purchase Price.

7. TTI Service Fee

- a.** As consideration for the acceptance by TTI of Artist's Promoted Songs for inclusion on the Site and the provision by TTI of the TTI Service, Artist shall pay TTI a non-refundable fee of 10% of the Promoted Song's End-User Purchase Price for each Eligible Sale of a Promoted Song during the Term of this Agreement.
- b.** There are no minimums or other required payments by Artist.
- c.** Artist understands and agrees that TTI will not be responsible for any costs or expenses incurred by Artist whatsoever in connection with this Agreement.

8. Payment Terms

- a.** TTI will provide an electronic invoice to Artist via email at the end of each calendar month.
- b.** Such invoice will provide an accounting of the member rewards, talent scout fee, and TTI Service Fee payable by Artist for each Eligible Sale of each Promoted Song during the preceding month and will be divided by Promoted Channel; Members will not be individually identifiable.
- c.** Payment is due from Artist to TTI immediately upon availability to Artist of payment for such month from the Promoted Channel(s) (or from an authorized intermediary organization) and prior to withdrawal by Artist of other funds for such month.
- d.** Payment by Artist will be accompanied by a detailed report from the Promoted Channel of all sales of the Promoted Songs.
- e.** Unless other payment arrangements are made between TTI and Artist, Artist shall send payment to TTI's Paypal account. TTI reserves the right, in its sole discretion, to select an alternative payment service other than Paypal. Artist will be responsible for any bank fees or other charges related to such payments.
- f.** Any payments more than fifteen (15) days overdue shall bear interest from the due date until the date TTI receives payment at the lesser of twelve percent (12%) per year or the highest rate allowable by applicable law and any payment delinquencies for amount greater than \$25 will also be charged a five percent (5%) penalty fee. Further, Artist agrees that if payment is more than seven days overdue more than once in any calendar year, then Artist authorizes TTI to directly receive all income for Artist from the applicable Promoted Channel, deduct amounts due, and deliver the balance to Artist within seven (7) days.
- g.** Artist acknowledges and agrees that Artist shall be responsible for any incurred costs of TTI due to any failed payments to TTI under this Agreement.
- h.** Artist further acknowledges and agrees that TTI may notify Members or other interested parties if Artist is in default of payment obligations under this Agreement and has not cured such payment default.

9. TTI Service for Promoted Songs

- a.** Promoted Songs will be posted on the Site (with or without Clips in TTI's sole discretion) and made available to Members. TTI shall have no further duties or obligation whatsoever concerning the marketing or promotion of the Promoted Songs or Artist.
- b.** The TTI Service is limited to the geographic locations in which a Promoted Song is available through a Promoted Channel.
- c.** TTI will provide Artist with online access to real-time data on:
 - i.** Eligible Sales for each Promoted Song.
 - ii.** total Eligible Sales.
 - iii.** geographic distribution of Members who have purchased Promoted Songs (by zip code).
- d.** TTI will forward, on behalf of Artist and at Artist's written request, one Artist-provided email per month to all Members who have purchased a Promoted Song; provided:

- i. content may not include solicitations for goods or services and must be approved by TTI, such approval not to be unreasonably withheld; and
- ii. Members who have opted out of Artist communications will not be included.

