

**EXHIBIT 5**

REDIGI INC.

## TERMS OF USE FOR BETA SOFTWARE, SITE AND SERVICES

These Terms of Use (collectively, the "Terms") are a binding contract between you and ReDigi Inc. ("ReDigi").

You understand and agree that by installing, accessing or using the Music Manager Software (the "Software"), ReDigi.com (together with its related websites, the "Site"), the services related to the Software and/or included on the Site (the "Services"), and/or the applications and documentation associated therewith and any upgrades or enhancements of any of the foregoing (collectively with the Software, the Site and the Services, the "ReDigi Products"), you will be bound by these Terms.

If you agree to these Terms on behalf of a business or organization, you represent and warrant that you have the authority to bind the business or organization to these Terms and your agreement to these Terms will be treated as the agreement of the business or organization. In that event, "you" and "your" will refer to and apply to the user of the ReDigi Products or that business or organization, as required by the context. If you do not agree with these Terms, ReDigi is not willing to license to you and you may not use the ReDigi Products.

This Agreement is effective on June 11, 2012, for current users of the ReDigi Products, and upon acceptance for new users.

These Terms are preliminary, and ReDigi reserves the right at any time to modify these Terms and to impose new or additional terms or conditions on your use of the ReDigi Products. Such modifications and additional terms and conditions will be effective immediately and incorporated into these Terms without notice. It is your responsibility to periodically check our terms to inform yourself of any such changes. Your continued use of the ReDigi Products will be deemed acceptance thereof.

### A. Beta Terms and Conditions

#### 1. Generally

The versions of the ReDigi Products to which these Terms apply are Beta versions, which ReDigi has not yet released to the general public. You acknowledge that the ReDigi Products are believed by ReDigi to contain defects and may be incomplete, experimental and untested in nature. ReDigi's primary purposes of making the ReDigi Products available to certain parties prior to releasing them to the general public are to obtain feedback on performance and identify any defects. You acknowledge and agree that participation in the Beta testing of the ReDigi Products does not imply, guaranty or otherwise entitle you to any discounted, special or

otherwise advantageous pricing terms for any subsequent release of the ReDigi Products, including, without limitation, the general availability release.

## 2. Disclaimer; Allocation of Risk

YOU BEAR THE RISK OF USING THE REDIGI PRODUCTS. THE BETA VERSIONS OF THE REDIGI PRODUCTS MAY NOT WORK THE WAY THE FINAL VERSIONS OF THE REDIGI PRODUCTS WILL, AND THE FEATURES AND FUNCTIONALITY YOU FIND IN THE BETA VERSIONS OF THE REDIGI PRODUCTS MAY NOT APPEAR IN THE FINAL VERSIONS.

REDIGI TAKES NO RESPONSIBILITY FOR ANY MALFUNCTION OR UNDESIRE ACTION OCCURRING AS A RESULT OF YOUR USE OF THE REDIGI PRODUCTS AND SHALL HAVE NO OBLIGATION TO RESPOND TO REPORTS OF MALFUNCTION OR ANOMALY OF ANY KIND WITHIN ANY AMOUNT OF TIME OR AT ALL, OR TO MAKE ANY EFFORT TO PROVIDE ANY FIX FOR ANY OF THE SAME.

ReDigi will endeavor to keep all data submitted by you in connection with your use of the ReDigi Products private, but you are advised to safeguard important data, to use caution and to not rely in any way on the correct functioning or performance of the ReDigi Products. REDIGI MAKES NO CLAIM THAT THE REDIGI PRODUCTS ARE ENTIRELY SECURE AND TAKES NO RESPONSIBILITY FOR ANY BREACH OF PRIVACY OR LOSS OF DATA OR ANY OTHER INFORMATION AS A DIRECT RESULT OF YOUR USE OF THE REDIGI PRODUCTS.

