

## NAPSTER SUBSCRIPTION SERVICE AND MUSIC STORE TERMS AND CONDITIONS

Effective October 5<sup>th</sup>, 2009

This document (the "Agreement") is a legal contract between you and Napster, LLC ("Napster" or "we" or "us") that governs your use of Napster's websites, online and mobile (except as noted below) music services (including the Napster subscription services, the download sales service and/or any of the XM + Napster services), generally available at [www.napster.com](http://www.napster.com) or [m.napster.com](http://m.napster.com) from mobile phones and other Napster-controlled, affiliated or partnered websites or mobile WAP domains (collectively, the "Service").

If you register for the Napster To Go Service or any of the XM + Napster services, the terms in the sections, headed *Napster To Go Subscription Service Tier* and/or "XM + NAPSTER" will also apply to you, as applicable.

Please note that if you use the Napster-branded mobile service that is available to AT&T users directly from the phones interface in coordination with AT&T (as opposed to the generally available Napster service that any user can access at [m.napster.com](http://m.napster.com)), your terms and conditions of use will be as set forth when you register for the AT&T Napster service.

### MODIFICATIONS, NOTICE

Napster may from time to time modify these terms and post a copy of the amended Agreement at <http://www.napster.com/terms.html> and these amended terms can also be accessible to mobile users at [m.napster.com](http://m.napster.com). If you do not agree to (or cannot comply with) the Agreement as amended, your only remedy is to stop using the Service or, if applicable, cancel your Subscription Service. You will be deemed to have accepted the Agreement as amended if you continue to use the Service after any amendments are posted.

### AGE REQUIREMENT

You must be at least 18 years of age to agree to and enter into this Agreement on your own behalf and to register for use of the Service. If you are under 18 but at least 13 years of age, you must present this Agreement to your parent or legal guardian, and he or she must check the box below to enter into this Agreement on your behalf. Children under the age of 13 may not register for this Service, and parents or legal guardians may not register on their behalf. By checking the box indicating your acceptance to this Agreement, you represent that (i) you have read, understood and agree to be bound by this Agreement and (ii) you are at least 18 years old, either entering into this Agreement for yourself or entering on behalf of your child or a child in your legal care. If you are a parent or guardian entering this Agreement for the benefit of your child, please be aware that you are fully responsible for his or her use of the Service, including all financial charges and legal liability that he or she may incur.

### DESCRIPTION OF SERVICE

The Service allows you to listen to Samples and Streams (as defined below) and obtain downloads of sound recordings ("Tracks") and related digital content ("Materials"). **The Service, the Tracks and/or the Materials (including any Napster promotional offers or codes redeemable for the Service, the Tracks and/or the Materials) are only for your personal, non-commercial use and are non-transferable (except as otherwise expressly authorized by Napster).** By using the Service, you acknowledge and agree that you have no right to provide any files obtained through the Service to any other party or through any other means. Because the Service is designed for personal sampling and use, you are not allowed to use any automated system for the selection, Streaming or downloading of files. Artists, record labels and other rights holders may not purposefully "game" or manipulate use of the Service in order to artificially increase the usage of content that they control.

To access certain elements of the Service, you may need to install or activate Napster's proprietary software application; from time to time, you may also have the option to (or be required to for certain functionality) install other software made available through the Service, including Napster's download manager software (collectively, all such software is called the "Client"). You may also need to install certain third-party software or purchase certain hardware (such as a particular phone, TV or other product). You are responsible for any hardware, systems and/or software program(s) you use and any associated fees and expenses (a) to connect to or use the Internet, and/or (b) other than the Client, to use any Materials.

Napster or its business partners may provide you and other users with access to the Service or elements of the Service on a variety of internet-connected or internet-connectable devices, including but not limited to personal computers, internet-connected televisions, internet-connected home audio players and devices, mobile phones and mobile devices. Napster and its business partners reserve the right to determine which features of the Service are supported and marketed on specific devices and/or platforms. Elements of the Service that can be accessed from mobile phones are referred to as "Mobile Features."

