

## **CLUB 76 MEMBERSHIP TERMS & CONDITIONS**

Philadelphia 76ers Club 76 ("Club 76") is owned and operated by Philadelphia 76ers, L.P. (such entity, together with the National Basketball Association ("NBA") team operated by such entity, the "76ers"). These terms and conditions govern Member's (as defined below) membership in Club 76 for the 2018-19 Season (the "Membership"). Member hereby agrees to (i) to timely pay the charges (the "Membership Fee") set forth in the payment form(s) or invoice(s) (whether in hard copy, electronic or other format) relating to Member's Membership (the "Payment Form"), (ii) comply with the other terms and conditions set forth in the Payment Form, and (iii) comply with the terms and conditions that are set forth below and/or otherwise referenced herein, the terms and conditions related to the Membership located on the 76ers official website available at [nba.com/sixers/joinclub76](http://nba.com/sixers/joinclub76) (the "Club 76 Website"), including the Frequently Asked Questions (the "FAQs"), and the privacy policy and terms of use for the Club 76 Website (together with the Payment Form, the "Membership License"). Each ticket purchased by Member pursuant to the Membership shall be referred to herein as a "Ticket". Benefits or privileges of Membership shall be referred to herein as "Membership Privileges".

**1. Eligibility.** The "Member" shall be the one person or legal business entity that is on record in the 76ers' database as the registered holder of the Membership. If Member is an individual person, Member must be at least 18 years of age, and be a resident of Pennsylvania, New Jersey or Delaware. If a Membership is registered in the name of a legal business entity, such entity must be formed in, or have a principal place of business in, Pennsylvania, New Jersey or Delaware. In either case, a contact person must be identified and the 76ers shall have the right to rely on the actions of such contact person as the actions of the Member. The 76ers will accept only two (2) Memberships per person or household. The 76ers, in its sole and absolute discretion, have the right to refuse Membership to Club 76.

**2. Membership Privileges.** The Membership Privileges are as described on the Club 76 Website, including the FAQs. Membership in the Club does not confer any rights or benefits beyond those set forth on the Club 76 Website. If Member is offered the opportunity to purchase a full season 76ers Season Ticket Membership for the 2019-20 season, such purchase and Season Ticket Membership shall be subject to availability and to additional terms and conditions to be presented at the time of purchase. Member acknowledges and agrees that neither the 76ers nor any of its affiliates has made any warranty, representation, covenant or guarantee that the Member will receive the opportunity to purchase a Season Ticket Membership (i.e., that the Member will be selected from the waiting list).

**3. Term.** The term of this Membership License (the "Term") shall commence on the date Member makes full payment of the Membership Fee in accordance with Section 4 below and, subject to early termination as provided herein, shall expire on June 30, 2019. Only a limited number of Memberships will be sold, in the 76ers' sole discretion, and the 76ers make no warranty, express or implied, that Memberships will continue to be sold beyond any given date, nor that Club 76 shall continue to operate beyond the 2019-20 NBA season.

**4. Membership Fee.** In consideration for Membership, Member shall timely pay to the 76ers the Membership Fee, as well as any fees and charges that accrue in the event that Member elects to purchase Tickets or other products as a result of Member's Membership. Payment of the Membership Fee shall be made by the method selected by Member on the Payment Form. All payments by Member shall be made without offset, deduction or counterclaim.

**5. Cancellation.** Upon payment of the Membership Fee, the Membership Fee is not refundable. While the 76ers intend to continue the Club for the foreseeable future, the 76ers reserve the right, in its sole and absolute discretion, to cancel the Club and this Membership License at any time. No refunds will be provided for canceled Memberships or if Member is not offered the opportunity to purchase Tickets. Upon any revocation of the Membership, the 76ers may, in its sole and absolute discretion, revoke any or all other Membership Privileges, including any right Member may have under this Membership License to potentially purchase Tickets.