## 3. Confidentiality

You acknowledge that (a) the ReDigi Products are private and are available to specific parties prior to the date ReDigi releases ReDigi Products to the general public (the period leading up to such date, the "Beta Period") and (b) in the course of using the ReDigi Products and performing your duties under these Terms, you may obtain information relating to the ReDigi Products and/or ReDigi ("Proprietary Information"). Such Proprietary Information shall belong solely to ReDigi and includes, but is not limited to, these Terms, the features and mode of operation of the ReDigi Products, trade secrets, know-how, inventions (whether or not patentable), techniques, processes, programs, ideas, algorithms, schematics, testing procedures, screenshots, image files, software design and architecture, computer code, internal documentation, design and function specifications, product requirements, problem reports, analysis and performance information, benchmarks, software documents, and other technical, business, product, marketing and financial information, plans and data.

Until the termination of the Beta Period and for a period of at least two (2) years thereafter, you agree not to use (except as expressly authorized by these Terms or any subsequent terms and conditions that, in accordance herewith, may apply to your use of the ReDigi Products) or share any Proprietary Information with anyone

else without prior written consent from a senior member of the ReDigi staff unless such Proprietary Information becomes part of the public domain without breach of these Terms by you. Notwithstanding the foregoing, if you are requested or required (by oral questions, interrogatories, requests for information, subpoena, civil investigative demand, or similar process or by applicable rules or regulations to which you are subject) to disclose any Proprietary Information, it is agreed that you will provide ReDigi with prompt notice of such request(s) or requirement(s), to the extent practicable, so that ReDigi may seek an appropriate protective order and/or waive your compliance with the provisions of this Section. If, failing the entry of a protective order or the receipt of a waiver hereunder, you or your representatives are compelled to disclose Proprietary Information under pain of liability for contempt or other censure or penalty, you and/or your representatives may disclose such Proprietary Information without liability hereunder.

#### 4. Feedback

It is expressly understood, acknowledged and agreed that during the Beta Period, you shall, regardless of whether or not formally requested to do, (a) inform ReDigi of the portions of the ReDigi Products that you have used and the nature and extent of such use and (b) provide to ReDigi reasonable suggestions, comments and feedback regarding the ReDigi Products, including but not limited to, usability, bug reports and test results, with respect to ReDigi Product testing (collectively, "Feedback"). For the avoidance of doubt, all Feedback shall be deemed Proprietary Information hereunder and the sole and exclusive property of ReDigi. None of the feedback or other information relating to the ReDigi Products may be used, published or otherwise disclosed by you in any manner or for any purpose whatsoever.

### B. General Terms and Conditions

#### 1. Eligibility

You must be 13 years of age or older to visit the Site or use the ReDigi Products in any manner, and, if under the age of 18 or the age of majority as that is defined in your jurisdiction, must use the ReDigi Products under the supervision of a parent, legal guardian or other responsible adult. By accessing the Site or otherwise accepting these Terms, you represent and warrant to ReDigi that you have reached the age of majority in your jurisdiction, and that you have the right, authority and capacity to agree to and abide by these Terms. You also represent, warrant and covenant to ReDigi that you will comply with all local, state, federal, and national laws, statutes, ordinances, and regulations that apply to your use of the ReDigi Products.

#### 2. Music Manager Software License

Subject to these Terms and in accordance with any documentation supplied by ReDigi, including any disclaimers or other notices that may be provided in connection with your use of the Software, ReDigi grants you a personal, non-sublicensable, non-exclusive license to use the Software during the Beta Period.

ReDigi shall at all times retain all title to and ownership of the Software and all copies thereof. You will not reproduce or modify the Software or any portion thereof. You shall not rent, sell, lease or otherwise transfer the Software or any part thereof or use it for the benefit of a third party. You shall not reverse assemble, reverse compile or reverse engineer the Software, or otherwise attempt to discover any Software source code or underlying Proprietary Information.

### 3. Use of Content

(a) Except as otherwise expressly provided herein with respect to Digital Media (as defined in Section 5(a)), ReDigi authorizes you to view and access a single copy of the content available on or from the Site solely for your personal use. The contents of the Site, such as text, graphics, images, logos, button icons, software and other content (collectively, "Content"), are protected under United States and foreign copyright, trademark and other laws. All Content is the property of ReDigi, its content suppliers or its users. The compilation (meaning the collection, arrangement and assembly) of all Content on the Site is the exclusive property of ReDigi and is protected by United States and foreign copyright, trademark, and other laws. Unauthorized use of the Content may violate these laws and is strictly prohibited.