10. Warranties

- a. Artist represents and warrants to TTI that:
 - i. Artist has the full right and authority to enter into this Agreement, the full right and authority to enter into this Agreement on behalf of, and to bind any and all parties with an economic interest in the Promoted Songs to the terms and conditions of this Agreement as well as the full right and authority to grant the rights and licenses in Section 3 and is not restricted from doing so by the terms of any other existing or previous agreement.
 - ii. All Promoted Songs shall contain new and original performances by Artist and that Artist is the sole author of the Promoted Songs and is the owner of all copyright therein and/or has secured all rights in the Promoted Song and has cleared all rights (including in the form of waivers of all moral rights, neighbouring rights or similar rights held anywhere in the world from any contributor to Artist's Promoted Songs) and made all payments due to any performing artist, collecting society, producer or contributor to Artist's Promoted Songs necessary to grant the license rights hereunder and to permit the lawful exercise of the rights hereunder, without Artist or TTI having to pay any royalties, compulsory license fees, residuals or any other payments.
 - iii. The Promoted Songs are not copyrighted cover songs and do not include any copyrighted samples.
 - iv. ARTIST CURRENTLY IS NOT BOUND BY AN EXCLUSIVE AGREEMENT WITH ANY RECORD COMPANY OR OTHER ENTITY AND ARTIST DOES NOT REQUIRE THE PERMISSION OF ANY OTHER PARTY TO ENTER INTO THIS AGREEMENT.
 - v. Artist will not enter into any agreement during the Term that would interfere with this Agreement. Specifically, Artist represents and warrants to TTI that Artist will not enter into an exclusive agreement with any record label or any other party without first cancelling all Promoted Songs in accordance with Section 5 and without first providing TTI immediate written notice of Artist's intent to enter into an exclusive agreement with any record label.
 - vi. The Promoted Songs and the use thereof as described or contemplated in this Agreement do not infringe the copyright, trademark, publicity rights, common law rights, or any other right of any third party nor are they otherwise illegal or constitute defamation, invasion of privacy, pornography or any tort injury to any third party.
 - vii. There is no present or prospective claim or litigation in respect of any of Artist's Promoted Songs.
 - viii. Artist is at least 18 years old and has the right and authority to enter into this Agreement on his/her behalf or, if Artist is between the ages of 13 and 18, Artist has reviewed this Agreement with Artist's parent or guardian and Artist's parent or guardian shall execute and agree to this Agreement on Artist's behalf.
 - ix. If Artist is more than one person, each of the persons comprising Artist shall sign this Agreement and be a party hereto.
 - x. Artist has read and understands TTI's Privacy Policy and the Terms of Service, each as fully described on the Site, and expressly accepts the terms and conditions set forth in such Privacy Policy and Terms and Service, and understands and agrees that these may be amended from time to time at TTI's sole discretion.

- xi. Artist will be responsible for complying with the Recording Industry Association of America's ("RIAA") Parental Advisory Logo ("PAL") Standards, as applicable, for so long as Artist uses the TTI Service. Information about the RIAA PAL Program is available here:
http://www.riaa.com/toolsforparents.php?content_selector=parental_advisory
 - xii. All reports provided will be accurate and true to best of Artist's knowledge.
 - xiii. Any content provided by Artist to TTI will not contain any contaminated file, viruses, worms, Trojan horses or other similar harmful or destructive code or program.
 - xiv. Artist understands, acknowledges and agrees that TTI does not guarantee exploitation or the success of Artist's Promoted Songs, which will depend on consumer preference and that TTI cannot guarantee that Promoted Channels will perform under any agreement they enter into with Artist for the sale, distribution or licensed use of Artist's music.
- b. TTI represents and warrants to Artist that:
- i. TTI shall return to Artist any rewards delivered by Artist to TTI under Section 6 which are not delivered to Members under the Terms of Service.

11. INDEMNITY, DISCLAIMER AND LIMITATION OF LIABILITY

- a. **Artist's Indemnity.** Artist shall indemnify and defend TTI and hold TTI harmless from and against any and all costs, liabilities, losses, damages and expenses arising out of any claims, actions, demands, investigations, suits, or proceedings of any kind from any third party claim relating to (i) an alleged or actual breach of Artist's warranties and/or breach or non-performance of Artist's duties under this Agreement, (ii) any claim for royalties and/or infringement of copyright, trademark, patent or other intellectual property rights by the Promoted Songs or (iii) any third party claims arising out of Artist's conduct or representations under this Agreement. Further, in the event that a third party infringement claim is brought, TTI shall have no obligation hereunder to defend or protect Artist's copyright interests.
- b. **Agreements with Promoted Channels, Third Party Platforms, Services and Content.** Artist acknowledges that in providing the TTI Service, TTI will be required to enter into certain agreements with various Promoted Channels. The selection of which Promoted Channels will be accessible via the Site and the TTI Service shall be at the sole discretion of TTI. Artist agrees that the terms and conditions of this Agreement and those of the Terms of Service shall be subject to any applicable terms and conditions of such other agreements that TTI enters into with respect to such Promoted Channels. The appearance, availability, or Artist's use of (a) URLs or hyperlinks referenced or included anywhere in connection with the Site and the TTI Service or any other form of link or re-direction of Artist's connection to, with or through the TTI Service, or (b) any third party websites, content, data, information, applications, platforms, goods, services or materials, including the Promoted Channels ((a) and (b) collectively, "**Third Party Services**") does not constitute an endorsement by, nor does it incur any obligation, responsibility or liability on the part of TTI. TTI does not verify, endorse, or have any responsibility for Third Party Services and any third party business practices (including, without limitation, their privacy policies), whether the TTI Service, or TTI's logos, marks, names and/or sponsorship or other identification is on the Third Party Services. If any Third Party Services Artist interacts with obtains or collects personal information from Artist, in no event shall TTI assume or have any responsibility or liability in connection for any use, collection or disclosure by or in connection with such Third Party Services. Accordingly, TTI encourages Artist to read the terms and conditions and privacy policy of each Third Party Service Artist uses. **ARTIST ACKNOWLEDGES AND AGREES THAT TTI IS NOT A RETAILER OF ARTIST'S PROMOTED SONGS AND IS NOT ACTING AS A RETAILER IN CONNECTION**

