



# TonalEnergy Tuner Privacy Policy

Last Updated: January 11, 2020

## Introduction

TonalEnergy, Inc. (“TonalEnergy,” “we,” “our” or “us”) respects the privacy of all of its users and is committed to protecting it through our compliance with this policy.

This policy describes the types of information we may collect from you, your child, or that you or your child may provide when you visit the website <https://tonalenergy.com/> (our “Website”) and the TonalEnergy family of iOS and Android Applications, including the TonalEnergy Tuner (collectively, our “Applications”, together with our Website, our “Platforms”) and our practices for collecting, using, maintaining, protecting, and disclosing that information, with a focus on information that would be considered “personal data” within the meaning of the EU General Data Protection Regulation (“GDPR”) and, in some instances, information that is subject to the Children’s Online Privacy Protection Rule (“COPPA”).

This policy applies to information we collect:

In accessing and using the Platforms.

In registering to use and to create an account for the Platforms.

In email, text, and other electronic messages between you and the Platforms, including on our chat rooms, message boards, forums, bulletin boards or other interactive features.

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advertising) that may link to or be accessible from the Platforms.

For the purposes of the GDPR, TonalEnergy is considered the data controller. This means that we are responsible for deciding how we use the information that we hold. The GDPR applies to you if you reside in the European Economic Area (an “EEA Resident”).

Please read this policy carefully to understand our policies and practices regarding your information and how we will treat it. If you do not agree with our policies and practices, your choice is not to use our Platforms. By accessing or using our Platforms, you agree to this privacy policy, subject to any rights or restrictions that might apply under the GDPR if you are an EEA Resident, including the rights described in the European Privacy Rights for EEA Residents provisions below. This privacy policy is incorporated by reference into the Terms of Use that govern your use of our Platforms (the “Terms”). This policy may change from time to time. Your continued use of our Platforms after we make changes is deemed to be acceptance of those changes, so please check the policy periodically for updates.

## Children Under the Age of 13

We will handle all children’s personal data as described in COPPA and this privacy policy. Our Platforms are intended for users over the age of 13 and users under the age of 13 that receive verified parental, legal guardian, or teacher (as permitted by law) consent to access and use our Platforms. If you are under 13, do not use or provide any information on our Platforms or through any of its features, register on the Platforms, make any purchases through the Platforms, use any of the interactive or public comment features of the Platforms, or provide any information about yourself to us, including your name, address, telephone number, email address, or any screen name or user name you may use without prior parental consent.

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The signed and returned form constitutes your consent to the collection, use and disclosure of your child’s personal data as described in this policy. If we do not receive your consent or your child’s teacher, your child will not be able to use the Platform, and we will delete your information from our records.

As a parent or legal guardian of a child under 13, you have the ability to request information from us regarding the type of data being collected, view your child’s information and online activity, delete your child’s personal data, and, if you choose, request that we stop making further use of your child’s information.

If we learn we have collected or received personal information from a child under 13 without verification of parental consent, we will delete that information. If you believe we might have any information from or about a child under 13, please contact us immediately using the contact information provided below so that we can delete such information.

## Information We Collect About You and How We Collect It

This policy describes the types of personal data and other information that we may collect from you or that you may provide when you purchase a license to use our Applications and/or access or use the Platforms or any of the other features, functions, services, and products, and our practices for collecting, using, maintaining, protecting and disclosing that information.

We collect several types of information from and about users of our Platforms, including information:

- By which you may be personally identified or identifiable, such as their name, postal address, email address, telephone number, or any other

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account information, the address for billing and the billing contact information.

- Analytics or usage information and details such as when you use the Platforms, information about your internet and mobile connections, and information collected through cookies.
- Usage details and information, including how you communicate with other users of the Platforms, such as the time, date, sender and your interactions with messages (such as when you open a message).

