



# THE INDIE MUSIC ALLIANCE BUFFALO, NEW YORK

## 1. Artist Submissions / Terms of Service

A. Artists or their legal representatives (including but not limited to their record company or public relations agent) may submit audio, graphic and textual content. Artist audio, graphic and textual content are collectively referred to as "Artist Submissions." You understand that whether or not such Artist Submissions are published, Bear Radio Network does not guarantee any confidentiality with respect to any Artist Submissions.

B. You shall be solely responsible for your own artist submission(s) and the consequences of submitting them. In connection with Artist Submissions, you affirm, represent, and/or warrant that: you own or have the necessary licenses, rights, consents, and permissions to use and authorize Bear Radio Network to use all patent, trademark, trade secret, copyright or other proprietary rights in and to any and all Artist Submissions to enable inclusion and use of the Artist Submissions in the manner contemplated by the Website and these Terms of Service.

C. For clarity, you retain all of your ownership rights in your Artist Submissions. However, by submitting Artist Submissions to Bear Radio Network, you hereby grant Bear Radio Network a worldwide, non-exclusive, royalty-free, sublicenseable and transferable license to use, reproduce, distribute, prepare derivative works of, display, and perform the Artist Submissions in connection with the Bear Radio Network Website and BRN's (and its successors' and affiliates') business, including without limitation for promoting and redistributing part or all of the Bear Radio Network Website (and derivative works thereof) in any media formats and through any media channels.

D. In connection with Artist Submissions, you further agree that you will not submit material that is copyrighted, protected by trade secret or otherwise subject to third party proprietary rights, including privacy and publicity rights, unless you are the owner of such rights or have permission from their rightful owner (including performance rights) to submit the material and to grant Bear Radio Network all of the license rights granted herein.

E. Bear Radio Network does not endorse any Artist Submission or any opinion, recommendation, or advice expressed therein, and Bear Radio Network expressly disclaims any and all liability in connection with Artist Submissions. Bear Radio Network does not permit copyright infringing activities and infringement of intellectual property rights on its Website, and Bear Radio Network will remove all Content and Artist Submissions if properly notified that such Content or Artist Submission infringes on another's intellectual property rights. Bear Radio Network may remove such Artist Submissions for violation of these Terms of Service at any time, without prior notice and at its sole discretion.

F. Bear Radio Network reserves the right to decide whether Content or an Artist Submission is appropriate and complies with these Terms of Service for violations other than copyright infringement and violations of intellectual property law, such as, but not limited to, pornography, obscene or defamatory material, poor quality, deemed not appropriate for the BRN format, or excessive length. Bear Radio may edit for time any Artist Submission without prior notice and at its sole discretion, and adding "Radio Edit" to the title of the Artist Submission.

## 2. Indemnity

You agree to defend, indemnify and hold harmless Bear Radio Network, its parent corporation, officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the Bear Radio Network Website; (ii) your violation of any term of these Terms of Service; (iii) your violation of any third party right, including without limitation any copyright, property, or privacy right; or (iv) any claim that one of the Artist Submissions caused damage to a third party. This defense and indemnification obligation will survive these Terms of Service and your use of the Bear Radio Network Website.



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### 3. Digital Millenium Copyright Act

A. If you are a copyright owner or an agent thereof and believe that any Artist Submission or other content infringes upon your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing our Copyright Agent with the following information in writing (see 17 U.S.C 512(c)(3) for further detail):

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled and information reasonably sufficient to permit the service provider to locate the material;
- Information reasonably sufficient to permit the service provider to contact you, such as an address, telephone number, and, if available, an electronic mail;
- A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Email: You acknowledge that if you fail to comply with all of the requirements of this Section (D), your DMCA notice may not be valid.

### 4. Warranty Disclaimer

YOU AGREE THAT YOUR USE OF THE BEAR RADIO NETWORK WEBSITE SHALL BE AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY LAW, BEAR RADIO NETWORK, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE WEBSITE AND YOUR USE THEREOF. BEAR RADIO NETWORK MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THIS SITE'S CONTENT OR THE CONTENT OF ANY SITES LINKED TO THIS SITE AND ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF OUR WEBSITE, (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM OUR WEBSITE, (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH OUR WEBSITE BY ANY THIRD PARTY, AND/OR (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE BEAR RADIO NETWORK WEBSITE. BEAR RADIO NETWORK DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE BEAR RADIO NETWORK WEBSITE OR ANY HYPERLINKED WEBSITE OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND BEAR RADIO NETWORK WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES. AS WITH THE PURCHASE OF A PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE.



