

## PORTLAND TRAIL BLAZERS TERMS AND CONDITIONS FOR THE PURCHASE OF NON-FUNGIBLE TOKENS AS PART OF THE PORTLAND TRAIL BLAZERS' NFT AUCTION

LAST UPDATED ON July 15, 2021

These Portland Trail Blazers Terms and Conditions constitute a legally binding agreement ("**Agreement**") between you ("**Purchaser**" or "**You**" or "**Your**") and Trail Blazers Inc. ("**TBI**"), governing your purchase of NFTs (defined below) as part of the Portland Trail Blazers' NFT Auction (the "**Auction**"). BY BIDDING ON OR MAKING A PURCHASE AS PART OF THE AUCTION, PURCHASER EXPRESSLY AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT AND ALL OF OZONE NETWORKS, INC D/B/A OPENSEA'S ("**OpenSea**") TERMS OF SERVICE AVAILABLE AT <https://opensea.io/tos> ("**OpenSea Terms**"). Purchaser must agree to the terms of this Agreement and the OpenSea Terms in order to bid on or make a purchase as part of the Auction.

PLEASE BE ADVISED: THIS AGREEMENT CONTAINS PROVISIONS THAT GOVERN HOW CLAIMS BETWEEN PURCHASER AND TBI CAN BE BROUGHT (SEE SECTION 12 BELOW). THESE PROVISIONS WILL REQUIRE PURCHASER TO SUBMIT CLAIMS PURCHASER HAS AGAINST TBI OR AN TBI PARTY (DEFINED BELOW) TO BINDING AND FINAL ARBITRATION ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS, GROUP OR REPRESENTATIVE ACTION OR PROCEEDING.

By entering into this Agreement, and/or by Purchaser participating in the Auction, Purchaser expressly acknowledges that Purchaser understands this Agreement (including the dispute resolution and arbitration provisions in Section 12) and accept all of its terms. IF PURCHASER DOES NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, PURCHASE MAY NOT PARTICIPATE IN THE AUCTION.

### 1. Definitions.

"**Art**" means any art, graphics, images, designs, logos, taglines, and drawings that may be associated with an NFT in which Purchaser acquires Licensed Rights (defined below).

"**Name and Likeness**" means name, nicknames, images, likenesses, marks, copyrights, trade dress colors, trade dress designs, and/or all other intellectual property of the professional basketball team known as the Portland Trail Blazers and/or its related league known as the National Basketball Association ("**NBA**").

"**NFT**" means any blockchain-tracked, non-fungible token.

"**Licensed Rights**" with respect to an NFT means Purchaser's rights to a Licensed NFT of which Purchaser is the current rightful licensee and which Purchaser acquired from a legitimate source, where proof of such purchase is recorded on the relevant blockchain.

"**Licensed NFT**" means an NFT from the Portland Trail Blazers' NFT Auction for which Purchaser successfully provided the highest bid.

"**TBI Parties**" means TBI, NBA Media Ventures LLC, the NBA and its member teams, and NBA Properties, Inc., and each of their parent, subsidiary and affiliate companies, and each of their respective officers, directors, members, affiliates, agents, attorneys, licensees, licensors and employees.

**“Third Party IP”** means any third-party patent rights (including, without limitation, patent applications and disclosures), copyrights, trade secrets, trademarks, know-how or any other intellectual property rights recognized in any country or jurisdiction in the world.

**2. Ownership.** Purchaser acknowledges and agrees that TBI (or, as applicable, its licensors) owns all legal right, title and interest in and to the Art and Name and Likeness, and all intellectual property rights therein. The rights that Purchaser has in and to the Licensed NFT and Art are limited to those expressly stated in Section 3 of this Agreement. TBI and its licensors reserve all rights and ownership in and to the Licensed NFT, Name and Likeness, and Art not expressly granted to Purchaser in Section 3 of this Agreement. All purchases of Licensed NFTs, as well as associated charges, are non-refundable. This no-refund policy shall apply at all times regardless of Purchaser’s decision to terminate usage of the Licensed NFT, any disruption to the operations of any components of the Licensed NFT, or any other reason whatsoever.

