

## TERMS OF SERVICE

The Terms of Service (this “Agreement”) constitute the binding agreement between every person or entity (“You” or “Your”) that utilizes the Services (as defined below) provided by Cloud Media Center, LLC (“CMC”). You and CMC may each be referred to as a “Party” or collectively as the “Parties.” This Agreement will be effective on the latest signature date appearing on Your Order (“Effective Date”).

This Agreement governs Your use of CMC’s “Services,” which means the online video content and advertising solution offered by CMC through the CMC Technology, including aggregated Content, a hosted video player, a service backend for streaming content to the player, content management tools, promotional tools, network advertising sales, and any other features and services as offered by CMC hereunder from time to time, in CMC’s sole discretion. **BY USING THE SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE REVIEWED AND ACCEPT THIS AGREEMENT.**

Users of CMC’s Services fall into one of three separate categories—either a “Content Provider,” “Publisher,” or “Advertiser”—and each such term is defined below. This Agreement is structured to include terms and conditions applicable to all parties, as well as specific terms and conditions applicable to each category of user—i.e., Content Provider, Publisher, or Advertiser. In consideration of the use of the Services, each Content Provider, Publisher, Advertiser, and CMC agree to the following:

### 1. Agreement.

This Agreement consists of the terms and conditions set forth below in the individually numbered paragraph designations (“Paragraphs”) which apply to all Content Providers, Publishers, and Advertisers, as well as specific terms and conditions relating to each particular Content Provider, Publisher, or Advertiser as described in the following appendices which are attached hereto (“Appendices”):

Appendix A – Terms and Conditions Specific to Content Providers

Appendix B – Terms and Conditions Specific to Publishers

Appendix C – Terms and Conditions Specific to Advertisers

If the terms and conditions of the Paragraphs vary or are inconsistent with any portion of the Appendices, the terms of the Paragraphs shall control and be given priority, and the provisions of the Appendices shall be subject to the terms of the Paragraphs.

### 2. Definitions.

(a) “Ad” means the computer images and text created by CMC or Advertiser and provided to a Publisher hereunder.

(b) “Advertiser” shall mean the advertiser or advertising agency providing Advertising to CMC for use on Publisher’s Websites as specified herein.

(c) “Advertising” shall mean any advertising, promotions and/or sponsorship

material displayed through the CMC Technology.

(d) “Advertising Revenues” shall mean Advertising revenues actually collected as a result of the distribution activities with respect to the applicable Licensed Content on the applicable Properties pursuant hereto, exclusive of any sales commissions or agency costs.

(e) “Affiliate” shall mean any company, corporation, partnership or other business organization or entity which, directly or indirectly, controls, is controlled by, or is under common control with another company, corporation, partnership or entity.

(f) “CMC Technology” shall mean any technologies, tools and Intellectual Property owned, licensed or used by CMC pursuant to which Content is made available to Publisher for distribution.

(g) “Control” for purposes of this definition only shall mean possession, directly or indirectly, of at least fifty percent (50%) of the voting power of such company, corporation, partnership or other business entity.

(h) “Content” shall mean data including audio/video content, including without limitation, any and all images, designs, graphics, logos, marks, audio files, video, data, material and information posted, linked to, embedded or otherwise made available with respect thereto in any format currently existing or hereafter devised.

(i) “Content Provider” shall mean any Person that licenses its Content for distribution by CMC on the terms set forth herein.

(j) “Content Views” shall mean the number of times a particular item of Licensed Content is viewed.

(k) “Employee” shall mean any Person who works for or with a Party, including without limitation any officers, agents, employees, directors, shareholders, accountants, attorneys, advisors, consultants and members.

(l) “Net Gross Advertising Revenues” shall mean all gross advertising revenues generated through the Properties as a result of the distribution activities hereunder with respect to the Licensed Content, minus the cost of ad tech and content.

(a) “Intellectual Property” shall mean the following subsisting throughout the world: (a) Patents; (b) Trademarks and all goodwill in the Trademarks; (c) copyrights, designs, data and database rights and registrations and applications for registration thereof, including moral rights of authors; (d) inventions, invention disclosures, statutory invention registrations, trade secrets and confidential business information, Know-How, product processes, procedures and techniques, specifications, research and development information, formulae, financial, marketing and business data, pricing and cost information, business and marketing plans and strategies and customer and supplier lists

and information, whether patentable or nonpatentable, whether copyrightable or noncopyrightable and whether or not reduced to practice; and (e) other proprietary rights relating to any of the foregoing (including remedies against infringement thereof and rights of protection of interest therein under the laws of all applicable jurisdictions).

(b) “Know-How” shall mean all proprietary knowledge, information, and expertise, whether or not covered by any patent, patent application or future patent application, copyright, trade secret, other industrial or Intellectual Property rights, or other operation of law, including without limitation ideas, concepts, inventions, discoveries, data, samples, designs, formulas, specifications, procedures, protocols, and testing.

(c) “Licensed Content” shall mean (i) any and all Content that CMC makes available for display through the CMC Technology on Your Properties hereunder, which Content is owned or licensed by CMC or third-party Content sources; (ii) Your Content; and (iii) any associated metadata, Intellectual Property or other information specifically included or incorporated in the foregoing Content.

