

## **Members agreement**

Welcome to the DELIVER MY TUNE Artist Agreement (together with any and all applicable Addenda the "**Agreement**"), between you and DELIVER MY TUNE (a division of Audio & Video Labs, Inc., along with our licensees and assignees collectively referred to in this Agreement as "**us**," "**we**," and "**DELIVER MY TUNE**"). This Agreement contains the general terms and conditions under which DELIVER MY TUNE offers the "**Services**" (as defined below). If you choose to utilize the **Distribution Service** (as defined below) or the **Consignment Service** (as defined below) or the "**Sync Distribution Service**" (as defined below) or any combination of such services, the Digital Download Addendum and/or the Consignment Service Addendum and/or the Sync Distribution Addendum (each an "**Addendum**" and collectively the "**Addenda**") will apply as applicable. Use of the Services, including through the submission of sound recordings (and the musical works embodied therein) for distribution by DELIVER MY TUNE through the submission of digital embodiments of your sound recordings to DELIVER MY TUNE, constitutes your agreement to and acceptance of this Agreement and any applicable Addendum.

**THIS AGREEMENT, WHEN ACCEPTED BY YOU AFTER YOU CLICK "I AGREE" WILL CREATE A BINDING AND LEGALLY ENFORCEABLE CONTRACT BETWEEN YOU AND US, WHETHER YOU ARE ACTING IN YOUR INDIVIDUAL CAPACITY OR AS THE AUTHORIZED REPRESENTATIVE FOR AN ARTIST, BAND, GROUP OR CORPORATION, IN WHICH CASE "YOU" SHALL REFER TO THE ARTIST, BAND, GROUP OR CORPORATION ON WHOSE BEHALF YOU ARE ACTING AND AUTHORIZED TO ACT. THEREFORE, PLEASE READ THIS AGREEMENT CAREFULLY AND CONSULT WITH YOUR OWN BUSINESS AND LEGAL ADVISORS BEFORE CLICKING "I AGREE." THE "EFFECTIVE DATE" OF THIS AGREEMENT IS THE DATE ON WHICH YOU CLICK THE "I AGREE" BUTTON BELOW.**

We reserve the right to add, delete and/or modify any of the terms and conditions contained in this Agreement pursuant to the provisions of Section 9 below. Notwithstanding the preceding sentence, no modifications to this Agreement will apply to any dispute between you and DELIVER MY TUNE that arose prior to the date of such modification. In the event of substantive changes to the terms of this Agreement, you will be notified by email. If any modification is unacceptable to you, your only recourse is to discontinue use of the Services. Your continued use of the Services following posting of a change notice or new agreement on the Site or notice to you via e-mail, will constitute your binding acceptance of the changes.

**YOU ARE RESPONSIBLE FOR MAINTAINING A VALID E-MAIL ADDRESS ON FILE WITH DELIVER MY TUNE FOR SO LONG AS YOU AVAIL YOURSELF OF ANY SERVICES..**

1. Terms of Service:

This Agreement is incorporated into and subject to the Terms of Service. All initially-capitalized terms not defined in this Agreement are defined in the TOS.

## 2. Authorization:

You hereby appoint us as your authorized representative for the sale and other distribution of “**Your Content**” (as defined below). Accordingly, you hereby grant to us and our “**Licensees**” (as defined below) the non-exclusive right, during the Term (as defined below) and throughout the “**Authorized Territory**” (as defined below), to:

(a) Reproduce and create derivative works of Your Content (including any Physical Product) by converting Your Content into Digital Masters, including less than full-length versions of sound recordings (“**Clips**”) that can be used for promotional purposes as authorized herein and, if necessary, reproducing Your Content in new Physical Product;

(b) Publicly perform, publicly display, communicate to the public, and otherwise make available Your Content, and portions thereof as embodied in Clips, by means of digital audio transmissions (on an interactive or no interactive basis) through the Website, a Licensee website, you or any person authorized by you may place on any website, to identify the availability of Your Content for license, sale or distribution and to promote Your Content, on a through-to-the-listener basis, *without the payment of any fees or royalties to* (i) the songwriters, composers, or music publishers owning any rights in and to Your Content; (ii) any performing artist(s) (including non-featured vocalists and musicians) on Your Content; (iii) any other person involved in the creation of or owning any portion of Your Content, including, but not limited to a record label, and (iv) any agents for any of the foregoing, including, without limitation, performing rights organizations (“**PROs**”) and unions or guilds, whether INDIA. or foreign

(c) Distribute Your Content in accordance with any applicable Addendum;

(d) Place or embed Your Content in magazines, web sites, DELIVER MY TUNE advertisements, and any and all other media, whether now known or hereafter developed, but specifically excluding television and movies, to promote the DELIVER MY TUNE Service;

(e) Use and distribute Copyright Management Information as embodied in a Digital Master of Your Content;

(f) Use Your Content and metadata as may be reasonably necessary or desirable for us to exercise our rights under this Agreement;

(g) Reproduce, distribute, and publicly perform and communicate to the public Your Content (including Clips) as part of a downloaded program that may include multiple sound recordings and other content, commonly known as a “podcast;” and

(h) Authorize our Licensees to perform any one or more of the activities specified above or in an applicable Addendum.

## 3. Term:

The term of this Agreement will commence on the Effective Date and will continue, unless and until terminated by either you or us, upon twenty-four (24) hours written

notice (the "**Term**"), which notice, if sent by (a) DELIVER MY TUNE, may be sent to you at the last e-mail address you provided to DELIVER MY TUNE and (b) you to DELIVER MY TUNE, must be sent only to the following e-mail address: DELIVERMYTUNE@DELIVERMYTUNE.com with the following information: (a) your username; (b) the e-mail address associated with your Account; (c) all album titles for which you are requesting termination; and (d) which Services you are terminating ( Digital Distribution, and/or Sync Distribution). Any termination notice provided by you pursuant to this section shall be permanent and irreversible. Notwithstanding anything to the contrary herein, DELIVER MY TUNE may at any time in its sole discretion, with or without notice to you: (i) suspend or limit your access to or your use of the Services and/or (ii) suspend or limit your access to your Account (as defined in Section 11(a)).

