

CapMedia and Entertainment Liability Policy

General Terms and Conditions

This Policy is comprised of these General Terms and Conditions, the Declarations, the Application, the Coverage Sections purchased, and any Endorsements thereto.

This Policy may include both Claims Made and Occurrence coverages, as indicated in each Coverage Section.

Claim Expenses may reduce and erode the Limits of Liability, or they may be paid in addition to the Limits of Liability, as indicated in each Coverage Section.

Words or phrases that appear in bold text (other than in headings and titles) have special meaning as specified in this Policy.

In consideration of the payment of the premium and in reliance upon all statements made and information contained in the **Application**, the **Company** and the **Named Insured**, on behalf of all **Insureds**, agree as follows:

I. COVERAGE TERMS

These General Terms and Conditions will apply to all Coverage Sections of this Policy, unless stated to the contrary in any Coverage Section. The terms and conditions of each Coverage Section will apply only to that Coverage Section. If any provision in these General Terms and Conditions is inconsistent with or conflicts with the terms and conditions of any Coverage Section, the terms and conditions of such Coverage Section will control for purposes of determining coverage under that Coverage Section.

Any defined term in these General Terms and Conditions which is also defined in a Coverage Section, will, for purposes of determining coverage under that Coverage Section, have the meaning set forth in that Coverage Section.

II. WHO IS AN INSURED

A. INSUREDS

The following persons or entities are **Insureds** under this Policy:

1. The **Named Insured**, which is the person or entity designated as such in Item 1. of the Declarations;
2. Any **Subsidiary** in existence on the Effective Date of this Policy, and any new **Subsidiary** created or acquired during the **Policy Period** subject to Section V.I. below;
3. The current or former partners, officers, directors, members, managers, trustees or stockholders, of any **Named Insured** or **Subsidiary** but only while acting within the scope of his or her duties on behalf of the **Named Insured** or **Subsidiary**; and
4. The current or former employees of any **Named Insured** or **Subsidiary**, including: part-time, seasonal, temporary, or leased employees, and volunteers or interns, but only while acting within the scope of his or her duties on behalf of the **Named Insured** or **Subsidiary**.

B. ADDITIONAL INSUREDS

Coverage under this Policy is extended to include coverage for **Claims** against the following persons or entities, subject to the conditions indicated below:

1. The estate, heirs, executors, administrators, assigns and legal representatives of an **Insured** listed above, in the event of the death, incapacity, insolvency or bankruptcy of such **Insured**, but only to the extent that an **Insured** would otherwise be provided coverage under this Policy;
2. The lawful spouse of an **Insured** listed above, including any natural person qualifying as a domestic partner under the provisions of any applicable federal, state, or local law in the United States, but only with respect to liability incurred vicariously through the actions of the **Insured**;
3. Solely with respect to the Media Liability Coverage Section and the Film and Entertainment Coverage Section, if purchased by the **Insured**, the following individuals or entities are Additional Insureds:
 - a. Any agent or **Independent Contractor**, but only while providing **Content** to or on behalf of the **Named Insured** or any **Subsidiary**; and
 - b. Any **Loan-Out Company** and its employees, but only with respect to the specific services the **Loan-Out Company** has agreed to supply to the **Named Insured** or any **Subsidiary** for **Covered Media** or a **Covered Production**.

4. Solely with respect to the Film and Entertainment Coverage Section, if purchased by the **Insured**, the following individuals or entities are Additional Insureds:
 - a. Any distributor, licensee, exhibitor, bond company or financier, that a **Named Insured** or any **Subsidiary** has agreed by written contract or agreement to include as an Additional Insured under this Policy, for the acts of an existing **Insured** other than the Additional Insured, in connection with a **Covered Production**, but only with respect to **Claims** which arise out of **Liability Assumed Under Contract**. There shall be no coverage for the Additional Insured's own acts, error or omissions under this Policy.

Solely with respect to the coverage provided to these Additional Insureds under the Film and Entertainment Coverage Section, coverage shall be primary to and shall not seek contribution from any other insurance available to such Additional Insured.

5. Solely with respect to the Professional Services / Technology and Internet Services Liability Coverage Section, if purchased by the **Insured**, the following individuals or entities are Additional Insureds:
 - a. Any **Independent Contractor**, but only while providing covered services to or on behalf of the **Named Insured** or any **Subsidiary**.
6. Any other persons or entities named as Additional Insureds, as designated in any Endorsement to this Policy.

III. DEFINITIONS

Some bold-faced words may be defined in other parts of this Policy.

A. **Application** means:

1. any application, and any supplemental applications, submitted to the **Company** in connection with the application process for this Policy and the underwriting thereof;
2. any and all attachments or other materials submitted to the **Company** in connection with such application, along with all publicly available material published or disseminated by an **Insured** about an **Insured** that the **Company** obtains as part of the application process; and
3. if this Policy is a renewal of a prior policy issued by the **Company**, **Application** also means all previous applications and any and all attachments and materials submitted to the **Company** with such applications;

all of which will be kept on file by the **Company** and deemed attached to this Policy, as if physically attached.