(d) “Patents” shall mean all patents, all filed or pending patent applications, patent disclosures, utility models, design registrations and certificates of invention and other governmental grants for the protection of inventions or industrial designs, including all related continuations, continuations-in-part, divisionals, reissues and reexaminations and foreign counterparts throughout the world.

(e) “Person” shall mean an individual, a corporation, an association, a joint venture, a partnership, a limited liability company, an estate, a trust, an unincorporated organization and any other entity or organization, governmental or otherwise.

(f) “Properties” shall mean (i) Your Properties, and (ii) any website(s), mobile applications or other distribution methods through which the Licensed Content is displayed or made available by CMC through the CMC Technology, including those of Publisher.

(g) “Publisher” shall mean any Person to whom CMC sublicenses the use of Licensed Content for distribution or publishing through the use of the licensed CMC Technology.

(h) “Services” shall mean the online video content and advertising solution offered by CMC through the CMC Technology, including aggregated Content, a hosted video player, a service backend for streaming content to the player, content management tools, promotional tools, network advertising sales, and any other features and services as offered by CMC hereunder from time to time, in CMC’s sole discretion.

(i) “Trademarks” means and includes all trademarks and service marks, trade names, trade dress, logos, symbols, proprietary indicia, Internet domain names, corporate names and doing business designations (and all translations, adaptations, derivations and combinations of the foregoing), whether registered, unregistered and/or under common law, and applications for registration of the foregoing, together with the goodwill

associated therewith, throughout the world.

(j) “Your Content” shall mean any and all Content loaded by You onto CMC’s content management system. In no event shall You upload any user generated Content utilizing the Services.

(k) “Your Properties” shall mean the distribution outlets owned by a Publisher as identified in the Master Agreement.

3. **Interruption of Services.** You acknowledge and agree that from time to time the Services hereunder may be inaccessible, unavailable or inoperable for any reason, including, without limitation: (a) equipment malfunctions; (b) periodic maintenance procedures or repairs that CMC may undertake from time to time; or (c) causes beyond the control of CMC or that are not reasonably foreseeable by CMC, including, but not limited to, interruption or failure of telecommunication or digital transmission links, hostile network attacks, the unavailability, operation, or inaccessibility of websites, the server or interfaces, network congestion or other failures. You also acknowledge and agree that CMC has no control over the availability of the Services on a continuous or uninterrupted basis. You further acknowledge and agree that CMC is not responsible for the functionality of any third-party website or interface. Terms of this Agreement are subject to CMC’s and third parties’ hardware, software and bandwidth traffic limitations. CMC’s failure to deliver because of technical difficulties does not represent a failure to meet the obligations of this Agreement. CMC will provide advance notice of scheduled maintenance on the CMC Technology which shall occur only from 12 a.m. to 5 a.m. Eastern time.

4. **Changes to Services.** You acknowledge and agree that CMC may change the features, products, services, tools and functions included in the Services hereunder from time to time, in CMC’s sole discretion; provided that, in the event the Services are materially reduced from those Services in effect on the date hereof, You may terminate this Agreement upon ninety (90) days prior written notice to CMC.

5. **Content Restrictions.** The Licensed Content, and any Property on which the CMC Technology and Licensed Content are displayed, shall not, and no Advertising may (collectively, the “Content Restrictions”):

(a) contain unlawful, threatening, abusive, libelous, defamatory, obscene, vulgar, offensive, pornographic, profane, racist, gratuitously profane, sexually explicit or indecent material;

(b) encourage, promote, solicit or commit conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any local, state, national or international law;

(c) violate, plagiarize or infringe the rights of third parties including, without limitation, copyright (including, without limitation, offering pirated computer programs or links to such programs, information used to circumvent manufacturer-installed copy-protect devices, including serial registration numbers for software programs, or any type

of hacker or cracker utilities), Patent, Trademark, trade secret or other Intellectual Property, rights of privacy or publicity or any other proprietary right;

- (d) promote physical harm or injury against any group or individual;
- (e) promote or solicits participation in multi-level marketing or pyramid schemes;
- (f) exploit children under eighteen (18) years of age;
- (g) constitute requests for money, petitions for signature, or chain letters;
- (h) contain a virus or other harmful component;
- (i) constitute or contain false or misleading indications of origin or statements of fact; or
- (j) collect, use and/or disclose personally identifiable information in violation applicable local, state, national or international law.

In addition, CMC or its Content Providers may impose additional Content Restrictions, in their reasonable discretion, including without limitation, restrictions on Advertising relating to gambling and casinos, alcoholic beverage, and political Advertising. In the event CMC determines, in its reasonable discretion, that You have violated the provisions of this Paragraph 5, CMC shall provide notice describing the breach, and upon receipt of such notice, You shall immediately cease all such activity. In the event You determine, in Your reasonable discretion, that CMC or a Property other than Your Property has violated the provisions of this Section 5, You shall provide notice describing the breach, and upon receipt of such notice, CMC shall promptly notify the Property and, if the violation is not remedied by the Property, CMC shall cease to make Your Content available on such violating Property.