#### 4. Payments to You:

(a) **Pricing the Sale of Your Content.** Except as otherwise set forth in an Addendum, you will have the discretion to set the pricing for the sale of Your Content on the Website. Notwithstanding the foregoing, DELIVER MY TUNE and its distributors and partners may set pricing differently for third-party websites than for the Website, including, by way of example and not limitation, to cover additional costs or to provide discounts for promotions. DELIVER MY TUNE reserves the sole and exclusive right to set the pricing for any digital audio transmissions of Your Content, whether on an interactive or non-interactive basis, provided that Your Content will be priced the same as all other content on the Service licensed by DELIVER MY TUNE for interactive or non-interactive digital audio transmissions. You will also be subject to additional set up fees and charges as more fully explained on the Website, including, but not limited to, fees for DELIVER MY TUNE's administering mechanical royalties for the reproduction and distribution of musical works (as applicable), as such fees and charges may be updated by DELIVER MY TUNE from time to time, and you are responsible for reviewing those fees and charges. Your acceptance of this Agreement is an acceptance of the DELIVER MY TUNE fees and charges, which are available on the website.

(b) **Licensee Records.** DELIVER MY TUNE, may, but need not, audit the books and records of Licensees and may accept any representations made in a Licensee accounting statement delivered to DELIVER MY TUNE as true and complete. DELIVER MY TUNE shall have no liability to you for failure to audit or investigate any accountings rendered to it by any Licensees.

(c) **Offsets.** You hereby authorize DELIVER MY TUNE to offset against any amounts owed to you pursuant to this Agreement any amounts that you may owe to DELIVERMYTUNE, whether under an indemnification provision or for costs, expenses, and deductions authorized in this Agreement.

(d) **Recordkeeping; Audits.** We will maintain books and records which report the sale or other licensed uses of Your Content. You may, but not more than once a year, at your own expense, engage a Chartered Accountant ("**CA**") to examine those books and records directly related to the sale or other licensed uses of Your Content, as provided in this Section 4(d), only. You may have your CA make those examinations only for the purpose of verifying the accuracy of the statements sent to you. All such examinations will be in accordance with generally accepted accounting principles procedures and regulations. Your CA may make such an examination for a

particular statement only once, and only within one (1) year after the date we send you that statement. Your CA may make such an examination only during our usual business hours, and only at the place where such books and records are maintained in the ordinary course of business. You must provide us with thirty (30)-days written notice prior to commencing an audit and must identify the name, address, telephone number, and email address of the CA conducting the audit on your behalf. You may not engage the CA on a contingent fee basis (i.e., your CA must be paid on a flat fee or time-based basis). We may postpone the commencement of your CA's examination by notice given to you not later than five (5) days before the commencement date specified in your notice. In the event of any postponement initiated by us, the running of the time within which the examination may be made will be suspended during the postponement. If your CA's examination has not been completed within three (3) months from the time commenced, then we may require you to terminate the audit upon seven (7) days' notice, which notice may be given at any time. We will not be required to permit the CA to continue any examination after the end of that seven (7)-day period. Your CA will not be entitled to examine any other records that do not specifically report sales or other licensed uses of Your Content for which DELIVER MY TUNE has actually received payment. Your CA may act only under an acceptable confidentiality agreement, which provides that any information derived from such audit or examination on your behalf will not be knowingly released, divulged, published or shared with any other person, firm or corporation, other than to you or to a judicial or administrative body in connection with any proceeding relating to this Agreement. Your CA may not share the results of the examination conducted on your behalf with any third party without our express written permission.

**(e) Objections to Accountings.** If you have any objections to a DELIVER MY TUNE accounting statement made available to you, you agree that you shall give us specific notice of that objection, including a copy of your CA's analysis of the accounting statement, and your reasons for it within eighteen (18) months after the date we send or make that statement available to you. Each statement shall become conclusively binding on you at the end of that eighteen (18)-month period, and you will no longer have any right to make any other objections to it notwithstanding any audit rights you may otherwise have under any applicable law or regulation. Any payments determined to be owed you following an audit shall be paid within forty-five (45) days of the delivery of your CA's audit report, unless objected to in writing by DELIVER MY TUNE, in which case any payments due shall be postponed pending the resolution of the audit dispute. A late fee of one-half percent (0.5%) shall be due for underpaid royalties. Unless otherwise prohibited by law, you will not have the right to sue us in connection with any statement, or to sue us for unpaid royalties for the period a statement covers, unless you commence the suit within that eighteen (18)-month period. If you commence suit on any controversy or claim concerning statements rendered to you under this Agreement in a court of competent jurisdiction, the scope of the proceeding will be limited to a determination of the amount of royalties due for the accounting periods concerned, and the court shall have no authority to consider any other issues or award any relief except recovery of any royalties found owing, plus interest at the rate of one-half percent (0.5%) per month. Your recovery of any such royalties plus interest shall be the sole remedy available to you by reason of any claim related to our statements.

(f) **Affiliation with Other Performing Rights Organizations for Royalties.** Nothing contained in this Agreement shall prohibit you from affiliating with any PRO for the receipt of royalty payments for the public performance or communication to the public of your sound recordings or musical works made by a third party, excluding only public performances or communications to the public of sound recordings or musical works made by DELIVER MY TUNE pursuant to the Authorizations set forth in Section 2 of this Agreement.

(g) **Tax Information.** DELIVER MY TUNE will use its reasonable efforts to collect sales and other taxes owed on the sale of Your Content ("**Sales Tax**"), and to remit such Sales Tax on your behalf to relevant government authorities. Notwithstanding the above, in all events, you acknowledge and agree that you are ultimately responsible for the payment of any Sales Tax owed in connection with the sale or distribution of Your Content pursuant to this Agreement, and you hereby indemnify DELIVER MY TUNE for any Sales Tax that may be owed in addition to those amounts collected and remitted on your behalf by DELIVER MY TUNE.

#### 5. Your Obligations:

(a) You, or a licensee acting on your behalf (e.g., a company such as Rightsflow), will be responsible for obtaining and paying for any and all clearances or licenses required in the Authorized Territory (or any portion thereof) for the use of any musical works embodied in Your Content. Without limiting the generality of the foregoing, you (either directly or through a third party acting on your behalf) shall be responsible for and shall pay (i) any royalties and other sums due to artists (featured and non-featured), authors, co-authors, copyright owners and co-owners, producers, engineers, and any other record royalty participants from sales or other uses of Your Content, (ii) all mechanical royalties or other sums payable to music publishers and/or authors or co-authors of musical compositions embodied in Your Content from sales or other uses of Your Content (iii) all payments that may be required under any collective bargaining agreements applicable to you or any third party, and (iv) any other royalties, fees and/or sums payable with respect to Your Content or other materials provided by you to us. You agree that the amount payable to you is inclusive of any so-called "artist royalties" that might otherwise be required to be paid for sales or exploitations pursuant to the applicable laws of any jurisdiction and for any public performances, public displays or communications to the public of the sound recordings and musical works constituting Your Content.