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### 5. Limitation of Liability

IN NO EVENT SHALL BEAR RADIO NETWORK, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER RESULTING FROM ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF OUR WEBSITE, (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM OUR WEBSITE, (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH OUR WEBSITE BY ANY THIRD PARTY, AND/OR (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF YOUR USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE BEAR RADIO NETWORK WEBSITE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE COMPANY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

YOU SPECIFICALLY ACKNOWLEDGE THAT BEAR RADIO NETWORK SHALL NOT BE LIABLE FOR ARTIST SUBMISSIONS OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY AND THAT THE RISK OF HARM OR DAMAGE FROM THE FOREGOING RESTS ENTIRELY WITH YOU.

The Website is controlled and offered by Bear Radio Network from its facilities in the United States of America. Bear Radio Network makes no representations that the Bear Radio Network Website is appropriate or available for use in other locations. Those who access or use the Bear Radio Network Website from other jurisdictions do so at their own volition and are responsible for compliance with local law.

### 6. Ability to Accept Terms of Service

You affirm that you are 18 years of age or older and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms of Service, and to abide by and comply with these Terms of Service.

### 7. Assignment

These Terms of Service, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Bear Radio Network without restriction.

### 8. General

You agree that: (i) the Bear Radio Network Website shall be deemed solely based in New York; and (ii) the Bear Radio Network Website shall be deemed a passive website that does not give rise to personal jurisdiction over Bear Radio Network, either specific or general, in jurisdictions other than New York. These Terms of Service shall be governed by the internal substantive laws of the State of New York, without respect to its conflict of laws principles. Any claim or dispute between you and Bear Radio Network that arises in whole or in part from the Bear Radio Network Website shall be decided exclusively by a court of competent jurisdiction located in Monroe County, New York. These Terms of Service, together with the Privacy Notice and any other legal notices published by Bear Radio Network on the Website, shall constitute the entire agreement between you and Bear Radio Network concerning the Bear Radio Network Website. If any provision of these Terms of Service is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Service, which shall remain in full force and effect. No waiver of any term of these Terms of Service shall be deemed a further or continuing waiver of such term or any other term, and Bear Radio Network's failure to assert any right or provision under these Terms of Service shall not constitute a waiver of such right or provision. Bear Radio Network reserves the right to amend these Terms of Service at any time and without notice, and it is your responsibility to review these Terms of Service for any changes. Your use of the Bear Radio Network Website following any amendment of these Terms of Service will signify your assent to and acceptance of its revised terms. YOU AND BEAR RADIO NETWORK AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE BEAR RADIO NETWORK WEBSITE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

### 9. Termination

The above licenses granted by you can be terminated within a commercially reasonable time after you notify Bear Radio Network in writing. Except as provided herein, the above licenses granted by you in Artist Submissions are perpetual and irrevocable.



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BUFFALO, NEW YORK

## Terms of Service Acknowledgement

I, \_\_\_\_\_ ,  
*(artist name or composition owner)*

Business Address \_\_\_\_\_  
Email Address \_\_\_\_\_ Website \_\_\_\_\_  
Telephone \_\_\_\_\_ Cell \_\_\_\_\_ Fax \_\_\_\_\_  
Business Agent \_\_\_\_\_  
Recording Label \_\_\_\_\_

hereby acknowledge that I have fully read and agree to the TERMS OF SERVICE as presented here and governed at the Bear Radio Network Website at <http://BearRadio.Net/terms.htm> and grant permission to play the following "Artist Submissions" in accordance with these TERMS OF SERVICE without payment to me or any performing rights organization of any royalties or other fees:

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*note: list songs, specify entire album title, specify entire album title with exclusions or "include an all works statement for works were you are the sole composer"*

I hereby represent that I am submitting the above material in accordance with these TERMS OF SERVICE and am fully empowered and entitled to grant this Release; and that I am doing so of my own free will without coercion of any kind.

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Return this page only to:  
Bear Radio Network  
Attn: Joe Maulucci  
9 College Street (lower)  
Buffalo, NY 14201-2001

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