6. **Further Prohibitions.** Neither the CMC Technology nor any Licensed Content that is not Your Content may: (i) be further licensed, sublicensed, sold, resold, transferred, assigned, distributed or otherwise commercially exploited or made available to any third party in any way by You, except as permitted herein; (ii) be edited, modified or made into derivative works by You; or (iii) have any action taken by You to remove, obscure, interfere with, or modify the presentation or functionality by You of any aspect of the Licensed Content or CMC Technology. The Parties further agree that upon the expiration or earlier termination of this Agreement, the licenses granted herein shall terminate and any further use of Your Content, on the one hand, and the CMC Technology and/or the Licensed Content other than Your Content, on the other hand, shall be unauthorized.

(a) **Intellectual Property.** You expressly agree and acknowledge that CMC and its Content Providers retain any and all right, title and interest in all of CMC's Intellectual Property and other rights, including but not limited to the Licensed Content other than Your Content, CMC Technology, and CMC's name, Trademarks and all

components thereof. CMC expressly agrees and acknowledges that You retain any and all right, title and interest in all of Your Intellectual Property and other rights, including but not limited to Your Properties, Your Content, and Your name, Trademarks and all components thereof.

(b) **Trademarks**. CMC shall be the sole and exclusive owner or, if applicable, licensor of any Trademarks related to the Licensed Content other than Your Content or any Intellectual Property associated therewith. You shall be the sole and exclusive owner of any Trademarks related to Your Content or any Intellectual Property associated therewith (other than metadata, tags, cookies or analytics data added by CMC, which are the sole property of CMC). Each Party shall comply with all reasonable guidelines, if any, communicated by the other Party concerning the use of any Trademarks. At no time during or after the term of this Agreement shall a Party challenge or assist others to challenge the other Party's or its licensors' Trademarks (except to the extent such restriction is expressly prohibited by applicable law) or the registration thereof or attempt to register any Trademarks confusingly similar to those of such Party or its licensors. Upon termination or expiration of this Agreement, each Party shall immediately cease use of all Trademarks hereunder.

## 7. **Term/Termination**.

(a) **Term**. This Agreement shall commence on the Effective Date and continue for a period of one (1) year thereafter (the "**Initial Term**"). This Agreement may be renewed upon prior written consent of both parties at least thirty (30) days prior to the expiration of the initial term, or any renewal term for a maximum of two (2) additional one (1) year renewal periods, or otherwise as mutually agreed upon by the parties. This Agreement shall remain in effect on a month-to-month basis with the original terms and conditions unless modified via an addendum executed by both parties, until a renewal is executed or the Agreement is cancelled.

(b) **Termination Rights**. The Agreement may be terminated by either Party (a) if the other Party breaches any of its obligations under the Agreement and such breach remains uncured for fifteen (15) days following receipt of written notice by the breaching Party of such breach; or (b) upon: (i) the filing of any voluntary petition by the other Party, or upon the filing of any involuntary petition against a Party under the Bankruptcy Code that is not dismissed within thirty (30) days after filing; (ii) any appointment of a receiver for all or any portion of the other Party's business or operations; (iii) any assignment of all or substantially all the assets of the other Party for the benefit of creditors; (iv) the other Party is adjudged bankrupt by a court with competent jurisdiction; (v) the other Party becomes insolvent; or (vi) the other Party ceases all or substantially all of its operations. In addition, both parties shall have the right to terminate this Agreement at any time with or without cause upon thirty (30) days prior written notice to the other party.

(c) **Accrued Rights**. No termination of this Agreement shall affect any accrued rights or obligations of either Party as of the effective date of such termination, nor shall it affect any rights or obligations of either Party that are intended by their nature to survive

any such termination.

8. **No Warranty.** The Parties agree that, except as set forth herein, any use of the Licensed Content, the Services, or the CMC Technology is on an “as is” basis, as such Licensed Content, Services and CMC Technology are available from time to time.

9. **Confidentiality.**

(a) **Proprietary Information.** Pursuant to this Agreement, the Parties may disclose to one another certain information, as defined herein, which is considered by the Party disclosing the information (“Disclosing Party”) to be proprietary or confidential information (the “Proprietary Information”). Proprietary Information is defined as any information, communication or data, in any form, including, but not limited to oral, written, graphic or electronic forms, models or samples, which the Disclosing Party identifies as confidential or which or is of such a nature that the Party who receives the information (“Receiving Party”) should reasonably understand that the Disclosing Party desires to protect such information, communication or data against unrestricted disclosure or use, including without limitation, products and services and the pricing for same and any royalty or fee arrangements; customers, prospective customers, suppliers or employees; business methods, procedures and techniques, technology; business plans and strategies; marketing information or plans; trade secrets; or commercially sensitive information, the secrecy of which is valued by such Party. All Proprietary Information shall remain the sole property of the Disclosing Party and its confidentiality shall be maintained and protected by the Receiving Party with the same degree of care as the Receiving Party uses for its own confidential and proprietary information, but in no event, less than a reasonable degree of care. The Receiving Party shall not use the Proprietary Information of the Disclosing Party except as necessary to fulfill its obligations under this Agreement, nor shall it disclose such Proprietary Information to any third party during the Term of this Agreement and for five (5) years after its termination, without the prior written consent of the Disclosing Party. Except as may be authorized in advance in writing by the Disclosing Party, the Receiving Party shall only grant access to the Disclosing Party’s Proprietary Information to its Affiliates and Employees who have a need to know and who are bound by terms of confidentiality no less restrictive than those set forth in this Section 9. The restrictions on the use or disclosure of any Proprietary Information shall not apply to any Proprietary Information: (i) after it has become generally available to the public without breach of this Agreement by the Receiving Party; (ii) is rightfully in the Receiving Party’s possession prior to disclosure as evidenced by competent written proof; (iii) is independently developed by the Receiving Party without reliance on the Proprietary Information; (iv) is rightfully received by the Receiving Party from a third party without a duty of confidentiality; or (v) is disclosed under operation of law. In the event the Receiving Party is required to disclose any Proprietary Information under operation of law, the Receiving Party shall: (i) give written notice of such disclosure to the Disclosing Party at the earliest legally permissible opportunity; (ii) limit such disclosure to the extent practicable; and (iii) make such disclosure only to the extent so required.