WITH THE TTI SERVICE OR OTHERWISE. ARTIST ACKNOWLEDGES AND AGREES THAT TTI IS NOT A PARTY TO AND HAS NO LIABILITY OR RESPONSIBILITY TO ARTIST, A PROMOTED CHANNEL, OR ANY PURCHASER OF A PROMOTED SONG, WITH RESPECT TO ANY PURCHASE OF A PROMOTED SONG ON A PROMOTED CHANNEL OTHER THAN THE EXPLICIT RESPONSIBILITIES DEFINED IN THE AGREEMENT AND THE TERMS OF SERVICE.

- c. Disclaimer; Limitations on Liability.** TTI MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE SITE AND THE TTI SERVICE, AND ALL CONTENT, PRODUCTS AND SERVICES MADE AVAILABLE ON, THROUGH OR IN CONNECTION THEREWITH, ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. TTI MAKES NO WARRANTY OR REPRESENTATION WITH RESPECT TO (I) THE ACCURACY OR EFFECTIVENESS OF THE SITE OR THE TTI SERVICE, INCLUDING CONTENT CONTAINED THEREIN, NOR ANY ERRORS OR PROBLEMS OF ANY KIND THAT MAY ARISE FROM THE SITE, (II) THE SITE OR TTI SERVICE WILL BE TIMELY OR ERROR-FREE, (III) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SITE AND TTI SERVICE WILL BE ACCURATE OR RELIABLE. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, TTI SHALL NOT BE RESPONSIBLE FOR ANY LOSSES, DAMAGES, COSTS, OR EXPENSES OF ANY KIND RESULTING FROM THE USE OR PROMOTION OF A PROMOTED SONG BY TTI OR USE BY ANY CONSUMER OR END-USER OF A PROMOTED SONG. THIS INCLUDES, WITHOUT LIMITATION, ANY LIABILITY FOR BUSINESS EXPENSES OR DAMAGES EXPERIENCED BY ARTIST OR ANY THIRD PERSONS AS A RESULT OF ANY DEFICIENCY, DEFECT, ERROR, OR MALFUNCTION WITH THE SITE. TTI SHALL ALSO NOT BE LIABLE FOR ANY LOSS OF PROFIT, LOSS OF OPPORTUNITY, LOSS OF BUSINESS, LOSS OF REVENUE, LOSS OF COPYRIGHT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RELATING TO OR ARISING OUT OF OR IN ANY WAY CONNECTED TO THE SUBJECT MATTER OF THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO ARTIST'S USE OF THE SITE OR TTI SERVICE, ANY DELAY OR INABILITY TO USE THE SITE, OR ANY INFORMATION PRODUCTS AND SERVICES OBTAINED THROUGH THE SITE) NO MATTER WHETHER THE DAMAGES ARE FORESEEABLE AND WHETHER OR NOT TTI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY WILL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION AND IN NO EVENT WILL TTI'S AGGREGATE LIABILITY TO ARTIST EXCEED ONE HUNDRED DOLLARS (\$100).

12. Audit

- a.** Artist authorizes TTI to obtain sales and payment records for Promoted Songs directly from Promoted Channels for any period during which the song was a Promoted Song as well as for three (3) months prior to such period, and for six (6) months after such period. This right shall survive any expiration or termination of this Agreement.
- b.** At no additional cost to TTI, Artist will allow TTI to inspect, and Artist will furnish copies of, Artist's records for the purposes of evaluating and verifying the accuracy of any representations or reports submitted to TTI hereunder. Artist will cooperate with TTI and provide reasonable assistance to TTI to facilitate any such evaluation and inspection. TTI may designate an independent auditor to perform this evaluation and inspection. TTI will pay its own expenses for any inspection of Artist's records. However, if in any audit, TTI or

its designee determines that an inspection of Artist's records shows an under-reporting by Artist of sales of any Promoted Songs, by more than 5% in the aggregate for any given 12 month period, then Artist will reimburse TTI for the cost of the inspection as well as pay to TTI any amount found due (including any interest due based on the lateness of such payment) within thirty (30) days of notice by TTI to Artist. TTI's right to audit Artist's records shall continue for one (1) year following any termination of this Agreement.

