

## UTAH JAZZ TERMS AND CONDITIONS FOR THE PURCHASE OF NON-FUNGIBLE TOKENS

LAST UPDATED ON SEPTEMBER 2, 2021

These Utah Jazz Terms and Conditions constitute a legally binding agreement (“**Agreement**”) between you (“**Purchaser**” or “**You**” or “**Your**”) and Jazz Basketball Investors LLC, dba Utah Jazz, a Utah limited liability company (the “**Jazz**”), governing your purchase of NFTs (defined below) as part of the Utah Jazz’s NFT auction (the “**Auction**”). BY PURCHASING A LICENSED NFT IN THE AUCTION OR THROUGH ANY LEGITIMATE SUBSEQUENT SECONDARY SALE THAT TAKES PLACE ON THE RARIBLE, INC. (“**Rarible**”) PLATFORM, PURCHASER EXPRESSLY AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT AND ALL OF RARIBLE’S TERMS OF SERVICE AVAILABLE AT <https://static.rarible.com/terms.pdf> (“**Rarible Terms**”). BY PURCHASING A LICENSED NFT THROUGH ANY LEGITIMATE SUBSEQUENT SECONDARY SALE ON ANY OTHER THIRD-PARTY NFT PLATFORM (“**Third-Party Platform**”), PURCHASER EXPRESSLY AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT AND ANY APPLICABLE TERMS FOR SUCH THIRD-PARTY PLATFORM (“**Third-Party Terms**”). Purchaser must agree to the terms of this Agreement and the Rarible Terms in order to bid on or make a purchase as part of the Auction. To the extent of any conflict between this Agreement and the NFT Platform Terms, this Agreement shall govern with respect to the conflicting subject matter.

PLEASE BE ADVISED: THIS AGREEMENT CONTAINS PROVISIONS THAT GOVERN HOW CLAIMS BETWEEN PURCHASER AND THE JAZZ CAN BE BROUGHT (SEE SECTION 12 BELOW). THESE PROVISIONS WILL REQUIRE PURCHASER TO SUBMIT CLAIMS PURCHASER HAS AGAINST THE JAZZ OR A JAZZ 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 or any subsequent secondary sale of a Licensed NFT, 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, PURCHASER MAY NOT PARTICIPATE IN THE AUCTION OR OTHERWISE PURCHASE, HOLD, OR TRANSFER LICENSED NFTS.

### 1. Definitions.

“**Art**” means any art, graphics, images, designs, logos, taglines, and drawings that may be associated with a Licensed NFT (defined below) or that is embodied, displayed, featured or otherwise incorporated in Virtual Locker Room Access.

“**Equivalent**” means the value, in US Dollars, of the market value of the relevant amount of cryptocurrency on the day of the transaction.

“**Jazz Parties**” means the Jazz, 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.

“**Licensed NFT**” means an NFT originally issued and offered as part of the Auction (a) for which Purchaser successfully provided the highest bid in the Auction; or (b) purchased through a subsequent legitimate secondary sale.

**“Licensed Rights”** with respect to an NFT means Purchaser’s rights (as expressly provided in Section 3 below) to a Licensed NFT of which Purchaser is the current rightful licensee, where proof of such purchase is recorded on the relevant blockchain.

**“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 Utah Jazz and/or its related league known as the National Basketball Association (“**NBA**”).

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

**“NFT Platform Terms”** with respect to any sale of a Licensed NFT means, as applicable, the Rarible Terms or the applicable Third-Party Terms.

