

PLEASE CAREFULLY READ THESE TERMS OF USE, ALONG WITH THE PRIVACY POLICY AND OTHER POLICIES OR AGREEMENTS REFERENCED IN THESE TERMS OF USE, BEFORE USING THE "COMPANY SERVICES" (AS DEFINED BELOW).

#### Description of Company Services and Acceptance of Terms of Use Including Arbitration of Disputes

MIDNIGHT INK PUBLISHING, LLC, dba CYNDI STUART MEDIA ("Company, "we" or "us") has developed these Terms of Use to describe the terms that govern your use of cyndistuart.com and any Company branded URL, WAP site and mobile application and other content and services that link to these Terms of Use (collectively the "Company Sites"). The services Company provides on Company Sites include Content (defined below) messaging services, video services, RRS feeds, podcasting services, mobile services, text messaging campaigns, and any other feature, content or application offered from time to time by Company (collectively, the "Company Services"). Company is based in the United States and the Company Services are hosted in the United States.

Company furnishes the Company Sites and the Company Services for your personal enjoyment and entertainment. By visiting the Company Sites (whether or not you are a registered member) or using the Company Services, you accept and agree to be bound by this Agreement, including any future modifications ("Agreement"), and to abide by all applicable laws, rules and regulations ("Applicable Law"). Please read through this Agreement carefully. Company may modify this Agreement at any time, and each such modification will be effective upon posting on the Company Sites. All material modifications will apply prospectively only. Your continued use of the Company Sites or the Company Services following any modification of this Agreement constitutes your acceptance of and agreement to be bound by the Agreement as modified. It is therefore important that you review this Agreement regularly. If you do not agree to be bound by this Agreement and to abide by all Applicable Law, you must discontinue use of the Company Services immediately.

Your access to and use of certain Company Services is conditioned upon your compliance with this Agreement, which incorporated by reference our Privacy Policy and any end user license agreement that might accompany the Company Services. Your access to and use of certain Company Services may require you to accept additional terms and conditions applicable to such Company Services, in addition to this Agreement, and may require you to download software or Content (as defined below). In the event of a conflict between any such additional terms and this Agreement, such additional terms will prevail.

**IMPORTANT NOTICE REGARDING DISPUTE RESOLUTION: BY USING COMPANY SERVICES AND/OR COMPANY SITES AND/OR ACCEPTING THIS AGREEMENT, YOU AND COMPANY ARE AGREEING (WITH LIMITED EXCEPTIONS) TO RESOLVE ANY DISPUTE BETWEEN US THROUGH A DISPUTE RESOLUTION PROCEDURE DESCRIBED IN THE ARBITRATION SECTION BELOW YOU AND COMPANY WAIVE THE RIGHT TO BRING OR PARTICIPATE IN A CLASS ACTION IN CONNECTION WITH SUCH DISPUTES. PLEASE REVIEW CAREFULLY THE ARBITRATION SECTION BELOW TITLED "INFORMAL DISPUTE RESOLUTION PROCEDURE, ARBITRATION AGREEMENT AND CLASS ACTION WAIVER" BELOW FOR DETAILS REGARDING THIS DISPUTE RESOLUTION PROCEDURE (INCLUDING THE PROCEDURE TO OPT OUT OF ARBITRATION).**

#### Registration and Security

You take full responsibility for your participation on the Company Sites. As a condition of using certain features of the Company Sites, you may be required to register on the Company Sites and/or select a username and password. All registration information you submit to create an account must be accurate and kept up to date. Your failure to do so will constitute a breach of the Agreement, which may result in immediate termination of your account. You may not (i) select or use as a username a name of another person with the intent to impersonate that person; or (ii) use as a username a name subject to any rights of another person without appropriate authorization. Company reserves the right to refuse registration of, or cancel, a username, in its sole discretion. If we cancel your registration, you agree that you will not create another one or otherwise try to access the Company Services without our permission. You agree not to sell, transfer or assign your registration or any registration rights. It is your responsibility to notify us of any changes in such information, including but not limited to your contact information.

You are responsible for maintaining the confidentiality of your password and are responsible for all use of your account. It is therefore critical that you do not share your password with anyone. You agree not to use the account, username, email address or password of another member or subscriber at any time and not to allow any other person to use your account. Your account is not transferable. You agree to notify Company immediately if you suspect any unauthorized use of, or access to, your account or password.

#### Access

The Company Sites are intended solely for your personal and non-commercial use. Company may change, suspend or discontinue the Company Sites (or any feature thereof) at any time. Company may also impose limits on certain features and services offered on the Company Sites or restrict your access to parts or all of the Company Sites without notice or liability. You acknowledge that from time to time the Company Sites may be inaccessible or inoperable for any reason, including, without limitation: (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which Company may undertake from time to time; or (iii) causes beyond the control of Company or which are not reasonably foreseeable by Company.

The Company Services are not intended to be used by children without involvement and approval of a parent or guardian. If you are under the age of 13, you are not permitted to register with Company or provide your personal information to Company. If you are at least 13 and under 18 years of age (or under the applicable age of majority in your state or territory of residence), you may register with the Company Services only if you have the consent of your parent or guardian, including consent to this Agreement on your behalf. If you subscribe to Company and wish to create sub profiles (if available) under your subscription, you must ensure all users of such sub profiles are 18 years of age or older (or the applicable age of majority in your state or territory of residence).

#### Termination

Unless terminated by Company in its sole discretion, this Agreement remains in full force and effect while you use the Company Services. You may terminate your account on the Company Sites at any time, for any reason, by emailing [info@midnightinkpublishing.com](mailto:info@midnightinkpublishing.com), Subject: Terminate My Account. Company may terminate your account and/or access to the Company Services at any time, for any or no reason, with or without prior notice or explanation, and shall have no liability to you for such termination. Even after your user account or access to the Company Services is terminated by you or by Company, this Agreement will remain in effect with respect to your past and future use of the Company Sites or the Company Services. Any rights to your account terminate upon your death.

#### Fees

You acknowledge that Company reserves the right to charge subscription fees for any portion of the Company Services. The Company will provide you with advance notice of any such fees, including any change in the amount of such fees, and a way to cancel your account or subscription in the event you do not wish to pay the modified fee. If you continue to use the Company Services after a subscription fee has been imposed or increased, you are expressly agreeing to the subscription fee or increase thereto, and you will be responsible for paying such subscription fee for the balance of your subscription. If Company suspends or terminates your account and/or access to the Company Services because you have breached the Agreement or violated Applicable Law, you will not be entitled to a refund of any unused portion of such fees or other payments.

