



Channel Terms & Conditions

December 2009

1. Channel Terms and Conditions

These Channel Terms and Conditions apply to you if you wish to create and use a personal profile page on the bandit.fm Site (a **Channel**) and you are not an artist. If you wish to create and use an artist profile page on the bandit.fm Site (an **Artist Page**) and you are: (i) an artist signed to a record label with a distribution agreement with bandit.fm; (ii) a person associated with an artist signed to a record label with a distribution agreement with bandit.fm who is authorised to create and use an Artist Page on behalf of an artist ; or (iii) an artist not signed to any record label, or not signed with a record label with a distribution agreement with bandit.fm, then the [Artist Page Terms and Conditions](#) (also available on the bandit.fm Site) apply to you.

These Channel Terms and Conditions apply to your creation and use of your Channel. Use of your Channel and all aspects of the bandit.fm Site are also governed by the General Terms & Conditions including the bandit.fm Terms of Sale and Privacy Policy. By creating and using your Channel, you provide your full acknowledgement and acceptance of, and agreement to be bound by, all of these terms and conditions. If you do not agree with any of these terms and conditions, you must not create your Channel and must cease using any Channel you have already created.

Creating your Channel

1. You must be at least 15 years of age in order to create a Channel.
2. To set up your Channel you must provide certain personal information indicated as mandatory on the sign-up page. If you choose to use the Facebook Connect function we will import your personal information from Facebook and use that personal information in accordance with all applicable bandit.fm terms and conditions and the Privacy Policy.
3. To set up your Channel you must also identify the name under which you want your Channel to operate (**Channel Name**). Your Channel Name may, if you desire, be the same 'user name' provided during the process of creating your bandit.fm account which appears at the top of your internet browser when you are logged in to bandit.fm. Your Channel Name must not involve impersonation of any kind and must not contain any advertisement, email address, street address, website URL or telephone number.
4. Other personal information that you provide for inclusion on your Channel, aside from the required information in clause 2 above, is provided at your sole discretion. You should only provide personal information that you are comfortable with sharing.
5. You may choose to have your Channel set to either a 'hidden' or 'public' setting.

When on the hidden setting, only your Channel Name and Channel photograph (if you have uploaded one) will be available for public viewing when you conduct any social networking activity such as posting a comment or sending a message to another registered member.

When on the public setting, all information on your Channel will be available for public viewing unless you adjust your privacy settings to restrict certain information on your Channel from being publicly available. You can adjust your privacy settings at any time.

You acknowledge that bandit.fm cannot control the actions of all users of the bandit.fm Site, and cannot guarantee that users will comply with all relevant terms and conditions and will not

circumvent the privacy and security measures employed on the bandit.fm Site. You acknowledge that any information you submit or post via your Channel is at risk of becoming public (whether your Channel is set to the public or hidden setting), and any information which you provide in connection with your Channel is provided at your own risk.

You acknowledge that bandit.fm will have full access to your Channel at all times whether it is on the hidden or public setting and may also grant access to authorised third parties as required in order to ensure compliance with these Channel Terms and Conditions and the General Terms and Conditions. bandit.fm will treat your personal information and your Channel in accordance with the Privacy Policy which you are encouraged to regularly review.

6. Creating a certain Channel Name does not give you exclusive rights to that name within bandit.fm. bandit.fm reserves the right, in its sole discretion, to:
 - (a) refuse acceptance of, remove or rename a Channel Name for any reason including but not limited to circumstances where it considers that the Channel Name is offensive, defamatory, in violation of any law or third party's rights or in any way inappropriate for use on the bandit.fm Site; and
 - (b) refuse acceptance of, remove, rename or reclaim a Channel Name that is the same as or similar to the name of an artist, Artist Page or Channel, whether that artist, Artist Page or Channel is known or registered before or after your Channel Name has been created. bandit.fm may also reassign any reclaimed Channel Name to another artist, Artist Page or Channel.

Using your Channel

Posting Material

7. Once you have created your Channel you can personalise it by selecting from a range of designs and layouts available, and by posting a range of content on your Channel. By submitting, posting or placing any text, files, images, photos, video, sounds, musical works, works of authorship or any other material on your Channel (together, **Material**), you grant to bandit.fm a perpetual, royalty-free, non-exclusive, sub-licensable, irrevocable, unrestricted, assignable, worldwide licence to do the following in respect of the Material:
 - (a) use, modify, delete from, add to, copy, reproduce, adapt, communicate, transmit, broadcast, make available, publish, print, publicly perform or display; and
 - (b) sublicense to any person the unrestricted right to exercise any of these rights.Subject to the limited licence of Material described above, bandit.fm does not claim ownership of or rights in any and all Material you submit, post or place on your Channel.
8. You acknowledge that once you submit, post or place any Material on your Channel it will become available for public viewing if your Channel is set on the 'public' setting, and that any such Material may be reproduced, reused or otherwise made public by other registered members and users of bandit.fm. bandit.fm shall have no responsibility or obligation to remove, or procure from any other party the removal of, any of your Material from your Channel or elsewhere on the bandit.fm Site.
9. You warrant that:

