

# TERMS OF USE

## **1. AGREEMENT BETWEEN USER AND CUMULUS**

### **PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE USING ANY CUMULUS WEB SITE.**

The Cumulus Web Site is comprised of various Web pages operated by Cumulus Media Inc., Cumulus Broadcasting LLC, and/or Cumulus Media Partners LLC and their radio stations (collectively "Cumulus"). Cumulus and any and all entities that control, are controlled by, or are affiliated or under common control with Cumulus are collectively referred to herein as "we," "us" or "our".

The Cumulus Web Sites are offered to you conditioned on your acceptance without modification of the terms, conditions, and notices contained herein. Your use of any Cumulus Web Site constitutes your agreement to all such terms, conditions, and notices. If you do not agree to these Terms of Use, you may not use any Cumulus Web Site.

You acknowledge that these Terms of Use are supported by reasonable and valuable consideration, the receipt and adequacy of which are hereby acknowledged. Without limiting the generality of the foregoing, you acknowledge that such consideration includes your use of the Cumulus Web Sites and receipt of data, materials and information available at or through the Cumulus Web Sites, the possibility of our use or display of your Submissions (as defined in Section 4 below) and the possibility of the publicity and promotion from our use or display of your Submissions.

## **2. USE OF CONTENT**

All information, materials, functions and other content (including Submissions, as defined in Section 4 below) ("Content") contained on any Cumulus Web Site are our copyrighted property or the copyrighted property of our licensors or licensees. All trademarks, service marks, trade names, and trade dress are proprietary to us and/or our licensors or licensees. We may change the Cumulus Web Site or delete Content or features at any time, in any way, for any or no reason.

Except as we specifically agree in writing, no Content from any Cumulus Web Site may be used, reproduced, transmitted, distributed or otherwise exploited in any way other than as part of the Cumulus Web Site, except that where a Cumulus Web Site is configured to enable the download of particular Content, you may download one copy of such Content to a single computer for your personal, noncommercial home use only, provided that you (a) keep intact all copyright and other proprietary notices, (b) make no modifications to the Content, and (c) do not use the Content in a manner that suggests an association with any of our products, services or brands. Any business use, "re-mailing" or high-volume or automated use of any Cumulus Web Site is prohibited.

Any and all rights not expressly granted herein are reserved.

## **3. NO UNLAWFUL OR PROHIBITED USE**

As a condition of your use of the Cumulus Web Site, you warrant to us that you will not use the Cumulus Web Site for any purpose that is unlawful or prohibited by these terms, conditions, and notices. You may not use the Cumulus Web Site in any manner which could damage, disable, overburden, or impair the Cumulus Web Site or interfere with any other party's use and enjoyment of the Cumulus Web Site. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Cumulus Web Sites.

## **4. SUBMISSIONS**

In these Terms of Use, we use the word "Submissions" to mean text, messages, ideas, feedback, concepts, pitches, suggestions, stories, formats, artwork, photographs, drawings, videos, audiovisual works, musical compositions (including lyrics), sound recordings, characterizations, your and/or other persons' names, likenesses, voices, usernames, profiles, actions, appearances, performances and/or other biographical information or material, and/or other similar materials that you submit, post, upload, embed, display, communicate or otherwise distribute (collectively "Distribute") on or through a Cumulus Web Site.

We do not claim ownership of the Submissions you provide, post, upload, input or submit to any Cumulus Web Site. However, by posting, uploading, inputting, providing or submitting your Submission to a Cumulus Web Site, you are granting us and our licensees, distributors, agents, representatives and other authorized users, a perpetual, non-exclusive, irrevocable, fully-paid, royalty-free, sub-licensable and transferable (in whole or part) worldwide license under all copyrights, trademarks, patents, trade secrets, privacy and publicity rights and other intellectual property rights you own or control to use, reproduce, transmit, display, exhibit, distribute, index, comment on, modify, create derivative works based upon, perform and otherwise exploit such Submissions, in whole or in part, in all media formats and channels now known or hereafter devised (including on Cumulus Web Sites, on third-party web sites, and on our radio stations) for any and all purposes including entertainment, news, advertising, promotional, marketing, publicity, trade or commercial purposes, all without further notice to you, with or without attribution, and without the requirement of any permission from or payment to you or to any other person or entity (the "Submissions License").