**“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 the Jazz (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, and no rights to Purchaser are granted except as expressly provided herein. 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. The Jazz 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.* Subject to Section 5 below, Purchaser acknowledges and agrees that in the event that Purchaser purchases a Licensed NFT, whether in the Auction or a subsequent legitimate secondary sale, such Licensed NFT is made available solely for Purchaser’s personal entertainment purposes. Without limiting the foregoing and subject to Purchaser’s continued compliance with this Agreement (and the NFT Platform Terms), the Jazz 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 NFT Platform Terms; (ii) the Jazz is paid ten percent (10%) of the gross amounts paid by the transferee relating to the Licensed NFT, including, but not limited to, any transfer price and any other related compensation (e.g., (1) if the transfer price is the Equivalent of \$100,000, then the Jazz will be entitled to the Equivalent of \$10,000, or (2) if the transfer price is Equivalent to \$100,000 and an additional \$50,000 is paid as related use fee, then the Jazz would be entitled to \$15,000) and such payment shall be paid on the same terms and at the same time as Purchaser is paid; (iii) Purchaser has not prior to the transfer breached this Agreement or the NFT Platform Terms; (iv) prior to the transfer Purchaser’s license to the Licensed NFT has not been terminated; and (v) the party purchasing the Licensed NFT provides the Jazz with a valid e-mail address and any other information requested by the Jazz for verification purposes. Purchaser acknowledges and agrees that the foregoing amounts payable to the Jazz under Section 3(b)(ii)

hereof do not include, and are not intended to cover, any additional fees imposed or required by the platform through which Purchaser is transferring the Licensed NFT.

(c) *Virtual Locker Room Access.* To the extent that Purchaser is the current, valid licensee of a Licensed NFT purchased in the Auction (and not a subsequent secondary sale) and further that Purchaser complies with this Agreement, Purchaser shall receive access to a one-time virtual tour of the Utah Jazz's virtual locker room ("**Virtual Locker Room Access**") subject to the following terms set forth below:

(i) *Virtual Locker Room Access Terms.* Subject to Section 3(c)(ii) below, any costs for Purchaser's Virtual Locker Room Access shall be borne solely by Purchaser, and the Jazz shall have no liability for such costs. By participating in the Virtual Locker Room Access, Purchaser grants to the Jazz (or its designee) the right to record, film, live stream, photograph, or capture Purchaser's likeness (including any virtual likeness such as an avatar) in any media now available or hereafter developed and to distribute, broadcast, use, or otherwise globally to disseminate, in perpetuity, such media without any further approval from Purchaser or any payment to Purchaser. The foregoing grant includes, but is not limited to, the right for the Jazz (or its designee) to edit such media, the right for the Jazz (or its designee) to use the media alone or together with other information, and the right for the Jazz (or its designee) to allow others to use or disseminate the media. Additionally, Purchaser acknowledges and agrees that the Jazz, in its sole discretion, reserves the right to alter, modify, or change any and all aspects of the Virtual Locker Room Access, including, but not limited to, the name, meet-and-greet-session, themes, content, accessibility, program, speakers, performers, hosts, moderators, venue, and time. Purchaser may receive an access link and/or code for Virtual Locker Room Access. You agree not to sell, trade, transfer, or share your complimentary access link and/or code, unless such transfer is expressly agreed to in writing by the Jazz. If the Jazz determines that Purchaser has violated this policy, the Jazz may cancel Purchaser's Virtual Locker Room Access and retain any payments made by Purchaser, ban Purchaser from future Jazz events (virtual or otherwise), and exercise any other legal rights. The Jazz further reserves the right to remove and rescind Purchaser's from Virtual Locker Room Access if the Jazz, in its sole discretion, determines that Purchaser's participation or behavior will create a disruption or hinder the experience or the enjoyment of the Jazz's virtual locker room or content contained therein by other attendees, if any. Purchaser may not record or broadcast, livestream, or record any audio or video of sessions in connection with your Virtual Locker Room Access. The Jazz reserves the right to deny participation to anyone who engages in or is reputed to engage in unethical or non-compliant business practices or acts of moral turpitude. In addition to the requirements and prohibitions set forth in this Section 3, the Jazz retains sole discretion to revoke, cancel, or rescind Virtual Locker Room Access for Purchaser or any other attendee, at any time, in the Jazz's sole discretion.