## Purchasing The Company Sites Services or Products

In connection with a purchase of any service, subscription or product on the Company Sites ("Site Product"), you may be required to provide personal information, including your name, address, telephone number, e-mail address, credit card and billing information (collectively, "Personal Financial Information"), to an independent third party selected by, but not affiliated with, Company (the "Processor"). Where the Processor is responsible for collecting, transmitting and/or processing your Personal Financial Information and, in some instances, for fulfilling your order, all payment obligations for Site Products shall be governed by the terms of use/service and privacy policy(ies) of the Processor. If you make a purchase from the Company Sites you are warranting that you are authorized to make the purchase using the form of payment that you provide to the Processor. You must be 18 years of age or older to purchase a Site Product.

Company makes no warranty and accepts no liability for any loss or damages whatsoever, relating to or in connection with your placement of an order for a Site Product with the Processor. Company provides no refunds for, makes no warranty for, and to the fullest extent provided by law, accepts no liability regarding purchases you make on the Company Sites. You are solely responsible for any and all transactions utilizing your Personal Financial Information, including, but not limited to, any and all charges. You acknowledge and agree that, to the fullest extent permitted by law, in the event Processor experiences a data breach that affects your Personal Financial Information, Company will in no way be responsible or liable to you for any such breach.

The Company will not store any record of Personal Financial Information related to purchases or other transactions you make through the Company Services. You should therefore maintain records of all your transactions. If you have any questions regarding your transactions or believe that there is an error or unauthorized transaction or activity associated with transactions utilizing your Personal Financial Information, you must contact the Processor.

## Limited Content License

The Company Services are offered for your personal use only and may not be used for commercial purposes. The Company Services contain information, text, files, images, videos, sounds, musical works, works of authorship, software, applications, product names, company names, trade names, logos, designs, and any other materials or content (collectively, "Content") of Company, its licensors, or assignors ("Company Content"), as well as Content provided by users or other third parties. Content contained in the Company Services is protected by copyright, trademark, patent, trade secret and other laws and, as between you and Company, Company, its licensors, or its assignors, own and retain all rights in the Company Content. Company hereby grants you a limited, revocable, nonsublicensable license to access and display or perform the Company Content (excluding any software code) solely for your personal, non-commercial use in connection with using the Company Services. Except as provided in this Agreement or as explicitly allowed on the Company Services, you may not copy, download, stream, capture, reproduce, duplicate, archive, upload, modify, translate, publish, broadcast, transmit, retransmit, distribute, perform, display, sell, frame or deep-link, make available, or otherwise use any Content contained in the Company Services.

Except as explicitly and expressly permitted by the Company or by the limited license set forth above, you are strictly prohibited from creating works or materials (including but not limited to fonts, icons, link buttons, wallpaper, desktop themes, on-line postcards, montages, mash-ups and similar videos, greeting cards and unlicensed merchandise) that derive from or are based on the Company Content. This prohibition applies regardless of whether such derivative works or materials are sold, bartered or given away. Also, you may not either directly or through the use of any device, software, internet site, web-based service or other means, remove, alter, bypass, avoid, interfere with, or circumvent any copyright, trademark, or other proprietary notice marked on the Content contained in the Company Services or any digital rights management mechanism, device, or other content protection, copy control or access control measure associated with the Content contained in the Company Services, including geo-filtering mechanisms. Except as necessary in order to make reference to the Company, its products and services in a purely descriptive capacity, you are expressly prohibited from using any Company Content in any manner.

You may not, without the Company's written permission, "mirror" any Contents contained on the Company Sites or any other server. You may not use the Company Sites for any purpose that is unlawful or prohibited by the Agreement. You may not use the Company Sites in any manner that could damage, disable, overburden, or impair the Company Sites, or interfere with any other party's use and enjoyment of the Company Sites. You may not attempt to gain unauthorized access to the Company Sites through hacking, password mining or any other means. Company reserves the right, in its sole discretion, to terminate your access to the Company Sites, or any portion thereof, at any time, for any reason or for no reason at all, without prior notice or any notice.

## Restrictions on Use of Company Services

You understand that you are responsible for all Content that you post, upload, transmit, email or otherwise make available on the Company Sites or on, through or in connection with the Company Services (collectively, "User Content"). Additionally, you acknowledge that you have no expectation of privacy in or confidentiality with respect to your User Content. Accordingly, please choose User Content carefully.

You agree not to use the Company Services to:

- Post, upload or otherwise transmit or link to Content that is: unlawful; threatening; abusive; obscene; vulgar; sexually explicit; pornographic or inclusive of nudity; offensive; excessively violent; invasive of another's privacy, publicity, contract or other rights; tortious; false or misleading; defamatory; libelous; hateful; or discriminatory;
- Violate the rights of others including patent, trademark, trade secret, copyright, privacy, publicity or other proprietary rights;
- Harass or harm another person;
- Exploit or endanger a minor;
- Impersonate or attempt to impersonate any person or entity;
- Introduce or engage in activity that involves the use of viruses, bots, worms, or any other computer code, files or programs that interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment, or otherwise permit the unauthorized use of or access to a computer or a computer network;
- Attempt to decipher, decompile, disassemble or reverse engineer any of the software comprising the Company Sites or the Company Services;
- Interfere with, damage, disable, disrupt, impair, create an undue burden on, or gain unauthorized access to the Company Services, including Company's servers, networks or accounts;

- Cover, remove, disable, block or obscure advertisements or other portions of the Company Services;

- Delete or revise any information provided by or pertaining to any other user of the Company Services;

- Use technology or any automated system such as scripts, spiders, offline readers or bots in order to collect or disseminate usernames, passwords, email addresses or other data from the Company Services, or to circumvent or modify any security technology or software that is part of the Company Services;

- Send or cause to send (directly or indirectly) unsolicited bulk messages or other unsolicited bulk communications of any kind through the Company Services. If you do so, you acknowledge you will have caused substantial harm to Company, but that the amount of harm would be extremely difficult to measure. As a reasonable estimation of such harm, and by way of liquidated damages and not as a penalty, you agree to pay Company \$50 for each actual or intended recipient of such communication;

- Solicit, collect or request any personal information for commercial or unlawful purposes;

- Post, upload or otherwise transmit an image or video of another person without that person's consent;

- Engage in commercial activity (including but not limited to advertisements or solicitations of business; sales; contests; sweepstakes; creating, recreating, distributing or advertising an index of any significant portion of the Company Content; or building a business using the Company Content) without Company's prior written consent;

- Using technology or other means to access, index, frame, or link to The Company Sites (including the Content) that is not authorized by The Company Sites (including by removing disabling, bypassing, or circumventing any content protection or access control mechanisms intended to prevent the unauthorized download, stream capture, linking, framing, reproduction, access to, or distribution of Company Content);

- Accessing The Company Sites (including the Content) through any automated means, including "robots," "spiders," or "offline readers" (other than by individually performed searches on publicly accessible search engines for the sole purpose of, and solely to the extent necessary for, creating publicly available search indices - but not caches or archives - of The Company Sites and excluding those search engines or indices that host, promote, or link primarily to infringing or unauthorized content;

- Use the Company Services to advertise or promote competing services;

- Use the Company Services in a manner inconsistent with any and all Applicable Law;

- Attempt, facilitate, induce, aid and abet, or encourage others to do any of the foregoing.