**3. Grant of License:** (a) *Definition of Licensed NFT.* Purchaser acknowledges and agree that in the event that Purchaser is the highest bidder as part of an Auction for a particular NFT (each, a **“Licensed NFT”**), such Licensed NFT is made available solely for entertainment and personal purposes. Without limiting the foregoing and subject to Purchaser’s continued compliance with this Agreement (and the OpenSea Terms), TBI grants you a worldwide, non-exclusive, non-transferable (except as specifically provided herein), royalty-free license to display the Licensed NFT, solely for Purchaser’s own personal, non-commercial use.

(b) *Permissible Transfers of Purchaser’s Licensed NFT.* Purchaser has the limited right to transfer the Licensed NFT, provided that (i) the transferee accepts all of the terms of this Agreement and all of the terms of the OpenSea Terms; (ii) Purchaser has not prior to the transfer breached this Agreement or the OpenSea Terms; (iv) prior to the transfer Purchaser’s license to the Licensed NFT has not been terminated; and (iii) the party purchasing the Licensed NFT provides TBI with a valid e-mail address.

**4. Reservation of Intellectual Property Rights:** Purchaser agrees that Purchaser may not, nor permit any third party to do or attempt to do any of the following without express prior written consent from TBI in each case (which consent may be withheld, conditioned or delayed by TBI in its sole discretion): (i) modify the Licensed NFT, Name and Likeness and/or Art for Purchaser’s Licensed NFT in any way, including, without limitation, the shapes, designs, drawings, attributes, or color schemes; (ii) use the Licensed NFT, Name and Likeness and/or Art for Purchaser’s Licensed NFTs to advertise, market, or sell any product or service; (iii) use the Licensed NFT, Name and Likeness and/or Art from Purchaser’s Licensed NFTs in connection with images, videos, or other forms of media that depict hatred, intolerance, violence, cruelty, or anything else that could reasonably be found to constitute hate speech or otherwise infringe upon the rights of others, drugs (including, without limitation, both prescription and non-prescription) or other supplements, death, pornography or other “adult only” or sexually explicit activities, massage parlors, prostitution or any dating or escort activities, weapons or ammunition, denigration or discrimination against individuals based on race, national origin, gender, religion, disability, ethnicity, sexual orientation, gender identity or age, medical conditions and/or political campaigns or causes; (iv) use the Licensed NFT, Name and Likeness and/or Art from Purchaser’s Licensed NFTs in movies, videos, or any other forms of media, except solely for Purchaser’s own personal, non-commercial use; (v) sell, distribute for commercial gain (including, without limitation, giving away in the hopes of eventual commercial gain), or otherwise commercialize merchandise that includes, contains, or consists of the Licensed NFT, Name and Likeness and/or Art from Purchaser’s Licensed NFTs; (vi) attempt to trademark, copyright, or otherwise acquire

additional intellectual property rights in or to the Licensed NFT, Name and Likeness and/or Art from Purchaser's Licensed NFTs; or (vii) otherwise utilize the Art from Purchaser's Licensed NFTs for Purchaser's or any third party's commercial benefit.

To the extent that the Licensed NFT, Name and Likeness and/or Art associated with Purchaser's Licensed NFTs contains Third Party IP, Purchaser understands and agrees as follows: (i) that Purchaser will not have the right to use such Third Party IP in any way except as incorporated in the Art, and subject to the license and restrictions contained herein; (ii) that, depending on the nature of the license granted from the owner of the Third Party IP, TBI may need to pass through additional terms and/or restrictions on Purchaser's ability to use the Art; and (iii) to the extent that TBI informs Purchaser of such additional restrictions in writing (email is permissible), Purchaser will be responsible for complying with all such restrictions from the date that Purchaser receives the notice, and that failure to do so will be deemed a breach of this Agreement.

The restrictions in this Section 4 will survive the expiration or termination of this Agreement.