#### 6. Right to Withdraw Material; Termination of Authorizations to Licensees

You have the right, at any time during the Term, to withdraw the authorizations set forth in Section 2 above and the applicable Addenda, for the sale or other uses of all or any portion of Your Content, upon written notice to us (a "**Withdrawal Notice**") or to terminate this Agreement pursuant to Section 3 of this Agreement (a "**Termination Notice**"). Upon receipt of a Withdrawal Notice with respect to any of Your Content or a Termination Notice with respect to all of Your Content, we will promptly remove those elements of Your Content covered by such Withdrawal Notice or Termination Notice, as the case may be, from the Website (and in no event more than five (5) business days following receipt of a Withdrawal Notice or Termination Notice), and shall, within five (5) business days following our receipt of a Withdrawal Notice or Termination Notice, advise our Licensees via a "**Takedown Notice**" that they are no longer authorized to sell or offer for any other use those elements of Your Content covered by such Takedown Notice. Your submission of a Withdrawal Notice or

Termination Notice shall not in any way limit the authorizations granted to us or any Licensees prior to the implementation of your Withdrawal Notice or Termination Notice, and will not limit in any way the rights of end users who have acquired Your Content.

DELIVER MY TUNE is not responsible for, and has no liability for, any delays of our Licensees in removing Your Content from any websites or services owned or operated by such Licensees. You shall remain solely responsible for enforcing the removal of Your Content from our Licensees' websites and services in the event such Licensees fail to remove Your Content following receipt of a Takedown Notice or following the termination of any rights granted to such Licensees by DELIVER MY TUNE; provided, however, that DELIVER MY TUNE may, in its sole and absolute discretion, continue to assist you to effectuate the removal of Your Content from Licensees' websites and services. DELIVER MY TUNE may, but need not, provide you with notice in the event DELIVER MY TUNE terminates or allows to expire any authorizations previously granted to a Licensee for the distribution of Your Content. Nothing in this Agreement shall limit any remedies you may have at law or in equity against any Licensee that is using Your Content in violation of the terms of any license granted to such Licensee by you or DELIVER MY TUNE.

#### 7. Names and Likenesses; Promotional Use and Opportunities:

(a) **Name and Likeness of Artists and Songwriters.** You hereby grant to DELIVER MY TUNE during the Term the right to use and to authorize our Licensees to use the names and approved likenesses of, and biographical material concerning, any artists, bands, producers and/or songwriters, as well as track and/or album name, and all artwork related to your sound recordings or audiovisual works, in any marketing materials for the sale, promotion, and advertising of Your Content, which is offered for sale or other use under the terms of this Agreement (e.g., an artist or band name and likeness may be used in an informational fashion, such as by textual displays or other informational passages, to identify and represent authorship, production credits, and performances of the applicable artist or band in connection with the exploitation of Your Content).

(b) **Promotion.** You hereby grant to us and our Licensees the right to market, promote, and advertise Your Content as available for purchase or license, in any and all media, whether now known or hereafter developed, as we and they determine in our and their discretion.

(c) **Customer Information.** DELIVER MY TUNE may, from time to time, provide you with information relating to customers that purchase Your Content, subject to our privacy policy and the preferences of our customers. You may only use, and disclose this information to a third party, for your internal record keeping purposes. You may not disclose any of this information to a third party or use it for any other purpose. In all events, you will comply with the terms of DELIVER MY TUNE's privacy policy in connection with the customer data provided under this Agreement.

#### 8. Ownership:

(a) Subject to our rights hereunder or under any prior agreement between you and us, as between you and us, all right, title, and interest in and to (a)Your Content, (b)the Digital Masters, (c)the Clips, (d)the Physical Product (if applicable), (e)all

copyrights and equivalent rights embodied therein, and (f) all materials furnished by you, will be yours.

9. Modification, Termination and Effect of Termination:

(a) **Modification of Agreement.** We reserve the right to change, modify, add to, or remove all or part of this Agreement, in our sole discretion, at any time and from time to time. Notice of any material change will be sent to you by electronic mail at least fifteen (15) days prior to its effective date. If the e-mail you have provided to us is no longer functioning, then, in addition to any other remedies we may have with respect to your Account and use of the Services, we shall be authorized to communicate with you via any other reasonable manner we may choose in our sole discretion, including through notice on the web page through which you access your Account information or via any accounting statement. The most recent date of this Agreement shall be identified on the first page hereof. In the event that you do not consent to any such proposed changes in the Agreement, your sole recourse shall be to terminate this Agreement by notice to us, and your failure to submit a Termination Notice within fifteen (15) days of the date of our notice to you shall constitute your acceptance of such changes to the extent Your Content is still available through the Services. To terminate your Agreement, you must send a Termination Notice to [DELIVERMYTUNE@DELIVERMYTUNE.com](mailto:DELIVERMYTUNE@DELIVERMYTUNE.com) and include in the subject line of your e-mail "Termination of Artist Agreement."

(b) **Consequences of Termination.** The expiration or termination of the Agreement will not relieve either you or us from our respective obligations incurred prior to the effective date of your termination of the Agreement. In addition, provisions of this Agreement intended to survive the termination of this Agreement shall survive termination, including, but not limited to, the Indemnification, Disclaimers, Limitation of Liability; Basis of the Bargain, and General Provisions.

10. Monitoring of Your Content; Removal of Content from Website:

(a) **Monitoring.** DELIVER MY TUNE does not control Your Content and does not have any obligation to monitor Your Content for any purpose. DELIVER MY TUNE may choose, in its sole discretion, to monitor, review or otherwise access some or all of Your Content, but by doing so DELIVER MY TUNE assumes no responsibility for Your Content, no obligation to modify or remove any inappropriate elements of Your Content, or to monitor, review or otherwise access any other artist's content or artwork.