**6. No Right to Renew.** This Membership is valid during the Term only. Member hereby acknowledges and agrees that Member neither has a reasonable expectation, nor any right or privilege, implied or otherwise, to renew this Membership for any subsequent season(s). Member further acknowledges and agrees that Member's placement on the waitlist (whether Elite or otherwise) is for the 2019-20 season only, and will not be carried over to any subsequent season(s). Member further acknowledges and agrees that if the 76ers (in its sole and absolute discretion) offers Member the opportunity to renew the Membership, neither such offer nor any acceptance by Member shall create a course of dealing between Member and the 76ers or a reasonable expectation, right or privilege, implied or otherwise, to any further renewal.

**7. Limits on Transferability.** Member shall not sell, assign or otherwise transfer for consideration (i) the Membership, or (ii) any Membership Privileges, in each case, without the 76ers' express written consent. Upon any violation of this Section 7, the 76ers shall have the right to revoke this Membership License and any other Membership Privileges.

**8. Default/Termination.** Member shall be in default under this Membership License if: (a) Member fails to remit any payment in accordance with the terms of this Membership License (including any rejection of any automated payment or debit or any credit card under any payment plan); (b) Member fails to comply with or perform any of the other terms, obligations, covenants, or conditions in this Membership License; or (c) the 76ers determine that a single person has joined (or attempted to join) the Club in excess of the limitation set forth in Section 1 above, (e.g. if the 76ers receive multiple membership applications from a single and/or cluster of e-mail and/or Internet addresses verified to a single person or address). Upon any such default, then in addition to any and all other rights and remedies available to the 76ers and its affiliates under this Membership License, at law or in equity or otherwise, the 76ers may, in its sole and absolute discretion, do any one or more of the following: (i) cancel or suspend Member's Membership, or (ii) inactivate and revoke all or a portion of any Membership Privileges, in each case with no obligation to return or refund the Membership Fee or any other amounts paid by Member hereunder. No failure by the 76ers to exercise any right or remedy in connection with a breach of any provision hereunder (or the corresponding provision in the membership license of another person or entity) shall operate as a waiver of such right or remedy with respect to a breach by any other person or entity (including Member) of such provision (or the corresponding provision in this Membership License or the membership license of another person or entity). The provisions of Sections 6, 8, 9, 10, 11, 12, 13, 14 and 15 shall survive the termination or expiration of this Membership License.

**9. Liability.** (A) The 76ers' and the other Releasees' (as defined below) liability for damages of any kind arising out of this Membership License is limited to a refund of the Membership Fee. This remedy is exclusive except as expressly provided otherwise herein. For the avoidance of doubt, except as provided otherwise herein, in no event shall the 76ers or any other Releasee be liable for any other direct, indirect, incidental special, punitive, exemplary or consequential damages or for lost profits, revenues or business opportunities even if such Releasee has been advised of the possibility of such damages or if such damages were foreseeable. (B) Member waives and releases, to the fullest extent permitted by law, all claims, whether known or unknown, relating to or arising from any such injury, loss or damage against 76ers, its affiliates, and the officers, directors, managers, owners, employees, agents, successors and assigns of each of the foregoing (all of the foregoing, collectively, the "Releasees"). Member acknowledges and agrees that the Releasees shall not be responsible for any such injury, loss or damage. (C) Member shall indemnify and hold harmless, to the fullest extent permitted by law, all Releasees from and against any liabilities, losses, damages, claims, demands, choses in action, costs and expenses, including reasonable attorneys' fees (including in any action between Member and the 76ers or any other Releasee, or any action by a third party), costs of investigation (whether or not litigation occurs) and litigation expenses, arising out of or related to any act or omission, breach of any provision of this Membership License, or violation of any applicable law, rule, regulation or order, by Member. IF MEMBER IS A NEW JERSEY RESIDENT OR OTHERWISE HAS RIGHTS UNDER NEW JERSEY'S CONSUMER PROTECTION LAWS, NOTHING IN THIS SECTION SHALL LIMIT OR EXCLUDE ANY LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE. SEE SECTION 15 BELOW FOR IMPORTANT LIMITATIONS ON THE TERMS OF THIS SECTION 9.