### REGISTRATION

To use the Service, you will generally be required to register and provide certain information, including a member (user) name, a password and a valid email address ("Registration Data"). You may also be required to provide billing and/or additional information. You agree to provide accurate Registration Data and to update your Registration Data as necessary to keep it accurate. In order to access

the Service you may be required to first register for the Service online via your PC, laptop or other Internet-connected device (e.g., a "PC") that is not a phone or other product that utilizes mobile phone networks.

You agree that you will not allow others to use your member name, password and/or account and you are solely responsible for maintaining the confidentiality and security of your account. You agree to notify Napster immediately of any unauthorized use of your password and/or account. Napster shall not be responsible for any losses arising out of the unauthorized use of your member name, password and/or account and you agree to indemnify and hold harmless Napster, its partners, parents, subsidiaries, agents, affiliates and/or licensors, as applicable, for any improper, unauthorized or illegal uses of the same.

#### USE OF SERVICE, SOFTWARE, TRACKS AND MATERIALS

**Software.** The Client, and all other software made available by Napster on or through the Service, are protected by intellectual property laws and your use of them is governed by this Agreement as well as any applicable end-user license agreements. A copy of the current Client End-User License Agreement ("Napster EULA") is available at <http://www.napster.com/eula.html>.

**Tracks and Materials.** The Tracks and Materials are owned by Napster, its business partners, affiliates and/or licensors, as applicable, and are protected by copyright and other intellectual property laws. You agree not to use the Tracks and Materials in a way that would violate any laws and/or infringe the copyright(s) therein. You further agree that the content rights holders that license their musical or other content to Napster for use in the Service are intended third-party beneficiaries under this Agreement with the right to enforce the provisions that directly concern their content. You understand that your use of the Tracks and Materials is subject to the Usage Rules discussed below. You may not authorize, encourage or allow any Tracks or Materials used or obtained by you to be reproduced, modified, displayed, publicly performed or displayed, broadcast, transferred, distributed or otherwise used by anyone else. You agree to advise Napster promptly of any such unauthorized use(s).

**Usage Rules.** Your access to and/or use of any Track(s) may be limited by the rules assigned to the Track(s) by Napster ("Usage Rules") and described in this section. You may not attempt (or support others' attempts) to circumvent, reverse engineer, decrypt, or otherwise alter or interfere with any Usage Rules or Tracks. Napster reserves the rights to modify the Usage Rules at any time.

A "Sample" is a portion of a Track or, in some cases, an entire Track or promotional music video that you can play (and, if applicable, view) via the Service on a promotional basis at no cost to you. You may play as many Samples as you like. You may not attempt (or support others' attempts) to capture, copy, download or transfer a Sample.

A "Stream" is a Track that you play directly from and while you are logged on to the Service, however this feature may not be available on every Internet connected or other device that works with the Service or as part of any particular tier of Service (for example, it is currently not available as a Mobile Feature). As a subscriber to any tier of the Subscription Service, you may play as many Streams as you like while your subscription is current. Napster may also offer subscription or non-subscription tiers of Service that include limited access to free Streams and in those cases you should review the applicable areas of our site or service that describe the applicable limitations. In all cases, you may not attempt (or encourage others) to capture, copy, or download a streamed Track. Napster may also offer free Streaming access as part of promotions and/or free Service tiers. In all cases, Napster may count the number of times that you stream each Track for royalty accounting and analysis purposes.

A "Permanent Download" is a Track download that you have purchased for permanent ownership from your computer (as opposed to "Napster To Go Downloads" described under "Napster To Go Subscription Service Tier"). All Permanent Downloads sold via the Service for download to a PC or Mac are currently sold in the MP3 DRM-free format, at the bit rate indicated to you within your purchase or subscription path. Napster will not assign limits to the number of times Permanent Downloads purchased via Napster can be copied, transferred or burned (though your own use will depend upon your own hardware and software limitations and you must abide by these terms and conditions and all applicable laws). Napster and/or its content licensors may include digital watermarks (embedded bits of information in addition to the sound file) in your Permanent Downloads that add sales information to each digital file such as (but not limited to) the fact that the file was purchased from Napster, the date and time of purchase, or information about the song (title, artist, etc.). Napster will not include any of your personally identifiable information in any such digital watermark or otherwise. You are only entitled to one copy of any purchased Permanent Download (see "All Sales Final" below).