We collect this information:

- Directly from you when you provide it to us.
- Automatically as you navigate through the Platforms. Information collected automatically may include usage details, IP addresses, time of visit, device information, usage details, location information, and information collected through cookies and other tracking technologies.
- From third parties, such as our business partners and other third parties that provide us or you with certain services.
- Certain transactions may also involve you calling us or our calling you. Please be aware that we may monitor, and in some cases, record such calls for quality assurance purposes.
- Now or in the future, the Platforms may also contain chat rooms, message boards, forums, bulletin boards and other interactive features (collectively, “Interactive Services”) that allow users to post, submit, publish, display or transmit to other users. Any information that you post on and transmit to others through any of the Interactive Services is at your own risk. We cannot control the actions of other users of these Interactive Services with whom your information is shared. Therefore, we cannot and do not guarantee that any such information will not be viewed, downloaded or shared by unauthorized persons.

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As you navigate through and interact with our Platforms, we may use automatic data collection technologies to collect certain information about your equipment, browsing actions, and patterns.

The technologies we use for automatic data collection may include:

- **Cookies (or browser cookies).** A cookie is a small file placed on the hard drive of your computer. You may refuse to accept browser cookies by activating the appropriate setting on your browser. However, if you select this setting you may be unable to access certain parts of our Platforms. Unless you have adjusted your browser setting or device setting so that it will refuse cookies, our system will issue cookies when you direct your browser to our Website or use our Application on your device.
- **Flash Cookies.** Certain features of our Website may use local stored objects (or Flash cookies) to collect and store information about your preferences and navigation to, from, and on our Website. Flash cookies are not managed by the same browser settings as are used for browser cookies.
- **Web Beacons.** Pages of our the Website and our e-mails may contain small electronic files known as web beacons (also referred to as clear gifs, pixel tags, and single-pixel gifs) that permit the Company, for example, to count users who have visited those pages or opened an email and for other related website statistics (for example, recording the popularity of certain Website content and verifying system and server integrity).

## Do Not Track Policy

Your web browser may offer you a “Do Not Track” option, which allows you to signal to operators of websites and web applications and services (including behavioral advertising services) that you do not wish such operators to track certain of your online activities over time and across different websites. We do not honor any web browser “Do Not Track” signals or other mechanisms that provide you with the ability to exercise choice regarding the collection of

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Some content or applications on the Website are served by third-parties, including advertisers, ad networks and servers, content providers, and application providers. These third parties may use cookies alone or in conjunction with web beacons or other tracking technologies to collect information about you when you use our website. The information they collect may be associated with your personal information or they may collect information, including personal information, about your online activities over time and across different websites and other online services. They may use this information to provide you with interest-based (behavioral) advertising or other targeted content.

We do not control these third parties' tracking technologies or how they may be used. If you have any questions about an advertisement or other targeted content, you should contact the responsible provider directly.

## How We Use Your Information

We use information that we collect about you or that you provide to us, including any personal data:

- To present and provide you with access to our Platforms and their contents to you.
- To provide you with information, product, or services that you request from us.
- To process and complete transactions, including registration and the creation of an account for the use of the Platforms.
- To provide technical and other support to you.
- To send you news or information about us.
- To fulfill any other purpose for which you provide it.

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- To enhance the safety and security of all of the Platforms.
  - To verify your identity and prevent fraud or other unauthorized or illegal activity.
  - In any other way we may describe when you provide the information.
  - For any other purpose with your consent.

Some of the information that we collect automatically is statistical data and does not include personal data, but we may maintain it or associate it with personal data we collect in other ways or receive from third parties or you provide to us. It helps us to improve the Platforms and to deliver a better service, including enabling us to:

- Estimate our audience size and usage patterns.
- Store information about your preferences, allowing us to customize our Platforms according to your individual interests.
- Speed up your searches.
- Recognize you when you return to our Platforms.

Although users from all over the world may access the Platforms, keep in mind that no matter where you live or where you happen to use our services, you consent to us processing and transferring information in and to the United States and other countries whose data-protection and privacy laws may offer fewer protections than those in your home country.