B. **Bodily Injury** means physical injury, sickness, disease or death.

C. **Claim Expenses** means the following expenses incurred by the **Company** in the investigation, adjustment, negotiation, arbitration, mediation, settlement and defense of **Claims**:

1. expenses the **Company** incurs, other than salary, wages, or expenses of the **Company's** regular employees;
2. reasonable fees charged by attorneys selected or pre-approved by the **Company** to defend an **Insured**;
3. the cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable Limit of Liability. The **Company** will not be obligated to apply for or furnish these bonds; and
4. reasonable expenses incurred by an **Insured** at the **Company's** request.

Claim Expenses do not include:

- a. loss of earnings or profit by any **Insured**; or the salaries, wages, fees, overhead, benefit expenses or other compensation payable to any **Insured**; or
- b. costs to comply with any regulatory orders, settlements or judgments or administrative decisions.

D. **Company** means the company issuing this Policy, as specified in the Declarations.

E. **Content** means information in any form, whether in writing or electronic or otherwise, including words, pictures, film, digitized content, graphics, data, photographs, images and artwork; regardless of the method of dissemination, when authorized or controlled by the **Insured**. **Content** also includes **Advertising** about an **Insured** or its goods, products or services but does not include the actual goods, products or services described, illustrated or displayed in **Content**. **Content** does not include messages sent on an individual basis or other one-on-one communications.

F. **Employment Related Practices or Policies** means any practices or policies relating to the hiring, employment or termination of any individual, including but not limited to: any actual or alleged breach of an employment contract; failure or refusal to hire, employ or promote any person; demotion or discharge of any person; employment-related defamation or humiliation; discipline or evaluation of any person; discrimination, harassment, segregation, limitation or classification of persons on any basis that deprives them of employment opportunities or otherwise adversely affects his/her status as an employee; retaliation; or employment-related misrepresentation.

- G. **Independent Contractor** means an individual or entity providing **Content** or covered services to or on behalf of the **Named Insured** or any **Subsidiary**, under its supervision, direction and control, pursuant to a written contract or agreement; and for whom the **Named Insured** or any **Subsidiary** agree by such written contract or agreement to provide the insurance afforded by the applicable Coverage Sections of this Policy with respect to liability arising out of such **Content** or services.
- H. **Insured** means those persons and/or entities identified in Section II. **WHO IS AN INSURED**.
- I. **Liability Assumed Under Contract** means liability assumed by the **Named Insured** or its **Subsidiaries** in any hold harmless or indemnification contract or agreement in writing with any third party, and for **Claims** which would otherwise be covered under this Policy, and any coverage provided hereunder is no broader than that required under such contract or agreement. The contract or agreement must be entered into with such third party and effective prior to the date of any act, error, omission or incident which is the basis of any **Claim**.
- J. **Loan-Out Company** means a corporation or limited liability company, which contracts with a **Named Insured** or **Subsidiary** which is a production company, to loan the services of its employee actor or other entertainer to the **Named Insured** or **Subsidiary** in connection with **Covered Media** or a **Covered Production**.
- K. **Management Control** means:
1. ownership interests representing greater than fifty percent (50%) of the voting, appointment, or designation power for the selection of a majority of the Board of Directors of a corporation; the Management Committee members of a joint venture or partnership, or the members of the Management Board of a limited liability company; or
 2. having the right, pursuant to a written contract or the by-laws, charter, operating agreement or similar documents, to elect, appoint or designate a majority of the Board of Directors of a corporation, the Management Committee of a joint venture or partnership, or the Management Board of a limited liability company.
- L. **Material Changes** means changes to the **Insured's** operations or activities which materially increase or change the risk, as underwritten by the **Company** as of the Effective Date of this Policy, including but not limited to:
1. the acquisition or creation of any new publications, broadcast or cable stations, advertising agencies or advertisers, digital content, film programs or productions or any other communications not already contemplated by **Covered Media** or **Covered Productions**;
 2. the creation of any new websites or use of any new social media platforms not already contemplated by **Covered Media** or **Covered Productions**;
 3. new services not listed in the **Application** for this Policy; or
 4. any other business operations or activities not previously disclosed to the **Company** in the **Application** for this Policy or otherwise.
- M. **Over-Redemption** means payment to contestants, entrants, registrants or other promotion participants, whether such payment is in the form of money, prizes, property or other valuable remuneration, in excess of the amount expected. It also means receipt of requests or demands for payment in any form, from contestants, entrants, registrants or other promotion participants, in excess of the amount expected.
- N. **Policy Period** means the period from the Effective Date to the Expiration Date, as specified in the Declarations. However, if this Policy is cancelled, by either the **Insured** or the **Company**, the **Policy Period** ends at the effective date of the cancellation.
- O. **Pollutant** means any solid, liquid, gaseous or thermal irritant or containment, including:
1. Smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed; or
 2. Hazardous, toxic or radioactive matter or nuclear radiation.
- P. **Property Damage** means physical injury or destruction to tangible or intangible property, including all resulting loss of use of that property.
- Q. **Subsidiary** means any entity of which the **Named Insured** has **Management Control**, either directly or indirectly through one or more **Subsidiaries**.