You will not use the Content, Company Services, or Company Sites available on or through the Company Services - inclusive of text, photographs, images, audio/video clips, "look and feel," metadata, or compilations of the Content, Company Services, and/or Company Sites for the development of any software program, including, but not limited to, training or otherwise developing a machine learning or artificial intelligence system or algorithm.

Company reserves the right, but disclaims any obligation or responsibility, to remove User Content that violates this Agreement, as determined by Company, or for any other reason, in Company's sole discretion and without notice to you. You acknowledge the Company reserves the right to investigate and take appropriate legal action against anyone who, in Company's sole discretion, violates this Agreement, including but not limited to, terminating their user account and/or reporting such User Content, conduct, or activity to law enforcement authorities.

You acknowledge, consent and agree that Company may access, preserve or disclose information you provide to the Company Sites, including User Content and your account registration information, including when Company has a good faith belief that such access, preservation or disclosure is necessary in order to: (i) protect, enforce, or defend the legal rights, privacy, safety, or property of Company, our parents, subsidiaries or affiliates ("Company Affiliates"), or their employees, agents and contractors (including enforcement of this Agreement or our other agreements); (ii) protect the safety, privacy, and security of users of the Company Services or members of the public including in urgent circumstances; (iii) protect against fraud or for risk management purposes; (iv) comply with the law or legal process; or (v) respond to requests from public and government authorities. If Company sells all or part of its business or makes a sale or transfer of its assets or is otherwise involved in a merger or transfer of all or a material part of its business, Company may transfer your information to the party or parties involved in the transaction as part of that transaction.

Company reserves the right to limit the storage capacity of User Content. You assume full responsibility for maintaining backup copies of your User Content, and Company assumes no responsibility for any loss of your User Content due to its being removed by Company or for any other reason.

#### User Content on Message Boards and Forums

The Company Sites may offer users the ability to post messages on message boards, chat areas, bulletin boards, e-mail functions, forums, and other interactive areas as a part of the Company Services (collectively, "Forums"), which may be open to the public generally, to all members of the Company Sites, or to a select group of members to a specific Forum group. You acknowledge that all Content posted on Forums is User Content, and by posting on Forums you agree to comply with the rules and restrictions on User Content set forth above and any other rules specifically applicable to such Forums. Company reserves the right, but disclaims any obligation or responsibility, to prevent you from posting User Content to any Forum and to restrict or remove your User Content from a Forum or refuse to include your User Content in a Forum for any reason at any time, in Company's sole discretion and without notice to you.

You acknowledge that messages posted on such Forums are public, and Company cannot guarantee the security of any information you disclose through any Forum; you make such disclosures at your own risk. Company is not responsible for the content or accuracy of any information posted on a Forum and shall not be responsible for any decisions made based on such information.

#### Your Proprietary Rights in and License to Your User Content

Company does not claim any ownership rights in the User Content that you post, upload, email, transmit, or otherwise make available (collectively, "Transmit") on, through or in connection with the Company Services, except with respect to your unsolicited submissions, as described under "Unsolicited Submissions" below; provided, however, that User

Content shall not include any Company Content or content owned by a Company Affiliate. By posting or transmitting any User Content on, through or in connection with the Company Services, you hereby grant to Company and our Company Affiliates, licensees, assignees, and authorized users a worldwide, perpetual, irrevocable, non-exclusive, fully-paid and royalty-free, freely sublicensable, transferable (in whole or in part) right (including any moral rights) and license to use, modify, excerpt, adapt, publish, translate, create derivative works and compilations based upon, publicly perform, publicly display, reproduce, sublicense, and distribute such User Content, including your name, voice, likeness and other personally identifiable information to the extent that such is contained in User Content, anywhere, in any form and on and through all media formats now known or hereafter devised, for any and all purposes including, but not limited to, promotional, marketing, trade or any non-commercial or commercial purposes. Additionally, Company is free to use any ideas, concepts, know-how, or techniques contained within such User Content for any purpose including, but not limited to, developing, manufacturing, marketing and providing commercial products and services, including Company Services. Company's use of such User Content shall not require any further notice or attribution to you and such use shall be without the requirement of any permission from or any payment to you or any other person or entity. You hereby appoint Company as your agent with full authority to execute any document or take any action Company may consider appropriate in order to confirm the rights granted by you to Company in this Agreement.

You represent and warrant that: (i) you own the User Content Transmitted by you on, through or in connection with the Company Services, or otherwise have the right to grant the license set forth in this Section, and (ii) the Transmission of User Content by you on, through or in connection with the Company Services and Third Party Services does not violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person or entity. You agree to pay for all royalties, fees, and any other monies owing any person or entity by reason of the use of any User Content Transmitted by you on or through the Company Services or Third-Party Services.

If you delete your User Content from the Company Sites to the extent that Company made use of your User Content before you deleted it, Company will retain the right to make such pre-existing uses even after your User Content is deleted. You acknowledge that (i) deletion of your User Content from the Company Sites will not result in, and Company assumes no responsibility for, the deletion of such User Content by any third parties who were provided with or had access to such User Content prior to your deleting it from the Company Sites, and (ii) termination of your account or your use of the Company Services will not result in the immediate or automatic deletion of your User Content consistent with this Agreement.

#### Removal of Material that Infringes Copyrights

Company respects the intellectual property of others and requires that our users do the same. Company has a policy that provides for the termination in appropriate circumstances of subscribers and account holders of Company Services who are repeat infringers. Company also reserves the right to remove or disable access to any transmission of Content that infringes the copyright of any person under the laws of the United States upon receipt of a notice that substantially complies with the requirements of 17 U.S.C. § 512(c)(3) as set forth above.

If you believe material on Company Services infringes your copyright.

If you believe that any material residing on or linked to from Company Services infringes your copyright, you must send Company's designated Copyright Agent a written notification of claimed infringement that contains substantially all of the following information: (a) identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works are covered by a single notification, a representative list of such works; (b) identification of the claimed infringing material and information reasonably sufficient to permit us to locate the material on the Company Services (such as the URL(s) of the claimed infringing material); (c) information reasonably sufficient to permit us to contact you, such as an address, telephone number, and an email address; (d) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; (e) a statement by you that the above information in your notification is accurate and a statement by you, made under penalty of perjury, that you are the owner of an exclusive right that is allegedly infringed or are authorized to act on the owner's behalf; and (f) your physical or electronic signature. Company's Copyright Agent for notification of claimed infringement can be reached at:

Thomas	Stuart,	Copyright	Agent
Email: tom@midnightinkpublishing.com			
Subject	line:	DMCA	Notice
Address:	1514 Mark Lane, Suite 1412,	Naples Florida	34119

If you posted material to Company Service that was removed due to notice by a copyright owner.

