

Updated: September 2022

CLIENT TERMS AND CONDITIONS: CAPITOL B CREATIVE STUDIOS

We're glad you're here. CBC New Media Group, LLC d/b/a Capitol B Creative Studios ("**Capitol B Creative Studios**") provides a range of digital marketing services for businesses (collectively, "**Services**"). We look forward to working with you.

Please read through the Client Terms and Conditions (the "**Agreement**") carefully. This Agreement, combined with your signed sales order, will govern the terms of the relationship between Capitol B Creative Studios and your company ("**Client**").

Capitol B Creative Studios provides a range of media services, marketing services, creative services, and technology services for businesses (collectively "**Services**"). Client's sales order, insertion order or orders (collectively "**Order**" or "**Orders**") will detail (a) the Services Client is purchasing; (b) the costs for the Services; (c) the due date for payment; (d) the timeframe for deliverables; and (e) other relevant details of the Service. This Agreement supplements any new or existing Order signed by Client, including changes to previous Orders.

1. **Services.** A proposed campaign (the "**Campaign**") can include:
 - a. **.com Ecosystem Advertising Services** include advertising on WRAL.com, other WRAL.com branded and/or affiliate websites, the WRAL.com family of mobile apps, and WRAL.com and third-party OTT apps and platforms, including targeted display ads, contests and promotions, events and sponsorships, native advertising, video advertising and email advertising.
 - b. **Media Buying Services** include the purchase of search engine marketing, social media advertising, programmatic buying, email marketing, and other media buying.
 - c. **Website and Analytics Services** include web design, website hosting, SEO (search engine optimization), and site analytics consulting.
 - d. **Creative Services** include content production, graphics and logo design, article writing/blogs, video/photography, and certain email services (targeted blasts, design).
 - e. **Strategic Services** include work to develop your brand, gathering and applying market research, planning and creating a public relations strategy, media outreach and marketing consulting.

2. **Online Advertising and Listing Services.** Capitol B Creative Studios works with online properties affiliated with CBC New Media Group (e.g. WRAL.com) (the "**WRAL Properties**") as well as third-party online properties (the "**Publisher**" or "**Publishers**") to publish the marketing content ("**Ads**"). Capitol B Creative Studios will determine, in its sole discretion, on which Publisher the Ads will run during the Campaign. Capitol B Creative Studios guarantees targeting of Client's desired audiences on the WRAL Properties. Capitol B Creative Studios does not operate or control any third-party Publisher, and therefore cannot guarantee when or where Ads will be displayed by those Publishers. When applicable, Client and WRAL Digital Solutions will be bound by AAAA/IAB Standard Terms and Conditions for Internet Advertising for Media Buys One Year or Less, Version 3.0, as amended by the WRAL Digital Solutions Addendum to the AAAA/IAB Standard Terms posted at <https://capitolbcreative.com/addendum-to-aaaa-iab-terms/>.

- 3. Third-Party Service Providers.** Capitol B Creative Studios may use third-party service providers to support and/or supply some or all of the technology, platforms, content or other products in connection with the Services. Some third-party service providers may require Client to accept independent terms and conditions. Capitol B Creative Studios will let Client know when this applies.
- 4. Client Website Responsibilities.**

 - a. **Domain Maintenance.** Unless otherwise expressly stated in an Order, Client, not Capitol B Creative Studios, is responsible for renewing Client's domain and paying the domain hosting company.
 - b. **Privacy Considerations.** Client must post a privacy policy on its website and comply with its terms. The privacy policy must reflect all applicable laws and should not contain any terms that are inconsistent with, or otherwise restrict Capitol B Creative Studios from performing its obligations hereunder. To the extent that Client's website collects personally identifiable information, Client's privacy policy must permit the transmission of such information through third-party provider sites. If Client is purchasing Services that include targeted display ads, Client is obligated to ensure that its privacy policy permits user targeting and tracking and permits the transmission of any resulting non-individually identified data about such users to third parties. Client hereby agrees, at its own expense, to fully defend, indemnify, and hold harmless Capitol B Creative Studios and its affiliates for any liability, cost or damages incurred by Capitol B Creative Studios or its affiliates due to failure of Client's privacy policy to comply with the foregoing requirements or with any applicable law.
 - c. **Client Data.** From time to time during the Campaign, Client will need to provide certain information (the "**Client Data**") to Capitol B Creative Studios, which Client hereby authorizes Capitol B Creative Studios to input into one or more third-party web-based marketing platforms. Capitol B Creative Studios will only use such information in connection with the fulfillment of the Services and as otherwise permitted by the Order and this Agreement.
- 5. Payment Terms.**