IV. LIMITS OF LIABILITY / RETENTIONS

A. LIMITS OF LIABILITY

1. Coverage Aggregate Limit of Liability

The Coverage Aggregate Limit of Liability for each purchased Coverage Section, as specified in the Declarations, is the **Company's** maximum Limit of Liability for all **Claim Expenses, Damages, Breach Loss** or any other amounts payable under the respective Coverage Section, as applicable and in accordance with the terms set forth in each respective Coverage Section.

If a Coverage Aggregate Limit of Liability is exhausted by the payment of **Claim Expenses, Damages, Breach Loss** or any other amounts payable under the respective Coverage Section, as applicable, the **Company** will have no further obligation to defend or continue to defend or pay **Claim Expenses** or **Damages** with respect to any **Claim** under such Coverage Section, or pay any other amounts payable under such Coverage Section, and the Premium specified in the Declarations for such Coverage Section will be fully earned.

2. Policy Aggregate Limit of Liability

The Policy Aggregate Limit of Liability, as specified in the Declarations, is the maximum Limit of Liability the **Company** will pay under this Policy for all **Claim Expenses** and **Damages** from all **Claims, Breach Loss**, and any other amounts payable under this Policy by the **Company**, as applicable, for which coverage is provided under all purchased Coverage Sections.

If the Policy Aggregate Limit of Liability is exhausted by the payment of **Claim Expenses, Damages, Breach Loss**, or any other amounts payable under this Policy, as applicable, the **Company** will have no further obligation to defend or continue to defend or pay **Damages** or **Claim Expenses** with respect to any **Claim** under this Policy, or pay any other amounts, or have any obligation of any kind with respect to this Policy, and the Total Policy Premium specified in the Declarations will be fully earned.

B. PAYMENT OF CLAIM EXPENSES

1. **Claim Expenses** are part of and not in addition to the applicable Limits of Liability specified in the Declarations for the following Coverage Sections, if purchased as specified in the Declarations, and payment by the **Company** of **Claim Expenses** will reduce and may exhaust such Limits of Liability:
 - a. Film and Entertainment Liability Coverage Section;
 - b. Professional Services / Technology and Internet Services Liability Coverage Section; and
 - c. Privacy and Network Security Liability Coverage Section.
2. **Claim Expenses** are in addition to the Limits of Liability for the Media Liability Coverage Section, if purchased as specified in the Declarations. Payment by the **Company** of **Claim Expenses** under the Media Liability Coverage Section will not reduce the Limits of Liability for the Media Liability Coverage Section or the Policy Aggregate Limit of Liability. However, the **Company** will not be obligated to pay **Claim Expenses** for any **Claim** under the Media Liability Coverage Section after either the Coverage Aggregate Limit of Liability or the Policy Aggregate Limit of Liability, has been exhausted.

C. PAYMENT OF BREACH LOSS AND ANY OTHER AMOUNTS

Breach Loss, Restoration Costs, Network Extortion Costs, and any other amounts payable under the Privacy and Network Security Liability Coverage Section, are part of and not in addition to the applicable Limits of Liability specified in the Declarations for such Coverage Section, if purchased, and payment by the **Company** of **Breach Loss, Restoration Costs, Network Extortion Costs**, and any other amounts payable under such Coverage Section will reduce and may exhaust the Limits of Liability.

D. OTHER INSURANCE PROVIDED BY THE COMPANY

If any **Damages** or **Claim Expenses** from any **Claim** that is covered by this Policy, or any **Breach Loss** or any other amounts payable under this Policy, are also covered to any extent by another policy issued by the **Company** or any affiliate thereof to any **Insured**, the maximum limit of liability payable under both policies for such **Damages, Claim Expenses, Breach Loss** or other amounts, will not exceed the largest single applicable limit of liability available under either policy, and the corresponding Retention will apply.

E. RETENTION

1. The **Company** will only be liable for the amount of **Claim Expenses** or **Damages** from a **Claim**, or **Breach Loss**, which is in excess of the applicable Retention amount as specified in the Declarations. The Retention amount will be borne by the **Insureds** and remain uninsured.
2. If the total of all **Claim Expenses** and **Damages** from any **Claim**, or the total of all **Breach Loss** from any event for which coverage is provided under the Privacy Liability and Network Security Liability Coverage Section, is within the applicable Retention, the **Company** will have no duty to pay such **Claim Expenses, Damages** or **Breach Loss**, or any other amounts payable under this Policy.
3. The Retention is in addition to the Limits of Liability. The Retention will not erode the Limits of Liability.
4. The application of the Retention to **Claim Expenses** and **Damages** under one Coverage Section will not reduce the Retention that applies to **Claim Expenses** and **Damages** under any other Coverage Section. If different Retention amounts apply to different parts of a **Claim**, the applicable Retention will be applied separately to each part of the

Claim, and the sum of such Retention amounts will not exceed the largest single Retention amount which applies to such **Claim**.