If you posted material to Company Services that Company removed due to a notice of claimed infringement from a copyright owner, Company will take reasonable steps promptly to notify you that the material has been removed or disabled. This notice may be by means of a general notice on the Company Sites or by written or electronic communication to such address(es) you have provided to Company, if any. You may provide counter-notification in response to such notice in a written communication that includes substantially all of the following: (i) identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled; (ii) a statement by you, under penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled; (iii) your name, address, telephone number, and a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located, or if your address is outside of the United States, for any judicial district in which Company may be found, and that you will accept service of process from the person who provided notification requesting the removal or disabling of access to the material or such person's agent; and (iv) your physical or electronic signature.

Please note that, under 17 U.S.C. §512(f), any person who knowingly makes material misrepresentations in a notification of claimed infringement or any counter-notification may be liable for damages.

#### Your Exposure to Others' User Content

You understand that Company does not control the User Content posted by users via the Company Services and, as such, you understand you may be exposed to offensive, inaccurate or otherwise objectionable User Content. Company assumes no responsibility or liability for this type of Content. If you become aware of any misuse of the Company Services, including in violation of any "Restrictions on Use of Company Services," please report it immediately to Company. Company assumes no responsibility for monitoring the Company Services for inappropriate User Content or user conduct. If at any time, Company chooses in its sole discretion to monitor the Company Services, Company nonetheless assumes no responsibility for Content other than Company Content, no obligation to modify or remove any inappropriate Content, and no responsibility for the conduct of any user.

#### Third Party Links and Services

The Company Services may provide, or third parties may provide, links to other websites, applications, resources or other services created by third parties ("Third Party Services"). When you engage with a provider of a Third-Party Service, you are interacting with the third party, not with Company. If you choose to use a Third-Party Service and share information with it, the provider of the Third-Party Service may use and share your data in accordance with its privacy policy and your privacy settings on such Third-Party Service.

Company encourages you not to provide any personally identifiable information to or through any Third-Party Service unless you know and are comfortable with the party with whom you are interacting. In addition, the provider of the Third-Party Service may use other parties to provide portions of the application or service to you, such as technology, development or payment services. Company is not responsible for and makes no warranties, express or implied, as to the Third-Party Services or the providers of such Third-Party Services (including, but not limited to, the accuracy or completeness of the information provided by such Third-Party Service or the privacy practices thereof). Inclusion of any Third-Party Service or a link thereto on the Company Services does not imply approval or endorsement of the Third-Party Service. Company is not responsible for the content or practices of any websites other than the Company Sites, even if the website links to the Company Sites and even if it is operated by a Company Affiliate or a company otherwise connected with the Company Sites. By using the Company Services, you acknowledge and agree that Company is not responsible or liable to you for any content or other materials hosted and served from any website other than the Company Sites. When you access Third Party Services, you do so at your own risk. If you are interested in creating hypertext links to the Company Sites, you must contact Company's legal department at [info@midnightinkpublishing.com](mailto:info@midnightinkpublishing.com)

#### Company Terms of Sale

Certain products and services may from time to time be made available to you through the Company Services. The products and services that are offered for sale by Company or its corporate affiliates are each referred to as an "Offering". Terms related to a specific product or service will accompany the Offering. In addition, these Terms of Sale apply to all Offerings. To make a purchase on Company Services, you must be a registered Company user. Company sells its products only to those users who can legally make purchases with a credit card. You must be eighteen years of age to make a purchase on the Company Services, or, if you are under the age of eighteen but over the age of thirteen, you may make purchases on the Company Services with the knowledge and consent of your parent or legal guardian. Company reserves the right to refuse or cancel orders or terminate accounts, at any time in its sole discretion. We may accept various credit cards at any different times. However, by submitting an order through the Company Services, you authorize Company, or its designated payment processor, to charge the account you specify for the purchase amount using your credit card if we accept it. All payments are to be made in United States Dollars.

#### Member Disputes

You are solely responsible for your interactions with other users of the Company Sites and the Company Services, providers of Third-Party Services or any other parties with whom you interact on, through or in connection with the Company Services. Company reserves the right, but has no obligation, to become involved in any way with any disputes between you and such parties.

#### Trademarks

Company, the Company logo, and other Company marks, graphics, logos, scripts, and sounds are trademarks of Company. None of the Company trademarks may be copied, downloaded, or otherwise exploited.

#### Privacy

For information about Company's policies and practices regarding the collection and use of your information, please read Company's [www.info@midnightinkpublishing.com/privacy-policy](http://www.info@midnightinkpublishing.com/privacy-policy)

#### Disclaimers

THE COMPANY SERVICES ARE PROVIDED "AS-IS" AND "AS AVAILABLE" AND COMPANY DOES NOT GUARANTEE OR PROMISE ANY SPECIFIC RESULTS FROM USE OF OR CONTINUOUS AVAILABILITY OF THE COMPANY SERVICES. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, COMPANY EXPRESSLY DISCLAIMS ANY WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND WARRANTIES IMPLIED FOR A COURSE OF PERFORMANCE OR COURSE OF DEALING. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, COMPANY MAKES NO WARRANTY THAT YOUR USE OF THE COMPANY SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE, THAT DEFECTS TO THE COMPANY SERVICES WILL BE CORRECTED, THAT THE COMPANY SERVICES OR THE SERVERS ON WHICH THEY ARE AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT ANY INFORMATION OBTAINED BY YOU ON, THROUGH OR IN CONNECTION WITH THE COMPANY SERVICES OR THIRD PARTY SERVICES (INCLUDING, BUT NOT LIMITED TO, THROUGH USER CONTENT OR THIRD PARTY ADVERTISEMENTS) WILL BE ACCURATE, RELIABLE, TIMELY OR COMPLETE. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE COMPANY WILL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE (INCLUDING BUT NOT LIMITED TO LOSS OF DATA, PROPERTY DAMAGE, PERSONAL INJURY OR DEATH) RESULTING FROM USE OF THE COMPANY SERVICES, PROBLEMS OR TECHNICAL MALFUNCTION IN CONNECTION WITH USE OF THE COMPANY SERVICES, ATTENDANCE AT A COMPANY EVENT, ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED IN CONNECTION WITH THE COMPANY SERVICES, ANY USER CONTENT, ANY THIRD PARTY ADVERTISEMENT OR THIRD PARTY SERVICE TRANSMITTED ON, THROUGH OR IN CONNECTION WITH THE COMPANY SERVICES, OR THE CONDUCT OF ANY USERS OF THE COMPANY SERVICES, WHETHER ONLINE OR OFFLINE. YOUR USE OF USER CONTENT, THIRD PARTY ADVERTISEMENTS, THIRD PARTY SERVICES AND THE GOODS OR SERVICES PROVIDED BY ANY THIRD PARTIES IS SOLELY YOUR RESPONSIBILITY AND AT YOUR OWN RISK.