- (a) you own the Material posted by you on your Channel or through the bandit.fm Site or otherwise have the right to post it on your Channel or through the bandit.fm Site and to grant the licence set forth in this clause; and
- (b) the Material and its use does not infringe any copyright, trade mark, patent, design, privacy, confidentiality or any right of any party or otherwise contravene any law. You indemnify and hold harmless bandit.fm and any of its assignees or licensees from any claim, liability, loss or damage (including but not limited to any claim for fees or royalties in connection with the use of your Material on your Channel) arising in respect of your breach or alleged breach of this warranty.

You will procure that any author of Material, unconditionally and irrevocably, to the fullest extent permitted by law (i) assigns in favour of bandit.fm and its licensees and their assigns all of the author's moral rights, or where an assignment of moral rights is not able to be made at law, waives in favour of bandit.fm and its licensees and their assigns all of the author's moral rights; and (ii) consents to any and all acts or omissions of bandit.fm and its Licensees and their assigns which would, but for this consent, infringe any of the author's moral rights, in relation to all forms of works and other copyright subject matter (both existing and future) howsoever arising anywhere in the world in connection with the Material and its use. Where the law requires bandit.fm and its Licensees and their assigns to specify acts or omissions (or specified classes or types of acts or omissions) to which the author consents, you will procure the author's consent to the following with respect to the Material: (a) alteration of size, colour and shape; (b) editing and adaptation, including use with other materials and the overlay or superimposition of other materials; (c) digitisation, including communication to the public; and (d) non-attribution of the author. If bandit.fm requests, you shall execute and deliver to bandit.fm any instruments or documents which bandit.fm believes are required to carry out any licence, waiver or consent.

10. bandit.fm may, without liability, refuse to post or remove any Material posted by you, or restrict, suspend or terminate your Channel at any time if bandit.fm determines, at its sole discretion, that you have breached these Channel Terms and Conditions, the General Terms and Conditions, or any applicable law or pose a threat to bandit.fm or its users.

bandit.fm takes no responsibility for monitoring the bandit.fm Site for inappropriate Material or conduct, irrespective of whether it chooses from time to time, in its sole discretion, to monitor the bandit.fm Site. bandit.fm assumes no responsibility for and makes no warranties regarding the Material, assumes no obligation to modify or remove any inappropriate Material, and assumes no responsibility for the conduct of the user submitting any such Material.

You are solely responsible for the Material that you post or transmit on your Channel or through the bandit.fm Site and for your interactions with other users.

Prohibited Material and Prohibited Activity

11. The following are examples of the kind of Material and activities that are illegal or prohibited on any Channel or through the bandit.fm Site. bandit.fm may take appropriate legal action against anyone who, in bandit.fm's sole discretion, posts prohibited or illegal Material on any Channel or through the bandit.fm Site. bandit.fm reserves the right to cooperate fully with any law enforcement authority in any jurisdiction in respect of any lawful request to disclose the identity or other personal information in respect of anyone posting Material which breaches or allegedly breaches any law. By way of example, and not as a limitation, prohibited or illegal Material (**Prohibited Material**) includes Material that:

- (a) is patently unlawful, criminal, threatening, harassing, abusive, defamatory, harmful, libellous, contemptuous, obscene, vulgar, pornographic, profane, inappropriate, hateful, indecent or otherwise racially, ethnically or otherwise objectionable;
- (b) violates or infringes the rights (such as rights of privacy, publicity, copyrights, trademark rights and contract rights) of any other person or party or infringes any law;
- (c) contains excessive nudity or violence or contains a link to an adult website;
- (d) solicits personal information from anyone under 18 years of age;
- (e) constitutes or promotes information that you know is false or misleading or promotes illegal activities including but not limited to creating computer viruses or violating someone's privacy;
- (f) constitutes or promotes copyright infringement, such as providing pirated music or links to pirated music files or providing information to circumvent digital rights management devices;
- (g) includes a photograph or video of another person that you have posted without that person's consent;

By way of further example and not as a limitation, prohibited or illegal activity (**Prohibited Activity**) includes:

- (a) using a Channel or the bandit.fm Site in a manner inconsistent with any and all applicable laws and regulations;
- (b) criminal or tortious activity, including child pornography, drug dealing, gambling, sending of viruses, infringing intellectual property rights (including but not limited to copyright, trademark and patent infringement);
- (c) posting, downloading or communicating any file or material posted by another user if you know, or reasonably ought to know, that the file or material cannot legally be downloaded or communicated in that manner;
- (d) inhibiting or restricting any other user from using the bandit.fm Site;
- (e) circumventing or modifying or attempting to circumvent or modify, adapt, translate, sell, reverse engineer, decompile or disassemble any security technology or software that is part of the bandit.fm Site;
- (f) deleting, circumventing or altering any author attribution, legal notices, rights management information or technological protection measures;

- (g) activity that involves the use of viruses, time bombs, cancel-bots, "Trojan horses", worms, or any other computer code, files or programs that interrupt, destroy or limit the functionality of any computer software, hardware or telecommunications equipment, or otherwise permit the unauthorised use of or access to a computer or a computer network;
- (h) harvesting or collecting email addresses or other contact information of members by electronic or other means;
- (i) disseminating any Material that involves the transmission of "junk mail", "chain letters", or unsolicited mass mailing, instant messaging, "spimming," or "spamming";
- (j) covering or obscuring the banner advertisements on your Channel, or any bandit.fm Site page;
- (k) any automated use of the system, including but not limited to, using scripts to add friends or send comments or messages;
- (l) interfering with the computer systems which support the bandit.fm Site, overloading a service, engaging in a denial-of-service attack, or attempting to disable a host;
- (m) impersonating or falsely representing your association with any person or organisation;
- (n) using the Channel, account, username, or password of another member or disclosing your password to any third party or permitting any third party to access your Channel or account;
- (o) soliciting passwords or personal identifying information for commercial or unlawful purposes from other users; and
- (p) engaging in commercial activities and/or sales without prior written consent from bandit.fm such as competitions and advertising.

Despite the foregoing, you acknowledge that there may be instances in which users submit or post Prohibited Material and/or engage in Prohibited Activity in connection with their Channels, their Artist Pages or other parts of the bandit.fm Site. bandit.fm assumes no responsibility for such Prohibited Material and/or Prohibited Activity.

If you believe that Material posted or transmitted on any Channel, Artist Page or elsewhere on the bandit.fm Site by another user constitutes Prohibited Material or involves Prohibited Activity, or if you have a general complaint or concern about Material you see, you should inform bandit.fm by using the 'Report Complaint' link displayed in connection with the Material.

Under the *Broadcasting Services Act 1992*, you have a right to report to the Australian Media and Communications Authority (**ACMA**) about certain prohibited content or potential prohibited content which in summary is internet content that falls within the classifications RC ('refused classification'), X18+ or R18+ for content other than eligible electronic publications, or internet content that falls within the classifications RC, Category 2 Restricted or Category 1 Restricted for eligible electronic publications. For more information visit the ACMA website.

Linking to other websites

12. If you post on your Channel any links to any articles, blogs or any other content located on any website other than the bandit.fm Site (a **Third Party Website**), you must ensure that such links are in no way connected with the bandit.fm Site and that, by clicking the link, the user is

redirected to the relevant external Third Party Website. You must not imply any connection between bandit.fm and the Third Party Website and/or the content to which your link relates. In providing any links to any Third Party Website, you must comply with the linking policies of any Third Party Websites you propose to link to (including whether you can link to them at all) and must not infringe any rights of any third party including but not limited to rights of privacy, publicity, copyrights, trademark rights and contract rights.

Newsletters

13. Through your Channel you may post newsletters to and receive newsletters from other users with whose Channels and Artist Pages you have established a connection. You acknowledge and agree that in creating and posting such newsletters you must not engage in any Prohibited Activity as that term is defined in clause 11 above, and such newsletters must not contain any Prohibited Material as that term is defined in clause 11 above.

If you no longer wish to receive newsletters from a particular Channel or Artist Page, you must terminate your connection with that Channel or Artist Page.

Closing your Channel

14. You may close your Channel at any time. When your Channel is closed, bandit.fm will remove it from public access and transfer it to an inactive portion of bandit.fm's internal system where it can only be accessed by bandit.fm and/or authorised third parties who require access in order to comply with relevant laws or obligations. You acknowledge that your Channel will therefore not be completely 'deleted', but will be effectively closed from all access to bandit.fm users.
15. You acknowledge that even once your Channel is closed, Material that you made available on your Channel may continue to be public to the extent that it was made available to other users and those users have reproduced, reused or otherwise made public that Material. bandit.fm assumes no responsibility for such Material and will have no obligation to procure its deletion or removal by any other user.