F. NON-STACKING OF LIMITS

In the event that the Limits of Liability of more than one Coverage Section of this Policy shall apply to the same **Claim**, only the Limits of Liability of one Coverage Section shall apply, which shall be determined at the **Company's** sole discretion. In no event shall the Limits of Liability of more than one Coverage Section apply to the same **Claim** even if any applicable Coverage Section has a dedicated Limit of Liability as specified in an Endorsement to this Policy or otherwise.

V. CONDITIONS

A. REPORTING REQUIREMENTS; DUTIES IN THE EVENT OF A CLAIM OR INCIDENT

Refer to the "WHAT TO DO IF YOU HAVE A CLAIM OR POTENTIAL CLAIM OR INCIDENT" notice attached to the front of this Policy for Claims Department contact information.

1. Claims Made Coverages

a. Notice of Claims for Claims Made Coverages

Solely with respect to any coverage that is provided on a Claims Made basis under this Policy, the **Insured** must, as a condition precedent to the obligations of the **Company** under this Policy, provide written notification to the **Company** of any **Claim** first made against an **Insured** during the **Policy Period** as soon as practical after the **Insured** becomes aware of such **Claim**, but no later than thirty (30) days after the end of the **Policy Period**. If a **Claim** is first made within any applicable Extended Reporting Period, the **Insured** will provide written notification to the **Company** of such **Claim** as soon as practicable but in no event later than the expiration of the Extended Reporting Period.

A **Claim** shall be considered first made upon receipt by any **Insured**.

b. Notice of Circumstances or Incidents for Claims Made Coverages

Solely with respect to any coverage that is provided on a Claims Made basis under this Policy, if, during the **Policy Period**, the **Insured** first becomes aware of a circumstance or incident which may reasonably be expected to be the basis of a **Claim** against an **Insured**, and the **Insured**, as soon as practical but in no event later than the Expiration Date of the **Policy Period**, gives the **Company** written notice of the circumstance or incident, then the **Company** will treat any subsequently resulting **Claim** as if it had first been made during the **Policy Period**. All terms and conditions of this Policy in effect on the date that the **Company** receives notice of such circumstance or incident will apply to the resulting **Claim**.

The notice must include all of the following information:

- (1) the names, addresses and other contact information of all persons and/or organizations involved in the circumstance or incident, and the specific persons or organizations likely to make the **Claim**;
- (2) a description of the time, place and nature of the circumstance or incident; and
- (3) a description of the potential **Damages**.

2. Occurrence Coverages

a. Notice of Claims for Occurrence Coverages

Solely with respect to any coverage that is provided on an Occurrence basis under this Policy, the **Insured** must, as a condition precedent to the obligations of the **Company** under this Policy, provide written notification to the **Company** of any **Claim** made against an **Insured** as soon as practical after the **Insured** becomes aware of such **Claim**.

b. Notice of Circumstances or Incidents for Occurrence Coverages

Solely with respect to any coverage that is provided on an Occurrence basis under this Policy, if, during the **Policy Period**, the **Insured** becomes aware of a circumstance or incident which may reasonably be expected to be the basis of a **Claim** against an **Insured**, the **Insured** must notify the **Company** in writing as soon as practical after the **Insured** becomes aware of such circumstance or incident.

The notice must include all of the following information:

- (1) the names, addresses and other contact information of all persons and/or organizations involved in the circumstance or incident, and the specific persons or organizations likely to make the **Claim**;
- (2) a description of the time, place and nature of the circumstance or incident; and
- (3) a description of the potential **Damages**.

B. DEFENSE AND SETTLEMENT; COOPERATION

1. Duty to Defend

The **Company** has the right and duty to defend any **Claim** for which coverage is provided under this Policy, even if the allegations are groundless, false or fraudulent. The **Company** shall have the right, at its sole discretion, to make investigations or conduct negotiations with respect to any **Claim**.

In conducting a defense, **Claim Expenses** paid by the **Company** on behalf of the **Insured** may be paid in addition to the Limits of Liability, or as part of the Limits of Liability, as specified in the Coverage Section applicable to such **Claim**. **Claim Expenses** paid by the **Insured** shall be applied to reduce the applicable Retention amount.

The **Company** will not be obligated to pay or reimburse any **Claim Expenses** or **Damages** or to defend or continue to defend any **Claim** under this Policy after the applicable Limit of Liability is exhausted by the payment of **Claim Expenses**, **Damages** or other amounts payable under this Policy, as applicable.

2. Selection of Counsel

The **Company** will select and employ counsel to investigate and defend any covered **Claim**. The **Insured** may, at any time, consult with the **Company** with respect to selection of counsel.