(ii) *Virtual Locker Room Access Headset.* Depending on the Licensed NFT purchased by you, at the Jazz's sole discretion, you may receive an Oculus Quest 2 virtual reality headset ("**VR Headset**") to connect with your Virtual Locker Room Access, if applicable. You may only use the VR Headset for your personal Virtual Locker Room Access and other personal uses, in each case subject to this Agreement and any other terms applicable to use or operation of the VR Headset. You may not use the VR Headset for any commercial, non-personal purposes. You shall only use the VR Headset in compliance with terms applicable to the VR Headset, including as set forth at <https://www.oculus.com/legal/terms-of-service/>, which are incorporated by reference herein. You shall read and follow all setup and operating instructions provided with the VR Headset, including hardware and software recommendations. You may only use the VR Headset with authorized accessories and you shall follow instructions for proper installations, warnings,

and use of authorized accessories. You should never use the VR Headset, and should immediately stop using the VR Headset, if any part of the VR Headset is damaged or not functioning properly. You may not use the VR Headset (a) with any unauthorized device, accessory, software, or content; (b) if you are experiencing tiredness or exhaustion, lack of sleep, are under the influence of alcohol or drugs, are hung-over, have digestive problems, have emotional distress or anxiety, or when suffering from a cold, flu, COVID-19, headaches, migraines, or earaches; or (c) if you are pregnant, elderly, have pre-existing binocular vision abnormalities or psychiatric disorders, or suffer from a heart condition or other serious medical condition, such as seizures. You are responsible for being aware of your surroundings before starting and while using the VR Headset and shall use caution to avoid injury. You may only use the VR Headset in an indoor environment and in a safe area clear of tripping or other hazards, such as walls, furniture, lamps, people, pets, stairs, ramps, balconies, open doorways, windows, open flames or sources of heat, liquids, ceiling fans or light fixtures, televisions, monitors, or other electronics, uneven floor surfaces, or loose rugs or carpeting. You shall refrain from using the VR Headset in situations that require your continued attention, whether indoors or outdoors, such as running, bicycling, driving, or handling hazardous objects. You shall immediately discontinue use of the VR Headset if you experience any of the following symptoms: seizures, loss of awareness, eye strain, eye or muscle twitching, involuntary movements, altered, blurred, or double vision or other visual abnormalities, dizziness, disorientation, impaired balance, impaired hand-eye coordination, excessive sweating, increased salivation, nausea, lightheadedness, discomfort or pain in the head or eyes, drowsiness, fatigue, or any symptoms similar to motion sickness.

**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 the Jazz in each case (which consent may be withheld, conditioned or delayed by the Jazz in its sole discretion): (a) 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; (b) use the Licensed NFT, Name and Likeness and/or Art for Purchaser's Licensed NFTs to advertise, market, or sell any product or service or for any commercial purpose; (c) 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; (d) 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; (e) 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; (f) 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 (g) otherwise utilize the Art from Purchaser's Licensed NFTs for Purchaser's or any third party's commercial benefit.

To the extent that the 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, the Jazz may need to pass through additional terms and/or restrictions on Purchaser's ability to use the Art; and (iii) to the extent that the Jazz 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 the Jazz if: (a) 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; (b) the email address or other identifying information Purchaser provides to the Jazz is no longer valid; (c) Purchaser breaches any provision of this Agreement and/or NFT Platform Terms; (d) 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; (e) Purchaser engages in any unlawful business practice related to the Licensed NFT; (f) Purchaser initiates any legal actions, except an arbitration as specifically provided herein, against any of the Jazz 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 (g) Purchaser disparages any of the Jazz Parties or any parties related to any of them.

**6. Disclaimer of Warranties & Limitation of Liability:** ALL LICENSED NFTS AND VIRTUAL LOCKER ROOM ACCESS ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. EXCEPT WITH RESPECT TO LIMITED WARRANTIES PROVIDED SOLELY AND DIRECTLY BY THE MANUFACTURER FOR THE VR HEADSET, THE VR HEADSET IS 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 JAZZ 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 JAZZ 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, VIRTUAL LOCKER ROOM ACCESS, THE VR HEADSET, THE AUCTION OR ANY SECONDARY SALE OF THE LICENSED NFT, ANY TECHNOLOGY AND/OR PARTIES RELATED TO THE AUCTION OR ANY SECONDARY SALE OF THE LICENSED NFT, INCLUDING, BUT NOT LIMITED TO, BLOCKCHAIN, WALLET EXTENSIONS, RARIBLE AND/OR THE THIRD-PARTY PLATFORM. 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 JAZZ PARTIES' TOTAL AGGREGATE LIABILITY SHALL NOT EXCEED TEN PERCENT (10%) OF THE TOTAL SUM PAID DIRECTLY BY PURCHASER TO THE JAZZ FOR THE APPLICABLE LICENSED NFT. PURCHASER ACCEPTS THE INHERENT SECURITY RISKS OF PROVIDING INFORMATION AND DEALING ONLINE OVER THE INTERNET, ACCESSING A VIRTUAL REALITY, AND FOR OPERATION AND USE OF THE VR HEADSET AND PURCHASER AGREES THAT THE JAZZ HAS NO LIABILITY OR RESPONSIBILITY FOR ANY BREACH OF SECURITY OR OTHERWISE IN CONNECTION WITH THE LICENSED NFT, VIRTUAL LOCKER ROOM ACCESS, OR THE VR HEADSET UNLESS IT IS DUE TO THE JAZZ'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.