By Distributing a Submission, you represent and warrant that the Submission and your communication thereof conform to the provisions set forth below in Section 5 and to the other requirements of these Terms of Use, and that you own or have the necessary rights, licenses, consents and permissions, without the need for any permission from or payment to any other person or entity, to exploit, and to authorize us to exploit, such Submission in all manners contemplated by these terms of use (including the Submissions License). These Terms of Use (including the Submissions License) do not limit any past or future grant of rights, consents, agreements, assignments and waivers you may have made or make with respect to Submissions.

No compensation will be paid to you with respect to our use of your Submission, as provided herein. We are under no obligation to post or use any Submission you may provide to us and we may remove any Submission at any time in our sole discretion.

By Distributing your Submission on a Cumulus Web Site, you warrant and represent that you own or otherwise control all of the rights to your Submission as described in this section including, without limitation, all the rights necessary for you to Distribute your Submission. Accordingly, we, our licensees, distributors, agents, representatives and other authorized users shall not be liable to you or to any person claiming through you for our exploitation or disclosure of any Submission.

## **5. USE OF PUBLIC COMMUNICATION SERVICES ON A CUMULUS WEB SITE**

The Cumulus Web Site may contain bulletin board services, chat areas, news groups, forums, communities, personal web pages, calendars, and/or other message or communication facilities designed to enable you to communicate with the public at large or with a group (collectively, "Communication Services"). By using the Communication Services, you agree that you will use the Communication Services only to Distribute Submissions that are proper and related to the particular Communication Service. By way of example, and not as a limitation, you agree that when using a Communication Service, you will not:

- Defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others.
- Distribute any Submission that is inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful.
- Distribute files that contain software or other material protected by intellectual property laws (or by rights of privacy or publicity) unless you own or control the rights thereto or have received all necessary consents.
- Distribute files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of another's computer.
- Advertise or offer to sell or buy any goods or services for any business purpose, unless such Communication Service specifically allows such messages.
- Conduct or forward surveys, contests, pyramid schemes or chain letters.
- Distribute any file posted by another user of a Communication Service that you know, or reasonably should know, cannot be legally distributed in such manner.
- Falsify or delete any author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is uploaded.

- Restrict or inhibit any other user from using and enjoying the Communication Services or the Cumulus Web Site.
- Violate any code of conduct or other guidelines which may be applicable for any particular Communication Service or the Cumulus Web Site.
- Harvest or otherwise collect information about others, including e-mail addresses, without their consent.
- Violate any applicable laws or regulations.

You are and shall remain solely responsible for the Submissions you Distribute on or through any Cumulus Web Site using the Communication Services, and for the consequences of Distributing same. We have no obligation to monitor the Communication Services. However, we reserve the right to review Submissions Distributed using a Communication Service and to remove any and all Submissions in our sole discretion for any reason whatsoever. We reserve the right to terminate your access to any or all of the Communication Services at any time without notice for any reason whatsoever.

You acknowledge that the Communication Services and features offered therein are for public and not private communications, and you have no expectation of privacy with regard to any Submission to a such public forum. We cannot guarantee the security of any information you disclose through any of these media; you make such disclosures at your own risk.

Always use caution when giving out any personally identifying information about yourself or your children in any Communication Service. We do not control or endorse the content, messages or information found in any Communication Service and, therefore, we specifically disclaim any liability with regard to the Communication Services and any actions resulting from your participation in any Communication Service. Managers and hosts are not authorized Cumulus spokespersons, and their views do not necessarily reflect our views.

We reserve the right at all times to disclose any information as necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any Submission, information or materials, in whole or in part, in our sole discretion.