(b) **Return of Proprietary Information.** Upon expiration or other termination

of this Agreement, or as requested in writing from time to time by either Party, the requested Party shall (i) return the Proprietary Information of the other Party in its possession, custody or control, together with all copies thereof; or (ii) on direction by the Disclosing Party, destroy by shredding or incineration all documents and other material in its possession, custody or control which bear or incorporate any part of the Disclosing Party's Proprietary Information and certify in writing to the Disclosing Party that this has been done, and expunge all Proprietary Information of the other Party from any computer, word processor or similar device into which it was loaded, and certify in writing to the Disclosing Party that this has been done.

(c) **Injunctive Relief.** The Parties understand and agree that the Proprietary Information being provided under this Agreement is of a special and unique character, that the Disclosing Party has made a substantial investment in developing the information and that remedies, at law, for a breach of this Section 9 could be inadequate. The Receiving Party acknowledges that irreparable harm will result to the Disclosing Party in the event of the Receiving Party's breach, or threatened breach, of this Section 9. In such event, the Disclosing Party, its agents and representatives shall be entitled to specific performance and/or injunctive relief without any requirement to post a bond as a condition to remedy any such breach. Such remedy shall not be deemed to be the exclusive remedy for any such breach of this Section 9, but shall be in addition to all other remedies available at law or in equity. The Receiving Party further agrees that no failure or delay by the Disclosing Party, its agents, or representatives in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege under this Agreement.

10. **Limitation of Liability.** EXCEPT FOR OBLIGATIONS IN PARAGRAPH 9 (Confidentiality) AND PARAGRAPH 12 (Indemnification), UNDER NO CIRCUMSTANCES SHALL A PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) ARISING FROM OR RELATED TO THE MATTERS HEREUNDER, SUCH AS, BUT NOT LIMITED TO, LOST DATA, ACCURACY OF LICENSED CONTENT, COMPUTER MALFUNCTION, LOSS OF REVENUE, OR ANTICIPATED PROFITS OR LOST BUSINESS. THE LIABILITIES LIMITED BY THIS PARAGRAPH 10 APPLY: (a) TO LIABILITY FOR NEGLIGENCE; (b) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT PRODUCT LIABILITY, OR OTHERWISE; (c) EVEN IF A PARTY IS ADVISED IN ADVANCE OF THE POSSIBILITY OF THE DAMAGES IN QUESTION AND EVEN IF SUCH DAMAGES WERE FORESEEABLE; AND (d) EVEN IF A PARTY'S REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

11. **Warranty Disclaimers.** EXCEPT FOR THE OBLIGATIONS IN PARAGRAPH 3, CUSTOMER ACCEPTS THE SERVICES "AS IS" AND AS AVAILABLE, WITH NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR ANY IMPLIED



WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE.

12. **Indemnification.**

(a) **Indemnification by CMC.** CMC agrees to fully indemnify, defend and hold harmless You and Your Affiliates and Employees, successors, and assigns from and against any and all losses, claims, assessments, demands, damages, liabilities, obligations, costs and expenses, including without limitation Losses arising from third party claims (including such claims arising under any federal, state or other statutes, regulations, ordinances, or common law, together with reasonable attorneys' fees and costs) (collectively "Losses"), arising from or in connection with (i) breach of this Agreement by CMC; and/or (ii) violation of any law or third party right by CMC, including but not limited to infringement of the Intellectual Property rights and/or any other right of any third party.

(b) **Indemnification by You.** You agree to fully indemnify, defend and hold harmless CMC, as well as its Publisher and its Content Providers, and their Affiliates and Employees, successors, and assigns from and against any and all Losses arising from or in connection with (i) breach of this Agreement by You; and/or (ii) violation of any law or third party right by You, including but not limited to infringement of the Intellectual Property rights and/or any other right of any third party.

13. **Miscellaneous.**

(a) **Relationship of Parties.** The Parties hereto are independent contractors, and nothing in this Agreement shall be construed as creating an agency, partnership, joint venture or any other form of legal association between the Parties.