**10. Severability.** If any term or provision of this Membership License, or the application thereof to any person, entity or circumstance, shall to any extent be held invalid or unenforceable in any jurisdiction, then (a) as to such jurisdiction, the remainder of this Membership License, or the application of such term or provision to persons, entities or circumstances other than those as to which such term or provision is held invalid or unenforceable in such jurisdiction, shall not be affected thereby, (b) the tribunal making such determination shall have the power to (and the parties shall request that the tribunal) reduce the scope, duration, area or applicability of such provision, to delete specific words or phrases, or to replace any invalid or unenforceable provision with a provision that is valid and enforceable and comes closest to expressing the intention of the invalid or unenforceable provision, and (c) each remaining term and provision of this Membership License shall be valid and enforceable to the fullest extent permitted by applicable law. Any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, each of 76ers and Member hereby waives any provision of law that would render any provision of this Membership License unenforceable in any respect. Notwithstanding anything to the contrary in this Membership License, to the extent any portion of Section 11(F) is held to be invalid or unenforceable as to a party, the entirety of Section 11(F) shall be null and void as to that party. SEE SECTION 15 BELOW FOR IMPORTANT LIMITATIONS ON THE TERMS OF THIS SECTION 10.

**11. Miscellaneous.** (A) These Terms and Conditions are subject and subordinate to (i) all NBA rules and regulations, (ii) all applicable laws, rules and regulations, and (iii) the terms of 76ers' right to its home Arena pursuant to any applicable lease or license, as such lease or license may be amended from time to time. (B) No Membership Privileges issued hereunder may be used for advertising, promotion (including contests and sweepstakes) or other trade or commercial purposes without the 76ers' express written consent. (C) The use of any Membership Privilege hereunder in violation of this Membership License, with or without Member's knowledge, is Member's responsibility and Member shall remain absolutely and unconditionally responsible for any such violations. (D) All requests and notices from a Member must be provided in writing to Philadelphia 76ers, L.P., 3 Banner Way, Camden, NJ 08103, Attn: Marketing Department or by email to club76@76ers.com. Such requests shall be submitted with Member's name and daytime phone number and accompanied by Member's signature. It is Member's responsibility to notify the 76ers in writing or by email of any changes to Member's address, email address and/or phone number. (E) This Membership License shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania applicable to agreements made and to be performed entirely in Pennsylvania and without regard to the conflicts of laws principles thereof. SEE SECTION 18 BELOW FOR IMPORTANT LIMITATIONS ON THE TERMS OF THIS SECTION 11(e). (F) This Membership License constitutes the entire agreement between the parties with respect to Member's Membership and supersedes all prior and contemporaneous negotiations, understandings or agreements (whether in advertising or marketing materials or otherwise) with respect to the subject matter hereof. (G) No provision of this Membership License can be waived except in a writing signed by the 76ers. The waiver by the 76ers of any breach of this Membership License shall not be deemed a waiver of any prior or subsequent breach. All remedies of the 76ers shall be cumulative and the pursuit of one remedy shall not be deemed a waiver of any other remedy. (H) Time shall be of the essence with respect to Member's obligations under this Membership License. (I) Member represents and warrants that (i) it has full power and legal authority to enter into and perform this Membership License in accordance with its terms and (ii) this Membership License has been duly executed and delivered by Member and constitutes a legal, valid and binding obligation of Member enforceable in accordance with its terms.