(b) Except as permitted by these Terms, you agree not to sell or modify the Content or reproduce, display, publicly perform, distribute, or otherwise use the Content in any way for any public or commercial purpose, in connection with products or services that are not those of the ReDigi Products, in any other manner that is likely to cause confusion among consumers, that disparages or discredits ReDigi or its licensors, that dilutes the strength of ReDigi's or any of its licensors' property, or that otherwise infringes ReDigi's or any of its licensors' intellectual property rights. You further agree to in no other way misuse Content that appears on this Site. The use of the Content on any other website or in a networked computer environment for any purpose is prohibited. Any code that ReDigi creates to generate or display any Content on the pages making up the Site is also protected by ReDigi's copyright and you may not copy or adapt such code.

### 4. Site Restrictions

(a) You may not use the ReDigi Products in order to transmit, post, distribute, sell, store or destroy material, including without limitation, Content: (i) in violation of any applicable law or regulation, (ii) in a manner that will infringe the copyright, trademark, trade secret or other intellectual property rights of others or violate the

privacy, publicity or other personal rights of others, or (iii) that is defamatory, obscene, threatening, abusive or hateful.

(b) You are also prohibited from violating or attempting to violate the security of the Site, including without limitation, the following activities: (i) accessing data not intended for you or logging into a server or account which you are not authorized to access; (ii) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; or (iii) attempting to interfere with service to any other user, host or network, including, without limitation, via means of submitting a virus to the Site, overloading, "flooding", "spamming", "mailbombing" or "crashing." Violations of system or network security may result in civil and/or criminal liability. ReDigi will investigate occurrences that may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting users who are involved in such violations.

(c) You further agree to: (i) keep your password secure and confidential, (ii) not permit others to use your account, (iii) refrain from using other users' accounts, (iv) refrain from selling, trading, or otherwise transferring your account to another party and (v) refrain from charging anyone for access to any portion of the Site, or any information therein. Further, you are responsible for anything that happens through your account until you close down your account or prove that your account security was compromised due to no fault of your own.

(d) If you believe that any user or any content posted by any user of the Site violates these Terms, please contact ReDigi at <a href="mailto:Support@ReDigi.com">Support@ReDigi.com</a>. If notified of User Content (as defined in below) or other materials which allegedly do not conform to these Terms, ReDigi may in its sole discretion investigate the allegation and determine whether to take any other actions and whether to remove or request the removal of the User Content. ReDigi has no liability or responsibility to its users for performance or nonperformance of such activities.

## 5. User Content and Digital Media

(a) Subject to these Terms, ReDigi provides Services that permit you and other users to (i) license or purchase digital content, as applicable, which may include information, data, text, software, music, sound, photographs, graphics, video, messages or other digital materials submitted, posted or displayed on or through the Site (collectively, the "Digital Media") by ReDigi itself or by users of the Site for end-user use only and (ii) sell your rights to Digital Media deemed eligible by ReDigi in its sole discretion to other users of the Site, provided, that any such sale is contingent on there being demand for such Digital Media on the Site as determined by ReDigi in its sole discretion.

(b) You understand that all Digital Media and other information, data, text, software, music, sound, photographs, graphics, video, messages or other materials submitted, posted or displayed on or through the Site (collectively, "User Content") by you is your sole responsibility. You agree that any User Content submitted, posted or displayed on or through the Site by you: (i) shall be your sole responsibility; (ii) shall not infringe or violate the rights of any other party or violate any laws; (iii) shall not contribute to or encourage infringing or otherwise unlawful conduct, and (iv) shall not otherwise be obscene, objectionable, or in poor taste. You or a third party licensor, as appropriate, retain all patent, trademark and copyright rights to any User Content you submit, post or display on the Site and you or such third party licensor, as appropriate, are responsible for protecting those rights. You agree to provide accurate and complete information in connection with your submission of any User Content to the Site.