(b) **Enforceability.** If any provision, clause or part of this Agreement, or the application thereof under certain circumstances is held invalid or unenforceable for any reason, the remainder of this Agreement, or the application of such provision, clause or part under other circumstances shall not be affected thereby.

(c) **Force Majeure.** With the exception of payment obligations, neither Party shall be liable by reason of any failure or delay in the performance of its obligations hereunder for any cause beyond the reasonable control of such Party, including but not limited to electrical outages, failure of Internet service providers, default due to Internet disruption (including without limitation denial of service attacks), riots, insurrection, acts of terrorism, war (or similar), fire, flood, earthquakes, explosions, epidemics, pandemics, outbreaks of communicable disease, viral outbreaks, quarantines or national or regional emergencies, actions of any governmental authority, and acts of God.

(d) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement, and supersedes any and all prior understandings and agreements, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof.

(e) **Successors; Assignment.** The Parties agree that this Agreement shall be binding upon the successors and assigns of each Party and shall inure to the benefit of, and be enforceable by, such successors and assigns, and any officers or directors thereof. Neither Party may assign this Agreement to a third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided that assignments incident to a sale of control, merger, acquisition, sale of all or substantially all assets or other similar transaction by either Party shall not require any such consent.

(f) **Waiver.** The Parties agree that a Party's failure at any time to require performance of any provision of this agreement shall in no way affect such Party's right at a later time to enforce the same. No waiver by a Party of a breach of a term contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of such breach of any other term of this agreement.

(g) **Applicable Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Delaware, regardless of conflict of law principals. In the event of a dispute arising out of or related to this Agreement, the Parties agree that any action, claim, arbitration or other proceeding brought forth shall be litigated in the venue and jurisdiction as chosen by the complaining party.

(h) **Notice.** All notifications or other communication required or permitted in this Agreement must be in writing, whether specified as such or not. Notifications and correspondence to be sent under this Agreement must be sent by a method providing signature proof of delivery, such as certified or courier service, and addressed if to You, as indicated in the Master Agreement, and if to CMC, as indicated below, or as either Party may designate in writing from time to time to the other Party in accordance with the provisions in this Paragraph. All notices shall be deemed to be effective upon receipt.

If to CMC:

Mr. Robert Portie  
183 Landrum Lane, Suite 101  
Ponte Vedra Beach, FL 32082  
bportrie@thefenwickgroup.com  
(904) 910-8105

With a copy to:

Thomas J. Fraser, Jr., Esq.  
Eavenson, Fraser & Lunsford, PLLC  
4230 Pablo Professional Court, Suite 250  
Jacksonville, FL 32224  
tj@efli.law  
(904) 567-1062

(i) **Headings.** The headings of the sections included in this Agreement are for ease of reference only and are not intended to affect the meaning or substantive

interpretation of this Agreement.

(j) **Counterparts**. This Agreement may be executed in several counterparts, all of which taken together shall constitute the same instrument.

*[Appendices start on the next page]*

## APPENDIX A

### **Terms and Conditions Specific to Content Providers**

**1. Grant.** You hereby grant to CMC a non-exclusive, worldwide, non-transferable license to the Licensed Content for the purposes of distributing the Licensed Content via the CMC Player on the Properties and to promote, use, reproduce, publish, distribute, transmit, broadcast, embed, and publicly exhibit, display, perform and digitally perform Licensed Content on such Properties. Additionally, You grant to CMC the right to remove Your logo from the Licensed Content and instead incorporate a logo owned by CMC on the Licensed Content provided that the Licensed Content will include a “Produced by” You credit, and attribution to the content sources which shall last no more than five (5) seconds and will be incorporated in the last ten (10) seconds of each video. If requested by CMC, You shall insert a CMC provided logo into the Commissioned Content. You shall make the Licensed Content available to CMC for display to CMC’s other Content Providers, other distribution and publishing providers, partners, members and end-users. You hereby represent and warrant to CMC that (i) the Licensed Content does not and will not contain any materials that violate any laws or any rights of any third parties, including, but not limited to, false advertising, consumer fraud, unfair competition, defamation, intellectual property or proprietary rights, invasion of privacy or rights of celebrity, or violation of any anti-discrimination law or regulation or the provisions set forth in Section 6, and (ii) You have used and will use commercially reasonable efforts to ensure that the Licensed Content does not contain any disabling devices, viruses, trojan horses, trap doors, back doors, easter eggs, time bombs, cancelbots, or other computer programming routines that will damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information. Notwithstanding anything herein to the contrary, You shall not be required to provide CMC with any Licensed Content for which it does not have sufficient rights and clearances.

### **2. Financial Terms.**

- a) Advertising. Advertising will be sold against the Licensed Content as follows:
  - i. Advertising may include ad networks and, in some circumstances, be sold by a Publisher, in accordance with the terms of any agreement between CMC and such Publisher. CMC shall use commercially reasonable efforts to cooperate with You to provide ad integration services with the CMC Player for any specific campaigns sold by You and as to which CMC has received reasonable advance notice. To the extent that a Party other than CMC sells Advertising, such Party shall maintain true and complete records consistent with the reporting requirements set forth in the Agreement and shall make such records available to CMC for inclusion in its reporting obligations as set forth in the Agreement. To the extent that any technical coordination is required to integrate ad servers to such degree as necessary to support the obligations in the Agreement, the Parties shall cooperate as necessary to effect such integration. Such technical coordination shall

include, without limitation, provision of any information and technical support necessary to effectively provide CMC with the capability of rendering reports to its partners, serving video and Advertising, and otherwise meeting its obligations under its agreements with Content Providers and Publisher.