3. Insured's Duty to Cooperate

- a. Upon the **Company's** request, the **Insured** must authorize the **Company** to obtain records and other information.
- b. The **Insured** must cooperate with and assist the **Company** in the investigation, settlement and defense of any **Claim** or any other event or incident for which coverage is provided under this Policy.
- c. The **Insured** must cooperate with and assist the **Company** upon the **Company's** request, in enforcing any rights of contribution or indemnity against another party who may be liable to an **Insured**.
- d. No **Insured** will, except at the **Insured's** own cost, voluntarily make a payment, assume any obligation, or incur any expense without the **Company's** consent.
- e. The **Insured** must send the **Company** copies of all demands, notices, settlement offers, summonses or legal papers received in connection with a **Claim** or potential **Claim** or any other event or incident for which coverage is provided under this Policy.

4. Settlement of a Claim

The **Insured's** ability to settle any **Claim** or participate in settlement negotiations shall be determined in accordance with the provisions of each Coverage Section.

C. LEGAL ACTION AGAINST THE COMPANY

No person or organization has a right under this Policy:

1. to join the **Company** as a party or otherwise bring the **Company** into a suit seeking **Damages** from an **Insured**; or
2. to sue the **Company**, unless the **Insured** has fully complied with all terms and conditions of this Policy.

D. ALLOCATION

1. If both **Damages** covered by this Policy and **Damages** not covered by this Policy are incurred, either because a **Claim** includes both covered and uncovered matters, or because a **Claim** is made against both **Insureds** and others not included within the definition of **Insured**, the **Insureds** and the **Company** agree to use their best efforts to determine a fair and proper allocation of such amount between covered **Damages** and uncovered **Damages**. The **Company's** obligation to pay **Damages** will apply only to those sums allocated to the **Insureds** that are covered under this Policy.
2. In making such determination, the parties will take into account the relative legal and financial exposures of, and relative benefits obtained in connection with the defense and/or settlement of the **Claim**. In the event the **Company** and the **Insureds** do not reach an agreement with respect to allocation, the **Company** will be obligated to make an interim payment of the amount of **Damages** which the parties agree is not in dispute until a final amount is agreed upon or determined pursuant to the provisions of this Policy and applicable law.
3. The **Company** will not seek to allocate with respect to **Claim Expenses** incurred in such **Claim**.

E. CANCELLATION; NO OBLIGATION TO RENEW

1. Cancellation

- a. The **Named Insured** may cancel this Policy by mailing or delivering to the **Company** advance written notice of cancellation.

- b. The **Company** may cancel this Policy by mailing or delivering to the **Named Insured** written notice of cancellation at least:
 - (1) Ten (10) days before the effective date of cancellation if the **Company** cancels for non-payment of Premium; or
 - (2) Thirty (30) days before the effective date of cancellation if the **Company** cancels for any other reason.
- c. The **Company** will mail or deliver notice to the last known mailing address of the **Named Insured**.
- d. Notice of cancellation will state the effective date of cancellation. The **Policy Period** will end on that date.
- e. If this Policy is cancelled, the **Company** will send any Premium refund due to the **Named Insured**. If the **Company** cancels, the refund will be pro rata. If the **Named Insured** cancels, the refund will be calculated as ninety percent (90%) of the prorated return Premium. The cancellation will be effective even if the **Company** has not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

2. No Obligation to Renew

The **Company** will not be obligated or required to renew this Policy. Any offer of renewal terms involving a change of Limit of Liability, Retention, premium, or other terms and conditions will not constitute, nor be construed as, a refusal by the **Company** to renew this Policy. The **Company** may elect to non-renew this Policy by mailing to the **Named Insured** at least thirty (30) days advance written notice or notice as otherwise specified by state law.

If notice is mailed, proof of mailing will be sufficient proof of notice.

F. EXTENDED REPORTING PERIOD

This provision applies only to coverage that is provided on a Claims Made basis under this Policy.

1. Automatic Extended Reporting Period

- a. If the **Named Insured** or the **Company** cancels or non-renews this Policy for any reason, other than for non-payment of premium and/or Retention or for non-compliance with the terms and conditions of this Policy, then the **Named Insured** will be entitled to an Automatic Extended Reporting Period of thirty (30) days from the effective date of the cancellation or nonrenewal of this Policy to report **Claims**.
- b. If an Optional Extended Reporting Period described below is purchased, then this Automatic Extended Reporting Period will be included within the Optional Extended Reporting Period and will not extend such Optional Extended Reporting Period.

2. Optional Extended Reporting Period

If this Policy is cancelled or non-renewed, for any reason, other than for non-payment of premium and/or Retention or for non-compliance with the terms and conditions of this Policy, then the **Named Insured** will have the right to purchase an Optional Extended Reporting Period as follows:

- a. The right to purchase the Optional Extended Reporting Period will terminate unless written notice of the **Named Insured's** intention to purchase it, together with payment of additional premium due, is received by the **Company** within thirty (30) days after the effective date of the cancellation or non-renewal;
- b. The additional premium for the Optional Extended Reporting Period will be calculated as a percentage of the annual premium, as specified in the Declarations.
- c. The additional premium for the Optional Extended Reporting Period will be fully earned upon the Effective Date of the Optional Extended Reporting Period. Once purchased, the Optional Extended Reporting Period may not be cancelled.