**12. DISPUTE RESOLUTION; INFORMAL RESOLUTION AND FORMAL RESOLUTION BY ARBITRATION/CLASS ACTION WAIVER.** Member and the 76ers agree that all disputes, controversies or claims arising out of or related to this Membership License (referred to as a "Claim") will be resolved as follows: (A) INFORMAL RESOLUTION: Member and the 76ers will first attempt to resolve any Claim informally after notice has been provided in accordance with Section 11(d) above. (B) FORMAL RESOLUTION BY ARBITRATION/CLASS ACTION WAIVER: MEMBER SHOULD READ THE FOLLOWING ARBITRATION PROVISION AS IT LIMITS MEMBER'S RIGHTS, INCLUDING THE RIGHT TO MAINTAIN A COURT ACTION. Member and the 76ers agree that any dispute, controversy or other Claim arising out of or relating to this

Membership License, or the determination of the scope or applicability of arbitration, shall be governed solely by the Federal Arbitration Act. If Member and the 76ers cannot resolve a Claim informally within 30 days of written notice by one party to the other of such Claim, any Claim asserted by either party will be resolved only by binding arbitration. By agreeing to arbitration, both Member and the 76ers understand and agree that all disputes shall be decided by an arbitrator and that each party is waiving its rights to maintain other available resolution processes, such as a court action or administrative proceeding, to settle disputes. Instead of suing in court, both Member and the 76ers each agree to settle disputes only by arbitration. ARBITRATION MEANS THAT EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL. The rules in arbitration are different. There is no judge or jury, and review is limited, but an arbitrator can award the same damages and relief, and must honor the same limitations stated in this Membership License as a court would. The 76ers and Member understand that, absent this mandatory arbitration provision, the 76ers and Member would have the right to sue in court and have a jury trial. The 76ers and Member further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court. The Arbitration shall be conducted by a single arbitrator, governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Membership License, and administered by the AAA. If Member and 76ers cannot agree on who that single arbitrator should be, then the AAA shall appoint an arbitrator with significant experience resolving the type of Claim at issue. If there is a conflict between the AAA Rules and the rules set forth in this Membership License, the rules set forth in this Membership License will govern. The AAA Rules and fee information are available at [www.adr.org](http://www.adr.org), or by calling the AAA at 1-800-778-7879. Member may, in arbitration, seek any and all remedies otherwise available to Member pursuant to the law of the governing state. If Member decides to initiate Arbitration, the 76ers shall bear the cost of any Arbitration filing fees and arbitrator fees for Claims of less than \$75,000, unless the arbitrator finds the Arbitration to be frivolous. Member is responsible for all other additional costs that Member may incur in connection with the Arbitration including, but not limited to attorney's fees and expert witness costs unless the 76ers are otherwise specifically required to pay such fees under applicable law. For claims that total more than \$75,000, the AAA Rules will govern payment of filing fees and Arbitration fees. The decision of the arbitrator will be in writing and binding and conclusive on the 76ers and Member, and judgment to enforce the decision may be entered by any court of competent jurisdiction. The 76ers and Member agree that dispositive motions, including without limitation, motions to dismiss and motions for summary judgment, will be allowed in the Arbitration. The arbitrator must follow this Membership License and can award the same damages and relief as a court, including injunctive or other equitable relief and attorney's fees. Notwithstanding the foregoing, the 76ers and Member agree not to seek any attorney's fees and expert witness costs unless the arbitrator finds that a claim or defense was frivolous or asserted for an improper purpose. If a Claim by Member is solely for monetary relief of \$10,000 or less, and does not include a request for any type of equitable remedy, Member may choose whether the arbitration will be conducted solely based on documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing under the AAA Rules. The Arbitration will be held at a location in Camden County, New Jersey, unless Member and the 76ers both agree to another location or telephonic Arbitration. To initiate Arbitration, Member or the 76ers must do the following things: (1) Write a demand for Arbitration. The demand must include a description of the Claim and the amount of damages sought to be recovered and a copy of this agreement to arbitrate. A copy of a Demand for Arbitration can be found at [www.adr.org](http://www.adr.org). (2) Submit a Demand for Arbitration, plus the appropriate filing fee to the AAA by mail, facsimile, email, or on-line: To file by mail send the initial filing documents and the filing fee to: AAA Case Filing Services, 1101 Laurel Oak Road, Suite 100, Voorhees, NJ 08043. To file via fax send the initial filing documents and a completed charge card authorization form for the filing fee to 877-304-8457. To file by email send the filing documents and a check or a completed charge card authorization form for the filing fee to [CaseFiling@adr.org](mailto:CaseFiling@adr.org). Charge card authorization forms are available at [www.adr.org/Services/Forms](http://www.adr.org/Services/Forms). To file on-line via AAA WebFile, visit [www.adr.org](http://www.adr.org) and click on File & Manage a Case and follow directions to register. (3) Send one copy of the Demand for Arbitration to the other party. Special Rules in the Arbitration Proceeding. (i) The arbitrator has no authority to make errors of law and any award may be challenged if the arbitrator does so. Otherwise, the arbitrator's decision is final and binding on all parties and may be enforced in any Federal or