(b) By submitting, posting or displaying User Content on the Site, you grant ReDigi a worldwide, royalty-free, non-exclusive license to use such User Content as part of the ReDigi Services, without any compensation or obligation to you. ReDigi will discontinue this licensed use within a commercially reasonable period after such User Content is removed from the Site. You represent and warrant that you have the right to grant or that the holder of any rights, has completely and effectively waived all such rights and validly and irrevocably granted to you the right to grant, the license stated above. Subject to the foregoing, the owner of such User Content placed on the Site retains any and all rights that may exist in such User Content.

(c) You acknowledge that (i) download and use of the Software (including any updates thereto) is required to assist you with the verification and transfer of any User Content to the Site and (ii) if such User Content includes Digital Media, the verification and transfer process described above involves identifying and deleting all copies of such Digital Media on the computer or device on which the Software has been downloaded as well as all devices that are linked thereto and creating a digital finger print for such Digital Media. You acknowledge the importance of complying with these Terms and allowing the Software to work as described in these Terms and in any disclaimers or other notices that may be provided in connection with your use of the Software.

(d) You acknowledge and agree that, if you transfer Digital Media on the Site and offer it for sale, such action constitutes your representation and warranty to ReDigi and to the purchaser of such Digital Media that (i) you are the lawful owner of such Digital Media, (ii) you have not altered or modified such Digital Media, (iii) you have to your knowledge destroyed all copies of such Digital Media other than the uploaded file, (iv) upon purchase of such file by a purchaser on the Site you transfer all of your rights and title in and to the uploaded file and all copies thereof to the purchaser, (v) if you should discover any other copies of such file, regardless of form or media, you will promptly destroy the same, and you consent to the deletion thereof by or at the request of ReDigi from all devices or libraries on or in which it may be found at any time, with or without further notice, and without liability of or

recourse to ReDigi. With respect to Digital Media that you designate for transfer on the Site, you authorize ReDigi, in its discretion, to designate or cause the designation on your behalf of your space on the Site as an authorized device with any third party from whose site you purchased or downloaded such Digital Media, and to request on your behalf the re-download thereof to the Site pursuant to any applicable terms of such site that permit such re-download by you without cost to you.

(e) With respect to Digital Media available for purchase on the Site, any such Digital Media that you purchase may be downloaded or streamed for your personal use from the Site, or stored on the Site. Once downloaded from the Site, you assume and retain all risks related to the ownership and use thereof, including, without limitation, the risk of loss, damage or destruction. Digital Media that you purchase from another user on the Site and download from the Site is not available for re-download in the event you should damage, destroy or lose such Digital Media due to a computer crash or for any other reason. Digital Media that you purchase as "new" on the Site, when available, is provided pursuant to arrangements between ReDigi and one or more third party distributors or other sources, and is subject to the terms established by such third party; you agree to abide by such terms with respect to such purchases. ReDigi makes no representations or warranties, and assumes no responsibility or liability with respect to such purchases, and you agree to look solely to such third parties regarding any recourse for such purchases. Digital Media available from YouTube on the Site is subject to the terms of service of YouTube. ReDigi makes no representations or warranties, and assumes no responsibility or liability with respect to such Digital Media, and you agree to look solely to YouTube regarding any recourse for such Digital Media. ReDigi is not affiliated with YouTube, iTunes, Apple or any other source of Digital Media available on the Site.

(f) ReDigi claims no ownership or control over any User Content submitted, posted or displayed on or through the Site and does not represent or guarantee the truthfulness, accuracy, or reliability of User Content or any other communications posted by users or endorse any opinions expressed by users. You acknowledge that any reliance on User Content posted by other users of the Site will be at your own risk.