3. Terms Applicable to both Automatic and Optional Extended Reporting Periods

- a. All terms and conditions of this Policy in effect on the last day of this **Policy Period** will apply to a **Claim** made during the Extended Reporting Period.
- b. The Extended Reporting Period does not extend the **Policy Period** or change the scope of coverage provided, nor does it provide an increased or reinstated Limit of Liability.
- c. The Extended Reporting Period applies only to **Claims** made against an **Insured** during the Extended Reporting Period for covered acts, errors or omissions that occur on or after the Retroactive Date and before the effective date of cancellation or non-renewal of this Policy.

G. CHANGE IN OPERATIONS

The **Named Insured** agrees to notify the **Company**, in advance if possible, of any **Material Changes** during the **Policy Period** as soon as practicable. If the **Company** determines that these changes in operations or activities result in a change to an **Insured's** exposure, the **Company** will have the right to modify coverage terms, exclude coverage for any new risk or exposure that results from the **Material Changes**, and/or make adjustments to the premium or rates charged.

H. CONVERSION OF COVERAGE

If during the **Policy Period** the **Named Insured**: consolidates or merges with or is acquired by another entity; sells substantially all of its assets to another entity; ceases to do business; or initiates bankruptcy proceedings; then this Policy will remain in full force and effect, but only with respect to otherwise covered acts, errors or omissions that occur during the **Policy Period** and prior to the date of any transaction listed above. There will be no coverage provided by this Policy for any **Claim** arising out of acts, errors or omissions or events occurring after the earliest date that any of the transactions listed above was initiated or took place.

I. NEWLY ACQUIRED OR FORMED ENTITIES

1. A **Subsidiary** that is acquired or formed during the **Policy Period**, and at the time of such transaction generates less than fifteen percent (15%) of the total revenue of the **Named Insured** as reflected in the **Named Insured's** most recent audited consolidated financial statement, will automatically be covered under this Policy as an **Insured** if there is no other similar insurance available to such entity.
2. A **Subsidiary** that is acquired or formed during the **Policy Period**, and at the time of such transaction generates equal to or more than fifteen percent (15%) of the total revenue of the **Named Insured** as reflected in the **Named Insured's** most recent audited consolidated financial statement, may be covered under this Policy as an **Insured** if there is no other similar insurance available to such entity, but only subject to the following:

Coverage is afforded to such new **Subsidiary** only until the ninetieth (90th) day after the acquisition or formation, or until the end of the **Policy Period**, whichever is earlier. Coverage will cease for such new **Subsidiary** after this period, unless, within this period, the **Named Insured**:

- a. advises the **Company** of the acquisition or formation of the new organization in writing;
 - b. provides any information or documentation as requested by the **Company** for evaluation;
 - c. pays any additional Premium required as a result of the change; and
 - d. the **Company** issues an Endorsement to include the new **Subsidiary** as an **Insured**.
3. For any other entity acquired or formed during the **Policy Period** by a **Named Insured**, which is not a **Subsidiary**, there shall be no coverage provided under this Policy unless the **Named Insured** notifies the **Company** in writing and the **Company** agrees to provide coverage for such new entity subject to any additional terms, conditions and Premium as may be required by the **Company**, and issues an Endorsement to this Policy to that effect.

J. OTHER INSURANCE

The insurance afforded by this Policy is excess of any other valid and collectible insurance available to the **Insured**, except insurance specifically arranged by the **Named Insured** to apply in excess of this insurance.

K. REPRESENTATIONS

By accepting this Policy the **Named Insured** agrees, on behalf of all **Insureds**, that:

1. the statements in the **Application**, along with any and all attachments submitted with the same, or in connection with the application process and furnished to the **Company** are true, accurate and complete;
2. those statements furnished to the **Company** are representations the **Named Insured** made on behalf of all **Insureds**;
3. those representations are a material inducement to the **Company** to issue this Policy;
4. the **Company** has issued this Policy in reliance upon those representations; and
5. if this Policy is part of the renewal of a policy issued by the **Company**, the **Insured's** representations include representations made in all previous **Applications** for previous policies issued by the **Company**.

L. RESPONSIBILITIES OF NAMED INSURED

The **Named Insured** specified in the Declarations shall act on behalf of all **Insureds** for the payment or return of premium, payment of Retention amounts, receipt and acceptance of any Endorsement issued to form a part of this Policy, giving and receiving notice of cancellation or non-renewal, and the exercise of all rights provided under this Policy.

M. SUBROGATION

The **Company** and the **Insured** may have rights to recover all or part of any payment that the **Company** or the **Insured** makes under this Policy from a third-party. If so, the rights of the **Insured** are transferred to the **Company**. The **Insured** must do nothing to prejudice such rights. At the **Company's** request, the **Insured** will do everything necessary to transfer and secure such rights and help the **Company** enforce them, including the execution of documents necessary to enable the **Company** to effectively bring suit.