**5. Termination of the License:** The Licensed Rights granted to Purchaser hereunder shall automatically terminate and all rights shall return to TBI if: (i) at any time Purchaser sells, trades, donates, gives away, transfers, or otherwise disposes of Purchaser's Licensed NFT for any reason except as specially provided in Section 3 of this Agreement; (ii) the email address Purchaser provides to TBI is no longer valid; (iii) Purchaser breaches any provision of this Agreement and/or OpenSea Terms; (iii) Purchaser has a trustee, receiver or similar party appointed for Purchaser's property, become insolvent, acknowledge Purchaser insolvency in any manner, make an assignment for the benefit of Purchaser's creditors, or file a petition of bankruptcy; (iv) Purchaser engages in any unlawful business practice related to the Licensed NFT; (iv) Purchaser initiates any legal actions, except an arbitration as specifically provided herein, against any of the TBI Parties and/or any of their parent, subsidiary and affiliate companies, and each of their respective officers, directors, members, affiliates, agents, attorneys and employees; or (v) Purchaser disparages any of the TBI Parties or any parties related to any of them.

**6. Disclaimer of Warranties & Limitation of Liability:** ALL LICENSED NFTs ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, THE TBI PARTIES DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, IN NO EVENT SHALL THE TBI PARTIES BE LIABLE TO PURCHASER FOR ANY PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS OR SERVICES, LOSS OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER AND/OR DEVICE OR TECHNOLOGY FAILURE OR MALFUNCTION, OR FOR ANY FORM OF DIRECT OR INDIRECT DAMAGES, AND/OR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES BASED ON ANY CAUSES OF ACTION WHATSOEVER RELATED TO ANY NFT, INCLUDING, BUT NOT LIMITED TO ,THE LICENSED NFT, THE AUCTION, ANY TECHNOLOGY AND/OR PARTIES RELATED TO THE AUCTION, INCLUDING, BUT NOT LIMITED TO, BLOCKCHAIN, METAMASK WALLET, BINANCE, POLYGON, STORMX, THE ARTISTS WHO CREATED THE NTF ART, AND/OR OPENSEA. PURCHASER AGREES THAT THIS LIMITATION OF LIABILITY APPLIES WHETHER SUCH ALLEGATIONS ARE FOR BREACH OF CONTRACT, TORTIOUS BEHAVIOR, NEGLIGENCE, OR FALL UNDER ANY OTHER CAUSE OF ACTION, REGARDLESS OF THE BASIS UPON WHICH LIABILITY IS CLAIMED AND EVEN IF A DISCLAIMING PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, AND IN ANY

EVENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE TBI PARTIES' TOTAL AGGREGATE LIABILITY SHALL NOT EXCEED TEN PERCENT (10%) OF THE TOTAL SUM PAID DIRECTLY BY PURCHASER TO TBI FOR THE APPLICABLE LICENSED NFT. PURCHASER ACCEPTS THE INHERENT SECURITY RISKS OF PROVIDING INFORMATION AND DEALING ONLINE OVER THE INTERNET AND PURCHASER AGREES THAT TBI HAS NO LIABILITY OR RESPONSIBILITY FOR ANY BREACH OF SECURITY UNLESS IT IS DUE TO TBI'S GROSS NEGLIGENCE. IF APPLICABLE LAW DOES NOT ALLOW ALL OR ANY PART OF THE ABOVE LIMITATION OF LIABILITY TO APPLY TO PURCHASER, THE LIMITATIONS WILL APPLY TO PURCHASER ONLY TO THE EXTENT PERMITTED BY APPLICABLE LAW. PLEASE BE AWARE THAT THIS LIMITATION OF LIABILITY PROVISION APPLIES TO NEW JERSEY RESIDENTS (AND RESIDENTS OF ANY OTHER STATES, TERRITORIES, AND/OR JURISDICTION).