 - a. Fees and payment terms are detailed in the Order.
 - b. Should Client fail to make payment on time, Capitol B Creative Studios may discontinue, terminate, or suspend the Services. Late payments are considered delinquent, and Client will be responsible for the amount due and all fees that Capitol B Creative Studios incurs in pursuing and collecting payment; this includes, but is not limited to, collection agency fees and expenses, reasonable attorney fees and court costs.
 - c. In the event of early termination, Client is liable for all outstanding invoices for Services rendered as of the effective date of termination. Payment is due within thirty (30) days of the invoice date.
 - d. All payments due are in U.S. dollars and exclude any taxes, which shall be the sole responsibility of Client.
- 6. Cancellation.** The cancellation policy varies based on the Services Client purchased.

- a. **Cancellable Services** include Orders for “.com Ecosystem Advertising Services” and “Media Buying Services” detailed above in sections 1 “a” and “b”. These Orders can be cancelled during the Campaign with thirty (30) days prior written or email notice to Capitol B Creative Studios in accordance with this Agreement.
 - b. **Non-cancellable Services** include Orders for “Website and Analytics Services,” “Creative Services” and “Strategic Services” detailed above in sections 1. “c” and “d” and “e”. Given the time investment in such Services, such Orders cannot be cancelled.
 - c. Either party may terminate the Order on thirty (30) days prior written notice if the other party is in material breach of its obligations under the Order and/or this Agreement and such breach has not been cured within the thirty (30) day period. Client is responsible for all unbilled Service expenses accrued through the effective termination date and will have thirty (30) days from the invoice date to make the payment. All provisions of this Agreement that by their sense or nature should survive termination of the Order (including, without limitation, all limits of liability, indemnity obligations, and confidentiality obligations) shall so survive.
7. **Agency.** Client represents and warrants that when purchasing advertising on behalf of another company (the “**Authorizing Company**”), Client is authorized by that company to act as its agent in all respects relating to this Agreement, including, without limitation, making elections or giving consent. Client affirms the Authorizing Company is aware of, and agrees to be bound by, this Agreement and, as applicable, any relevant third-party terms. Client and the Authorizing Company shall be jointly and severally liable for fulfillment of Client’s obligations under this Agreement, including all payment obligations.
8. **Campaign Logistics and Deadlines.** Capitol B Creative Studios may require Client’s input and/or content to carry out the Campaign. Client agrees to provide timely feedback so that the Services can be delivered within the agreed upon schedule. Any changes or delays by Client will delay the delivery schedule, and as such, Capitol B Creative Studios will not be considered to have failed to meet its deadline. Delays by Client will not result in a refund and will only push back the delivery of Services. If Client requests changes outside of what is detailed in the Order, Client (a) acknowledges there will be added service fees; and (b) any such changes will delay delivery of Services.
9. **Services Content; Creative Services; Keywords.**
- a. **Services Content.** Client is solely responsible for ensuring that all content (including Ads) supplied to Capitol B Creative Studios (“**Client Content**”) is complete, accurate, does not infringe on another’s copyright and complies with applicable laws. Client is solely liable for all claims and damages relating to the Client Content. Client acknowledges that it may be limited in its ability to make further modifications to the Client Content after it has been delivered to Capitol B Creative Studios. Client is responsible for final approval of Campaign content and acknowledges and agrees that Capitol B Creative Studios is not liable for (a) typographical errors, incorrect insertions, or omissions in the published Ad; or (b) the failure to publish an Ad because of circumstances outside of the control of Capitol B Creative Studios.