To transfer your Permanent Downloads to any compatible devices, follow the instructions provided by Napster in the applicable part of the "Help" section of our website (or the Client). For transfer to an iPod® or iPhone®, you must use your Apple-provided iTunes® software to locate the files and effect the transfer. Napster does not guarantee that any Permanent Downloads will be supported by any compatible software or player, including iTunes® or the iPod® or iPhone®.

If you are purchasing Permanent Downloads directly via our website without using the Client software, you must download the purchased Permanent Download to the computer where you wish to keep the file and you must use your Web browser's functionality to specify where the downloaded files will be saved.

A "Mobile Download" is a Track download that you have purchased from your mobile phone for permanent ownership. Mobile Downloads are delivered "over the air" or mobile airwaves directly to a mobile phone. All Mobile Downloads sold via the Mobile Features are DRM Permanent Downloads. "DRM Permanent Downloads" are Permanent Downloads that include DRM (digital rights management) protective software. The Usage Rules for these are set out at the very end of these Terms and Conditions under the section titled "DRM PERMANENT DOWNLOADS".

You may purchase Tracks (or credits for Tracks) for Permanent Download and Mobile Download via the download sales store and/or as

part of the Subscription Services. In addition, all Downloads purchased from Napster before May 20, 2008 were sold as DRM Permanent Downloads and these are still being supported on an interim basis.

All Downloads (Permanent & Mobile) of SONY BMG products are sold directly by SONY BMG Music Entertainment via Napster as its agent.

#### Subscription Credits

As part of any standard tier of Subscription Service (often called a "Monthly, Quarterly or Annual Pass"), Napster now includes monthly credits for a fixed amount of Subscription Permanent Downloads, as messaged to you during your registration and sign-up. For more detail about these, see "TERMS APPLICABLE TO SUBSCRIPTION SERVICE USERS - *Standard Napster Subscription Service Tier*" below.

#### Promotional Code and Prepaid Card Redemption

If you have received a valid promotional code for Napster, you should follow the instructions that you received with such promotion to redeem that code. If you have properly inputted a valid promotional offer, your account will be credited for the applicable promotional offer. Promotional offers may include specific amount of Track credits, credit in a specific Dollar amount that you may apply in your account toward track or other purchases and/or credit toward a particular tier of Subscription Service membership. Napster promotional offers are subject to any expiration dates that may be messaged with the offer and are not redeemable for cash (and any unused portion may not be returned for cash or any other value). *If no expiration date is stated, Napster reserves the right to expire any promotional codes following one year from their distribution. In addition, for any promotional codes that are redeemable for a la carte MP3 Permanent Download credits (or a cash value to be applied toward MP3 Permanent Download credits), from the time that you redeem your promotional code, you will have up to one year to use the credit(s) that you have redeemed towards MP3 Permanent Download purchases, after which the codes will expire.*

Napster has the right to request alternative forms of payment and/or close customer accounts if a fraudulently obtained promotional offer or gift certificate is presented.

All Transactions Final: Downloading and Risk of Loss. All consumer transactions for Permanent Downloads, Materials and other digital services via the Service are final and we do not accept any returns. Once you have received any Permanent Download or Material we encourage you to download it promptly and to make back-up copies of it. In all cases, you bear all risk of loss for any products that you have downloaded, including any loss due to a computer or hard drive crash. Technical problems might delay or prevent delivery of purchased products to you. Your sole remedy with respect to Permanent Downloads and any Materials that are not successfully delivered will be either replacement or refund of the price paid for such content, at Napster's discretion. If you are unable to complete a download after having reviewed our online help resources, please contact Napster's customer service.

*No Further Transfer.* Once you have transferred a Permanent Download to a compatible portable device or burned it to a CD, you agree not to copy, distribute, or transfer it from that device or CD to any other media or device. You may be required to register your portable devices with Napster. The burning or transfer capabilities provided for herein shall not operate to waive or limit any rights of the copyright owners in Tracks or Materials or any works embodied in them.

TERMS APPLICABLE TO SUBSCRIPTION SERVICE USERS.