13. Term & Termination

- a. This Agreement will commence on the Effective Date and continue for a period of one (1) years from the Effective Date (the "***Initial Term***"). This Agreement will automatically renew for successive one-year terms in perpetuity, if not terminated in writing thirty (30) days or more prior to the expiration of the term (the Initial Term and any period thereafter, if any, collectively are referred to as the "***Term***").
- b. This Agreement may be terminated if either party breaches any of the provisions of this Agreement, which breach has not been remedied within fifteen (15) days of written notice of the breach, and without prejudice to any remedies available to the non-breaching party.
- c. This Agreement may be terminated by Artist for convenience with seven (7) days prior written notice to TTI if all Promoted Songs have been cancelled pursuant to Section 5.
- d. If this Agreement is terminated pursuant to clauses a, b or c above, then any Promoted Songs shall be considered to have been requested to be cancelled as of applicable termination date shall continue to be Promoted Songs and the applicable terms shall persist through the applicable cancellation notice period.
- e. TTI may terminate this Agreement immediately without notice if shutting down the Site and the TTI Service (i.e. terminating for all artists utilizing the TTI Service under the same or similar agreements); provided, all Eligible Sales prior to such termination shall be governed by the Agreement.

14. Confidentiality; Use of Certain Information

- a. Artist acknowledges and agrees that, in the course of negotiating and transacting business with TTI, Artist may become aware of certain otherwise confidential information related to TTI's business and business practices. Except to the extent that such information is otherwise generally available to third parties or is required to be divulged by operation of law, Artist agrees to keep such information confidential.
- b. Artist hereby expressly agrees that TTI shall have the right to provide information relative to the sales of the Promoted Songs hereunder to third parties, to aggregate such information in charts and other comparative informational materials, and to disseminate the same in any manner.
- c. if any Member information is inadvertently provided to Artist, Artist agrees to keep such information confidential and destroy it upon realization or notice by TTI.
- d. TTI *may* publish song sales history data as part of bona-fide promotional and other business activities.
- e. TTI *may* notify Members or others if Artist is in default of payment obligations under the Agreement.
- f. TTI may retain on a confidential basis one copy of any correspondence, information or data provided by Artist to TTI in order to comply with legal or regulatory requirements and/or internal document retention policies as well as any and all: (i) e-mails and any attachments contained in such e-mails; and (ii) any electronic files, each of which are automatically saved.

All of the foregoing rights and responsibilities shall survive the termination of the Agreement.

15. Limited Exclusivity

As a material consideration of entering into this Agreement, Artist agrees, during the Term of this Agreement and for a period of 12 months after the termination of this Agreement, not to utilize (i.e. contract with, directly or indirectly) a competing service (i.e. a service which pays rewards to a referrer for a referred person's purchase of Artist's music). For the purposes of this section, an affiliate program managed by a music seller (e.g. iTunes or Amazon) which pays referral awards on essentially all products of such seller shall not be considered a competing service.

16. Joint and Several Liability

If Artist consists of multiple persons as listed in **Attachment A**, then each person shall be individually responsible for the performance of all obligations of Artist under this Agreement, jointly with every other person and individually.