- b. **Creative Services.** Capitol B Creative Studios may, as part of the Services, create an Ad, modify an Ad provided by Client, modify other Client Content, or provide other creative services (the “**Creative Product or Service**”). With respect to any Creative Product or Service, Capitol B Creative Studios retains ownership of the design elements of the Ad or content, excluding any Client Content, trade name, trademark, service mark or logo of Client. Capitol B Creative Studios hereby grants to Client a non-exclusive, royalty-free, worldwide license to use the Creative Product or Service.
- c. **Keywords.** With respect to search engine marketing, Capitol B Creative Studios shall have discretion to select the individual words or phrases (“**Keywords**”) to be used in connection with the Campaign. Client may also request the use of certain Keywords. While Capitol B Creative Studios will use reasonable efforts to use Client’s requested Keywords, Capitol B Creative Studios makes no guarantees that all of them will be used. To the extent that Capitol B Creative Studios uses Keywords of its choosing, it is under no obligation to disclose such Keywords to Client. To the extent that Client elects to use keywords that include the names of its competitors or trademarked terms (“**Competitor Keywords**”), Client does so at its own risk and acknowledges and agrees that it bears all liability associated with such action, and hereby agrees to fully indemnify Capitol B Creative Studios and its affiliates for any such use. Without limiting the foregoing, Client further acknowledges that Capitol B Creative Studios may, at any time and in its sole discretion, remove Competitor Keywords, but will not have the obligation to do so.

10. Licenses. During the term of this Agreement, Client hereby grants to Capitol B Creative Studios and the Publisher a non-exclusive, royalty-free, worldwide license to use, copy, modify (as permitted herein), publicly perform, display, broadcast and transmit: (a) any Ad delivered hereunder in accordance with the terms of an Order and this Agreement; (b) the Client Content; and (c) any copyright and/or trademarks provided by Client, to the extent necessary for Capitol B Creative Studios to perform the Services contemplated by the Order and this Agreement. Except as set forth in Subsection 9 above, title to and ownership of all intellectual property rights of all Ads provided by Client and associated Client Content shall remain with Client or its third-party licensors and upon termination, Capitol B Creative Studios shall promptly return such property to Client. In addition, Client agrees that Capitol B Creative Studios may, during the term of this Agreement and thereafter, include Client’s name (including any trade name, trademark, service mark and logo) and any Ad provided hereunder in Client’s Local Profile, on Capitol B Creative Studios’ customer list, and in its marketing materials, sales presentations and the WRAL Properties.

11. Client Representations; Warranties and Covenants. Client is solely responsible for any liability arising out of or relating to any Ad, trademark or Client Content provided by Client hereunder and any material to which users can link to through such Ad including, without limitation, any third-party content contained therein (“**Linked Content**”). Client represents, warrants and covenants that the Ads, trademarks, Client Content, and Linked Content, and any portion thereof, do not and will not: (a) infringe on Capitol B Creative Studios’ or any third party’s copyright, patent, trademark, trade secret, moral right or other proprietary rights or right of publicity or privacy; (b) violate any law, statute,

ordinance or regulation, including, without limitation, laws and regulations governing export control, false advertising or unfair competition; (c) be defamatory or libelous; (d) be pornographic or obscene; or (e) contain viruses, trojan horses, worms, time bombs, cancelbots or other similar harmful or deleterious programming routines. Client further represents, warrants, and covenants that the product or service that is being (or will be) promoted through the Campaign, including any Ad and Linked Content, is: (x) lawful and (y) not the subject of any ongoing investigation by any local, state, or federal regulatory or quasi-regulatory authorities.

12. Indemnification. Client will indemnify, defend and hold harmless Capitol B Creative Studios, the Publisher and their respective subsidiaries, affiliates and parent companies and each of their respective directors, officers, agents and employees, their successors and assigns from and against any and all claims, liabilities, damages, losses, costs, expenses, fees of any kind (including without limitation reasonable attorneys' fees and expenses) incurred in connection with any claim, action or proceeding arising from or relating to the violation of any rights of any third party, including intellectual property, privacy, publicity or other proprietary rights by Client or anyone using Client's account. Capitol B Creative Studios reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Client. If Capitol B Creative Studios does assume the defense of such a matter, Client will reasonably cooperate with Capitol B Creative Studios in such defense. Client will not enter any settlement or compromise any such claim that would result in any liability to, or any admission of wrongdoing by any indemnified person or entity without Capitol B Creative Studios' prior written consent.