**7. Assumption of Risk:** As noted above, the Licensed NFTs, Virtual Locker Room Access, and VR Headset are made available solely for Purchaser's own personal, non-commercial entertainment purposes. Purchaser agrees that Purchaser fully assumes (and hereby releases, waives, and forever discharges the Jazz Parties from) 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 of 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 asset (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 Jazz Parties will not be responsible for any of these, however caused; (d) the Jazz 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 Jazz Parties do not make any promises or guarantees related to cryptocurrency wallet extensions, Rarible, the Third-Party Platform, Blockchain 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; (m) the risk of serious bodily injury, disorientation, drowsiness, impaired coordination, social and economic losses, electronic hock, high contact temperatures, choking hazards, skin irritation, and other injuries associated with use of the VR Headset; (n) the risk that virtual reality is immersive and can contain frightening, intense, or anxiety-provoking content; (o) the risk that the VR Headset may contain magnets or components that can affect the operation of medical devices, such as

pacemakers, hearing aids, and defibrillators; and (p) the risk associated with hazardous freedom of movement while wearing the VR Headset or otherwise immersed through Virtual Locker Room Access. Without limiting the applicability of Section 3 and Section 4 above, the Jazz 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 Jazz 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, participate in Virtual Locker Room Access, and use and operate the VR Headset and that Purchaser understands and agrees that Purchaser is solely responsible for determining the nature, potential value, suitability and appropriateness of these risks for Purchaser. The Jazz and the Jazz Parties cannot and do not represent or warrant that any Licensed NFT, the VR Headset, Virtual Locker Room Access, or any of their respective supporting systems or technology, is reliable, current or error-free, meets Purchaser's requirements, or that defects in the Licensed NFT, VR Headset, Virtual Locker Room Access, or any of their respective supporting systems or technology, will be corrected. The Jazz and the Jazz Parties cannot and do not represent or warrant that the Licensed NFT, VR Headset, Virtual Locker Room Access, or any delivery mechanism for it are free of viruses or other harmful components. Purchaser accepts and acknowledges that the Jazz and the Jazz Parties will not be responsible for any communication failures, disruptions, errors, distortions or delays Purchaser may experience related to the Auction, the VR Headset, or Virtual Locker Room Access.

**8. Disputes/Choice of Law:** Any dispute arising in connection with this Agreement, including, without limitation, the Auction, and corresponding or subsequent purchases of any Licensed NFTs, the VR Headset, and Virtual Locker Room Access shall be exclusively governed by, construed, and enforced in accordance with, the laws of the State of Utah without regard to principles of conflicts of law.

EXCEPT WHERE PROHIBITED, EACH PURCHASER AGREES THAT: (a) ANY AND ALL DISPUTES, CLAIMS, AND CAUSES OF ACTION ARISING OUT OF OR CONNECTED WITH THE AUCTION OR ANY SECONDARY SALE, ANY LICENSED NFT, THE VR HEADSET, OR VIRTUAL LOCKER ROOM ACCESS 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 SALT LAKE CITY, UTAH; (b) ANY AND ALL CLAIMS, JUDGMENTS, AND AWARDS SHALL BE LIMITED TO ACTUAL OUT-OF-POCKET COSTS INCURRED, BUT IN NO EVENT ATTORNEYS' FEES; (c) NO PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR OTHER DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, MAY BE AWARDED (COLLECTIVELY, "SPECIAL DAMAGES"); AND (d) PURCHASER HEREBY WAIVES ALL RIGHTS TO CLAIM SPECIAL DAMAGES AND ALL RIGHTS TO HAVE SUCH DAMAGES MULTIPLIED OR INCREASED. UTAH LAW, WITHOUT REFERENCE TO CHOICE OF LAW RULES, GOVERNS THE AUCTION, ANY SECONDARY SALES OF LICENSED NFTS, ANY LICENSED NFTS, AND ALL ASPECTS RELATED THERETO.