**7. Assumption of Risk:** As noted above, the Licensed NFTs are made available solely for entertainment purposes. Purchaser agrees that Purchaser assumes the following risks: (A) To the extent there is a price or market for a blockchain asset such as an NFT, such markets and prices are extremely volatile, and variations in the price of other digital assets could materially and adversely affect the value of any digital asset(s) Purchaser owns, including Purchaser's Licensed NFT, and there is no guarantee that Purchaser Licensed NFTs will have or retain any value; (B) the commercial or market value on a Licensed NFT that Purchaser purchases may materially diminish in value as a result of a variety of things such as negative publicity in connection with the team; (C) there are risks associated with using an Internet-native assets (e.g., non-fungible tokens, cryptocurrencies, etc.) including, but not limited to, the risk of hardware, software and Internet connections and/or failures, the risk of malicious software introduction, and the risk that third parties may obtain unauthorized access to information stored within Purchaser's digital "wallet" or elsewhere, and the TBI Parties will not be responsible for any of these, however caused; (D) the TBI Parties do not make any promises or guarantees about the availability of the Licensed NFT or the Art on the Internet or that they will host the Licensed NFT or the Art at any specific location and/or for any specific period of time; (E) upgrades to the Ethereum platform, a hard fork or other change in the Ethereum platform, a failure or cessation of Ethereum, or a change in how transactions are confirmed on the Ethereum platform may have unintended, adverse effects on all blockchains using such technologies, including, without limitation, Licensed NFTs; (F) the TBI Parties do not make any promises or guarantees related to MetaMask Wallet, Binance, StormX, OpenSea, Blockchain, the Art, the artists who created the Art, or any other third parties related to this Auction and each of their applications and/or services, including, but not limited to, the continued availability of either and/or the protection and/or storage of any data Purchaser provides to those parties; (G) the risk of losing access to Licensed NFT due to loss of private key(s), custodial error or purchaser error; (H) the risk of mining attacks; (I) the risk of hacking, security weaknesses, fraud, counterfeiting, cyberattacks and other technological difficulties (J) the risk of changes to the regulatory regime governing blockchain technologies, cryptocurrencies, and tokens and new regulations, unfavorable regulatory intervention in one or more jurisdictions or policies any of which may materially adversely affect the use and value of the Licensed NFT; (K) the risks related to taxation; (L) that NFTs are not legal tender and are not backed by any government; and (M) the TBI Parties are not responsible for any transaction between Purchaser and a third party (e.g., Purchaser's transfer of a Licensed NFT from a third party on the so-called "secondary market"), and the TBI Parties shall have no liability in connection with any such transaction. In addition to assuming all of the above risks, Purchaser acknowledges that Purchaser has obtained sufficient information to make an informed decision to license the Licensed NFT and that Purchaser understands and agree that Purchaser is solely responsible for determining the nature, potential value, suitability and appropriateness of these risks for Purchaser. TBI

and the TBI Parties cannot and do not represent or warrant that any Licensed NFT, or its supporting systems or technology, is reliable, current or error-free, meets Purchaser's requirements, or that defects in the Licensed NFT, or its supporting systems or technology, will be corrected. TBI and the TBI Parties cannot and do not represent or warrant that the Licensed NFT or the delivery mechanism for it are free of viruses or other harmful components. Purchaser accepts and acknowledges that TBI and the TBI Parties will not be responsible for any communication failures, disruptions, errors, distortions or delays Purchaser may experience related to the Auction.

**8. Disputes/Choice of Law:** The Auctions, and corresponding purchases of any NFTs, shall be exclusively governed by, construed, and enforced in accordance with, the laws of the State of Oregon without regard to principles of conflicts of law rules.

EXCEPT WHERE PROHIBITED, EACH PURCHASER AGREES THAT: (1) ANY AND ALL DISPUTES, CLAIMS, AND CAUSES OF ACTION ARISING OUT OF OR CONNECTED WITH THE AUCTION OR ANY NFT SHALL BE RESOLVED INDIVIDUALLY, WITHOUT RESORT TO ANY FORM OF CLASS ACTION, AND EXCLUSIVELY BY ARBITRATION UNDER THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA") IN PORTLAND, OREGON, (2) ANY AND ALL CLAIMS, JUDGMENTS, AND AWARDS SHALL BE LIMITED TO ACTUAL OUT-OF-POCKET COSTS INCURRED, BUT IN NO EVENT ATTORNEYS' FEES; AND (3) NO PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR OTHER DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, MAY BE AWARDED (COLLECTIVELY, "SPECIAL DAMAGES"), AND (4) PURCHASER HEREBY WAIVES ALL RIGHTS TO CLAIM SPECIAL DAMAGES AND ALL RIGHTS TO HAVE SUCH DAMAGES MULTIPLIED OR INCREASED. OREGON LAW, WITHOUT REFERENCE TO CHOICE OF LAW RULES, GOVERNS THE AUCTION AND ALL ASPECTS RELATED THERETO.

**9. Changes To This Agreement:** TBI may make changes to this Agreement from time to time. When TBI makes such changes, TBI will make the updated agreement available on this website and update the "last updated" date at the beginning of the Agreement accordingly. Please check this page periodically for changes. Any changes to this Agreement will apply on the date that they are made and, by way of example, Purchaser's continued access to or use of the Licensed NFT and the Art after this Agreement has been updated will constitute Purchaser's binding acceptance of the updates.

