

BROKEN ARROW PUBLIC SCHOOLS

Educating Today Leading Tomorrow



Contract Committee Review Request
MUST BE COMPLETED IN FULL

Date: 9/13/21

Contract/Agreement Vendor: Popcornopolis/Mayra Ramirez #10650
Name of Vendor & Contact Person
fundraising@popcornopolis.com
Vendor Email Address
Popcorn sales/Fundraiser

Approved fundraiser

Summary
Drama
Reason/Audience to benefit
10/11/21
BOE Date
50% of all sales
Amount of agreement

Person Submitting Contract/Agreement for Review: Janet Hardin - Oneta Ridge

PLEASE SEND THROUGH APPROPRIATE APPROVAL ROUTING BEFORE SENDING TO BOARD CLERK

Principal &/or Director or Administrator: [Signature]

Does this Contract/Agreement utilize technology? YES/NO
If yes, Technology Admin: n/a

Leadership Team Member: [Signature]

Funding Source: 844/DRAMA 844-3200-670-900-1189-000-530
Fund/Project OCAS Coding

Consent Item: Accept and approve the NEW/RENEWAL agreement between Broken Arrow Public Schools and the vendor listed above. (ie. New fiscal year &/or Renewal services)

Action Item: Discussion, motion and vote on motion to approve or disapprove the NEW agreement between Broken Arrow Public Schools and the vendor listed above. (ie. Purchase over \$50,000 &/or new service)

The Contract/Agreement should be received at least 2 weeks prior to a Board Meeting to ensure placement on the Agenda. The Contract Committee meets most Tuesdays at 8:00a.m. All Contracts/Agreements, regardless the amount, must be first approved by the Contract Committee and then presented to the Board of Education for approval and signature. The item will be placed on Electronic School Board for the board agenda by Janet Brown. By following this process, the liability of entering into an agreement is placed with the district rather than an individual.



Terms and Conditions

Last Revised: October 14, 2020

These Terms & Conditions apply to your interaction with Popcornopolis LLC (sometimes called "Popcornopolis", "we", "us" or "our" below). Your access to and use of this site, including any content, information, materials, text, images, functionality, and services and products offered here, as well as your access to and use of any mobile applications, and your access to and use of any services offered by Popcornopolis (collectively, called the "Services" below) is subject to these terms and conditions, together with any documents they expressly incorporate by reference (collectively, the "Terms and Conditions"). We may revise the Terms and Conditions from time to time without notice. Please review the Terms and Conditions carefully on a regular basis, as they may have changed since your last visit.

BY ACCESSING ANY PORTION OF THIS SITE OR ANY MOBILE APPLICATIONS, OR BY USING THESE SERVICES, YOU AFFIRM THAT YOU ARE A RESIDENT OF THE UNITED STATES, YOU ARE AT LEAST 18 YEARS OF AGE, AND YOU AGREE TO THESE TERMS AND CONDITIONS AND ANY FUTURE REVISION HEREOF. IF YOU ARE THE PARENT OR LEGAL GUARDIAN OF A MINOR WHO YOU WILL PERMIT TO ACCESS ANY PORTION OF THIS SITE OR THE MOBILE APPLICATION, OR MAKE USE OF THESE SERVICES, YOU AGREE THAT YOU TAKE FULL RESPONSIBILITY FOR THE MINOR'S USE OF THE SITE, MOBILE APPLICATION, AND/OR SERVICES, AND FOR THE MINOR'S COMPLIANCE WITH THESE TERMS AND CONDITIONS.

1. Services

We offer brochure and online fundraising programs which enable third-party organizations to raise money through the sale of Popcornopolis products ("Services"). We reserve the right to discontinue the Services at any time.

2. Organizers:

An organizer ("Organizer"), is an authorized individual who accesses and manages fundraiser information and/or information about the beneficiary of the fundraiser. For illustrative purposes, an Organizer may be a gym owner, program director, coach, team parent, or parent who accesses and manages gym/program/team/studio information. Organizers must apply to use the Popcornopolis fundraising e-commerce website ("Store") in order to raise money for their organizations. Organizers must be able to accept payments to accounts or addresses based in the United States. At this time, we cannot and will not send payments outside of the United States. Applying multiple times as an Organizer, using aliases or proxy Organizer accounts, or engaging in similar conduct designed to conceal an Organizer's true identity or to enable an Organizer to transact business with us under more than one Organizer account is strictly prohibited.