## Disclosure of Your Information

We may disclose aggregated information about our users, and information that does not identify any individual, without restriction.

We may disclose personal information that we collect or you provide as

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related advisors and agents) in the event of a merger, divestiture, restructuring, reorganization, dissolution or other sale or transfer of some or all of our assets, whether as a going concern or as part of bankruptcy, liquidation or similar proceeding, in which personal data held by us about users of the Platforms is among the assets that may be or are transferred.

- To fulfill the purpose for which you provide it.
- For any other purpose disclosed by us when you provide the information.
- With your consent.

We may also disclose your data information:

- To comply with any court order, law or legal process, including responding to any government or regulatory request.
- To enforce or apply the Terms and other agreements, including for billing and collection purposes.
- If we believe disclosure is necessary or appropriate to protect the rights, property, or safety of our business, our customers and/or others. This includes exchanging information with other companies and organizations for the purposes of fraud protection and credit risk reduction.
- We may share information that is anonymized (e.g., birthdates, etc.) or in an aggregated form that does not directly identify you and we may use and share any such information for any purpose without restriction so long as it does not violate the terms of this privacy policy or any applicable law. We may use, disclose or sell that anonymized or aggregated information without restriction so long as we do not disclose any of your personal data or violate the terms of this privacy policy or any applicable law.

## Choices About How We Use and Disclose Your Personal Data

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You can set your browser to refuse all or some browser cookies, or to alert you when cookies are being sent. To learn how you can manage your Flash cookie settings, visit the Flash player settings page on Adobe's website.

### ***How do I disable cookies?***

If you want to disable cookies, you can change your website browser settings to reject cookies. How you can do this will depend on the browser you use. Further details on how to disable cookies for the most popular browsers are set out below:

For Microsoft Internet Explorer:

- Choose the menu "tools" then "Internet Options"
- Click on the "privacy" tab
- Select the setting the appropriate setting

For Google Chrome:

- Choose Settings> Advanced
- Under "Privacy and security," click "Content settings".
- Click "Cookies"

For Safari:

- Choose Preferences > Privacy
- Click on "Remove all Website Data"

For Mozilla firefox:

- Choose the menu "tools" then "Options"
- Click on the icon "privacy"

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time information about your device's location through the

device's privacy settings. If you block the use of location information, some parts of the Application may become inaccessible or not function properly.

## Promotional Offers

If you do not wish to have your e-mail address/contact information used by us to market or otherwise promote our own or third parties' products or services, you can opt-out through the unsubscribe mechanism at the bottom of the applicable email.

## Lawfulness of Processing Your Data

GDPR and the laws in some jurisdictions require companies to tell you about the legal bases that they rely on to use or disclose your personal data. To the extent that those laws apply, we rely on the following legal grounds to process your personal data:

- Performance of a contract: In most cases, we collect and use your personal data and other information to meet our obligations under a contract to which you are a party or pursuant to which we are providing services to you.
- Legitimate interests: We may use your personal data information for our legitimate interests on the grounds that it furthers our legitimate interests in commercial activities (but only to the extent that such interests are overridden by the interests or fundamental rights and freedoms of the affected individuals) including:
  - Analyzing and improving the Platforms and our business.
  - Providing the services in connection with the Platforms.
  - Marketing.

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## Your California Privacy Rights

If you are a California resident, California law may provide you with additional rights regarding our use of your personal information. California's "Shine the Light" law (Civil Code Section § 1798.83) permits users of our Platforms that are California residents to request certain information regarding our disclosure of personal information to third parties for their direct marketing purposes. To make such a request, please send an email to the address provided below.

## European Privacy Rights for EEA Residents

You have the right to ask us not to process your personal data for marketing purposes. We will usually inform you (before collecting your personal data) if we intend to use your personal data for such purposes or if we intend to disclose your personal data to any third party for such purposes. You can exercise your right to prevent such processing by checking certain boxes on the forms we use to collect your personal data. You can also exercise the right by contacting us directly.