- ii. Other than as set forth herein, all Licensed Content shall be displayed with Advertising. Advertising will generally be selected in order of the highest available CPM that is compliant with the Content Restrictions, as defined in the Agreement, and any other restrictions on use applicable to the Licensed Content. Advertising will be displayed in accordance with CMC's standard Ad patterns which may be in effect from time to time, or as otherwise mutually agreed.
- iii. If a Publisher elects to use Licensed Content that has applicable Advertising protocols or other restrictions attached to it by You, those rules shall apply to the use of the Licensed Content by such Third Party-Distributor notwithstanding contrary Advertising protocols attached by such Third-Party Distributor.
- iv. In certain sensitive circumstances (e.g., the early release of information about the death of significant persons, natural disasters, terroristic acts, etc.), some Licensed Content may not be appropriate to be displayed with Advertising. CMC reserves the right, in its sole discretion, to limit, eliminate or restrict such Advertising if it considers such action necessary or appropriate.

b) Revenue Share. You shall be entitled to TWENTY-FIVE PERCENT (25%) of the total Net Gross Advertising Revenues generated on the Properties as a result of the Licensed Content ("Your Share"). CMC shall be entitled to the remaining total Net Gross Advertising Revenues.

c) Payment. Each Party acknowledges that billing and collection of Net Gross Advertising Revenues will be conducted by the Party selling such Advertising, and agrees to cooperate with the other Party to effectuate the reporting, billing, and payment obligations set forth herein. To the extent that a Party is due Net Gross Advertising Revenues, subject to the following provisions, the Party in possession of funds received with respect to the Advertising generating such Net Gross Advertising Revenues shall pay the amount due to the other Party no less frequently than monthly and in no case more than thirty (30) days after such Party's receipt of such Net Gross Advertising Revenues. CMC shall, in connection with the reports provided as described below, notate amounts due in respect of Your Share. To the extent that amounts are due to both Parties (e.g., CMC collected some of the Advertising revenues and the You collected other Advertising revenues), the amounts due shall be netted and offset against the amount CMC would otherwise pay You as Your Share. CMC shall be responsible for billing, third party transaction fees, cost of transmission and

hosting, and applicable taxes.

d) Reports. CMC shall provide reports, together with an invoice, in the same format it customarily makes available to its Content Providers, to You no less frequently than monthly that indicate the Content Views for each monthly period and the applicable Net Gross Advertising Revenues with respect thereto. In addition, CMC shall provide on an ad hoc basis, as reasonably requested by You, such reports for such periods as requested by You. Each Party shall provide the other Party with such information and/or other reports reasonably necessary to monitor compliance with this Agreement, including information with respect to any Advertising sold by such Party, if applicable. Each Party shall retain all books and records relevant to the calculation of amounts due hereunder throughout the Term and for a period of three (3) years thereafter for inspection and verification at reasonable times upon reasonable notice. Each Party shall have reasonable audit rights over such books and records of the other Party. All costs of an audit shall be paid by the Party conducting such audit, unless a payment deficiency for a calendar year is determined by an independent auditor (who is not currently performing services for either Party) to exceed ten percent (10%) of the payment paid for that year, then the audited Party shall be responsible for paying the auditing Party's reasonable out of pocket expenses incurred with respect to such review.

**3. Technical Support**. The Parties shall cooperate to provide such technical information and coordination as is necessary to effect the matters set forth herein, including making personnel available to set up Content feeds, to integrate ad and video serving capabilities, to implement analytics, and such other matters as are reasonably necessary. With respect to uploading the Licensed Content, CMC uses industry standard formats/feeds and CMC's default standard is MP4. Custom feeds or changes to the feed may require development work and the parties would need to discuss the scope of such work.

**4. Marketing Activities**. During the Term, CMC may refer to You as a content provider in its marketing, promotional, and other communications. CMC may place a copy of Your logo or other Trademark on CMC's website(s) as a content provider.

## APPENDIX B

### Terms and Conditions Specific to Publishers

#### 1. Grants.

- a. CMC hereby grants to You a non-exclusive, non-transferable, non-sublicensable license to use CMC Technology on Your Properties in the United States and a non-exclusive, non-transferable, non-sublicensable license to promote, publish, distribute, transmit, and publicly exhibit, display, perform and digitally perform Licensed Content on Your Properties in the United States solely through the CMC Technology, in each case accordance with the terms hereof. CMC hereby represents and warrants to You that (i) to the knowledge of CMC, the Licensed Content (other than the You Content, as to which CMC makes no representations) does not and will not contain any materials that violate any laws or any rights of any third parties, including, but not limited to, false advertising, consumer fraud, unfair competition, defamation, intellectual property or proprietary rights, invasion of privacy or rights of celebrity, or violation of any anti-discrimination law or regulation; (ii) CMC has used and will use commercially reasonable efforts to ensure that the CMC Technology does not contain any disabling devices, viruses, trojan horses, trap doors, back doors, easter eggs, time bombs, cancelbots, or other computer programming routines that will damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information; and (iii) the person signing this Agreement on behalf of CMC has full authority to enter into this Agreement and to bind CMC to this Agreement, and that such action does not and will not conflict with or result in a default or violation under any other agreement, instrument, contract, arrangement or understanding by which CMC is bound. Notwithstanding anything herein to the contrary, CMC shall not be required to provide You with any Licensed Content for which it does not have sufficient rights and clearances.
  