(g) ReDigi has the right, but not the obligation, to screen or monitor any Digital Media (which may include User Content) available through the Site, to investigate any reported or apparent violation of these Terms, and to take any action that ReDigi in its sole discretion deems necessary or appropriate, including without limitation, (i) refusing to accept, post, display or transmit any User Content, (ii) reviewing and removing from the Site any User Content that, in its sole judgment, violates these Terms, violates applicable laws, rules or regulations, is abusive, disruptive, offensive or illegal, or violates the rights of, or harms or threatens the safety of, any of its other users, and (iii) expelling users and preventing their further access to the Site and/or use of the ReDigi Products for violating these Terms or applicable laws, rules or regulations. While ReDigi reserves the right in its sole discretion to remove User Content or other material from the Site from time to time,



ReDigi does not assume any obligation to do so and disclaims any liability for failing to take any such action.

(h) ReDigi will permit users in good standing to request that available credits in their ReDigi user account be transferred from time to time to a credit card, PayPal or similar account of the user specified by the user, in an amount up to the amount of the purchase price of Digital Content purchased new from iTunes through the ReDigi Site, subject to a minimum dollar threshold amount established by ReDigi from time to time (initially, \$10). ReDigi shall have the right to limit the amount that may be transferred on a daily or other periodic basis; and \$100 per day is hereby established as such limit until further notice. ReDigi shall have the right to limit the time period for calculating iTunes purchases that may be aggregated for purposes of determining the amount that may be transferred from available credits; and one-year is hereby established as such limit until further notice. Except as aforesaid with respect to iTunes purchases, and except for the application of credits in a user's ReDigi account to the purchase of Digital Content on the Site (other than through iTunes), without the consent of ReDigi, which consent may be withheld for any reason or no reason except to the extent otherwise required by applicable law, credits in a user's ReDigi account may not be withdrawn, transferred or applied by the user.

## 6. Privacy

Your privacy is important to ReDigi. The following terms set forth how ReDigi collects, uses, discloses, transfers, and stores your information.

(a) ReDigi may collect personal information from you in connection with (i) establishing your account on the Site, (ii) your interactions with the Site and (iii) your use of the ReDigi Products, including, without limitation, contact information (such as an email address) and your search and transaction history on the Site. You agree that ReDigi may use your personal information to contact you and deliver information to you that, in some cases, is targeted to your interests, or provide administrative notices or communications applicable to your use of the ReDigi Products. By accepting these Terms, you expressly agree to receive this information. If you do not wish to receive these communications, you can opt out of any further receipt by contacting ReDigi at <a href="mailto:optOUT@ReDigi.com">optOUT@ReDigi.com</a>. ReDigi may also aggregate certain non-personally identifiable information about its users (such as age, gender, location and occupation) and use such anonymous information to prepare reports that it provides to its users, service providers, or, in connection with a merger, acquisition, or sale of substantially all of ReDigi's assets, certain other third parties.

(b) ReDigi uses cookies for the protection and convenience of its users. Cookies enable ReDigi to serve secure pages to its users without asking them to sign in repeatedly. If a user's system is idle for a designated length of time, however, the

cookie will expire, forcing the user to sign in again to continue his or her session. This prevents unauthorized access to the user's information while the user is away from his or her computer. ReDigi may store non-personally identifying information about you such as searches for Digital Media conducted by your computer in a cookie that it places on your computer. ReDigi does this in order to present you with recommendations based on your interests as expressed previously through your searches. Most Internet browsers enable you to erase cookies from your computer hard drive, block all cookies, or receive a warning before a cookie is stored.

(c) As mentioned above, download and use of the Software is required in connection with verifying and transferring User Content to the Site. In the event any User Content is determined ineligible for transfer to, and listing for sale on, the Site, any information generated by the Software with respect to such ineligibility (which may include information on the origin of Digital Media files included in such User Content) shall be stored solely on the computer or other device on which you downloaded the Software for your independent, personal use and shall not be collected, stored or ,Äi except in connection with the initial eligibility determination ,Äi otherwise used by ReDigi on the Site or elsewhere.

(d) ReDigi may disclose specific user information when, and to the extent that, ReDigi determines that such disclosure is necessary to comply with the law, to cooperate with or seek assistance from law enforcement or to protect the interests or safety of ReDigi or other users of the Site. In addition, personal information ReDigi has collected may be passed on to a third party in the event of a transfer of ownership or assets or a bankruptcy of ReDigi. Such disclosures may be made with or without your consent, and with or without notice.