YOU ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE COMPANY SERVICES, AND ANY INFORMATION TRANSMITTED OR RECEIVED IN CONNECTION THEREWITH, MAY NOT BE SECURE AND MAY BE INTERCEPTED BY UNAUTHORIZED PARTIES. YOU ASSUME RESPONSIBILITY, TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, FOR THE ENTIRE COST OF ANY MAINTENANCE, REPAIR OR CORRECTION TO YOUR COMPUTER SYSTEM OR OTHER PROPERTY OR RECOVERY OR RECONSTRUCTION OF LOST DATA NECESSITATED BY YOUR USE OF THE COMPANY SERVICES.

#### Limitation on Liability

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, COMPANY'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO COMPANY FOR THE COMPANY SERVICES DURING THE TERM OF YOUR USE OF THE COMPANY SERVICES. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, COMPANY WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DAMAGES OTHER THAN THE AMOUNT PAID, IF ANY, BY YOU TO COMPANY FOR THE COMPANY SERVICES DURING THE TERM OF YOUR USE OF THE COMPANY SERVICES, INCLUDING ANY OTHER GENERAL, DIRECT, INDIRECT, COMPENSATORY, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, AND INCLUDING, WITHOUT LIMITATION, LOST PROFIT DAMAGES ARISING FROM YOUR USE OF OR INABILITY TO USE THE COMPANY SERVICES.

YOU ACKNOWLEDGE AND AGREE THAT ANY DAMAGES YOU INCUR ARISING OUT OF COMPANY'S ACTS OR OMISSIONS OR YOUR USE OF COMPANY SITES OR THE COMPANY SERVICES ARE NOT IRREPARABLE AND ARE INSUFFICIENT TO ENTITLE YOU TO AN INJUNCTION OR OTHER EQUITABLE RELIEF RESTRICTING THE AVAILABILITY OF OR ANY PERSON'S ABILITY TO ACCESS ANY PORTION OF COMPANY SITES OR THE COMPANY SERVICES.

THE LIMITATIONS IN THIS SECTION APPLY WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. FOR CLARIFICATION, THIS AGREEMENT DOES NOT LIMIT COMPANY'S LIABILITY FOR FRAUD, FRAUDULENT MISREPRESENTATION, DEATH, OR PERSONAL INJURY TO THE EXTENT THAT APPLICABLE LAW WOULD PROHIBIT SUCH A LIMITATION.

#### United States Jurisdiction

Company provides the Company Services in the United States of America. Company does not represent that the Company Content or the Company Services are appropriate (or, in some cases, available) for use in other locations. If you use the Company Sites or the Company Services from a jurisdiction other than the United States, you agree that you do so of your own initiative, and you are responsible for complying with local laws as applicable to your use of the Company Sites or the Company Services.

Not all of the Site Products are available worldwide or nationwide, and Company makes no representation that you will be able to obtain any Site Product in any particular jurisdiction, either within or outside of the United States.

#### U.S. Export Controls

Software available in connection with the Company Services is further subject to United States export controls. No such software may be downloaded from the Company Services or otherwise exported or re-exported in violation of U.S. export laws. Downloading or using such software is at your sole risk.

#### Informal Dispute Resolution Procedure, Arbitration Agreement and Class Action Waiver

So that Company can maintain the ability to offer you and other users the Company Service, you and Company agree to the following mechanisms for resolving any Dispute between us:

a. Dispute. The term "Dispute" is to be given the broadest possible meaning that will be enforced, and shall include any dispute, claim, demand, count, cause of action, or controversy between you and Company, whether based in contract, statute, regulation, ordinance, tort (including, but not limited to, fraud, misrepresentation, fraudulent inducement, negligence, or any other intentional tort), or any other legal or equitable theory. The term "Dispute" specifically includes, but is not limited to, any disputes, actions, claims, or controversies between you and Company that arise from or in any way relate to or concern any Content, the Company Sites or services provided by Company including but not limited to the Company Services (as defined above), this Arbitration Section, any other aspect of this Agreement or any prior versions of this Agreement (including their applicability and their conformance to applicable law), and any disputes relating to telephonic, text message, or any other communications either of us received from the other. The only exceptions to this Arbitration Section are that: (i) each of you and Company retains the right to sue in small claims court; (ii) each of you and Company may bring suit in court against the other to enjoin infringement or other misuse of intellectual property rights; and (iii) each of you and Company may bring suit in court to determine the enforceability of Sub-Section b. and/or Sub-Section k. of this Arbitration Section.

b. Mandatory Informal Dispute Resolution Process. You and Company agree that good-faith, informal efforts to resolve disputes often can result in a prompt, cost-effective, and mutually beneficial outcome. Therefore, if either you or Company wants to bring or resolve a Dispute, you or Company must follow the mandatory informal dispute resolution process as a precondition to the ability to file an arbitration demand or lawsuit:

i. Notice. You or Company must first send to the other a written Notice of Dispute ("Notice") that sets forth the name, address, and contact information of the party giving notice, the specific facts giving rise to the Dispute, the Company Service to which the Notice relates, and the relief requested, including damages, if any, and a detailed calculation for them. Your Notice also must contain your email address and (if different) the email address associated with your Company account (if you have an account with Company). Our Notice must also be sent to your email address associated with your Company account (if you have an account with Company), and you consent to receive any such Notice as part of these dispute resolution terms. You and we must include in any Notice to each other a personally signed statement (from you or us—not from your or our counsel) verifying the accuracy of the contents of the Notice, and if you are represented by counsel, your signed statement authorizing Company to disclose your Company account details to your attorney while seeking to resolve your claim. We each must individualize our Notice, meaning it can concern only our Dispute and no other person's Dispute. You must send your Notice to Company by email to: [info@midnightinkpublishing.com](mailto:info@midnightinkpublishing.com). In the case of a Dispute initiated by you or us, it is the sender's responsibility to prove that the sender provided the notice in the manner that is required in this paragraph.

ii. Good Faith Effort to Informally Resolve Dispute. After receipt of a completed Notice, the parties shall engage in a good faith effort to resolve the Dispute for a period of 60 days (which can be extended by agreement). You and Company agree that, after receipt of the completed Notice, the recipient may request an individualized telephone or video settlement conference and both parties will personally attend (with counsel, if represented). You and Company agree that the parties (and counsel, if represented) shall work cooperatively to schedule the conference at the earliest mutually convenient time and to seek to reach a resolution. If you and Company do not reach an agreement to resolve the issues identified in the Notice within 60 days after the completed Notice is received (or a longer time if agreed to by the parties), you or Company may commence a proceeding as noted below.

c. Arbitration Agreement. If you and we do not resolve the Dispute within 60 days of the submission of the Notice in accordance with the Informal Dispute Resolution Procedures, Company, including its Affiliates, agents, employees, predecessors in interest, successors, and assigns, and you agree that any Dispute between you and Company, regarding any aspect of your relationship with Company, will be resolved in a binding, confidential, individual and fair arbitration process, and not in court, subject to the exceptions noted in Sub-Section g. below of this Arbitration Section. Thus, subject to those exceptions, you and Company agree to give up the right to sue in court, including that you and Company agree to waive their right to a jury trial.