17. Miscellaneous

This Agreement shall be governed by and interpreted in accordance with the laws of the State of California excluding that body of law pertaining to the conflict of laws. Any legal action or proceeding arising under this Agreement shall be brought exclusively in courts located in the State of California and the County of Santa Clara, and the parties hereby irrevocably consent to the personal jurisdiction and venue therein. The parties to this Agreement waive their respective rights to a trial by jury. In the event that any provision in this Agreement is held to be invalid or unenforceable, the remaining provisions will remain in full force and effect. The failure of a party to enforce any right or provision of the Agreement will not be deemed a waiver of such right or provision. Artist may not assign this Agreement (by operation of law or otherwise) without the prior written consent of TTI and any prohibited assignment will be null and void. TTI may assign the Agreement or any rights or obligations hereunder without Artist's consent. The relationship of the parties under the Agreement is that of independent contractors and the Agreement shall not be construed to imply that either party is the agent, employee, or joint venturer of the other. Artist agrees that the Agreement and the rules, restrictions and policies contained herein, and TTI's enforcement thereof, are not intended to confer and do not confer any rights or remedies upon any person other than Artist and TTI. The Agreement, together with the attachments attached hereto and TTI's Privacy Policy and Terms of Service (as the same may be amended from time to time), constitute the entire agreement between TTI and Artist with respect to the subject matter hereof and supersede any and all prior or inconsistent understandings relating to the subject matter hereof. This Agreement may not be changed orally, but only by a writing signed by both parties which specifically references this Agreement. To the extent that there is any conflict between the Terms of Service and this Agreement, the terms of this Agreement shall prevail. Any provision which must survive in order to allow TTI or Artist to enforce its meaning shall survive the termination of this Agreement; however, no action arising out of this Agreement or Artist's use of the TTI Service, regardless of form or the basis of the claim, may be brought by Artist more than one year after the cause of action has arisen (or if multiple causes, from the date the first such cause arose). The headings herein are for convenience only and are not intended by the parties to affect the meaning or interpretation of this Agreement. All notices permitted or required under this Agreement shall be in writing, deposited with a pre-paid messenger, express or air courier or similar courier and shall be deemed to have been received three (3) days after being deposited in the case of messenger, express or air courier or similar courier. Notices shall be addressed to TTI at the address set forth above and notices addressed to Artist at the address set forth on **Attachment A**. This Agreement may be executed in two or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.

18. Independent Legal Representation. IF ARTIST IS UNSURE ABOUT ANY OF THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT ARTIST IS ADVISED TO OBTAIN INDEPENDENT LEGAL ADVICE BEFORE EXECUTING THIS AGREEMENT.

Attachment B – Song Add Form

Artist name: _____

Request date: _____

Album name (if applicable): _____

Song name(s):

Unit sales of song(s) through iTunes for previous three calendar months (or attach sales report):

last month: _____

2 months ago: _____

3 months ago: _____

Artist signature: _____

TTI date of receipt: _____

Attachment C – Terms of Service

Terms of Service

Last updated December 12, 2012

By using Tune Tornado at <http://tunetornado.com> (the "Service"), a service of Tune Tornado Inc. (the "Company", "we", "our"), you ("you", "user", "your") accept the following terms and conditions (the "Terms of Service"). Please also be aware of our [Privacy Policy](#) located on the Tune Tornado website (the "Privacy Policy"). Usage of the Service is also governed by the Privacy Policy. In case of a material inconsistency between the Terms of Service and the Privacy Policy, these Terms of Service shall prevail.

Tune Tornado reserves the right to change these Terms of Service, suspend or terminate the Service, suspend or terminate your Account (as further defined below), or prohibit your further use of the Service, at any time, in its sole discretion.

NOTE: IF YOU ARE UNDER 18 YEARS OLD, YOUR PARENT OR LEGAL GUARDIAN MUST REVIEW THE TERMS OF SERVICE AND AGREE TO BE RESPONSIBLE FOR YOUR COMPLIANCE WITH THE TERMS OF SERVICE. YOU MAY NOT USE THE SERVICE IF YOU ARE YOUNGER THAN 13.

Ownership of Service

The Service is the property of the Company and its licensors. All text, graphics, user interfaces, visual interfaces, photographs, trademarks, logos, sounds, music, artwork and computer code (collectively "Content"), including but not limited to the design, structure, selection, coordination, expression, "look and feel" and arrangement of such Content contained in the Service is owned, controlled or licensed by or to the Company, and is protected by trade dress, copyright, patent and trademark laws, and various other intellectual property rights and unfair competition laws.

Except as expressly provided in these Terms of Service, no part of the Service and no Content may be copied, reproduced, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted or distributed in any way to any other computer, server, Web site or other medium for publication or distribution or for any commercial enterprise, without the Company's express prior written consent. "Tune Tornado" and "Music friends with benefits" are trademarks of the Company.

If you provide any suggestions for improvement of the Service, comments about the Service, or other feedback ("Feedback"), you acknowledge that such Feedback is voluntary, and that Company shall be free to use such Feedback without any obligation to you or restriction of any kind.

Registration & Account Obligations

You agree that any and all information provided by you during the registration process ("Registration Data") is true, accurate, and complete. You also agree to update and maintain the Registration Data so that it remains true, up-to-date and complete. By posting your Tune Tornado "Referrals" (as further defined below) on other platforms such as Facebook, Twitter, etc., you agree to abide by the terms and policies set by such other platforms for this kind of content. After completing the registration process, you become a "Member" and have a Member account ("Account"). At this time and until further notice from the Company, only individuals residing in the USA may become Members.