13. Confidentiality. Client will not disclose Confidential Information (defined below) to any third party (other than Client's employees and representatives who are made aware of and agree to this restriction) without Capitol B Creative Studios' prior written consent. **"Confidential Information"** means information about Capitol B Creative Studios, its suppliers, business, products, technologies, strategies, financial information, operations, or activities that is proprietary and confidential, including, without limitation, all financial, technical and any other information which, from all the relevant circumstances, should reasonably be assumed to be confidential and proprietary. Confidential Information will not include information that (a) becomes publicly known other than by a breach of this provision; (b) is received without restriction from a non-party free to disclose it; and/or (c) is developed independently by Client without reference to the Confidential Information. In addition, information, whether or not Confidential Information, may be disclosed by Client as may be required by applicable law, rule, regulation, or lawful process, provided that, Client, to the extent permitted by applicable law, rule, regulation, or lawful process, first notifies Capitol B Creative Studios in order to permit Capitol B Creative Studios to seek reasonable protective arrangements. Except as otherwise expressly herein permitted, no party may issue a press release concerning the existence or terms of this Agreement without the prior written consent of the other party.

14. DISCLAIMER OF WARRANTIES.

- a. **ALL SERVICES PERFORMED HEREUNDER ARE ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTY OR GUARANTEE OF CONTINUOUS OR UNINTERRUPTED DISPLAY**

OR DISTRIBUTION. CAPITOL B CREATIVE STUDIOS DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. WITH REGARD TO SERVICES, CAPITOL B CREATIVE STUDIOS WILL HAVE NO LIABILITY FOR ANY: (i) ERRORS, MISTAKES, OR INACCURACIES; (ii) CLAIMS RELATING TO BREACH OF INTELLECTUAL PROPERTY LAWS OR DEFAMATION; (iii) PERSONAL INJURY OR PROPERTY DAMAGE RESULTING FROM CLIENT'S ACCESS TO OR USE OF THE SERVICES; (iv) UNAUTHORIZED ACCESS TO OR USE OF CAPITOL B CREATIVE STUDIOS; SERVERS OR OF ANY PERSONAL OR FINANCIAL INFORMATION; (v) INTERRUPTION OF TRANSMISSION TO OR FROM THE SERVICES; (vi) BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED ON OR THROUGH THE SERVICES BY ANY THIRD PARTY; (vii) LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, E-MAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE ON OR THROUGH THE SERVICES; OR (viii) MATTERS BEYOND ITS REASONABLE CONTROL.

- b. TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, CAPITOL B CREATIVE STUDIOS AND ITS AFFILIATES EXPRESSLY DISCLAIM ANY LIABILITY WHATSOEVER FOR ANY DAMAGE, SUITS, CLAIMS, AND/OR CONTROVERSIES THAT HAVE ARISEN OR MAY ARISE, WHETHER KNOWN OR UNKNOWN, AT ANY TIME IN THE PAST OR FUTURE, FROM USE OF ANY THIRD-PARTY WEBSITE, CONTENT, SERVICE OR PRODUCT.