d. Controlling Law Regarding Arbitration Process and Agreement to Arbitrate. This Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 1–16, governs the interpretation and enforcement of the provisions in this Arbitration Section related to the arbitration process. The agreements in this Arbitration Section shall survive termination of the Agreement. Any original action to compel arbitration under Section 4 of the FAA (or analogous state law) must be brought in a state or federal court located in Florida, unless mandated by law to be filed in another state or federal court. If the FAA is found to not apply to any issue regarding the interpretation or enforcement of the parties' agreement to arbitrate, then that issue shall be determined by the laws of the State of Florida. Any arbitration between you and Company will be administered by the American Arbitration Association ("AAA") pursuant to their then-applicable rules, including their mass arbitration supplementary rules and mass arbitration fee schedule, as applicable, as modified by this Arbitration Section. AAA's rules and fee schedules can be found at [www.adr.org](http://www.adr.org). Except in the event of a Mass Filing as described in Sub-Section k. below of this Arbitration Section, the arbitration shall be conducted by a single, neutral arbitrator. If you and Company cannot agree on an arbitrator, the arbitrator will be appointed pursuant to the AAA's rules.

e. Alternative Arbitration Provider. If AAA is not available to arbitrate, including because it is not able to administer the arbitration(s) consistent with the rules, procedures, and terms of this Arbitration Section, including those described in Sub-Section k., the parties will select an alternative arbitration provider. If the parties cannot agree on an appropriate alternative arbitration provider, then the parties will ask a court of competent jurisdiction to appoint an arbitrator pursuant to 9 U.S.C. § 5 that is able to administer the arbitration(s) consistent with the rules, procedures, and terms of this Arbitration Section, including, as applicable, Sub-Section k. of this Arbitration Section will govern to the extent it conflicts with the arbitration provider's rules. For arbitrations before the AAA, the AAA's Consumer Arbitration Rules and Optional Rules For Emergency Measures of Protection shall apply.

f. Filing Fee and Costs. The initiating party must pay all filing fees for the arbitration. Your and Company's responsibility to pay other administrative and arbitrator costs will be as set forth in the applicable arbitration provider's rules, unless the arbitrator determines the claims are frivolous. If a claim is determined to be frivolous, the claimant is responsible for reimbursing the respondent for its portion of all such administrative, hearing, and/or other fees incurred as a result of the frivolous claim.

g. Waiver of Fees and Costs. You may qualify for a waiver of certain arbitration costs under the applicable arbitration provider's rules or other applicable law. If you meet the standard for proceeding in forma pauperis in federal court, the state court of your residence, or the state court where the arbitration is brought, cannot obtain a waiver from the arbitration provider of any filing fees you are required to pay, and the arbitration provider refuses to administer the arbitration without your payment of said fees, Company will pay the filing fees for you.

h. Enforceability of Certain Provisions of this Arbitration Section. Notwithstanding Sub-Section c. through Sub-Section g. of this Arbitration Section, a claim regarding enforceability of any portion of Sub-Section b. and/or Sub-Section k. of this Arbitration Section must be brought in federal or state court. Courts shall have the exclusive authority to determine: (i) the enforceability of any or all of the procedures set forth in Sub-Section b. and/or Sub-Section k. of this Arbitration Section; and (ii) if any or all the procedures set forth in Sub-Section b. and/or Sub-Section k. of this Arbitration Section are unenforceable, whether that or those procedures are severable from the remaining provisions of this Arbitration Section and the consequences of said severance. If the court determines that Sub-Section b. of this Arbitration Section is enforceable, it will also decide whether the party seeking to arbitrate the Dispute complied with the process in Sub-Section b. of this Arbitration Section.

i. You and Company also agree to give up the ability to seek to represent, in a class action or otherwise, anyone but each of you and Company, including in arbitration and in state or federal court. Therefore:

YOU AND COMPANY MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, REPRESENTATIVE OR MULTI-CLAIMANT PROCEEDING, AND THE ARBITRATOR SHALL HAVE NO POWER TO AWARD CLASS-WIDE RELIEF

j. You understand there is no judge or jury in arbitration, and court review of an arbitration award is limited. An arbitrator must follow the dispute resolution process described in this Arbitration Section. Subject to Sub-Section h. of this Arbitration Section, the arbitrator has exclusive authority to resolve all issues relating to the parties' Dispute. The arbitrator will have the authority to grant motions dispositive of all or part of any claim. The arbitrator can award on an individual basis the same damages and relief as a court (including injunctive and declaratory relief, or statutory damages); provided that they are recoverable under this Agreement. The arbitrator will issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The award of the arbitrator is final and binding upon you and us.

k. Related Cases and Mass Filings. If your Notice involves claims similar to those of at least 25 other customers, and if you and those other customers are represented by the same lawyers, or by lawyers who are coordinating with each other, or if Company asserts 25 or more similar demands for arbitration or counterclaims against similarly-situated parties, within a period of 60 days or otherwise close in proximity, you and we agree that these claims will be related ("Related Cases"), and this shall be called a "Mass Filing." The following procedures will apply to a Mass Filing:

i. Acknowledgment of Related Cases procedure. If you or Company, or your or our counsel, files a demand for arbitration that has Related Cases, then you and we agree that the demand for arbitration shall be subject to the additional protocols set forth in this Sub-Section k. of this Arbitration Section. If the parties disagree as to whether a series of filings fits within the definition of Mass Filing above, the arbitration provider shall resolve the disagreement. You and we also acknowledge that the adjudication of the dispute may be delayed and that any applicable statute of limitations shall be tolled from the time of filing of the demand for arbitration and pending resolution of the proceedings described in this Sub-Section k. of this Arbitration Section.

ii. Bellwether Arbitrations. Bellwether proceedings are encouraged by courts and arbitration administrators where there are multiple disputes involving similar claims against the same or related parties. The parties shall select ten individual arbitration claims (five per side), designated the "Initial Test Cases," to proceed to arbitration. Only the Initial Test Cases shall be filed with the arbitrator. All other claims shall be held in abeyance. This means that the filing fees will be paid only for the Initial Test Cases; for all other demands for arbitration, the filing fees (together with any arbitrator consideration of the other demands) will be in abeyance, and neither You nor Company will be required to pay any such filing fees. You and Company also agree that neither you nor we shall be deemed to be in breach of this Arbitration Section for failure to pay any such filing fees, and that neither you nor we shall be entitled to any contractual, statutory, or other remedies, damages, or sanctions of any kind for failure to pay any such filing fees. If, pursuant to this subsection, a party files non-Bellwether Arbitrations with the arbitration provider, the parties agree that the arbitration provider shall hold those demands in abeyance and not refer them to the arbitrator pending resolution of the Initial Test Cases. Unless the claims are resolved in advance or the schedule is extended, the arbitrators will render a final award for the Initial Test Cases within 120 days of the initial pre-hearing conference.