- b. You hereby grant to CMC a worldwide, non-transferable license to promote, publish, distribute, transmit, and publicly exhibit, display, perform and digitally perform Your Content through the CMC Technology, including display by CMC and the Publisher in accordance with the terms hereof, and the license granted hereby is sub-licensable by CMC in furtherance of such use of Your Content. You hereby represent and warrant to CMC that (i) Your Content does not and will not contain any materials that violate any laws or any rights of any third parties, including, but not limited to, false advertising, consumer fraud, unfair competition, defamation, intellectual property or proprietary rights, invasion of privacy or rights of celebrity, or violation of any anti-discrimination law or regulation or the provisions set forth in Section 5; (ii) You have used and will use commercially reasonable efforts to ensure that Your Content does not contain any disabling devices, viruses, trojan horses, trap doors, back doors, easter eggs, time bombs, cancel bots, or other computer programming routines that will damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information; and (iii) the person signing this Agreement on behalf of You has full authority to enter into this Agreement and to bind You to this Agreement, and that such action does not and will not conflict with or result in a default or violation

under any other agreement, instrument, contract, arrangement or understanding by which CMC is bound.

## **2. Obligations.**

(a) You hereby acknowledge and agree that You are expressly prohibited from (i) modifying; editing, shortening, or otherwise altering the CMC Technology (except as permitted through any control room functionality provided by CMC to You) or the Licensed Content (other than Your Content) in any way; (ii) removing, editing, altering or obscuring any metadata or Intellectual Property markings associated with the CMC Technology or Licensed Content; (iii) downloading, copying, or otherwise replicating or making available the Licensed Content (other than Your Content) other than as set forth herein; (iv) otherwise changing the appearance of the CMC Technology or Licensed Content (other than Your Content); or (v) allowing any end user of Your Properties to do any of the foregoing, or any act otherwise in contravention of Your obligations hereunder. You hereby acknowledge and agree that You shall not permit the CMC Technology or Licensed Content to be displayed or used by third parties and end-users other than as set forth herein, and agree that neither You nor Your Affiliates or Employees shall use or access Licensed Content using any technology other than the CMC Technology. Without limiting the generality of the foregoing, You agree that You shall ensure that Your privacy policies, terms of use, and other applicable agreements with end-users are consistent with Your obligations hereunder and You shall be responsible for any breaches thereof by Your end-users.

(b) CMC hereby acknowledges and agrees that CMC is expressly prohibited from (i) modifying, editing, shortening, or otherwise altering Your Content in any way (other than as set forth in clause (d) below); (ii) removing, editing, altering or obscuring any metadata or Intellectual Property markings associated with Your Content (other than as set forth in clause (d) below); (iii) downloading, copying, or otherwise replicating or making available Your Content other than as set forth herein; or (iv) otherwise changing the appearance of Your Content. CMC hereby acknowledges and agrees that CMC shall not permit Your Content to be displayed or used by Third Party Distributors other than as set forth herein. Without limiting the generality of the foregoing, CMC agrees that it shall ensure that its privacy policies, terms of use, and other applicable agreements with Third Party Distributors are consistent with CMC's obligations hereunder; provided that CMC's sole obligation with respect to breaches by its Publisher shall be removal of Your Content from such Publisher's Properties.

(c) Each Party shall use commercially reasonable efforts to ensure that its servers and the Properties it operates have security features that are necessary to prevent unlicensed copying, downloading or distribution of the Licensed Content by third parties and end-users. Under no circumstances shall efforts be less stringent than such Party uses to protect its own Content.

(d) You acknowledge and agree that the Licensed Content or the CMC Technology may include certain metadata, tags; cookies, and other analytic devices, including additional metadata, tags, cookies and other analytic devices added to Your



Content by CMC for use as Licensed Content. You shall ensure that its privacy policies, terms of use, and other applicable agreements with end-users reflect these measures. To the extent that any technical coordination is required to implement these measures, the Parties shall cooperate as necessary to effect such implementation.

### **3. Payments**

(a) Financial Terms. You shall have two options, either a revenue share or advance payment option, as described below.

(i) Revenue Share. Unless the Master Agreement provides otherwise, You shall be entitled to the following amounts (collectively, "Your Share”):

(A) for Your Content playing on Properties other than Your Properties, an amount equal to twenty-five percent (25%) of the total Net Gross Advertising Revenues, for serving as a Content Provider;

(B) for Licensed Content other than Your Content playing on Your Properties, an amount equal to fifty percent (50%) of the total Net Gross Advertising Revenues, for serving as a Publisher;

(C) for Your Content playing on Your Properties, an aggregate amount equal to seventy-five percent (75%) of the total Net Gross Advertising Revenues, for serving as a Content Provider and as a Publisher. CMC shall be entitled to all other Advertising Revenues, subject to its obligations to distribute any portions thereof to other Content Providers or Publisher.