#### Standard Napster Subscription Service Tier

Napster's standard tiers of Subscription Service (sometimes called the Napster Monthly Pass or the Napster 3 Month, 6 Month or Annual Passes) all include unlimited Streaming to any PC, laptop or other Internet-enabled device that you can log in from (but not via mobile phone networks), together with a fixed amount of credits per Subscription Period (as defined below) that you may redeem for Permanent Downloads to your PC or Mobile Downloads to your phone ("Subscription Credits.") When redeemed, Subscription Credits will entitle you to Permanent or Mobile Downloads on a one for one basis, regardless of the retail price of the Track (i.e., you can use a single credit to download a single song, regardless of the price of that song, were you to purchase it separately), however, if you apply Subscription Credits towards album purchases, then your credits will be applied on a dollar basis to the cost of the album that you are purchasing, at the rate of one dollar per credit. By way of example, if you apply five Subscription Credits to purchase an album that is being offered for sale for \$5.99, then you will be charged an additional \$.99 to complete that album purchase.

All Downloads that you redeem via Subscription Credits are subject to the same Usage Rules as other Downloads *except that any unused Subscription Credits will expire at the end of the Subscription Period (as defined below) during which they were earned and not roll over to the next Subscription Period.* However, if you continue your subscription for the next Subscription Period, you will receive an additional amount of Subscription Credits to be used during that period. For example, we may offer a three month standard tier that includes three months of unlimited Streaming and 15 Subscription Credits. In this case, you could access all of your 15 credits at any point during your three month Subscription Period. If you only utilize 12 of your 15 Subscription Credits during your Subscription Period the remaining three credits will expire at the end of that Subscription Period; however, if you continue your membership for another three month Subscription Period, you will automatically receive 15 new Subscription Credits for use during the new period. Please note that if your Subscription Period is monthly (i.e., you joined a "Monthly Pass" tier), your credits will expire monthly if not used.

As a Subscription Service member you may also separately purchase songs and albums as Downloads on an a-la-carte basis at any time and you will be charged separately (from your subscription membership cost) for such purchases via whatever billing method you

have provided. Please note that if you register for a free trial to a Subscription Service Tier that includes Subscription Credits, the free trial will only include Streaming, and you will only receive your Subscription Credits after and if you have converted your free trial membership to a paying membership.

As a Subscription Service member, if you have a compatible web-enabled mobile phone, you may also access certain Mobile Features by going to Napster's mobile site at [m.napster.com](http://m.napster.com) and logging using your Subscription Service member name and password. Subject to your phone's capabilities, Mobile Features that your Subscription Service membership may include are: searching and browsing for songs, retrieving artist and song information and redeeming your Subscription Credits on your mobile phone. When you redeem a Subscription Credit on your phone, if your phone supports it, Napster will download a Mobile Download copy of the song that you have selected directly to your phone via the mobile airwaves or "over the air". In that case, you will also be entitled to retrieve a backup copy of that particular track as a MP3 Permanent Download via your PC account. In cases where your phone does not support "over the air" functionality, when you use your credits, the song will instead only be accessible on your PC (in the same way that it would be as a backup copy if your phone did support over the air downloading). In all cases, to access your PC backup copy you should log into your Subscription Service PC account and follow instructions for redeeming purchased tracks. Apart from your PC backup copy, you will not be entitled to any backup copies. So please protect your phone and make sure you access your PC backup copy if you plan to switch phones. Napster will try to message which phones are compatible with some or all Mobile Features but it is your responsibility to determine whether your phone is supported and Napster will not be liable if you are unable to access some or any Mobile Features on your particular phone. Napster is not responsible for performance of your mobile phone's mobile network and Napster will not be liable for any performance issues or mobile network failure, including if such issues affect your Mobile Features. Any Mobile Features associated with your Subscription Service account will only last for as long as you maintain your Subscription Service membership.

#### *Napster To Go Subscription Service Tier*

Napster To Go is a unique tier of Subscription Membership Service that includes Streams as well as Napster To Go Downloads, but no Subscription Credits.