iii. Global Mediation. Following the resolution of the Initial Test Cases, the parties agree to engage in a global mediation of all the remaining individual arbitration claims ("Global Mediation"), deferring any filing costs associated with the non-Initial Test Cases until the Initial Test Cases and subsequent Global Mediation have concluded. After the final awards are provided to the mediator in the Initial Test Cases, the mediator and the parties shall have 90 days to agree upon a substantive methodology and make an offer to resolve the outstanding cases. If the Parties are unable to resolve the outstanding claims during the Global Mediation, the unresolved Disputes may then be administered by the arbitration provider pursuant to this Agreement's Batch Arbitration provision below and the arbitrator's fee schedule for mass filings, unless the parties mutually agree otherwise in writing. You and we also acknowledge that any applicable statute of limitations shall be tolled pending resolution of the Bellwether Arbitration and Global Mediation process.

iv. Batch Arbitration. To increase the efficiency of administration and resolution of arbitrations, you and Company agree that in the event the Bellwether Arbitration and Global Mediation processes described above do not resolve the Disputes, the arbitration provider will (1) administer the remaining arbitration demands in batches of 50 demands per batch; (2) appoint one arbitrator for each batch; and (3) provide for the resolution of each batch as a single consolidated arbitration with one set of filing and administrative fees due per side per batch, one procedural calendar, one hearing (if any) in a place to be determined by the arbitrator, and one final award ("Batch Arbitration"). The final award will provide for individual merit decisions for each separate claimant within the single batch arbitration award. If the arbitration provider will not administer the Batch Arbitration with one set of filing and administrative fees due per side per batch, then the arbitration provider's mass arbitration fee schedule shall apply. AAA's mass arbitration fee schedule is available on its website at [www.adr.org/rules](http://www.adr.org/rules). For mass arbitrations before any other arbitration provider, if applicable, you and Company agree that its mass arbitration fee schedule shall apply, as necessary.

v. Opting Out. If your claim is not resolved as part of the Bellwether Arbitration and Global Mediation process outlined above, the parties shall also have the opportunity to opt out of arbitration and bring the pending Dispute to the state or federal courts located in New York City, unless mandated by law to be filed in another state or federal court. The parties have 30 days of the failed Global Mediation process to opt out. This shall not provide an opportunity for either party to opt out of arbitration for other claims. You may opt out of

arbitration by providing written notice of your intention to opt out to the arbitration provider and to Midnight Ink Publishing, LLC. via USPS Priority Mail or by email to [info@midnightinkpublishing.com](mailto:info@midnightinkpublishing.com) or by notice to the attorney representing Company in the arbitration proceeding. This written notice must be signed by you, even if it is also signed by your attorney. The written notice cannot be signed by an agent or other representative of yours in lieu of your signature. It must include a statement that you wish to opt out of arbitration within 30 days after the conclusion of the Global Mediation process. Company may exercise its equivalent opt-out right by sending written notice to you or your attorney, agent, or representative if you are represented.

vi. Enforcement of Subsection. A Court of competent jurisdiction shall have the power to enforce Sub-Section k. of this Arbitration Section, including by injunctive, declaratory, or other relief.

l. Live Testimony. You must appear to testify at any arbitration hearing personally, virtually, or in another manner authorized by law or the arbitration provider. You agree that if you fail to appear in one of these forms to testify, you consent to have the arbitrator order that the case be closed immediately.

m. Discovery and Information Exchange. Regardless of how the arbitration proceeds, each of you and Company shall cooperate in good faith in the exchange of non-privileged documents and information as necessary in accordance with the arbitration provider's rules.

n. Attorney's Fees and Fee Shifting. Each of you and Company may incur attorneys' fees during the arbitration. Each side agrees to pay his, her or its own attorneys' fees unless the claim(s) at issue permit(s) the prevailing party to be paid its attorneys' fees, and in such instance, the fees awarded shall be determined by the applicable law(s).

o. Restrictions on Forms of Relief. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief, only to the extent necessary to provide relief warranted by that party's individual claim, only as permitted by applicable law, and only to the extent that declaratory and injunctive relief are permitted by this Agreement. The arbitrator shall have no authority to award punitive, exemplary, multiplied or consequential damages or any other relief except those allowed under the law and this Agreement, including Limitation of Liability provisions. The arbitrator also may not order you or Company to pay any monies to or take any actions with respect to persons other than you or Company, respectively, unless you or Company explicitly consents in advance, after an arbitrator is selected, to permit the arbitrator to enter such an order, as applicable. Further, unless you and Company expressly agree, or subject to the provisions of Sub-Section k. above of this Arbitration Section, the arbitrator may not consolidate other persons' claims with yours or ours and may not otherwise preside over any form of a representative, multi-claimant or class proceeding.

p. Confidentiality. You and Company agree to maintain the confidential nature of the arbitration proceeding and shall not disclose the fact of the arbitration, any documents exchanged as part of any mediation, proceedings of the arbitration, the arbitrator's decision and the existence or amount of any award, except as may be necessary to prepare for or conduct the arbitration (in which case anyone becoming privy to confidential information must undertake to preserve its confidentiality), or except as may be necessary in connection with a court application for a provisional remedy, a judicial challenge to an award or its enforcement, an order confirming the award, or unless otherwise required by law or court order. In keeping with the confidential nature of the arbitration, you and Company agree that an order confirming the award is only necessary if the obligations of the award have not been performed. Therefore, before taking any steps to confirm the arbitration award, the party seeking confirmation of the award must give the other party notice of its intention to confirm the award. If the party who would be the respondent in any such confirmation proceeding performs its obligation under the terms of the arbitration award within 15 business days of such notice, the party who gave notice of its intent to confirm the award shall not seek to confirm or otherwise enforce the award.

q. Severability of Portions of this Arbitration Section. With the exception of Sub-Section i. and Sub-Section k. of this Arbitration Section (i.e., the waiver of the ability to proceed on behalf of multiple claimants or a purported class and the Mass Filing procedure), if any part of this Arbitration Section is deemed invalid, unenforceable, or illegal, then the balance of this Arbitration Section shall remain in effect and be construed in accordance with its terms as if the invalid, unenforceable, or illegal provision were not contained. If, however, either or both Sub-Section i. or/and Sub-Section k. of this Arbitration Section is found invalid, unenforceable or illegal, then the remainder of this Arbitration Section and this paragraph shall be null and void, but the rest of this Agreement, including the provisions governing in which court actions against Company must be pursued and the choice of governing law will remain in effect and apply to any claim that, for this or any other reason, proceeds in court rather than in arbitration.

r. Court Proceedings. If a court issues a decision precluding or refusing to compel arbitration of any Dispute, the Dispute must be brought in the state or federal courts located in the state of Florida, unless otherwise mandated by law to be filed in another state or federal court. For Disputes deemed not to be subject to arbitration, neither you nor Company shall be precluded from participating in a class-wide settlement of those claims if brought by another Company user or third party.