(b) **Right of Removal.** DELIVER MY TUNE reserves the right, in its sole and absolute discretion, to remove any of Your Content from the Website if such content: (i) is patently offensive, pornographic or defamatory; (ii) is the subject of a dispute between you or us and a third party; (iii) is content to which you cannot document your rights therein upon DELIVER MY TUNE's request; (iv) violates the intellectual property rights or other protected interests of a third party; (v) is the subject of a takedown notice by a party claiming to own the rights therein, or (vi) is the subject of any fraudulent activity, or for any other reason in DELIVER MY TUNE's sole and absolute judgment is necessary to protect the business interests of DELIVER MY TUNE and any of its business partners or Licensees. DELIVER MY TUNE may also remove Your Content from the Website if you are abusive or rude or provide false or intentionally misleading information to any DELIVER MY TUNE employees or agents. DELIVER MY TUNE shall have no liability to you for the removal of any of

Your Content from the Website or any Licensee website or service other than to provide you a credit (but not a refund) for any fees previously paid by you for making Your Content available via the Website or through Licensees. The removal of any of Your Content shall not relieve DELIVER MY TUNE of the obligation to pay you any royalties that may have accrued prior to the removal of Your Content.

(c) **No Termination Due to Removal.** This Agreement shall not be terminated automatically by DELIVER MY TUNE's removal of Your Content from the Website or Licensee's websites or services. In order for you to terminate this Agreement following the removal of any of Your Content, you must send DELIVER MY TUNE a Termination Notice.

11. Account Information; Disclosures:

(a) **Your Account Information.** In order to access some features of the Website, including your account information and periodic statements, you will have to create an online account ("**Account**"). You hereby represent and warrant that the information you provide to DELIVER MY TUNE upon registration will be true, accurate, current, and complete. You also hereby represent and warrant that you will ensure that your Account information, including your 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 Services you will have login information, including a username and password. Your Account is personal to you, and you may not share your Account information with, or allow access to your Account by, any third party, other than an agent authorized to act on your behalf. As you will be responsible for all activity that occurs under your Account, you should take care to preserve the confidentiality of your username and password, and any device that you use to access the Website. You agree to notify us immediately of any breach in secrecy of your login information. If you have any reason to believe that your Account information has been compromised or that your Account has been accessed by a third party not authorized by you, then you agree to immediately notify DELIVER MY TUNE by e-mail to DELIVERMYTUNE@DELIVERMYTUNE.com. You will be solely responsible for the losses incurred by DELIVER MY TUNE and others (including other users) due to any unauthorized use of your Account that takes place prior to notifying DELIVER MY TUNE that your Account has been compromised.

(c) **Disclosure of Information.** You acknowledge, consent, and agree that DELIVER MY TUNE may access, preserve, and disclose your Account information and Your Content 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 Your Content violates the rights of third parties; (iv) to respond to your requests for customer service; or (v) to protect the rights, business interests, property or personal safety of DELIVER MY TUNE and its employees and users, and the public.

12. Prohibited Use of the Website and Licensee Websites and Services:

(a) You agree not to use the Website, the Services, and any services provided by Licensees, for any unlawful purpose or in any way that might harm, damage, or disparage DELIVER MY TUNE, its Licensees or any other party. Without limiting the preceding sentence and by way of example and not limitation, you agree that you will



not, whether through the Website, our Licensees or Your Content, do or attempt any of the following:

(b) Undertake, cause, permit or authorize the modification, creation of derivative works, translation, reverse engineering, decompiling, disassembling or hacking of any aspect of the Website or any other part thereof, except and solely to the extent permitted by this Agreement, the features of the Website or by law, or otherwise attempt to use or access any portion of the Website other than as intended;

(c) Reproduce, duplicate, copy, sell, trade, resell, distribute or exploit, any portion of the Website, use of the Website, access to the Website or content obtained through the Website, as a result of your being granted permission to upload Your Content to the Website;

(d) Remove, circumvent, disable, damage or otherwise interfere with any security-related features of the Website, features that prevent or restrict the use or copying of any part of the Website or features that enforce limitations on the use of the Website;

(e) Threaten, harass, abuse, slander, defame or otherwise violate the legal rights (including, without limitation, rights of privacy and publicity) of third parties;

(f) Publish, distribute or disseminate any inappropriate, profane, vulgar, defamatory, infringing, obscene, tortious, indecent, unlawful, offensive, immoral or otherwise objectionable material or information;

(g) Create a false identity or impersonate another for the purpose of misleading others as to your identity, including, but not limited to, providing misleading information to any feedback system employed by DELIVER MY TUNE;

(h) Transmit or upload any material that contains viruses, Trojan horses, worms, time bombs, cancelbots, or any other harmful, damaging or deleterious software programs;

(i) Interfere with or disrupt the Website, networks or servers connected to the Website or violate the regulations, policies or procedures of such networks or servers;

(j) Upload or otherwise transmit any information or content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party, including by incorporating any such material in Your Content; or

(k) Use the Website in any manner whatsoever that could lead to a violation of any federal, state or local laws, rules or regulations.

### 13. Availability of Services:

DELIVER MY TUNE may make changes to or discontinue any aspects of the Services and any of the features, media, content, products, software or services available via the Website, at any time and without notice and without liability to you. The features, media, content, products, software or services available on and through the Website may be out of date, and DELIVER MY TUNE makes no commitment to update any aspect of the Website. DELIVER MY TUNE makes no representations and warranties with respect to availability of the Website and may

discontinue the Service at any time with or without notice. You are solely responsible for maintaining back-up copies of any elements of Your Content uploaded to the Website or otherwise delivered to DELIVER MY TUNE as Physical Product.

14. Additional Representations and Warranties:

(a) **Mutual Representations and Warranties.** Each party represents and warrants to the other that it:

(i) is authorized to enter into this Agreement on the terms and conditions set forth herein.

(ii) will not act in any manner that conflicts or interferes with any existing commitment or obligation of the other party, and that no agreement previously entered into by the party will interfere with the performance of its obligations under this Agreement.

(iii) shall perform its obligations hereunder in full compliance with any applicable laws, rules, and regulations of any governmental authority having jurisdiction over such performance.