15. LIMITATIONS OF LIABILITY.

- a. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY IS LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, FOR BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR STRICT LIABILITY), OR FOR INTERRUPTED COMMUNICATIONS, LOSS OF USE, LOST BUSINESS, LOST DATA OR LOST PROFITS (EVEN IF SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF ANY OF THE FOREGOING), ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. THE FOREGOING EXCLUSION OF LIABILITY WILL NOT APPLY TO (i) CLIENT'S INDEMNIFICATION OBLIGATIONS, INCLUDING ANY AMOUNTS PAYABLE IN CONNECTION THEREWITH; (ii) CLIENT'S CONFIDENTIALITY OBLIGATIONS; AND (iii) CLIENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.
- b. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL CAPITOL B CREATIVE STUDIOS' CUMULATIVE, AGGREGATE LIABILITY TO CLIENT OR ANY THIRD PARTY EXCEED THE NET AMOUNTS RECEIVED BY CAPITOL B CREATIVE STUDIOS HEREUNDER DURING THE 12-MONTH PERIOD IMMEDIATELY PRIOR TO THE INCIDENT GIVING RISE TO SUCH LIABILITY. IN LIEU OF REFUND, CAPITOL B CREATIVE STUDIOS SHALL BE PERMITTED, IN ITS SOLE DISCRETION, TO CAUSE THE PLACEMENT OF "MAKE-GOOD" ADVERTISING, PROVIDED THAT, SUCH "MAKE-GOOD" ADVERTISING IS PROVIDED WITHIN A REASONABLE PERIOD OF TIME AFTER THE LIABILITY HAS ACCRUED.
- c. **Prohibition on Certain Exclusions.** Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages. Accordingly, some of the above limitations and disclaimers may not apply to Client. To the

extent Capitol B Creative Studios may not, as a matter of applicable law, disclaim any implied warranty or limit its liabilities, the scope and duration of such warranty and the extent of Capitol B Creative Studios' liability will be the minimum permitted under such law.

- d. **Timing of Claims.** Client agrees that, regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to this Agreement must be filed within one year after such claim or cause of action arose or be forever barred.
- e. **Acknowledgement.** Each party acknowledges that the other party has entered into this Agreement in reliance upon the limitations of liability set forth herein and that the same is an essential basis of the bargain between the parties.

16. Third Party Beneficiaries. Client acknowledges and agrees that the Publisher is an intended third-party beneficiary of Sections 9, 10, 11, 12 and 15.

17. Updates to our Client Terms and Conditions. From time to time, Capitol B Creative Studios may need to update the Client Terms and Conditions, the Agreement. The modified Terms are effective immediately when posted here <https://capitolbcreative.com/client-terms-conditions/>. Your continued use of Services after an update constitutes your acceptance of such changes or modifications.

18. Miscellaneous.

- a. **Governing Law/Venue.** This Agreement will be governed and construed in accordance with the laws of the State of North Carolina without giving effect to conflict of law rules or principles. If a dispute arises with respect to the terms of this Agreement, Client agrees that the exclusive and sole venue for the resolution shall be a court of competent jurisdiction in North Carolina and further agrees to submit to the jurisdiction of the same.
- b. **Entire Agreement/Amendment.** This Agreement (which includes any related Order) sets forth the entire agreement of the parties and supersedes all prior oral or written agreements or understandings between the parties as to the subject matter hereof.
- c. **Notices.** Any written notices to Capitol B Creative Studios required under this Agreement shall be provided by registered mail with proof of delivery or by overnight courier, signature required, to Capitol B Creative Studios, 2619 Western Blvd. Raleigh, NC 27606, Attn: General Counsel with a copy sent by email to notices@wral.com. Notices shall be deemed delivered upon actual receipt of hard copy as evidenced by signature proof of delivery.
- d. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way.
- e. **Assignment.** Client may not assign this Agreement without the prior written consent of Capitol B Creative Studios. Capitol B Creative Studios may assign this Agreement in whole or in part to any affiliate or to a party that acquires all or substantially all of the assets or business to which this Agreement relates. The parties' rights and obligations will bind and inure to the benefit of their respective successors, heirs, executors, joint administrators and permitted assigns.

- f. **Independent Contractors.** The parties to this Agreement are independent contractors, and no agency, partnership, joint venture, or employee-employer relationship is intended or created by this Agreement.
- g. **Force Majeure.** Neither party shall have any liability for any failure or delay (other than with respect to payment obligations) resulting from any governmental action, fire, flood, insurrection, earthquake, power failure, riot, explosion, embargo, strikes whether legal or illegal, labor or material shortage, transportation interruption of any kind, work slowdown or any other condition affecting production or delivery in any manner beyond the reasonable control of such party.