If you are an EEA Resident and GDPR applies and we hold your personal data in our capacity as a controller, you may request that we:

- Provide access to and/or a copy of certain personal data (including, in some cases, in portable form).
- Prevent the processing of your personal data for direct-marketing purposes (including any direct marketing processing based on profiling).
- Update personal data that is out of date or incorrect.
- Delete certain personal data which we are holding about you; provided that the personal data is not required by us for (i) compliance with a legal obligation under European or Member State law or other applicable law or

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- Transfer your personal data to a third party to the extent that this is technically feasible.
- Honor a revocation of your consent for the processing of your personal data (without retroactive effect).

We will consider all requests and provide our response within the time period required by applicable law. Please note, however, that certain information may be exempt from such requests in some circumstances, which may include information that we need to keep processing for our legitimate interests or to comply with a legal obligation. We may request you provide us with additional information to confirm your identity before responding to your request. You have the right to lodge a complaint with the authorities applicable to your situation, though we invite you to contact us with any concern, as we would be happy to try to resolve it directly.

If you are an EEA Resident in France, you also have the right to set guidelines for the retention and communication of your personal data after your death.

In addition, where you believe that we have not complied with its obligation under this Privacy Policy or European law, you have the right to make a complaint to an EU Data Protection Authority, such as the UK Information Commissioner's Office. You can find a list of local data protection authorities in EEA countries at the following link: [https://edpb.europa.eu/about-edpb/board/members\\_en](https://edpb.europa.eu/about-edpb/board/members_en)

You can exercise any of these rights by contacting us using the contact information provided below.

## Storage of Your Personal Data

We may store any data or other information that we collect (personal or otherwise) ourselves or in databases and servers owned and maintained by us

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store some information locally on your computer or other devices. For example, we may store information as local cache so that you can open the Website and view content faster.

We will only retain your personal data, in a form which permits us to identify you, for as long as necessary to fulfil the purposes we collected it for. We will retain and use your personal data as necessary to satisfy any legal, accounting or reporting requirements, to resolve disputes or to enforce our agreements and rights. To dispose of personal data, we may anonymize it, delete it or take other appropriate steps. Data may persist in copies made for backup and business continuity purposes for additional time.

## Data Security

We understand that the security of your personal data is important. We provide reasonable administrative, technical, and physical security controls to protect your personal data. Unfortunately, the transmission of information via the internet is not completely secure. Although we do our best to protect your personal information, we cannot guarantee the security of your personal information transmitted to our Platforms. Any transmission of personal information is at your own risk. We are not responsible for circumvention of any privacy settings or security measures contained on the Platforms.

The safety and security of your information also depends on you. Where we have given you (or where you have chosen) a password for access to certain parts of our Platforms, you are responsible for keeping this password confidential. We ask you not to share your password with anyone. We urge you to be careful about giving out information in public areas of the Platforms like message boards. The information you share in public areas may be viewed by any user of the Platforms.

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## Changes to Our Privacy Policy

It is our policy to post any changes we make to our privacy policy on this page with a notice that the privacy policy has been updated on the Website home page for at least 30 days. If we make changes to how we treat our users' personal data that are materially less protective than provided in this policy, we will use reasonable efforts to notify you by e-mail to the e-mail address specified in your account and/or through a notice on the Website home page. The date the privacy policy was last revised is identified at the top of the page. You are responsible for ensuring we have an up-to-date active and deliverable email address for you, and for periodically visiting our Website and this privacy policy to check for any changes. Like our Terms, of which this privacy policy is a part, your use, and/or continued use means that you agree to be bound by such changes.

## Contact Information

To ask questions or comment about this privacy policy and our privacy practices, contact us at:

[support@tonalenergy.com](mailto:support@tonalenergy.com)

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