(b) **Representations and Warranties by You.** You represent and warrant to DELIVER MY TUNE that:

(i) you have the full right, power, and authority to act on behalf of any and all owners of any right, title or interest in and to Your Content, including, but not limited to, all musical works embodied in Your Content, and that you are authorized to provide Your Content to us for the uses specified in this Agreement. For the avoidance of doubt, if you are acting on behalf of an artist, band, group or corporation, you hereby represent and warrant to DELIVER MY TUNE that you are fully authorized to enter into this Agreement on behalf of such artist, band, group or corporation and to grant all of the rights and assume and fulfill all of the obligations, covenants, and representations and warranties set forth in this Agreement.

(ii) you own or control all of the necessary rights in Your Content in order to make the grant of rights, licenses, and permissions herein, and that you have permission to use the name and likeness of each identifiable individual person whose name or likeness is contained or used within Your Content, and to use such individual's identifying or personal information (to the extent such information is used or contained in Your Content) as contemplated by this Agreement.

(iii) the use or other exploitation of Your Content, including, but not limited to, any musical works embodied in your sound recordings, by us and our Licensees as contemplated by this Agreement will not infringe or violate the rights of any third party, including, without limitation, any privacy rights, publicity rights, copyrights, contract rights, or any other intellectual property or proprietary rights.

(iv) to the extent you are the songwriter of any or all of the musical works embodied in Your Content, whether in whole or in part (e.g., as a co-writer), you have the full right, power, and authority to grant the rights set forth in this Agreement notwithstanding the provisions of any agreement you may have entered into with any PRO, whether based in the India or elsewhere, or any music publisher, and that you are solely responsible for taking all steps necessary to inform such PRO or music publisher of your grant of a royalty free license to us and our Licensees for the public

performance and communication to the public of Your Content, including as Clips, and that no fees or payments of any kind whatsoever shall be due to any PRO or music publisher for the use of the musical works in Your Content when publicly performed, communicated or otherwise transmitted by DELIVER MY TUNE or its Licensees.

(v) you have not assigned any of the rights in and to the sound recordings embodied in Your Content to any third party (e.g., a record label) that obtained exclusive rights in and to such sound recordings.

**15. No Representations and Warranties With Respect to Sales and Distributions:** DELIVER MY TUNE makes no guarantees regarding the minimum number of unit sales or uses of Your Content. In addition, we cannot guarantee that Licensees will perform under any agreement they enter into with DELIVER MY TUNE for the sale, distribution or licensed use of Your Content, including by paying the royalties they owe us for the distribution of Your Content. If a Licensee refuses to pay us for the use of Your Content, you agree that you will assume responsibility for collecting any payments that may be due from such non-compliant Licensees for any sale, distribution or licensed use of Your Content if such third party fails or refuses to pay such amounts to DELIVER MY TUNE upon DELIVER MY TUNE's request.

**16. Indemnification:**

(a) **Indemnification.** You hereby agree to indemnify, defend, and hold DELIVER MY TUNE harmless from and against any and all damages, claims, liabilities, costs, losses, and expenses (including, but not limited to, legal costs and attorneys' fees) (collectively, "**Claims**") arising out of any breach or alleged breach of any of the warranties, representations, covenants or agreements made by you in this Agreement, including, but not limited to, any Claims made by a PRO or music publisher with respect to any public performances or communications to the public of any musical works embodied in Your Content, any contributor to any sound recording included within Your Content, including claims from any unions, guilds, background musicians or vocalists, engineers, etc., or any other party for any use or misuse of any other forms of intellectual property or proprietary rights in Your Content, including, but not limited to, trademark rights and invasions of the right of privacy or publicity. You agree to reimburse us, on demand, for any payment made by us at any time with respect to any Claims to which the foregoing indemnity applies. Pending the resolution of any claim, demand, or action, we may, at our election, withhold payment of any monies otherwise payable to you hereunder in an amount which does not exceed your potential liability to us pursuant to this Section.

(b) **Indemnification Request.** If we make an indemnification request to you under this Section, we may permit you to control the defence, disposition or settlement of the matter at your own expenses, provided that you shall not, without our prior written consent, enter into any settlement or agree to any disposition that requires any admission of liability by DELIVER MY TUNE or imposes any conditions or obligations on DELIVER MY TUNE other than the payment of monies that are readily measurable for purposes of determining your monetary indemnification or reimbursement obligations to us. If we, in our reasonable and good faith judgment conclude that you are not capable of defending your or our interests against any Claims, then we shall have the option to control the defence in any matter or litigation through counsel of our own choosing to defend against any such Claim for

which you owe DELIVER MY TUNE an indemnification, and the costs of such counsel, as well as any court costs, shall be at your expense.

17. Disclaimers:

(a) THE WEBSITE AND ANY THIRD-PARTY CONTENT, SOFTWARE, SERVICES OR APPLICATIONS MADE AVAILABLE IN CONJUNCTION WITH OR THROUGH THE WEBSITE, ARE PROVIDED ON AN "AS IS," "AS AVAILABLE," "WITH ALL FAULTS" BASIS WITHOUT REPRESENTATIONS AND WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE.

(b) TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, DELIVER MY TUNE AND ITS AFFILIATES, PARTNERS, LICENSORS AND SUPPLIERS HEREBY DISCLAIM ALL EXPRESS, IMPLIED AND STATUTORY WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM DELIVER MY TUNE OR THROUGH THE WEBSITE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN. DELIVER MY TUNE AND ITS AFFILIATES, PARTNERS, LICENSORS, AND SUPPLIERS DO NOT WARRANT THAT THE WEBSITE OR ANY PART THEREOF, OR ANY SERVICES PROVIDED BY DELIVER MY TUNE, WILL BE UNINTERRUPTED, OR FREE OF ERRORS, VIRUSES OR OTHER HARMFUL COMPONENTS AND DO NOT WARRANT THAT ANY OF THE FOREGOING WILL BE CORRECTED. YOU UNDERSTAND AND AGREE THAT YOU USE, ACCESS, DOWNLOAD, OR OTHERWISE OBTAIN INFORMATION, MATERIALS, OR DATA THROUGH THE WEBSITE OR ANY ASSOCIATED SITES OR APPLICATIONS, AND OFFER YOUR CONTENT VIA THE SERVICES, AT YOUR OWN DISCRETION AND RISK, AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM, HANDSET, OR ANY OTHER DEVICE OR PERIPHERAL USED IN CONNECTION WITH THE WEBSITE) OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR USE OF SUCH MATERIAL OR DATA.