## **6. LINKS TO THIRD PARTY SITES**

The Cumulus Web Site may contain links to other Web Sites ("Linked Sites"). The Linked Sites are not under our control and we are not responsible for the contents of any Linked Site, including without limitation any link contained in a Linked Site, or any changes or updates to a Linked Site. We are not responsible for webcasting or any other form of transmission received from any Linked Site. We are providing these links to you only as a convenience, and the inclusion of any link does not imply endorsement by us of the site or any association with its operators.

## **7. DISCLAIMER**

**THE CONTENT ON OR OTHERWISE RELATED IN ANY WAY TO THE CUMULUS WEB SITE OR ANY THIRD-PARTY WEB SITES OR SERVICES LINKED TO FROM THE CUMULUS WEB SITE ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, AVAILABILITY, SECURITY, COMPATIBILITY AND NON-INFRINGEMENT. WE DO NOT WARRANT THAT ANY CONTENT WILL BE FREE OF INACCURACIES OR TYPOGRAPHICAL ERRORS, THAT ACCESS THERETO WILL BE UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, OR THAT THE CUMULUS WEB SITE OR THE SERVERS THAT MAKE SUCH CONTENT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. MOREOVER, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. WE DO NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF ANY CONTENT. YOU HEREBY IRREVOCABLY WAIVE ANY CLAIM AGAINST US WITH RESPECT TO CONTENT AND ANY CONTENT YOU PROVIDE TO THIRD PARTY SITES (INCLUDING CREDIT CARD AND OTHER PERSONAL INFORMATION).**

Advice received via the Cumulus Web Site should not be relied upon for personal, medical, legal or financial decisions and you should consult an appropriate professional for specific advice tailored to your situation.

## **8. LIMITATION ON LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, LOST PROFITS, PERSONAL INJURY (INCLUDING DEATH) AND PROPERTY DAMAGE OF ANY NATURE WHATSOEVER, THAT RESULT FROM ARISING OUT OF OR IN ANY WAY CONNECTED WITH (a) THE USE, OR INABILITY TO USE, ANY CUMULUS WEB SITE OR CONTENT OR RELATED SERVICES, OR (b) THE CONDUCT OR ACTIONS, WHETHER ONLINE OR OFFLINE, OF ANY USER OF A CUMULUS WEB SITE OR ANY OTHER PERSON OR ENTITY, OR OTHERWISE ARISING OUT OF THE USE OF THE CUMULUS WEB SITE, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE CUMULUS WEB SITE, OR WITH ANY OF THESE TERMS OF USE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE CUMULUS WEB SITE.

MOREOVER, UNDER NO CIRCUMSTANCES SHALL WE, OUR LICENSORS OR LICENSEES, OR ANY OF THE FOREGOING ENTITIES' RESPECTIVE RESELLERS, DISTRIBUTORS, SERVICE PROVIDERS OR SUPPLIERS, BE HELD LIABLE FOR ANY DELAY OR FAILURE IN PERFORMANCE RESULTING DIRECTLY OR INDIRECTLY FROM AN ACT OF FORCE MAJEURE OR CAUSES BEYOND OUR OR THEIR REASONABLE CONTROL.

WE MAY TERMINATE YOUR FURTHER ACCESS TO ANY CUMULUS WEB SITE OR CHANGE THE CUMULUS WEB SITES OR DELETE CONTENT OR FEATURES IN ANY WAY, AT ANY TIME AND FOR ANY REASON OR NO REASON.