**10. Eligibility:**

(A) PARTICIPATION IN THE AUCTION IS OPEN ONLY TO INDIVIDUALS WHO HAVE THE RIGHT AND AUTHORITY TO ENTER INTO THIS AGREEMENT, ARE FULLY ABLE AND COMPETENT TO SATISFY THE TERMS, CONDITIONS, AND OBLIGATIONS HEREIN AND WHO ARE USING CURRENCY THAT SUCH PARTY IS THE LAWFUL HOLDER THEREOF. IT IS NOT AVAILABLE TO USERS WHO HAVE HAD THEIR USER PRIVILEGES TEMPORARILY OR PERMANENTLY DEACTIVATED. PURCHASER MAY NOT ALLOW OTHER PERSONS TO USE PURCHASER'S USER CREDENTIALS, AND PURCHASER AGREES THAT PURCHASER IS THE SOLE AUTHORIZED USER.

(B) BY BECOMING A USER, PURCHASER REPRESENTS AND WARRANTS THAT PURCHASER IS AT LEAST EIGHTEEN (18) YEARS OLD.

**11. Indemnity:** PURCHASER WILL DEFEND, INDEMNIFY, AND HOLD TBI AND THE TBI PARTIES, INCLUDING EACH OF ITS RESPECTIVE AFFILIATES, SUBSIDIARIES, PARENTS, SUCCESSORS AND ASSIGNS, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR SHAREHOLDERS, HARMLESS FROM ANY CLAIMS, ACTIONS, SUITS, LOSSES, COSTS, LIABILITIES AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) RELATING TO OR ARISING OUT OF PURCHASER'S LICENSE, SALE OR POSSESSION OF THE LICENSED NFT AND/OR PURCHASER'S PARTICIPATION IN THE AUCTION, INCLUDING: (1) PURCHASER'S BREACH OF THIS AGREEMENT OR THE DOCUMENTS IT INCORPORATES BY REFERENCE; (2) PURCHASER'S VIOLATION OF ANY LAW OR THE RIGHTS OF A THIRD PARTY AS A RESULT OF PURCHASER'S OWN INTERACTION WITH SUCH THIRD PARTY; (3) ANY ALLEGATION THAT ANY MATERIALS THAT PURCHASER SUBMITS TO TBI OR TRANSMITS IN THE COURSE OF THE AUCTION, COMMUNICATIONS SEEKING TBI'S CONSENT TO ACTIVITIES OR OTHERWISE, INFRINGE OR OTHERWISE VIOLATE THE COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY OR OTHER RIGHTS OF ANY THIRD PARTY; AND/OR (4) ANY OTHER ACTIVITIES IN CONNECTION WITH THE AUCTION OR THE LICENSED NFT. THIS INDEMNITY SHALL BE APPLICABLE WITHOUT REGARD TO THE NEGLIGENCE OF ANY PARTY, INCLUDING ANY INDEMNIFIED PERSON.

## **12. DISPUTE RESOLUTION, ARBITRATION AGREEMENT AND CLASS ACTION WAIVER**

(a) *Agreement to Binding Arbitration Between Purchaser and TBI.* PURCHASER AGREES TO WAIVE PURCHASER'S RIGHTS TO RESOLUTION OF DISPUTES IN A COURT OF LAW BY A JUDGE OR JURY AND AGREE TO RESOLVE ANY DISPUTE BY ARBITRATION, as set forth below. This agreement to arbitrate ("**Arbitration Agreement**") is governed by the Federal Arbitration Act ("**FAA**") and survives after the Agreement terminates or your relationship with TBI ends. ANY ARBITRATION UNDER THIS AGREEMENT WILL TAKE PLACE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED. Except as expressly provided below, this Arbitration Agreement applies to all Claims (defined below) between you and TBI or the TBI Parties, including their affiliates, subsidiaries, parents, successors and assigns, and each of TBI's respective officers, directors, employees, agents, or shareholders.