State court that has jurisdiction. (ii) Neither Member nor the 76ers shall be entitled to join or consolidate claims in Arbitration by or against other individuals or entities, or arbitrate any claim as a representative member of a class or in a private attorney general capacity. THIS MEANS THAT MEMBER WAIVES MEMBER'S RIGHT TO INITIATE OR PARTICIPATE IN ANY CLASS OR CONSOLIDATED ACTION WHATSOEVER. Accordingly, Member and the 76ers agree that the AAA Rules for Class Arbitrations do not apply to any Arbitration. A court may sever any portion of this dispute resolution provision if it finds such unenforceable. Notwithstanding the obligation to arbitrate all Claims under this Membership License, Member may choose to pursue Member's individual claim in small claims court where jurisdiction and venue over the 76ers and Member otherwise qualifies for such small claims court and where Member's claim does not include a request for any type of equitable relief.

**13. CLASS ACTION WAIVER PLEASE READ THIS SECTION CAREFULLY – IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS.** Without limiting Section 12, Member and 76ers agree that any Claims will be resolved on an individual basis, and that any Claim will be brought in an individual capacity, and not on behalf of, or as part of, any purported class, consolidated, or representative proceeding. Member and the 76ers further agree that neither will participate in any consolidated, class or representative proceeding (existing or future) brought by any third party in connection with Membership, or any purchase of merchandise or Tickets pursuant to Membership (as applicable). If any court or arbitrator determines that the class action waiver set forth in this section is void or unenforceable for any reason or that arbitration can proceed on a class basis, then the Claim will not be subject to arbitration and must be litigated in federal court in Camden County, New Jersey. The terms of this section will also apply to any valid Claims asserted by Member against any parent, subsidiary or other affiliate of the 76ers to the extent such Claims arise out of this Membership License. SEE SECTION 15 BELOW FOR IMPORTANT LIMITATIONS ON THE TERMS OF THIS SECTION 13.

**14. LIMITED TIME TO FILE CLAIMS.** Member agrees that Member will assert any Claim arising out of this Membership License within one (1) year after the Claim arises, or such Claim will be barred. SEE SECTION 15 BELOW FOR IMPORTANT LIMITATIONS ON THE TERMS OF THIS SECTION 14.

**15. EXCLUSIONS AND LIMITATIONS; CONSUMER PROTECTION NOTICE.** If Member is a consumer, the provisions in this Membership License are intended to be only as broad and inclusive as is permitted by the laws of Member's State of residence. If Member is a New Jersey resident or otherwise has rights under New Jersey's consumer protection laws, the terms of Sections 9, 10, 11(e), 13 and 14 do not limit or waive Member's rights under New Jersey law and the provisions in this Membership License are intended to be only as broad and inclusive as is permitted by the laws of the State of New Jersey. In any event, the 76ers reserve all rights, defenses and permissible limitations under the laws of New Jersey and under the laws of Member's State of residence. Notwithstanding the foregoing, nothing in this Section shall modify Subsection 12(B) ("Formal Resolution by Arbitration/Class Action Waiver").