Earning Rewards

The Company will credit you with a "Reward" as set forth in the Rewards Schedule (as defined below) for a particular song when: 1) you send a Referral, and 2) another person ("Buyer") purchases the song you refer through the Service. This process is subject to the following conditions:

- the song is listed on tunetornado.com at the time of purchase by you and the Buyer (if a song is removed from tunetornado.com, then it is no longer eligible for Rewards);
- You purchase the song in the USA and provide proof of purchase to the Company;
- the Buyer receives a link for the song on tunetornado.com from you ("Referral"), or the Buyer receives a Referral from a Member who was previously a Buyer from you;
- the Buyer uses the Referral to visit tunetornado.com and in the same browser session clicks the "Buy" button on tunetornado.com to purchase the song in the USA;
- the Member's Account is active at the time the Buyer purchases and no Member has engaged in any Prohibited Behavior (as defined below) associated with the Buyer's purchase;
- if the Buyer is a Member and has received Referrals from various Members for the song, the Buyer must select you (or a Member who was previously a Buyer from you) in order for you to receive a Reward for the purchase;
- the Buyer provides proof of purchase to the Company and at no time attempts to revoke or receive credit for such purchase; and

- The Company receives funds from the copyright owner of the song for the purchase (this may take up to 90 days after the purchase date).

Note that no Buyer is ever required to become a Member, or to provide any additional names of potential buyers, as a condition of purchasing a song through the Service.

Reward Schedule

Rewards are earned as a percentage of the purchase price paid by the Buyer of a particular song. The “Reward Level” of the Reward is the number of Members between the Member receiving the Reward and the Buyer. The “Reward Percentage” is as set forth below in the Reward Schedule. The Reward is the product of the Reward Percentage and the Buyer’s purchase price.

Reward Schedule

Reward Level	Reward Percentage
0	10%
1	6%
2	4%
3	2%
4	2%
5	1%

Rewards for Referring a New Artist

If you solicit a musician or band (“Artist”) to become the client of the Company (i.e. to contract with the Company to promote one or more songs through the Service) and if such Artist identifies you as the primary influence on their decision to become a client, then you will earn a 1% Reward for all future sales by the Artist through the Service. This Reward will be credited when the Company receives the corresponding funds from the Artist.

Payment of Rewards

Once earned and available for distribution as described herein, credited Rewards will be delivered to you upon your request either: 1) via a PayPal transfer to the email address associated with your Account, or 2) via email delivery of an electronic Amazon gift card to your email address. The Company reserves the right, in Company’s discretion, to impose additional options, requirements and restrictions on transfer in order to ensure that Rewards are properly delivered to the individual who is associated with the Account.

You agree to provide the Company with information to enable delivery of your Rewards. For cumulative rewards above \$600 per calendar year, this information will include a certified IRS Form W-9 which includes:

- Legal name of the Member
- Mailing address of the Member
- Social security number of the Member

Rewards will appear in your Account as they are earned, but they will not be available for delivery until they have been credited as described in the “Earning Rewards” section of these Terms of Service.

PLEASE NOTE THAT MINORS OVER THE AGE OF 13 WHO HAVE RECEIVED PERMISSION FROM THEIR PARENTS OR LEGAL GUARDIAN(S) TO PARTICIPATE IN THE SERVICE, MAY HAVE DIFFERENT THRESHOLD AMOUNTS AND TAX FILING OBLIGATIONS MANDATED UNDER APPLICABLE STATE AND FEDERAL TAX LAW. YOU AGREE TO ABIDE BY ALL SUCH APPLICABLE TAX LAWS AND TO FULLY COOPERATE WITH THE COMPANY IN PROVIDING THE COMPANY WITH ANY TAX INFORMATION REASONABLY NECESSARY TO ALLOW THE COMPANY TO COMPLY WITH ALL OF ITS RELATED TAX OBLIGATIONS, AS APPLICABLE.

Security, Password, and Member Account

During the registration process you must create a password. You are solely responsible for maintaining the confidentiality of your password. You agree that you are responsible for any and all activities that may take place, or occur under your password and Account. You agree to notify the Company in the event your password or Account has been used without the proper authorization or there are other breaches of security of which you become aware. The Company will not be responsible or liable for any loss or damage incurred, or later arising from your failure to comply with this section. The Company prohibits the sale, assignment or transfer of control of any Account by you to any other individual or party.