ALL DISPUTES PURCHASER MAY HAVE WITH, AND CLAIMS AGAINST ANY TBI PARTY (EACH A "CLAIM" AND COLLECTIVELY, "**CLAIMS**") SHALL BE EXCLUSIVELY RESOLVED BY BINDING ARBITRATION SOLELY BETWEEN PURCHASER AND THE TBI PARTIES. These Claims include, but are not limited to, any dispute, claim or controversy, whether based on past, present, or future events, arising out of or relating to Auction, this Agreement and prior versions thereof (including the breach, termination, enforcement, interpretation or validity thereof), payments made by you or any payments made or allegedly owed to you, any promotions or offers made by any TBI Party, any city, county, state or federal trade secrets, unfair competition, discrimination, harassment, retaliation, fraud, defamation, emotional distress, breach of any express or implied contract or covenant, claims arising under federal or state consumer protection laws; claims arising under antitrust laws, claims arising under the Telephone Consumer Protection Act and Fair Credit Reporting Act; and claims arising under the Uniform Trade Secrets Act, Civil Rights Act of 1964, Americans With Disabilities Act, and state statutes, if any, addressing the same or similar subject matters, and all other federal and state statutory and common law claims. All disputes concerning the arbitrability of a Claim (including disputes about the scope, applicability, enforceability, revocability, or validity of the Arbitration Agreement) shall be decided by the arbitrator, except as expressly provided below.

BY AGREEING TO ARBITRATION, PURCHASER UNDERSTANDS THAT PURCHASER IS WAIVING THE RIGHT TO SUE IN COURT OR HAVE A JURY TRIAL FOR ALL CLAIMS. This Arbitration Agreement is intended to require

arbitration of every claim or dispute that can lawfully be arbitrated, except for those claims and disputes which by the terms of this Arbitration Agreement are expressly excluded from the requirement to arbitrate.

(b) *Prohibition of Class Actions and Non-Individualized Relief.* PURCHASER UNDERSTANDS AND AGREES THAT PURCHASER MAY BRING CLAIMS IN ARBITRATION AGAINST AN TBI PARTY ONLY IN AN INDIVIDUAL CAPACITY AND NOT ON A CLASS, COLLECTIVE ACTION, OR REPRESENTATIVE BASIS (“CLASS ACTION WAIVER”). PURCHASER UNDERSTANDS AND AGREES THAT PURCHASER IS WAIVING THE RIGHT TO PURSUE OR HAVE A DISPUTE RESOLVED AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, COLLECTIVE OR REPRESENTATIVE PROCEEDING. NOTWITHSTANDING THE FOREGOING, THIS SUBSECTION 12(B) SHALL NOT APPLY TO REPRESENTATIVE PRIVATE ATTORNEYS GENERAL ACT CLAIMS BROUGHT AGAINST AN TBI PARTY, WHICH ARE ADDRESSED SEPARATELY IN OTHER SECTIONS.

The arbitrator shall have no authority to consider or resolve any Claim or issue any relief on any basis other than an individual basis. The arbitrator shall have no authority to consider or resolve any Claim or issue any relief on a class, collective, or representative basis. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claims.

(c) *Rules Governing the Arbitration.* Any arbitration conducted pursuant to this Arbitration Agreement shall be administered by the American Arbitration Association (“AAA”) pursuant to its [Consumer Arbitration Rules](#) that are in effect at the time the arbitration is initiated, as modified by the terms set forth in this Agreement. Copies of these rules can be obtained at the AAA’s website ([www.adr.org](http://www.adr.org)) (the “AAA Rules”) or by calling the AAA at 1-800-778-7879. Notwithstanding the foregoing, if requested by Purchaser and if proper based on the facts and circumstances of the Claims presented, the arbitrator shall have the discretion to select a different set of AAA Rules, but in no event shall the arbitrator consolidate more than one person’s Claims, or otherwise preside over any form of representative, collective, or class proceeding. The parties may select a different arbitration administrator upon mutual written agreement.

As part of the arbitration, both Purchaser and the applicable TBI Parties will have the opportunity for reasonable discovery of non-privileged information that is relevant to the Claim. The arbitrator may award any individualized remedies that would be available in court. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claims.