Any recoveries will be applied as follows:

1. First to the **Company** if the **Company** incurs expenses to bring suit or otherwise exercise rights of recovery, up to the amount of incurred expenses;
2. Second to the **Company** up to the amount of its payment for **Claim Expenses** and **Damages** or any other amounts payable under this Policy; and
3. Third to the **Named Insured** as recovery of Retention or deductible amounts paid by any **Insured**.

However, the **Company** waives its rights to pursue subrogation in connection with payments under this Policy against individuals or entities with whom the **Named Insured** has entered into a written contractual agreement requiring such waiver of subrogation.

N. TERRITORY – WORLDWIDE COVERAGE

This Policy applies to covered acts, errors, omissions or events which are committed by any **Insured** anywhere in the world; provided that the **Claim** is brought in the United States and its territories or possessions, Puerto Rico or Canada.

O. COMPLIANCE WITH ECONOMIC OR TRADE SANCTIONS

This insurance does not apply, and no payment shall be made hereunder, to the extent that trade sanctions or economic sanctions, embargos or other similar programs, laws or regulations, in the United States, the European Union, or any other country, prohibit the **Company** from providing insurance or making payment.

P. CONFORMITY TO STATUTE

1. Any terms of this Policy which are in conflict with the terms of any applicable laws construing this Policy, including any Endorsement to this Policy which is required by any state Department of Insurance or equivalent authority are hereby amended to conform to such laws.
2. In the event any portion of this Policy will be declared or deemed invalid or unenforceable under applicable law, such invalidity or unenforceability will not affect the validity or enforceability of any other portion of this Policy.

Q. BANKRUPTCY

The bankruptcy or insolvency of an **Insured** or an **Insured's** estate will not relieve the **Company** of its obligations under this Policy nor deprive the **Company** of its rights or defenses under this Policy.

R. TRANSFER OF RIGHTS AND DUTIES

An **Insured's** rights and duties under this Policy may not be transferred without the **Company's** prior written consent.

S. VALUATION AND CURRENCY

If **Damages** are paid in currency other than United States of America dollars, then payment under this Policy will be considered to have been made in United States of America dollars at the conversion rate published in *The Wall Street Journal* on the date of payment.

T. HEADINGS

The descriptions in the headings and subheadings of this Policy are solely for convenience and do not constitute any part of this Policy's terms and conditions.

U. POLICY CHANGES

This Policy contains all the agreements between the **Company** and the **Named Insured** concerning the insurance afforded. This Policy's terms can be amended or waived only by Endorsement issued by the **Company** and made a part of this Policy.

VI. EXCLUSIONS

- A. Coverage under this Policy shall not apply to any **Claim, Damages, Claim Expenses, Breach Loss, Restoration Costs, Privacy Incident, Security Incident or Data Incident**, or any other matter, if based upon, arising out of, resulting from or in connection with, any actual or alleged:
 1. Advertising Fraud

False, deceptive, misleading or fraudulent statements in **Advertising** about an **Insured** or its goods or services, including any incorrect description of the price of goods, products or services or the failure of goods, products or services to conform with any statement of quality or performance;

2. Antitrust

Anti-trust activities, anti-competitive activities, price fixing, price discrimination, predatory pricing, restraint of trade, monopolization, unfair trade practices or conspiracy relating to any of the foregoing; or any actual or alleged violation of the Federal Trade Commission Act, the Sherman Antitrust Act, the Clayton Act or any other state or federal law relating to anti-trust activities, anti-competitive activities, price fixing, price discrimination, predatory pricing, restraint of trade, monopolization, unfair trade practices or conspiracy relating to any of the foregoing;

3. Bankruptcy

Bankruptcy, insolvency, receivership, liquidation and/or cessation of operations of an **Insured** or other entity over which an **Insured**, by reason of ownership interest or otherwise, asserts influence or control;

4. Breach of Warranty

Breach of a warranty or guarantee;

5. Discrimination

Unlawful discrimination or harassment, including that based upon race, creed, color, religion, national origin, age, sex, marital status or sexual orientation or disability; including but not limited to the violation by any **Insured** of the responsibilities, obligations or duties imposed by any federal, state, or local statutory or common law anywhere in the world (including the Americans with Disabilities Act or the Civil Rights act of 1964), or amendments to or regulations promulgated under any such law, that governs the prohibition of discrimination on the basis of disability;

6. Employment Practices or Policies

Employment Related Practices or Policies of an Insured;

7. Fiduciary or Financial Responsibilities

Breach of any fiduciary duty or fiduciary relationship, including but not limited to duties or relationships involving media credits or funds which the **Insured** either collects or holds for another;

8. Illegal Gain

Gain, profit or advantage to which an **Insured** is not legally entitled;

9. Licensed Professionals

Services that can only be lawfully performed by a licensed, registered, or certified:

- a. Public accountant;
- b. Actuary;
- c. Attorney;
- d. Insurance agent or broker;
- e. Financial consultant or investment advisor or securities broker or dealer;
- f. Healthcare provider; or
- g. Architect or engineer;

10. Organized Crime

Violation of the Organized Crime Control Act of 1970, commonly known as Racketeer Influenced and Corrupt Organizations Act or RICO or any amendment to the above laws or any violation of any regulation, ruling or orders issued pursuant to the above laws;