A "Napster To Go Download" is a Track with unique Usage Rules that you may obtain only as part of a Napster To Go Subscription Service Tier. You may save these to the hard drive of your personal computer and transfer them to your compatible portable device, in each case to play back as many times as you want for so long as your subscription is current. You may make an unlimited number of Napster To Go Downloads while your subscription is current. You may copy each Napster To Go Download to up to two additional personal computers that you own (i.e. a total of 3 copies) and you may transfer your Napster To Go Downloads an unlimited amount of times to up to a maximum of three (3) compatible portable devices for as long as your "Napster To Go" membership is current. For royalty accounting and analysis purposes, Napster will track the Napster To Go Downloads that you download to a PC and that you transfer to a device and Napster will also track the number of times that you play your Napster To Go Downloads. Napster automatically renews your rights to any Napster To Go Downloads stored on your computer or portable devices at the beginning of each Subscription Period so long as your subscription remains current. This means that in order to continue to play Napster To Go Downloads after the end of a Subscription Period, you will need to log onto Napster the beginning of each Subscription Period with each PC and portable device (by having the portable device "docked" to your PC while you log on to Napster). The Client will count the number of times that you play a Napster To Go Download, including while you are offline, for royalty accounting and analysis purposes.

When you register for the "Napster To Go" tier, if you have Tracks that were pre-loaded to your personal computer, portable device, CD or DVD, you may access and play these Tracks as Napster To Go Downloads only after you have completed your Napster To Go membership registration. You may not otherwise access or play these Tracks and you agree not to attempt to do so. For a current list of portable devices that are compatible with "Napster To Go", please see the section titled "Napster To Go Compatible Devices" at: [http://www.napster.com/compatible\\_devices/](http://www.napster.com/compatible_devices/). Napster's ability to offer portable device compatibility is subject to change at any time with respect to any content.

#### *General Terms for All Subscription Services*

Each tier of the Subscription Service requires you to pay to become a member, and you will be charged on a recurring basis for your continued membership. If we make any changes to these terms and conditions that you do not wish to accept, your only remedy is to terminate your subscription membership.

**Agreement to Pay.** By completing a Subscription Service registration, you authorize Napster to charge applicable recurring subscription fees to your designated billing payment method. Monthly subscribers are billed on a monthly cycle (though Napster may also offer multi-month, annual and other tiers, in which case you will be billed according to the subscription cycle that you registered for), which begins upon Subscription Service registration (or at the end of a limited free trial period, if applicable to a promotion that you joined through) and ends 30 days (or annually for annual members or otherwise depending upon your tier) thereafter (each a "Subscription Period"). If you are already a member of a standard Subscription Service tier and you sign up for the "Napster To Go" tier, your billing payment method will immediately be charged so that your monthly fee for that month (or annual fee if applicable) is increased on a pro-rated basis. If you are a "Napster To Go" user and you downgrade your membership to a standard Subscription Service membership, you will be charged for "Napster To Go" until the end of the Subscription Month in which you cancel your "Napster To Go" tier. If you are joining Napster under a subscription plan with an installment billing option (e.g., 1 year subscription billed monthly), Napster will charge your billing payment method for each applicable installment without further advance notice. If your billing payment method changes during the term of your subscription plan, you must immediately update the billing payment method associated with your Napster account. If Napster is unable to charge your billing payment method for an installment, Napster may: (i) immediately suspend or terminate your Napster account, (ii) seek collection of the outstanding amount owed under the subscription plan and/or (iii) seek legal action against you for breach of this

## Agreement.

**Billing Authorizations for Free Trial Memberships.** You may be required to provide billing payment method to register for a free trial offer to the Subscription Service. In that event, you agree that Napster may obtain a pre-authorization for the fee amount that you will be charged if you complete the free trial and continue a Subscription Service membership. It is possible that some financial institutions may perceive these requested amounts as actual pending charges. These are not actual charges however, and Napster will not be responsible for any results, such as an overdraft fee, that may occur to your account because of them.

**Additional Purchases during Free Trial Memberships.** If you join a free Napster Subscription Services trial, you will not be billed for the free offer during the free offer period. However, you will be billed for any Tracks or other services that you purchase. If you have provided Napster with billing information in order to access your free trial, you must cancel your trial membership before the end of your free trial period or your membership will continue and you will be charged the applicable Subscription Services fee until you cancel.