SERVICE CONTACT : [web@cumulusdistribution.net](mailto:web@cumulusdistribution.net)

## **9. INDEMNIFICATION**

You are responsible for maintaining the confidentiality of your personal information as well as for all of your activities on the Cumulus Web Site. You hereby agree to indemnify, defend, and hold us, our licensors, licensees, distributors, agents, representatives and other authorized users, and each of the foregoing entities' respective resellers, distributors, service providers and suppliers, and all of the foregoing entities' respective officers, directors, owners, employees, agents, representatives and assigns (collectively, the "Indemnified Parties") harmless from and against any and all losses, damages, liabilities and costs (including settlement costs and any legal or other fees and expenses for investigating or defending any actions or threatened actions) incurred by the Indemnified Parties in connection with any claim arising out of any breach by you of these terms of use or claims arising from your use of the Cumulus Web Site. You shall use your best efforts to cooperate with us in the defense of any claim. We reserve the right, at our own expense, to employ separate counsel and assume the exclusive defense and control of any matter otherwise subject to indemnification by you.

## **10. JURISDICTION AND VENUE**

You agree that any action at law or in equity arising out of or relating to these terms of use or the Cumulus Web Sites shall be filed, and that venue properly lies, only in state or federal courts located in Fulton County, Atlanta, Georgia, and you hereby consent and submit to the personal jurisdiction of such courts for the purposes of litigating any such action.

## **11. MODIFICATION OF THESE TERMS OF USE**

At any time, we may amend these Terms of Use (including by modification, deletion and/or addition of any portion thereof). If we make a material modification to these terms of use, we will notify you of such amendment by posting notice of such modification on the Cumulus Web Sites covered by these Terms of Use.

## **12. GENERAL PROVISIONS**

To the maximum extent permitted by law, this agreement is governed by the laws of the State of Georgia. giving effect to any principles of conflicts of law. If any provision of these terms of use shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these terms of use and shall not affect the validity and enforceability of any remaining provisions. No waiver of any provision of these terms of use by us shall be deemed a further or continuing waiver of such provision or any other provision, and our failure to assert any right or provision under these terms of use shall not constitute a waiver of such right or provision. **YOU AGREE THAT ANY CAUSE OF ACTION YOU MAY HAVE ARISING OUT OF OR RELATED TO THESE TERMS OF USE OR ANY CUMULUS WEB SITE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION SHALL BE PERMANENTLY BARRED.**

### **13. NOTICES AND PROCEDURE FOR MAKING CLAIMS OF COPYRIGHT INFRINGEMENT**

Pursuant to Title 17, United States Code, Section 512(c)(2), notifications of claimed copyright infringement under United States copyright law should be sent to Service Provider's Designated Agent. ALL INQUIRIES NOT RELEVANT TO THE FOLLOWING PROCEDURE WILL RECEIVE NO RESPONSE.

Notification must be submitted to the following Designated Agent: Service Provider: Cumulus Media, Inc.

Name of Agent Designated to Receive Notification of Claimed Infringement: Richard S. Denning

Full Address of Designated Agent to Which Notification Should be Sent: 3280 Peachtree Road, Suite 2300, Atlanta, GA 30305

Telephone Number of Designated Agent: (404) 260-6677

Facsimile Number of Designated Agent: (404) 260-6877

E-Mail Address of Designated Agent: [Richard.Denning@cumulus.com](mailto:Richard.Denning@cumulus.com)

To be effective, the notification must be a written communication that includes the following:

- (i) A physical or electronic signature of person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- (ii) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- (iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material;
- (iv) Information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
- (v) A statement that the complaining party has a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- (vi) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

We may give you notice that we have removed or disabled access to certain material by means of a general notice on any Cumulus Web Site, electronic mail to a user's e-mail address in our records, or by written communication sent by first-class mail to your physical address in our records. If you receive such a notice, you may provide counter-notification in writing to the designated agent that includes the information below. To be effective, the counter-notification must be a written communication that includes the following:

- (i) Your physical or electronic signature;
- (ii) 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;

- (iii) A statement from you under the penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled; and
- (iv) Your name, physical address and telephone number, and a statement that you consent to the jurisdiction of a Federal District Court for the judicial district in which your physical address is located, or if your physical address is outside of the United States, for any judicial district in which Cumulus may be found, and that you will accept service of process from the person who provided notification of allegedly infringing material or an agent of such person.