18. Limitation of Liability; Basis of the Bargain:

(a) DELIVER MY TUNE SHALL NOT BE LIABLE TO YOU FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE, FOR ANY REASON, INCLUDING, WITHOUT LIMITATION, THE BREACH OF THIS AGREEMENT OR ANY TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF WE HAVE BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES. DELIVER MY TUNE SHALL ALSO NOT BE LIABLE FOR ANY ROYALTIES, FEES, PAYMENTS OR DAMAGES ARISING OUT OF THE FAILURE OF ANY LICENSEE TO PAY DELIVER MY TUNE OR YOU ANY ROYALTIES THAT ARE DUE FOR ANY USE OR MISUSE OF YOUR CONTENT, WHETHER PURSUANT TO AN EXISTING, EXPIRED OR TERMINATED AGREEMENT WITH DELIVER MY TUNE OR OTHERWISE. DELIVER MY TUNE'S TOTAL LIABILITY TO YOU FOR ANY BREACH OF THIS AGREEMENT SHALL IN ALL INSTANCES BE LIMITED TO THE AMOUNT OF MONIES ACTUALLY PAID TO YOU BY DELIVER MY TUNE FOR

THE DISTRIBUTION OR LICENSING OF YOUR CONTENT DURING THE SIX (6)-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF YOUR CLAIM AGAINST DELIVER MY TUNE.

(b) APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN SUCH CASES, YOU AGREE THAT BECAUSE SUCH DISCLAIMERS AND LIMITATIONS OF LIABILITY REFLECT A REASONABLE AND FAIR ALLOCATION OF RISK BETWEEN YOU AND DELIVER MY TUNE, AND ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN YOU AND DELIVER MY TUNE, DELIVER MY TUNE'S LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW. YOU UNDERSTAND AND AGREE THAT DELIVER MY TUNE WOULD NOT BE ABLE TO OFFER ITS SERVICES TO YOU ON AN ECONOMICALLY FEASIBLE BASIS WITHOUT THESE LIMITATIONS AND WOULD NOT OFFER SUCH SERVICES ABSENT A LIMITATION OF LIABILITY.

#### 19. Dispute Resolution:

(a) Mandatory Arbitration. Please read this carefully. It affects your rights. YOU AND DELIVER MY TUNE AND EACH OF OUR RESPECTIVE SUBSIDIARIES, AFFILIATES, PREDECESSORS IN INTEREST, SUCCESSORS, AND PERMITTED ASSIGNS AGREE TO ARBITRATION (EXCEPT FOR MATTERS THAT MAY BE TAKEN TO SMALL CLAIMS COURT), AS THE EXCLUSIVE FORM OF DISPUTE RESOLUTION EXCEPT AS PROVIDED FOR BELOW, FOR ALL DISPUTES AND CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR YOUR USE OF THE SERVICES. Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than in court, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. Please visit [www.adr.org](http://www.adr.org) for more information about arbitration.

(b) Commencing Arbitration. A party who intends to seek arbitration must first send to the other, by certified mail, a written notice of intent to arbitrate (a "Notice"), or, in the absence of a mailing address provided by you to DELIVER MY TUNE, to you via any other method available to DELIVER MY TUNE, including via e-mail. The Notice to DELIVER MY TUNE should be addressed to: [DELIVER MY TUNE / ATTN: Joel Andrew / 13909 Airport Way / Portland, OR / 97230] (the "Arbitration Notice Address"). The Notice must (i) describe the nature and basis of the claim or dispute; and (ii) set forth the specific relief sought (the "Demand"). If you and DELIVER MY TUNE do not reach an agreement to resolve the claim within 30 days after the Notice is received, you or DELIVER MY TUNE may commence an arbitration proceeding as set forth below or file a claim in small claims court. If you are required to pay a filing fee to commence an arbitration against DELIVER MY TUNE, then DELIVER MY TUNE will promptly reimburse you for your confirmed payment of the filing fee upon DELIVER MY TUNE receipt of Notice at the Arbitration Notice Address that you have commenced arbitration along with a receipt evidencing payment of the filing fee, unless your Demand is equal to or greater than \$1,000, in which case you are solely responsible for the payment of the filing fee.

(c) Arbitration Proceeding. The arbitration shall be conducted in the English language. A single independent and impartial arbitrator shall be appointed pursuant

to the Rules, as modified herein. You and DELIVER MY TUNE agree to comply with the following rules, which are intended to streamline the dispute resolution process and reduce the costs and burdens on the parties: (i) the arbitration shall be conducted by telephone, online and/or be solely based on written submissions, the specific manner to be chosen by the party initiating the arbitration; (ii) the arbitration shall not require any personal appearance by the parties or witnesses unless otherwise mutually agreed in writing by the parties; and (iii) any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

(d) No Class Actions. YOU AND DELIVER MY TUNE AGREE THAT YOU AND DELIVER MY TUNE MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. FURTHER, YOU AGREE THAT THE ARBITRATOR MAY NOT CONSOLIDATE PROCEEDINGS OF MORE THAN ONE PERSON'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND THAT IF THIS SPECIFIC PROVISIO IS FOUND TO BE UNENFORCEABLE, THEN THE ENTIRETY OF THIS MANDATORY ARBITRATION SECTION SHALL BE NULL AND VOID.

(e) Decision of the Arbitrator. Barring extraordinary circumstances, the arbitrator shall issue his or her decision within 120 days from the date the arbitrator is appointed. The arbitrator may extend this time limit for an additional 30 days in the interests of justice. All arbitration proceedings shall be closed to the public and confidential and all records relating thereto shall be permanently sealed, except as necessary to obtain court confirmation of the arbitration award. The award of the arbitrator shall be in writing and shall include a statement setting forth the reasons for the disposition of any claim. The arbitrator shall apply the laws of the State of California in conducting the arbitration. You acknowledge that this Agreement and your use of the Services and the Website evidences a transaction involving interstate commerce.

(f) Applicable Law. This Agreement and your use of the Services and the Website shall be governed by the substantive laws of the State of California without reference to its choice or conflicts of law principles. Only if the Mandatory Arbitration clause is deemed to be null and void, then all disputes arising between you and DELIVER MY TUNE under this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in Multnomah County, Oregon, and you and DELIVER MY TUNE hereby submit to the personal jurisdiction and venue of these courts.