#### Governing Law

The Agreement will be governed by, and construed in accordance with, the laws of the State of Florida, without regard to its conflict of law provisions.

Except with respect to Disputes to be resolved through the process in accordance with the Arbitration Agreement contained above, you and Company agree to submit to the exclusive jurisdiction of the federal or state courts located in Florida, unless otherwise mandated by law, to resolve any Dispute arising out of the Agreement or the Company Services. YOU HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT YOU MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION (INCLUDING, BUT NOT LIMITED TO, ANY CLAIMS, COUNTERCLAIMS, CROSS-CLAIMS, OR THIRD-PARTY CLAIMS) ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT.

YOU AND WE AGREE THAT ANY CAUSE OF ACTION YOU OR WE MAY HAVE ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE COMPANY SITES OR THE COMPANY SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER SUCH CAUSE OF ACTION ACCRUES. AFTER SUCH PERIOD, SUCH CAUSE OF ACTION SHALL BE PERMANENTLY BARRED.

#### Indemnity

You agree to indemnify and hold Company, its Company Affiliates, subcontractors and other partners, and their respective officers, agents, partners and employees, harmless from any loss, liability, claim, or demand, including, but not limited to, reasonable attorneys' fees, made by any third party due to or arising out of or in connection with YOUR BREACH OF YOUR REPRESENTATIONS, WARRANTIES, COVENANTS OR AGREEMENTS HEREUNDER; YOUR VIOLATION OF THIS AGREEMENT OF USE OR ANY APPLICABLE LAW; YOUR USE OF THE COMPANY SERVICES AND/OR THE CONTENT IN VIOLATION OF THIS AGREEMENT; INFORMATION OR CONTENT POSTED OR TRANSMITTED THROUGH YOUR AUTHORIZED DEVICE OR ACCOUNT, EVEN IF NOT SUBMITTED BY YOU, THAT INFRINGES ANY COPYRIGHT, TRADEMARK, TRADE SECRET, TRADE DRESS, PATENT, PUBLICITY, PRIVACY OR OTHER RIGHT OF ANY PERSON OR ENTITY OR DEFAMES ANY PERSON OR ENTITY; AND ANY MISREPRESENTATION MADE BY YOU. YOU WILL COOPERATE AS FULLY AND AS REASONABLY REQUIRED IN COMPANY'S DEFENSE OF ANY CLAIM. COMPANY RESERVES THE RIGHT, AT ITS OWN EXPENSE, TO ASSUME THE EXCLUSIVE DEFENSE AND CONTROL OF ANY MATTER OTHERWISE SUBJECT TO INDEMNIFICATION BY YOU, AND YOU SHALL NOT IN ANY EVENT SETTLE ANY SUCH MATTER WITHOUT THE WRITTEN CONSENT OF COMPANY.



## Unsolicited Submissions

Company does not knowingly accept, via the Company Services or otherwise, unsolicited submissions including, without limitation, submissions by you of blog ideas, articles, scripts, story lines, fan fiction, characters, drawings, information, suggestions, proposals, ideas or concepts. Company requests that you do not make any unsolicited submissions. Any similarity between an unsolicited submission and any elements in any Company or Affiliated Company creative work including, without limitation, a film, series, story, title or concept would be purely coincidental. If you do send any submissions to Company via the Company Services that are unsolicited (including but not limited to any Forum), however, you agree that (i) your unsolicited submissions are not being made in confidence or trust and that by making such submissions no contractual or fiduciary relationship is created between you and Company; (ii) any such unsolicited submissions and copyright become the property of and will be owned by Company (and are not User Content licensed by you to Company under "Your Proprietary Rights in and License to Your User Content") and may be used, copied, sublicensed, adapted, transmitted, distributed, publicly performed, published, displayed or deleted as Company sees fit; (iii) you are not entitled to any compensation, credit or notice whatsoever in connection with such submissions; and (iv) by sending an unsolicited submission you waive the right to make any claim against Company or Company Affiliates relating to any unsolicited submissions by you, including, without limitation, unfair competition, breach of implied contract or breach of confidentiality.

## Other

If you see other parties violating this Agreement, we would appreciate it if you would let us know by email to [info@midnightinkpublishing.com](mailto:info@midnightinkpublishing.com)

Similarly, the failure of Company to exercise or enforce any right or provision of this Agreement will not operate as a waiver of such right or provision. If we fail to act in response to a violation of this Agreement, you should not assume that we do not object to the violation or even that we are aware of it. In addition, you may not construe a waiver of any provision of this Agreement with respect to any party as a waiver of that provision (or any other provision) with respect to either that party or any other party. Further, Company's decision to delay exercising or enforcing any right or remedy under this Agreement shall not constitute a waiver of such right or remedy. Even if Company acts in a way that appears to you to be inconsistent with this Agreement, Company's action shall not be deemed a waiver or constructive amendment of this Agreement.

The Section titles in this Agreement are for convenience only and have no legal or contractual effect. This Agreement operates to the fullest extent permissible by law. Except as otherwise expressly provided herein, if any provision of this Agreement is unlawful, void or unenforceable, that provision is deemed severable from this Agreement and does not affect the validity and enforceability of any remaining provisions.

You agree that any notices the Company may be required by Applicable Law to send to you will be effective upon Company's sending an e-mail message to the e-mail address you have on file with Company or publishing such notices on the informational page(s) of the Company Sites. Additionally, from time to time, we may communicate with you about the Company Services and this Agreement electronically (e.g., emails to your registered email address, notices on the Company Sites, order progress tracking). You consent to receive electronic communications from Company and further agree that any notices, agreements, disclosures, and other communications that we send to you electronically will satisfy any applicable legal notification requirements. We recommend that you keep a copy of any electronic communications we send to you for your records.

You agree that no joint venture, partnership, employment, or agency relationship exists between you and Company as a result of this Agreement or your use of the Company Services. A printed version of this Agreement and of any notice related to it shall be admissible in judicial or administrative proceedings based upon or relating to this Agreement to the same extent as other business documents and records originally generated and maintained in printed form.

Nothing contained in this Agreement limits Company's right to comply with governmental, court and law enforcement requests or requirements relating to your use of the Company Services or information provided to or gathered by us in connection with such use.

This Agreement, along with the Privacy Policy and any other policies expressly incorporated into this Agreement by reference, constitute the entire agreement between you and Company with respect to the subject matter hereof and supersede all prior or contemporaneous written or oral agreements between the us with respect to the subject matter hereof. This Agreement may not be amended, nor any obligation waived, without Company's written authorization.

Please contact us at: [midnightinkpublishing.com](mailto:midnightinkpublishing.com)

I HAVE READ THIS AGREEMENT AND AGREE TO ALL OF THE PROVISIONS CONTAINED ABOVE.