11. Over-Redemption

Over-Redemption;

12. Patent

Infringement of patent or inducement to infringe a patent; or the application for a patent or prosecution of such application including any opposition proceeding;

13. Pollution

Actual or threatened discharge, dispersal or release of any **Pollutant**, or the creation of an injurious condition involving any **Pollutant**, or the existence of any **Pollutant**, or the cleanup, removal, testing, monitoring, containment, treatment, detoxification or neutralization of any **Pollutant**. This Exclusion is effective whether or not the pollution was sudden,

accidental, gradual, intended, expected or preventable and whether or not an **Insured** caused or contributed to the pollution;

14. Prior and Pending Litigation

Any pending or prior litigation, suit, proceeding or investigation of which any **Insured** had notice as of the Effective Date of this Policy; or alleging or derived from the same or essentially the same facts, events or acts, errors or omissions as alleged in such pending or prior litigation, suit, proceeding or investigation;

Provided that this Exclusion shall only apply to any Claims Made Coverage provided under any Coverage Section or Endorsement to this Policy;

For the purposes of this Exclusion, if this Policy is a renewal policy with the **Company** or an affiliate thereof, the Effective Date shall be that of the earliest policy issued by the **Company** by which the **Company** has continuously provided the same or similar coverage as that provided by this Policy;

15. Prior Knowledge

Acts, errors or omissions of which an **Insured** had knowledge, including constructive knowledge, prior to the Effective Date of this Policy, if, as of such date, it was reasonably foreseeable that a **Claim, Privacy Incident, Security Incident or Data Incident** might result;

Provided that this Exclusion shall only apply to any Claims Made Coverage provided under any Coverage Section or Endorsement to this Policy;

For the purposes of this Exclusion, if this Policy is a renewal policy with the **Company** or an affiliate thereof, the Effective Date shall be that of the earliest policy issued by the **Company** by which the **Company** has continuously provided the same or similar coverage as that provided by this Policy;

16. Prior Notice

Acts, errors, omissions, incidents, circumstances, events, demands, suits or **Claims** notified or reported to, deemed notified or reported to or which should have been notified or reported to, any prior insurance carrier or under any prior insurance policy or program of self-insurance in effect prior to the Effective Date of this Policy;

Provided that this Exclusion shall only apply to any Claims Made Coverage provided under any Coverage Section or Endorsement to this Policy;

For the purposes of this Exclusion, if this Policy is a renewal policy with the **Company** or an affiliate thereof, the Effective Date shall be that of the earliest policy issued by the **Company** by which the **Company** has continuously provided the same or similar coverage as that provided by this Policy;

17. Securities

Violation of any law that governs the offer, sale or purchase of securities or commodities, including any violation of the Securities Act of 1933 as amended, the Securities Exchange Act of 1934 as amended, any state "Blue Sky" law or securities law, any similar state or federal law, or any order, ruling or regulation issued pursuant to such laws;

18. Unsolicited Communications

Unsolicited telephone calls, facsimile transmissions, regular mail, electronic mail, texts, or audio or video recordings; wire-tapping, telemarketing; any other form of unsolicited communication made by or on behalf of any **Insured**; or any actual or alleged violation of the Telephone Consumer Protection Act including any amendments thereto, the CAN-SPAM Act of 2003 including any amendments thereto, or any other federal, state or local statute, law, rule or regulation prohibiting, limiting or otherwise regulating the sending, transmitting, communicating or distribution of material or information; or

19. Utilities

Failure, delay, interruption, surge or reduction in the supply of any utility service or infrastructure, including but not limited to, electrical, gas, water, telephone, internet, cable, satellite or telecommunications services; regardless of whether the failure, delay, interruption, surge or reduction was caused by another event or condition.

B. The coverage under this Policy does not apply to any **Claim** brought by, or on behalf of, the following persons and entities:

1. Any entity which is a parent, affiliate, **Subsidiary**, or co-venturer of any **Insured**, or any other entity over which any **Insured** has greater than a fifteen percent (15%) direct or indirect ownership interest;
2. Any entity directly or indirectly controlled, operated or managed by an entity described in paragraph VI.B.1. above;
3. Any past, present or future **Insured**, joint venture participant, **Independent Contractor** or other provider who has supplied, is supplying, or is to supply, **Content**, goods or services, if the **Claim** arises in whole or in part out of a dispute over fees or payment for the **Content**, goods or services or out of a dispute over title, ownership or exercise of rights in the **Content**, goods or services provided;

4. An **Insured** against any other **Insured**; except this does not apply to an otherwise covered **Claim** by an **Insured** which is a natural person arising out of a **Privacy Incident** for which coverage is provided under the Privacy and Network Security Liability Coverage Section; or
5. ASCAP, SESAC, BMI, RIAA or any other music licensing entity on their own behalf or on behalf of others arising from the **Insured's** failure to procure or maintain requisite licenses or the **Insured's** failure to pay royalties.