You may terminate your Account at any time for any or no reason. An Account is considered inactive if you do not purchase any songs on the Service or send any Referrals through the Service for a period of 12 months. The Company reserves the right to terminate any inactive Account without notice.

If your Account is terminated for any reason, no new Rewards can be earned. Rewards earned based on purchases made prior to Account termination will be settled as allowed under applicable law, and may include delivery in the form of an Amazon gift card sent to the email address of record on the Account when all pending Rewards on such Account have been credited. Rewards for terminated Accounts with a Rewards balance less than \$1.00 shall not be delivered to you, but shall be donated to [Habitat for Humanity International](#).

Federal Trade Commission Endorsement Guidelines

You acknowledge that you have access to, and will abide by, the FTC Guides Concerning the Use of Endorsements and Testimonials in Advertising (the "FTC Guides"; available at <http://ftc.gov/os/2009/10/091005revisedendorsementguides.pdf>).

You acknowledge and agree that your violation of any of the FTC Guides is a material breach of the Terms of Service and that we may pursue any and all available legal and equitable remedies against you, including an immediate termination of your Account and the pursuit of all available civil or criminal remedies.

Indemnity

You agree to indemnify and hold harmless the Company, its affiliates, officers, agents, partners, and employees from any claim, action, demand, loss or damages (including attorneys' fees) made or incurred by any third party arising out of or relating to your use of the Service, your violation of these Terms of Service, or your violation of any rights of a third party related to any transaction related to the Service.

Limitation of Liability & Disclaimer of Warranties

The Service is made available to you for your convenience on an "as is" and "as available" basis. THE COMPANY DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS OR WARRANTIES (INCLUDING BUT NOT LIMITED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, RELIABILITY OR NON-INFRINGEMENT) REGARDING THE USE OR THE RESULTS OF THE USE OF THE SERVICE. The Company does not represent or warrant that the Service will be free of technical glitches, including viruses. You understand that the Service is still an alpha/beta version and may not perform with complete functionality, may require additional testing, may be inconsistently available, may have software viruses or "bugs" and may have other issues affecting availability and functionality ("Technical Issues"). In addition to all other disclaimers and limitations of liability contained in these Terms of Service, you specifically agree that the Company is not liable for any Technical Issues. Moreover, you understand that the Company does not represent or warrant that the Service will work on all or any platforms, will be compatible with all wired or wireless networks and/or will be available in any particular geographical areas.

THE COMPANY SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, ARISING OUT OF THE USE OF (OR THE INABILITY TO USE) THE SERVICE, OR THE RESULTS OR THE CONTENTS THEREOF, TO THE GREATEST EXTENT PERMITTED BY LAW.

If you are dissatisfied with the Service, or feel you have any other disputes or claims with or against the Company with respect to the Service or these Terms of Service, then your sole and exclusive remedy is to discontinue using the Service and terminate your Account.

Prohibited Behavior

You shall not, and shall not authorize or encourage any third party to do any of the following: Each is a "Prohibited Behavior":

- open more than one Account for any person;
- send unsolicited emails with Referrals to anyone other than a USA resident that you personally know;
- create Referrals for more than 5 new songs each calendar month;
- post Referrals on message boards or other online venues in violation of such venues' terms of use;
- engage in spam linking -- spam linking is defined as multiple consecutive submissions of the same or similar content into blogs, wikis, guest books, websites or other publicly accessible online discussion boards or forums and is not allowed. This includes blog spamming, blog comment spamming and/or spamdexing. Any comments you make on blogs, forums, guest books, etc., must be unique, informative and relevant.
- use discourteous, profane or otherwise offensive or inappropriate language connected to a Referral, the Company or its websites, or other Members;
- directly or indirectly generate clicks on any Company Referral or "buy" link through any automated, deceptive, or fraudulent means, including, but not limited to, repeated manual clicks, the use of robots or other automated query tools and/or computer generated requests;