(ii) Payment of Revenue Share. Billing and collection of Advertising Revenues and obligations CMC has to third parties, including Content Providers and Publishers, will be conducted by CMC. Unless the Master Agreement provides otherwise, CMC shall pay Your Share no more than thirty (30) days after CMC's collection of such revenues. CMC shall, in connection with the reports described below, notate amounts due with respect to Your Share. CMC shall have no obligation to make payment to Publisher for which CMC has not received payment from the applicable Advertiser. Publisher's recourse, if any, for any earned payments not paid due to Advertiser's failure to pay CMC shall be against the relevant Advertisers, and Publisher acknowledges and agrees that CMC shall not have any liability for such non-payment.

(iii) Advance Payment Option. Instead of the revenue share option described above in sub-sections (i) and (ii), which is paid only after CMC's collection of such revenues, You may choose the advance payment option by which You would receive 95% of Your Share by the 15th day of each month following the display of Your Content/Licensed Content/Advertising.

(b) Reports and Invoices. CMC shall provide reports, together with an invoice,

in the same format it customarily makes available to its Content providers and Publisher, to You no less frequently than monthly that indicate the Content views for each monthly period and the applicable amounts payable hereunder with respect thereto. CMC shall retain all books and records relevant to the calculation of amounts due hereunder throughout the Term and for a period of three (3) years thereafter for inspection and verification at reasonable times upon reasonable notice. All costs of an audit shall be paid by You, unless a payment deficiency for a calendar year as determined by an independent auditor (who is not currently performing services for You) to exceed ten percent (10%) of the payment paid for that year, then CMC shall be responsible for paying Your reasonable out-of-pocket expenses incurred with respect to such review.

**4. Technical and Other Support.** The Parties shall cooperate to provide such technical information and coordination as is necessary to effect the matters set forth herein, including making personnel available to set up feeds, to integrate Advertising and video serving capabilities, to implement analytics, and such other matters as are reasonable. CMC shall integrate Advertising solutions in accordance with its standard operating ad platform integration processes.

**5. Marketing Activities.** The Parties acknowledge and agree that the nature of the consideration due to each Party hereunder derives value primarily through optimizing the revenue generating capabilities of the Services, the CMC Technology and the Licensed Content on Your Properties. Accordingly, each Party agrees to cooperate and coordinate with respect to such revenue generating capabilities, including through placement of the CMC Technology and selection of Licensed Content. In addition, You agree that YOU shall place CMC Technology on at least six (6) places within each of Your Properties, including the home page for such Property.

## APPENDIX C

### **Terms and Conditions Specific to Advertisers**

1. **Advertising.** CMC shall use its commercially reasonable efforts to provide [describe, e.g., up to a certain number of impressions per month, frequency of display, etc.], as further specified in the Master Agreement, on various Publisher's Properties and through the CMC Technology (no guarantee of any quantity). Any Ads submitted by Advertiser must be in form and substance reasonably acceptable to CMC or any Publisher.

2. **Placement and Content.**

- a. **Generally.** CMC and Publishers shall place each Ad in such a manner to assure that it is fully and clearly visible to consumers and displayed in a similar manner as other Ads on the CMC Technology.
- b. **Placement Requirements.** You are responsible for full delivery of valid data in the requested format as specified by CMC or Publisher. Neither CMC nor a Publisher shall ever place more than one Ad on the same page at the same time, nor shall they launch Ads as pop-up or pop-under windows.
- c. **No Modifications to Ads.** Neither CMC nor Publishers shall alter, copy, modify, take, sell, re-use or divulge any Ad in any manner without Advertiser's prior written consent.

3. **Financial Terms.**

- a. **Payment Rates.** The rates charged are stated in the Master Agreement and are billed in advance. CMC's payment rates are considered Confidential Information. All amounts paid by Advertiser to CMC shall be in US Dollars. Payments made by Advertiser to CMC shall not be refundable under any circumstances, including but not limited to the termination of this Agreement or the Master Agreement for whatever reason.
- b. **Reports.** CMC shall provide reports in the same format it customarily makes available to Advertisers no less frequently than monthly that indicate [describe the information to be provided on the reports] for each monthly period. CMC shall retain all books and records relevant to such reports throughout the Term and for a period of three (3) years thereafter for inspection and verification at reasonable times upon reasonable notice.

4. **Acknowledgements.** You hereby acknowledge and agree that CMC is:

- a. relying on You to prescreen or editorially control the content of Your Advertising; and

- b. not obligated to provide any additional Services (including, but not limited to, editorial services) which are not expressly set forth in this Agreement.

5. **Technical and Other Support.** The Parties shall cooperate to provide such technical information and coordination as is necessary to effect the matters set forth herein, including making personnel available to set up feeds, to integrate Advertising and video serving capabilities, to implement analytics, and such other matters as are reasonable. CMC shall integrate Advertising solutions in accordance with its standard operating ad platform integration processes.