The case shall be heard by one (1) arbitrator, who shall be an executive with a company in the entertainment event production industry, and will be conducted in English. The arbitrator will decide the substance of all claims in accordance with applicable law and will honor all claims of privilege recognized by law. The arbitrator shall not be bound by rulings in prior arbitrations involving different Purchaser but is bound by rulings in prior arbitrations involving the same Purchaser to the extent required by applicable law. The arbitrator’s award shall be final and binding and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

(d) *Arbitration Fees and Awards.* The payment of filing and arbitration fees will be governed by the relevant AAA Rules subject to the following modification: The arbitrator in his award shall allocate all arbitration fees in his sole discretion and shall have the power to charge reasonable attorney fees of the successful party to the losing party.

(e) *Location and Manner of Arbitration.* Unless Purchaser and TBI agree otherwise, any arbitration hearings between Purchaser and TBI will take place in Oregon in the county of Multnomah and shall take place in English. If AAA arbitration is unavailable in Purchaser's county, the arbitration hearings will take place in the nearest available location for a AAA arbitration. Purchaser's right to a hearing will be determined by the AAA Rules.

(f) *Severability of Arbitration Agreement Provisions.* In addition to the severability provisions in subsections (b) and (c) above, in the event that any portion of this Arbitration Agreement is deemed illegal or unenforceable under applicable law not preempted by the FAA, such provision shall be severed, and the remainder of the Arbitration Agreement shall be given full force and effect.

(g) *Optional Pre-Arbitration Negotiation Process.* Before initiating any arbitration or proceeding, Purchaser and the applicable TBI Parties may agree to first attempt to negotiate any dispute, claim or controversy between the parties informally for thirty (30) days, unless this time period is mutually extended by Purchaser and the applicable TBI Parties. If you intend to seek negotiation under this subsection must first send to the applicable TBI Parties a written notice of the dispute ("**Notice**") to TBI at One Center Court, Suite 200, Portland, OR 97227. The Notice must (1) describe the nature and basis of the claim or dispute; and (2) set forth the specific relief sought. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by TBI or the TBI Parties, their agents, employees, and attorneys are confidential, privileged and inadmissible for any purpose, including as evidence of liability or for impeachment, in arbitration or other proceeding involving the parties.

**13. Taxes:** PURCHASER IS RESPONSIBLE FOR ALL APPLICABLE TAX INCLUDING ANY VAT, SALES OR COMPENSATING USE TAX OR EQUIVALENT TAX WHEREVER SUCH TAXES MAY ARISE. THE SUCCESSFUL BIDDER IS RESPONSIBLE FOR ANY APPLICABLE TAXES INCLUDING ANY SALES OR USE TAX OR EQUIVALENT TAX WHEREVER SUCH TAXES MAY ARISE ON THE PRICE, THE BUYER'S PREMIUM, AND/OR ANY OTHER CHARGES RELATED TO THIS AUCTION. THE APPLICABLE SALES TAX RATE WILL BE DETERMINED BASED UPON THE STATE, COUNTY, OR LOCALE. THE TBI PARTIES ARE NOT RESPONSIBLE FOR DETERMINING THE TAXES THAT MAY APPLY TO PURCHASER'S TRANSACTION(S).

**14. Translation:** IF PURCHASER IS PROVIDED A TRANSLATION OF THIS AGREEMENT, THE ORIGINAL VERSION IN ENGLISH WILL BE USED IN DECIDING ANY ISSUES OR DISPUTES WHICH ARISE UNDER THIS AGREEMENT.

**15. Severability:** IF ANY TERM OR PROVISION OF THIS AGREEMENT IS INVALID, ILLEGAL, OR UNENFORCEABLE IN ANY JURISDICTION, SUCH INVALIDITY, ILLEGALITY, OR UNENFORCEABILITY SHALL NOT AFFECT ANY OTHER TERM OR PROVISION OF THIS AGREEMENT OR INVALIDATE OR RENDER UNENFORCEABLE SUCH TERM OR PROVISION IN ANY OTHER JURISDICTION.

**16. Entire Agreement:** THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT OF THE PARTIES WITH RESPECT TO THE MATTERS PROVIDED FOR HEREIN AND IS NOT INTENDED TO BE MODIFIED OR LIMITED IN ANY WAY BY ANY OTHER WRITTEN INSTRUMENT OR ORAL AGREEMENT PREVIOUSLY MADE OR ENTERED INTO BY THE PARTIES HERETO.