(g) Equitable Relief. The foregoing provisions of this Dispute Resolution section do not apply to any claim in which DELIVER MY TUNE seeks equitable relief of any kind. You acknowledge that, in the event of a breach of this Agreement by DELIVER MY TUNE or any third party, the damage or harm, if any, caused to you will not entitle you to seek injunctive or other equitable relief against DELIVER MY TUNE, and your only remedy shall be for monetary damages, subject to the limitations of liability set forth in this Agreement.

(h) Claims. You and DELIVER MY TUNE agree that, notwithstanding any other rights the party may have under law or equity, any cause of action arising out of or

related to this Agreement, the Services or the use of the Website, excluding a claim for indemnification, must commence within one year after the cause of action accrues. Otherwise, such cause of action is permanently barred.

(i) **Improperly Filed Claims.** All claims you bring against DELIVER MY TUNE must be resolved in accordance with this Dispute Resolution section. All claims filed or brought contrary to this Dispute Resolution section shall be considered improperly filed. Should you file a claim contrary to this Dispute Resolution section, DELIVER MY TUNE may recover attorneys' fees and costs up to \$5,000, provided that DELIVER MY TUNE has notified you in writing of the improperly filed claim, and you have failed to promptly withdraw the claim.

## 20. General Provisions:

(a) **Relationship of the Parties.** The parties hereto agree and acknowledge that the relationship between them is that of independent contractors. This Agreement shall not be deemed to create an agency, partnership or joint venture between you and DELIVER MY TUNE, and DELIVER MY TUNE shall not have a fiduciary obligation to you as a result of your entering into this Agreement.

(b) **Entire Agreement.** This Agreement together with the TOS contains the entire understanding of the parties relating to the subject matter hereof. This Agreement (including all Addenda) supersedes all previous agreements or arrangements between you and DELIVER MY TUNE pertaining to the Services, provided that if you previously entered into a digital distribution or consignment agreement with us in the past, and elected any options specifying or limiting the scope of the distribution of Your Content, the limitations and authorizations with respect to the distribution of Your Content shall remain in place under this Agreement and the applicable Addendum. This Agreement cannot be changed or modified except as provided herein.

(c) **Waiver; Severability.** A waiver by either party of any term or condition of this Agreement will not be deemed or construed as a waiver of such term or condition, or of any subsequent breach thereof. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, such determination shall not affect any other provision hereof, and the unenforceable provision shall be replaced by an enforceable provision that most closely meets the commercial intent of the parties.

(d) **Binding Effect.** This Agreement will be binding on the assigns, heirs, executors, affiliates, agents, personal representatives, administrators, and successors (whether through merger, operation of law, or otherwise) of each of the parties.

(e) **Notice.** Any notice, approval, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes on the delivery date if sent by electronic mail to the addresses provided to and by you upon registration with DELIVER MY TUNE, or as properly updated, or, in the absence of a valid electronic mail address, via any other method DELIVER MY TUNE may elect in its sole discretion, including, but not limited to, via posting on the Website.

(f) **Governing Law; Dispute Resolution.** This Agreement will be governed and interpreted in accordance with the laws of the State of California applicable to agreements entered into and to be wholly performed in California, without regard to conflict of laws principles. Any and all disputes arising out of this Agreement shall be resolved in the manner set forth in the TOS.

(g) **Rights Cumulative.** To the extent permitted by applicable law, the rights and remedies of the parties provided under this Agreement are cumulative and are in addition to any other rights and remedies of the parties at law or equity.

(h) **Headings.** The titles and headings used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.

(i) **No Third Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their authorized successors and permitted assigns. Nothing herein, express or implied, is intended to or shall confer upon any person or entity, other than the parties hereto and their authorized successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(j) **Assignment.** DELIVER MY TUNE may assign its rights and obligations under this Agreement at any time to any party. You may not assign your rights and/or obligations under this Agreement without obtaining DELIVER MY TUNE's prior written consent.

#### 21. Certain Definitions:

The following capitalized terms shall have the following meanings for purposes of this Agreement:

(a) **Authorized Territory** means the universe, or more limited territories, to the extent so limited by you, during the DELIVER MY TUNE registration process.

(b) **DELIVER MY TUNE Widget** means a (i) software application available on the Website that you or someone authorized to act on your behalf may embed on third-party websites, (ii) link, code, script or any other software or instruction that you or someone authorized to act on your behalf may embed or place on a third-party website, including, but not limited to, social media websites such as Facebook, that permits a user of such third-party website to access content hosted and/or streamed from servers owned or controlled by or on behalf of DELIVER MY TUNE, including Your Content, or (iii) standalone software available for use on mobile devices, smartphones (e.g., iPhones, Android phones), tablet computers (e.g., iPads), set-top boxes, and other hardware now known or hereafter developed (collectively, "Hardware"), that facilitates or enables the public performance, communication to the public or other transmission of Your Content via the Internet or any other transmission medium through such third-party websites or on or through any Hardware. The DELIVER MY TUNE Widget may provide access to all of Your Content or give you the ability to control which of Your Content is available through third-party websites, as DELIVER MY TUNE may choose in its sole discretion.

(c) **Consignment Service** means the service that enables you to market and have sold Physical Products via the Website and/or through DELIVER MY TUNE's



partners on a consignment basis following your delivery of Your Content to DELIVER MY TUNE as Physical Product.

(d) “**Copyright Management Information**” means the digital information conveying information regarding a Digital Master, including, by way of example and not limitation, the title of the applicable album, the name of the song, the ISRC code, the marketing label, and the record company name.

(e) “**Digital Download and Distribution Service**” means the online services operated by DELIVER MY TUNE for the sale, distribution or licensing of Your Content and other content through the Website or through websites and services operated by or on behalf of Licensees.

(f) “**Digital Master**” or “**Digital Masters**” means a copy or copies of Your Content in digital form, whether created by you or DELIVER MY TUNE.

(g) “**Licensee**” means any third party licensee that we may authorize to carry out the marketing, distribution, licensing, and sale or other use of Your Content pursuant to the terms of this Agreement, including, by way of example and not limitation, Apple iTunes, MediaNet, Rhapsody, online streaming services (e.g., webcasters), and others that DELIVER MY TUNE may chose in its sole and absolute discretion.