**Right to Change Subscription Fees.** All subscription fees are subject to change on a prospective basis upon notice from Napster

**Cancellation.** To receive information on how to cancel your subscription, please visit [www.napster.com/support](http://www.napster.com/support), and search by keyword "cancel" in the appropriate area. If you cancel your subscription, Napster will not refund any remaining portion of your subscription fees. Cancellation will take effect at the end of the billing period during which you deliver notice to Napster. Please note that, following cancellation of your subscription, any Napster To Go Downloads that you have saved to the hard drives of your personal computers or "Napster To Go" Downloads that you have transferred to compatible portable devices will become inactive and not playable. The files will remain but will not be accessible. If you later become a Subscription Service member, you can reactivate them. If you do not plan to become a Subscription Service member again or otherwise wish to remove the inactive files, you may delete them using your computer's or device's standard functionality to delete files.

**All rights not expressly granted to you in this Agreement are reserved to Napster and/or its licensors.**

**Importing Tracks.** You can use the Napster Client to import certain song files that you have obtained independent of the Service and play them using the Client. The Client currently only supports MP3 and Windows Media files. Napster does not represent or guarantee that the Client will successfully import or support any song files that are not Tracks. Further, Napster does not purport to grant you any rights to use any such song files. Your use of such song files must be subject to another grant of rights that you have received from the copyright holder(s) and any other legal rights holders (please note that there may be more than one copyright involved in any track). If you violate the copyright laws, there may be fines or criminal charges brought against you, even if you don't get any commercial benefit from the illegal copies. You agree to indemnify and hold harmless Napster, its partners, parents, subsidiaries, agents, affiliates and/or licensors, as applicable, for all claims resulting from your use of such song files and/or from your violation of any copyright laws by such use.

**Loss of Rights by Napster.** Napster may at any time lose the right to make certain Tracks and/or Materials available entirely or for certain uses permitted as part of your tier of Service. In such event, you will no longer be able to obtain these Tracks at all or for the particular tier of Service that we lose the rights for.

**Customer Support.** Please direct any questions concerning the Client, the Service, billing and/or Usage Rules to a Napster customer service representative by visiting [www.napster.com/support](http://www.napster.com/support) and using the Email Us form.

**Monitoring Public Areas.** The Service may have features that allow you to exchange messages with other members (via "Public Areas"). Napster may, but is not obliged to, restrict your use of any Public Areas, monitor any activity or edit or remove content in Public Areas, or restrict access by other members to your messages. Napster takes no responsibility and assumes no liability for any content, materials, messages and the like that you or any other member posts to or views in a Public Area. You agree to indemnify and hold harmless Napster, its partners, parents, subsidiaries, agents, affiliates and/or licensors, as applicable, from and against all claims resulting from content, messages, materials and the like that you post to any Public Area.

**Restrictions.** You may not use the Service, including any Public Areas, to transmit, display, perform or otherwise make available any messages, content or materials (i) that are illegal, obscene, threatening, of a "spamming" nature, defamatory, or invasive of privacy; (ii) that constitute political campaigning or commercial solicitation or that contain software viruses or other computer code designed to interfere with the functionality of any computer systems; or (iii) that infringe third-party rights or harm minors in any way. You may not interfere with or disrupt the Service or any networks connected to or by the Service. In addition, you may not use a false email address or otherwise mislead other members as to your identity or to the origin of a message or content. By posting messages, inputting data, or engaging in any other form of communication through the Service, you agree that Napster may copy, sublicense, adapt, transmit, publicly perform or display any such content to provide and/or promote the Service and/or to respond to any legal requirement, claim or threat. If Napster's use of such content exploits any proprietary rights you may have in such material, you agree that Napster has an unrestricted, royalty-free, non-exclusive and perpetual worldwide right to do so. You agree that any loss or damage of any kind that occurs as a result of the use of any messages, content or material that you upload, post, transmit, display or otherwise make available through your use of the Service is solely your responsibility.

## CHARGES / BILLING

**Agreement to Pay.** You agree to pay for all Tracks and Materials and any other items or services that you may purchase through the Service and Napster may charge your billing payment method for any such payment(s). Napster may, in its discretion, post charges to your billing payment method individually or may aggregate your charges with other purchases you make on the Service. You are

responsible for keeping your account secure and confidential and you will be responsible for any charges that are incurred by any person through your account. All charges will be billed to the billing payment method you designate when you first make a purchase or incur a charge. If any of your billing information changes, you must update that information in the "Payment Information" section of the "My Account" area. If your credit card company or Paypal (or their intermediary service providers) updates your billing information for you by providing revised billing information to us for your existing account, we will use that information to continue to bill your existing account (for example, if you lost your credit card but maintained your Visa or MasterCard account with a new account number, Visa or MasterCard may automatically send us your new account number.)