**9. Changes To This Agreement:** The Jazz may make changes to this Agreement from time to time. When the Jazz makes such changes, the Jazz 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 Rights after this Agreement has been updated will constitute Purchaser's binding acceptance of the updates.

## **10. Eligibility:**

(a) PARTICIPATION IN THE AUCTION (AND ANY SUBSEQUENT LEGITIMATE SECONDARY SALE OF A LICENSED NFT) 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 THE JAZZ AND THE JAZZ PARTIES, INCLUDING EACH OF THEIR RESPECTIVE AFFILIATES, SUBSIDIARIES, PARENTS, SUCCESSORS AND ASSIGNS, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, MEMBERS, 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 USE OR OPERATION OF THE VR HEADSET, VIRTUAL LOCKER ROOM ACCESS, LICENSE, SALE OR POSSESSION OF THE LICENSED NFT AND/OR PURCHASER'S PARTICIPATION IN THE AUCTION OR ANY SECONDARY SALE, INCLUDING: (a) PURCHASER'S BREACH OF THIS AGREEMENT OR THE DOCUMENTS IT INCORPORATES BY REFERENCE; (b) 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; (c) ANY ALLEGATION THAT ANY MATERIALS THAT PURCHASER SUBMITS TO THE JAZZ OR TRANSMITS IN THE COURSE OF THE AUCTION OR ANY SECONDARY SALE, COMMUNICATIONS SEEKING THE JAZZ'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 (d) ANY OTHER ACTIVITIES IN CONNECTION WITH THE AUCTION OR ANY SECONDARY SALE, THE LICENSED NFT, VIRTUAL LOCKER ROOM ACCESS, OR THE VR HEADSET. 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 the Jazz.* PURCHASER AGREES TO WAIVE PURCHASER'S RIGHTS TO RESOLUTION OF DISPUTES IN A COURT OF LAW BY A JUDGE OR JURY AND AGREES 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 this Agreement terminates or your relationship with the Jazz 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 the Jazz or the Jazz Parties, including their affiliates, subsidiaries, parents, successors and assigns, and each of the Jazz's respective officers, directors, employees, agents, members, or shareholders.



ALL DISPUTES PURCHASER MAY HAVE WITH, AND CLAIMS AGAINST ANY JAZZ PARTY (EACH A “CLAIM” AND COLLECTIVELY, “CLAIMS”) SHALL BE EXCLUSIVELY RESOLVED BY BINDING ARBITRATION SOLELY BETWEEN PURCHASER AND THE JAZZ 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 the 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 Jazz 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 this 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 A JAZZ 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 SECTION 12(b) SHALL NOT APPLY TO REPRESENTATIVE PRIVATE ATTORNEYS GENERAL ACT CLAIMS BROUGHT AGAINST A JAZZ 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 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 Jazz 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 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 purchasers 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 the Jazz agree otherwise, any arbitration hearings between Purchaser and the Jazz will take place in Utah in Salt Lake County and shall take place in English. If AAA arbitration is unavailable in such county, the arbitration hearings will take place in the nearest available location for an 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 this 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 Jazz 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 Jazz Parties. If you intend to seek negotiation under this subsection, you must first send to the applicable Jazz Parties a written notice of the dispute ("**Notice**") to Jazz Basketball Investors LLC, dba Utah Jazz at 1420 South 500 West, Salt Lake City, Utah 84115 Attention: Legal Department, with copy to Sam Harkness, General Counsel (sharkness@utahjazz.com). 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 the Jazz or the Jazz 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 ON THE PRICE 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 JAZZ 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 THAT 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.