(h) “**Physical Product**” means Your Content as fixed in physical product such as CDs, DVDs, LPs, etc.

(i) “**Service**” means either, any combination, or all of the Digital Download and Distribution Service, the Consignment Service, and the Sync Distribution Service.

(j) “**Sync Distribution Service**” means the service that enables you to have Your Content made available for synchronization and other licensing.

(k) “**Threshold Amount**” means the dollar amount set by you initially upon your registration with DELIVER MY TUNE, or as subsequently modified by you, which amount shall in no event be less than \$10.

(l) “**Your Content**” means sound recordings, video content (i.e., audiovisual works), and the musical works embodied in such sound recordings and video content, and any album related artwork, photos, liner notes, metadata and other material related to your sound recordings and video content that you have provided to DELIVER MY TUNE, either by digital upload to the Website or by delivery of Physical Product, either directly or via a third party acting on your behalf. Any such sound recordings and video content (and the musical works embodied therein), artwork, photos, liner notes, metadata, or other material provided by you to DELIVER MY TUNE, must be owned or controlled by you and/or have been cleared by you for all purposes and rights granted and authorized under this Agreement. For the avoidance of doubt, Your Content encompasses each sound recording and the musical work (i.e., the notes and lyrics) embodied in each sound recording.

#### DIGITAL DISTRIBUTION ADDENDUM

Welcome to the DELIVER MY TUNE Digital Distribution Addendum between you and DELIVER MY TUNE. This Digital Distribution Addendum is part of and

incorporates the terms of the DELIVER MY TUNE Artist Agreement, and contains additional terms and conditions under which DELIVER MY TUNE offers the Digital Download and Distribution Service.

### **1. Additional Authorization:**

While selling Your Content on the Website is non-exclusive (meaning you have the right to sell your music and videos directly), the rights granted by you to us under this Digital Distribution Addendum are exclusive with respect to serving as your authorized representative for distributing Your Content to third party distributors for online redistribution, because online retailers (e.g., iTunes, Amazon, etc.) will refuse content that may be delivered by multiple parties.

### **2. Additional Grant:**

In addition to the rights granted in the DELIVER MY TUNE Artist Agreement, You hereby grant to us the exclusive right (as explained below), and to our Licensees the non-exclusive right, during the Term and throughout the Authorized Territory, to:

(a) Reproduce, promote, sell, distribute, and deliver Your Content as Digital Masters to purchasers and resellers who may use such Digital Masters in accordance with usage rules approved by us and pursuant to any limitations imposed by your distribution preferences (e.g., only Digital Master Sales);

(b) Use and authorize others to license the use and sale of Your Content in connection with all manner of phone services, such as, but not limited to, sales or licenses of Your Content as downloads (including, without limitation, downloads to cell phones) and for use as ringtones (including mastertones) and ringback tones;

(c) Use so-called “kiosks” to reproduce, distribute, market, and promote Your Content, including, without limitation, by allowing the burning of compact disc and DVD copies of any of Your Content (to the extent not expressly prohibited by you) or by allowing a copy of Your Content to be transferred to digital storage devices, including smartphones and other handheld devices (e.g., iPods, USB drives, etc.);

(d) Use and authorize others to allow copies of Your Content to be distributed as so-called “conditional” downloads, whether tethered to a device, time limited, play limited or otherwise;

(e) “Stream” and authorize others to “stream” Your Content on-demand as part of an Internet radio service, on a multi-channel video programming distribution service, or via any other interactive distribution platform or technology, whether now known or hereafter developed, or as part of a non-interactive service; and

(f) Reproduce, distribute, and publicly display visual elements of Your Content (e.g., album cover artwork, images, etc.) in connection with the promotion, advertisement, sale, and distribution of Your Content.

(g) Create and authorize others to create fingerprints of Your Content for purposes of audio recognition, which shall remain the property of DELIVER MY TUNE and/or its third party partners; and

(h) Use and authorize others to license the use of any album related artwork, photos, liner notes, metadata and other material related to, but not including, your sound recordings and video content that you have provided to DELIVER MY TUNE in perpetuity.

### 3. Payments to You:

(a) **Wholesale rates.** For digital content resold through our Licensees (including, by way of example and not limitation, iTunes, Amazon.com, eMusic, Rhapsody, and other partners), we will pay you an amount equal to ninety-one percent (91%) of the net wholesale price actually received by us from our Licensees for the sale or other licensed uses of your Digital Masters (the “**License Fee**”) net of Sales Tax. Distribution fees owed to DELIVER MY TUNE by any entity with whom DELIVER MY TUNE has entered into a contractual relationship that are not received or collected by DELIVER MY TUNE (e.g., as a result of the other party’s failure to perform under a contract) are not included within the calculation set forth in this Section3(a).

(b) **Retail Sales Rates.** For digital content sold directly through our Website, we will pay you an amount equal to ninety-one percent (91%) of the retail price actually received from a customer for the sale or other licensed use of Your Content net of Sales Tax. For a listing of all current fees, Retail sales fees owed to DELIVER MY TUNE by any entity with whom DELIVER MY TUNE has entered into a contractual relationship that are not received or collected are not included within the calculation set forth in this Section3(b).

(c) **Payment for Digital Distribution.** We will attempt to provide you with accounting details on a daily basis in the secure members’ login area at but we shall not be deemed in breach of this Addendum for failure to provide you with such information on a daily basis. We will use commercially reasonable efforts to provide you with payments for digital distribution (by check or electronic transfer) within seven (7) business days from the date that your Account balance exceeds the Threshold Amount. You may withdraw funds by physical check for a charge of \$1.50 USD per check withdrawal to cover processing fees. If a check is not redeemed after 180 days from the date it was issued, the funds (minus the fee) will be returned to your Account. Funds may also be requested in the form of a direct deposit (ACH), which will incur a fee of \$2.50 for bank accounts located outside of the India; direct deposits to US based bank accounts are free of charge. Refer to our [FAQ](#) for a complete list of eligible countries. Additional fees for returned direct deposit (ACH) transactions will be your responsibility. Funds may also be requested in the form of a PayPal payment, which will incur a processing fee of transaction as applicable. The current schedule of fees can be found in our [FAQ](#). Such payment shall constitute full and adequate consideration for all rights granted, and all obligations undertaken, by you in this Agreement.