

HYBRID DISC  
INDEMNIFICATION AGREEMENT

THIS HYBRID DISC AGREEMENT (this "Agreement") is entered into as of the \_\_\_\_ day of \_\_\_\_, 20\_\_ by and between Reel Picture, LLC ("Reel Picture") and \_\_\_\_\_ ("Customer").

WHEREAS, Reel Picture is a replicator and distributor of optical discs including DVD+CDs and CD+DVDs (collectively, "Hybrid Discs"); and

WHEREAS, Customer is desirous of purchasing Hybrid Discs from Reel Picture; and

WHEREAS, Reel Picture desires to disclose certain limitations regarding the end-use of the hybrid discs and receive certain assurances from Customer regarding potentially negative consequences from their use.

NOW, THEREFORE, the undersigned hereby agree as follows:

A. Customer acknowledges and agrees that Hybrid Discs are non-standard optical discs that may not be readable by all players and may otherwise be incompatible with some players. Customer shall advise purchasers, users and all other relevant parties in the chain of distribution of Hybrid Discs of all known or suspected limitations and risks associated with Hybrid Discs. Reel Picture disclaims, and Customer releases Reel Picture from, any and all warranties or liability arising from, connected with or in any way related to any claim from Customer or any third party (i) that Hybrid Discs cannot be read by any player or that they damage any player or (ii) that such party was not adequately warned of the limitations and risks associated with Hybrid Discs.

B. Customer shall, at its sole expense, indemnify, defend and hold harmless Reel Picture, its parent companies, subsidiaries and other affiliates and their respective directors, officers, managers, employees, agents, successors and assigns, from and against any and all third-party claims, demands, suits, actions, proceedings, judgments, damages, costs, losses, expenses (including reasonable outside attorneys' fees and actual out-of-pocket expenses, including without limitation expert witness fees) and other liabilities (including settlements to which Customer has given its consent, which consent shall not be unreasonably withheld) arising from, in connection with or related in any way to, directly or indirectly, (a) any breach of any of the representations, warranties or agreements made by Customer under this Agreement or (b) any claim that Hybrid Discs made for Customer cannot be read by any player, that they damage any player or that any party was not adequately warned of the limitations and risks associated with Hybrid Discs (each, a "Claim"). Reel Picture shall promptly notify Customer of any Claim for which indemnification is sought pursuant to this section, provided that the failure to promptly notify Customer of a Claim shall not constitute a defense in whole or in part to any claim for indemnification hereunder except to the extent that such failure results in a material prejudice to Customer. Customer shall bear full responsibility for all Claims and shall control the defense thereof; provided however, that (i) Reel Picture shall have the right to approve in its reasonable discretion counsel retained by Customer for this purpose; (ii) Customer shall keep Reel Picture informed of, and consult with Reel Picture in connection with, the progress of each Claim; and (iii) Customer shall not have any right, without Reel Picture's written consent, to settle any Claim if such settlement arises from or is part of any criminal action, suit or proceeding or contains a stipulation to or admission or acknowledgement of any liability or wrongdoing (whether in contract, tort or otherwise) on the part of Reel Picture or any affiliate of Reel Picture. Notwithstanding any of the foregoing, Reel

Picture shall have the right, in its absolute discretion and at its sole cost (subject to Customer's indemnity obligations), to employ attorneys of its own choice and to institute or defend any Claim.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflict of laws principles. The parties agree that neither shall commence any litigation or any other type of proceedings against the other party over a dispute arising out of this Agreement, either party's rights and obligations hereunder or any other transaction between the parties, except in a court located in San Diego County, California. Each party consents to and subjects itself to the exclusive jurisdiction of such courts for any dispute arising out of this Agreement or in any manner related to the purchase and sale of the Hybrid Discs, and each party agrees that such jurisdiction and venue are reasonable and just under the circumstances. In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.

IN WITNESS WHEREOF, the undersigned have executed this Hybrid Disc Indemnification Agreement effective as of the date first set forth above.

**REEL PICTURE:**

REEL PICTURE PRODUCTIONS, LLC

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

**CUSTOMER:**

\_\_\_\_\_  
(Please print Customer name)

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_