(e) ReDigi does not sell a user's personally identifiable information to anyone for any reason if the user has indicated a desire for ReDigi to keep the information private by notifying ReDigi at <a href="mailto:optOUT@ReDigi.com">optOUT@ReDigi.com</a>.

## 7. Disclaimer of Warranties and Consequential Damages; Limitation of ReDigi's Liability

(a) Because user authentication on the Internet is difficult, ReDigi cannot and does not confirm that each user of the Site is who he or she claims to be. ReDigi makes no representations about the accuracy, reliability, completeness, or timeliness of the ReDigi Products or the Content. The use of the ReDigi Products and the Content is at your own risk. Changes are periodically made to the ReDigi Products and may be made at any time. You acknowledge and agree that you are solely responsible for the form, content and accuracy of any User Content submitted, posted or displayed on or through the Site by you.

(b) REDIGI TRIES TO KEEP THE SITE UP, ERROR-FREE, AND SAFE, BUT YOU USE IT AT YOUR OWN RISK AND REDIGI DOES NOT GUARANTEE THAT THE REDIGI

PRODUCTS OR THE CONTENT WILL BE SAFE OR SECURE. REDIGI DOES NOT WARRANT THAT THE REDIGI PRODUCTS WILL OPERATE ERROR-FREE OR THAT THE SITE AND ITS SERVERS ARE FREE OF COMPUTER VIRUSES OR OTHER HARMFUL MECHANISMS. IF YOUR USE OF THE REDIGI PRODUCTS OR THE CONTENT RESULTS IN THE NEED FOR SERVICING OR REPLACING EQUIPMENT OR DATA, REDIGI IS NOT RESPONSIBLE FOR THOSE COSTS. THE REDIGI PRODUCTS AND THE CONTENT ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY WARRANTIES OF ANY KIND. REDIGI, TO THE FULLEST EXTENT PERMITTED BY LAW, DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE AND NON-INFRINGEMENT. REDIGI MAKES NO WARRANTIES ABOUT THE ACCURACY, RELIABILITY, COMPLETENESS, OR TIMELINESS OF THE REDIGI PRODUCTS OR THE CONTENT.

(c) REDIGI CANNOT GUARANTEE AND DOES NOT PROMISE ANY SPECIFIC RESULTS FROM YOUR USE OF THE REDIGI PRODUCTS, INCLUDING, WITHOUT LIMITATION, ANY GUARANTEE THAT USER CONTENT THAT YOU TRANSFER TO THE SITE AND DESIRE TO SELL THROUGH THE SITE WILL BE SOLD. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, THAT YOU MAY OBTAIN FROM REDIGI THROUGH OR FROM THE SITE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN.

(d) REDIGI SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY (I) FOR LOSS OR INACCURACY OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, OR (II) FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO LOSS OF REVENUES AND LOSS OF PROFITS, IN ANY CASE, EVEN IF REDIGI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. REDIGI SHALL NOT BE RESPONSIBLE FOR ANY MATTER BEYOND ITS REASONABLE CONTROL. REDIGI IS NOT RESPONSIBLE FOR THE ACTIONS, CONTENT, INFORMATION, OR DATA OF THIRD PARTIES, AND YOU RELEASE US, OUR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS FROM ANY CLAIMS AND DAMAGES, KNOWN AND UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY CLAIM YOU HAVE AGAINST ANY SUCH THIRD PARTIES. IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE §1542, WHICH SAYS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

(e) REDIGI'S MAXIMUM LIABILITY ARISING OUT OF OR IN CONNECTION WITH THE REDIGI PRODUCTS OR YOUR USE OF THE CONTENT, REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY OR OTHERWISE), WILL NOT EXCEED THE GREATER OF (I) THE TOTAL FEES COLLECTED BY REDIGI IN CONNECTION WITH SALES AND PURCHASES OF