- edit, modify, filter, or truncate any Referral or other link associated with the Service;
- frame, minimize, remove or otherwise inhibit the full and complete display of any webpage accessed by an end user on the Service;
- redirect an end user away from any webpage on the Service;
- directly or indirectly access, launch, and/or activate any part of the Service in any software application, website, or other means other than your property(ies) and social networking accounts and then only to the extent expressly permitted by the Terms of Service;
- "crawl", "spider", index or in any non-transitory manner store or cache information obtained from any URL associated with the Service;
- create a new Account to use the Service after the Company has terminated your Account for any Prohibited Behavior;
- violate or misuse any Content trademarks or any intellectual property of the Company
- engage in any action or practice that reflects poorly on the Company or otherwise disparages or devalues its reputation or goodwill;
- willfully violate the terms and conditions of any of the platforms the Service works with now or in the future, including Facebook and Twitter;
- attempt to interfere with the relationship between the Company and its Members or its Artists;
- participate in the Service where doing so would be prohibited by any applicable law or regulation;
- when presenting or discussing the Service to prospective Members, you may not make income projections or income claims other than examples of the same posted on the Service, or engage in any unlawful behavior; OR
- act in any way that violates any of these Terms of Service, as they may be revised from time to time, or any other agreement between you and the Company.

If you engage in any Prohibited Behavior, the Company may immediately terminate your Account, void some or all of your earned Rewards, and you must return any Rewards which were previously delivered to you if they were earned as a result of, or while engaging in any Prohibited Behavior.

Communications and Notices from the Company

From time to time, the Company may send official "Notices" or information about your Account or the Service to you via email or regular mail related to your Account and these Terms of Service, and you give us explicit permission to do so by creating an Account. The Company may also display Notices to Members or links to such Notices on the Service. We encourage you to read these Notices and check for them on a regular basis, because these Notices will apply to you and your Account immediately upon delivery or posting, whether or not you actually review them.

We are continuously developing the features and functionality of the Service. Consequently, we reserve the right to modify these Terms of Service at any time at our sole discretion. If you are dissatisfied with or do not agree to abide by any modified Terms of Service, you acknowledge and agree that your sole remedy is to close your Account and discontinue use of the Service.

When the Company makes changes to these Terms of Service, the 'last updated' date at the top of this document will be revised accordingly. If there are material changes to the Terms of Service, we will send Notice to you of such modifications by posting a message on the Service and/or sending a Notice to the email address associated with your Account. You agree to be bound by such modifications when you use the Service and the modifications shall be effective at the time of delivery to you or posting on the Service, whichever is earlier. Your continued use of the Service after any modifications to the Terms of Service will indicate your agreement with the modifications.

Adherence to Laws and Ordinances

You acknowledge and agree to comply with all federal, state, and local laws and regulations in your activities related to the Service and conduct as a Member. Many cities and counties have laws regulating certain home-based activities that can potentially generate income. In most cases these ordinances are not applicable to Members because of the nature of their Membership. However, Members must obey those laws that do apply to them. If a city or county or other government official tells a Member that an ordinance applies to him or her, the Member shall be polite and cooperative, and immediately send a copy of the ordinance to: legal@tunetornado.com.

Independent Parties

You acknowledge and agree that your legal relationship with the Company will at most be that of an independent contractor, and nothing herein will make you an agent or legal representative of the Company, nor will you be considered a joint venturer or partner with the Company for any purpose.

Income Taxes

Each Member is responsible for paying local, state, and federal taxes on any income generated as a Member. Every year, the Company provides an IRS Form 1099 MISC (Non-employee Compensation) earnings statement to each U.S. Member who had

earnings of over \$600 in the previous calendar year. Failure to cooperate with the Company in providing all reasonable tax information requested to facilitate and complete this process will be deemed a material breach of your obligations hereunder.

Miscellaneous

In the event that any portion of these Terms of Service is held to be invalid or unenforceable, then such portion will be construed in accordance with the applicable law as nearly as possible to reflect the original intentions of the parties, and the remainder of the Terms of Service will remain in full force and effect. No waiver will be effective unless in writing. These Terms of Service will be governed by and construed in accordance with the laws of the State of California. Except for proceedings commenced by us to protect our intellectual property or confidential information which may be brought in any court of competent jurisdiction, you agree that any and all disputes arising hereunder will be resolved exclusively by state or federal courts located in San Jose, California. These Terms of Service contain the entire agreement between you and the Company concerning the subject matter hereof and supersede all existing agreements and all other oral, written or other communication between you and the Company concerning the subject matter hereof.

Attachment D – Song Cancellation Form

Artist name: _____

Request date: _____

Album name (if applicable): _____

Song name(s):

I understand that under the terms of the Master Promotion Agreement, the cancellation of the song and removal from the TTI Service shall be effective 90 days after receipt of the cancellation notice.

Artist signature: _____

TTI date of receipt: _____