Indemnities and Warranties

16. You indemnify bandit.fm, its related bodies corporate, subsidiaries, licensees and/or assignees, and their respective officers, agents, partners and employees in respect of any claims, loss, damage or costs (including legal costs on a full indemnity basis) arising from or in connection with: any breach or alleged breach by you of these Channel Terms and Conditions; the use by you or any third party of your Channel; your use of and/or conduct in connection with your Channel, the bandit.fm Site or with other users of the bandit.fm Site and any violation of any law or the rights of any third party.
17. bandit.fm does not exclude any rights and remedies in respect of goods or services under the *Trade Practices Act 1974 (Cth)* which cannot be excluded, restricted or modified. However, bandit.fm does exclude all other rights, remedies, conditions and warranties in respect of goods, services and the bandit.fm Site arising under custom, law or statute which may be excluded. To the fullest extent permitted by law,
 - (a) bandit.fm is not responsible for and makes no warranties, express or implied, as to the Material or the accuracy and reliability of the Material posted on any Channel or through the bandit.fm Site, whether caused by registered members or other users of the bandit.fm Site or by any of the equipment or programming associated with or utilized in

connection with any Channel or with the bandit.fm Site and such Material does not necessarily reflect the opinions or policies of bandit.fm.

- (b) bandit.fm makes no warranties, either express or implied, regarding any Channel, the bandit.fm Site, or any Material posted on any Channel or the bandit.fm Site. bandit.fm does not warrant that your access to Channels, the bandit.fm Site, the delivery of the bandit.fm Site or Materials shall be free from errors, defects, bugs or viruses, uninterrupted, or repairable if damaged or impaired.
- (c) bandit.fm will not be liable for any indirect, incidental, special, punitive and/or consequential damages, loss of profits and/or income, loss of data, loss of use, claims of third parties, or other losses of any kind which result from any use or access of, or any inability to use or access, a Channel or any bandit.fm Site or any Material, even if bandit.fm has been advised of the possibility of such damages or losses.
- (d) bandit.fm is not liable to you or anyone else in respect of any interference with or damage to your computer system or any other device which occurs in connection with your use of a Channel, the bandit.fm Site or a Third Party Site.
- (e) bandit.fm assumes no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, theft or destruction or unauthorised access to, or alteration of, any user communication. bandit.fm is not responsible for any technical problems or malfunction of any telephone network or lines, computer online systems, servers, providers, hardware, software, due to technical problems or traffic congestion on the Internet or on any of the services on the bandit.fm Site or combination thereof, including any injury or damage to users or to any person's computer related to or resulting from use of or access to any Channel or the bandit.fm Site.
- (f) Under no circumstances shall bandit.fm be responsible for any loss or damage, including personal injury or death, resulting from use of any Channel or the bandit.fm Site, attendance at a Sony Music or bandit.fm event, from any Material posted on a Channel or through the bandit.fm Site, or from the conduct of any users registered members or other users of the bandit.fm Site, whether online or offline. The bandit.fm Site is provided "AS-IS" and as available and bandit.fm expressly disclaims any warranty of fitness for a particular purpose or non-infringement. bandit.fm cannot guarantee and does not promise any specific results from use of the services of the bandit.fm Site.
- (g) bandit.fm reserves the right to do any of the following, at any time, without notice: to (i) modify, suspend or terminate operation of or access to a Channel, the bandit.fm Site, or any portion of the bandit.fm Site, for any reason; and to (ii) interrupt the operation of a Channel, the bandit.fm Site, or any portion of the bandit.fm Site, as necessary to perform Site maintenance.

Miscellaneous

18. These Channel Terms and Conditions, together with the General Terms and Conditions including the bandit.fm Terms of Sale and Privacy Policy, constitute the entire agreement between you and bandit.fm regarding your Channel, superseding any prior agreements between you and bandit.fm relating to your Channel.

19. These Channel Terms and Conditions are effective for as long as you have an active Channel, whether or not you regularly use your Channel.
20. bandit.fm reserves the right to change these Channel Terms and Conditions from time to time. bandit.fm will notify you of any material changes by sending a notification to the email address specified in your bandit.fm account details. bandit.fm will at all times post the current Channel Terms and Conditions on the bandit.fm Site. Your continued use of your Channel following our posting or notification of an amendment to the Channel Terms and Conditions will constitute your binding acceptance of the change. If any modification is unacceptable to you, you must stop using your Channel.
21. If any of these Channel Terms and Conditions are or become illegal, invalid or unenforceable in any relevant jurisdiction, the legality, validity or enforceability of the remainder of the terms will remain unaffected and the terms will be read as if the part had been deleted in that jurisdiction only.
22. bandit.fm's failure to exercise or enforce any of its rights under these Channel Terms and Conditions will not constitute a waiver of its rights.
23. These Channel Terms and Conditions will be governed and interpreted in accordance with the laws of the State of New South Wales, Australia and the parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in that State.