DIGITAL MEDIA ON THE SITE BY YOU IN THE 12 MONTHS PRIOR TO THE ACTION GIVING RISE TO THE LIABILITY AND (II) \$100. 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, REDIGI'S LIABILITY WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

#### 8. Indemnification

You agree to defend, indemnify, and hold harmless ReDigi, its affiliates, and their respective officers, directors, employees and agents, from and against any claims, actions or demands (including, without limitation, reasonable legal and accounting fees and costs) alleging or resulting from (a) any User Content or other material you provide to the Site, (b) your use of any Content, or (c) any breach by you of these Terms. ReDigi shall promptly provide you with notice of any such claim, suit or proceeding; provided, however, that ReDigi's failure to provide such notice or delay in providing such notice shall not relieve you from your liabilities or obligations hereunder, except solely to the extent of any material prejudice as a direct result of such failure or delay.

#### 9. Term and Termination

Terms will remain in full force and effect while you are a user of the ReDigi Products at any level. ReDigi reserves the right, at its sole discretion, to pursue all of its legal remedies, including, but not limited to, removal of your User Content from the Site and immediate termination of your account with or ability to access the Site and/or any other ReDigi Products, upon any breach by you of these Terms or if ReDigi is unable to verify or authenticate any information you submit to the Site. Even after you are no longer a user of the ReDigi Products, certain provisions of these Terms will remain in effect, including Sections A.1-A.4 and Sections B.2-B.10.

#### 10. General

(a) These Terms are governed by the laws of the Commonwealth of Massachusetts, without respect to its conflict of laws principles. You expressly agree that exclusive jurisdiction for any claim or dispute with ReDigi or relating in any way to your use of the ReDigi Products resides in the courts of the Commonwealth of Massachusetts. Risk of loss and title for all electronically delivered transactions pass to the purchaser in Massachusetts upon electronic transmission to the recipient.

(b) Any disputes arising out of or relating to these Terms shall be resolved by final and binding arbitration under the rules and auspices of the American Arbitration Association, to be held in Boston, Massachusetts, with a written decision and legal reasoning issued by the arbitrator(s) at either party's request. The parties shall bear equally all fees, costs and expenses of the arbitration; provided that each party shall bear its own legal expenses, attorneys' fees and costs of all experts and witnesses.

(c) You acknowledge and agree that due to the unique nature of ReDigi's Proprietary Information, there can be no adequate remedy at law for any breach of your obligations hereunder, that any such breach may allow you or third parties to unfairly compete with ReDigi resulting in irreparable harm to ReDigi, and therefore, that upon any such breach or threat thereof, ReDigi shall be entitled to injunctions and other appropriate equitable relief without posting a bond in addition to whatever remedies it may have at law.

(d) If any part of these Terms is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect. No waiver of any term of these Terms shall be deemed a further or continuing waiver of such term or any other term. In addition, ReDigi's failure to enforce any term of these Terms shall not be deemed as a waiver of such term or otherwise affect ReDigi's ability to enforce such term at any point in the future.

(e) All of ReDigi's rights and obligations under these Terms are freely and fully assignable by ReDigi in connection with a merger, acquisition, or sale of assets, or by operation of law or otherwise. Neither your rights nor your obligations arising under these Terms are assignable or transferable by you, and any such attempted assignment or transfer shall be void and without effect.

(f) Each party hereto is an independent contractor of the other and no agency, partnership, joint venture or employee-employer relationship is intended or created by these Terms. Except as expressly set forth herein, neither party shall have the power to obligate or bind the other party.

(g) Except as expressly provided in any additional agreement or additional Terms for certain areas of the Site, a particular "Legal Notice," or material on particular pages of the Site, these Terms constitute the entire agreement between you and ReDigi and govern your use of the ReDigi Products, superseding any prior or written agreements between you and ReDigi. As mentioned above, ReDigi reserves the right at any time to modify these Terms and to impose new or additional terms or conditions on your use of the ReDigi Products. Such modifications and additional terms and conditions will be effective immediately and incorporated into these Terms without notice. It is your responsibility to periodically check our terms to inform yourself of any such changes. Your continued use of the ReDigi Products will be deemed acceptance thereof.