Right to Change Prices. All prices for products within the Service are subject to change by Napster at any time.

Taxes. Prices quoted are generally exclusive of any applicable taxes, including but not limited to state sales taxes which will be added to your bill if and as applicable. Napster reserves the right to change this policy at any time.

Electronic Contracts. You agree that any submissions you make for electronic purchases constitute your intent and agreement to be bound by the terms of and to pay for such purchases. To the extent that such electronic purchases are offered to you by a third party, you acknowledge that Napster shall not be responsible or liable to you for the products or services purchased.

#### EXPLICIT CONTENT

Certain albums may be subject to the Recording Industry Association of America ("RIAA") "Parental Advisory Label" (as defined at <http://www.riaa.com/issues/parents/advisory.asp>). The RIAA assigns the Parental Advisory Label to an entire album and not the individual songs on the album. All Tracks from such labeled albums will be labeled as "explicit" within the Service ("Explicit Tracks"). If any of your searches on the Service return Explicit Tracks, they will be identified as such in the search results area. After you have set up your Service account, you may elect to filter out Explicit Tracks from your search and browse results within the Service (currently via the "My Account" area). You may change that election at any time. You may also elect to create a "Parental Control Password" (which can be different from your registration password) by clicking on the applicable link and following the directions presented. If you create a Parental Control Password, you will be asked for that password any time you try to change your election to filter out Explicit Tracks. Note that Tracks that were recorded prior to 1985 are not subject to the RIAA Parental Advisory Label. Napster shall have no liability or responsibility to you for any content or materials, including Explicit Tracks, that may be available in connection with the Service that you might find to be offensive, indecent or objectionable.

#### YOUR USE OF NAPSTER WEBSITES AND WEB-BASED ELEMENTS OF THE SERVICE

You may not use any "deep-link", "page-scrape", "robot", "spider" or other automatic device, program, algorithm or methodology, or any similar or equivalent manual process, to access, acquire, copy or monitor any portion of any Napster websites or mobile WAP sites, the Service or any Tracks or Materials or in any way reproduce or circumvent the navigational structure or presentation of the Service to obtain or attempt to obtain any materials, documents or information through any means not purposely made available through the Service. Napster reserves the right to bar any such activity, including via software and other electronic means.

You may not attempt to gain unauthorized access to any portion or feature of the Service, or any other systems or networks connected to the Service or to any Napster server, or to any of the services offered on or through any Napster websites, by hacking, password "mining" or any other illegitimate means.

You may not probe, scan or test the vulnerability of any Napster websites, WAP sties and/or the Service or any connected network, nor breach any of Napster's security or authentication measures. You may not reverse look-up, trace or seek to trace any information on any other user of or visitor to any Napster website or the Services, or exploit the Service or any service or information made available or offered by or through the Site, in any way where the purpose is to reveal any third party information. You agree that you will not take any action that imposes an unreasonable or disproportionately large load on the infrastructure of Napster's websites, Service or other systems. You agree not to use any device, software or routine to interfere or attempt to interfere with the proper working of the Service.

#### INTERNATIONAL CONSIDERATIONS

Due to requirements from our content licensors, the Service is only available to residents of the United States. You understand and agree that you may not sign up for, access, or attempt to access or use the Service from countries outside of the U.S. You agree to abide by U.S. and other applicable export control laws and further, not to upload to the Service any data or software that cannot be exported.

#### PRIVACY

For additional information regarding Napster's use of information collected in connection with the Service, please refer to Napster's Privacy Policy, a copy of which is available at <http://www.napster.com/privacypolicy.html> and which is expressly made part of this Agreement.

#### COPYRIGHT INFORMATION

General. As noted above, the Service, the Tracks, the Client and the Materials contain and/or comprise copyrighted or other proprietary subject matter, and your use of them is governed by this Agreement, certain end-user license agreements, and applicable law.

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