3. Buyers:

A buyer ("Buyer") is any user that purchases products from a Store. A Buyer may also be an Organizer. Buyers must be able to make payments from an account in the United States and must be able to accept shipments at an address in the United States. At this time, we cannot and will not accept payments from outside of the United States or ship goods outside of the United States.

4. Our Platform:

We provide a platform for fundraising. We are not a broker, financial institution, creditor or charity. All information and content provided through this site relating to fundraising is for informational purposes only, and we do not guarantee the accuracy, completeness, timeliness or reliability of any such information or content. No content is intended to provide financial, legal, tax or other professional advice. Before making any decisions regarding any donations, you should consult your financial, legal, tax or other professional advisor as appropriate. We have no control over the conduct of, or any information provided by, any Organizer. We do not guarantee that an Organizer will obtain a certain amount of donations or any donations at all. We do not

endorse any campaign or cause except as expressly stated in writing, and we make no guarantee, express or implied, that any information provided through the Services is accurate. We expressly disclaim any liability or responsibility for the outcome or success of any campaign. As a Buyer, you must make the final determination as to the value and appropriateness of contributing to any campaign. Notwithstanding the foregoing, we take possible fraudulent activity and the misuse of funds raised very seriously. If you have reason to believe that an Organizer is not raising or using the funds for their stated purpose, please alert an Popcornopolis team member of this potential issue and we will investigate.

5. Prohibited Conduct:

The following are examples of user content and/or use that is prohibited and possibly illegal. This list is not exhaustive, and we reserve the right to investigate anyone who, in our sole discretion, violates any of the terms or spirit of these Terms and Conditions. We further reserve without limitation, the right to remove the offending user content, suspend or terminate the account of such violators, stop payments to any such Organizer, freeze or place a hold on donations, and report users to law enforcement authorities or otherwise take appropriate legal action including seeking restitution on behalf of ourselves and/or our other users. Without limiting the foregoing, Organizers agree not to use the Services to:

A. raise funds or establish or contribute to any fundraiser with the implicit or explicit purpose of or involving (i) violating any law, regulation, industry requirement, or third-party guidelines or agreements by which you are bound, including those of payment card providers and transaction processors that you utilize in connection with the Services; (ii) any election campaigns; (iii) content or campaigns that are fraudulent, misleading, inaccurate, dishonest, or impossible; (iv) drugs, narcotics, steroids, controlled substances, pharmaceuticals or similar products or therapies that are either illegal, prohibited, or enjoined by an applicable regulatory body; legal substances that provide the same effect as an illegal drug; or other products, medical practices, or any related equipment or paraphernalia that have been found by an applicable regulatory body to cause consumer harm; (v) knives, explosives, ammunition, firearms, or other weaponry or accessories; (vi) annuities, investments, equity or lottery contracts, lay-away systems, off-shore banking or similar transactions, money service businesses (including currency exchanges, check cashing or the like), pyramid schemes, "get rich quick schemes" (i.e., investment opportunities or other services that promise high rewards), network marketing and referral marketing programs, debt collection or crypto-currencies; (vii) gambling, gaming and/or any other activity with an entry fee and a prize, including, but not limited to casino games, sports betting, fantasy sports, horse or greyhound racing, lottery tickets, raffle tickets, auctions and other ventures that facilitate gambling, games of skill or chance (whether or not it is legally defined as a lottery), promotions involving monetary rewards, including gift cards, or sweepstakes; (viii) campaigns we deem, in our sole discretion, to be in support of, or for the legal defense of alleged crimes associated with hate, violence, harassment, bullying, discrimination, terrorism, or intolerance of any kind relating to race, ethnicity, national origin, religious affiliation, sexual orientation, sex, gender or gender identity, or serious disabilities or diseases; (ix) activities with, in, or involving countries, regions, governments, persons, or entities that are subject to U.S. and other economic sanctions under applicable law, unless such activities are expressly authorized by the appropriate governmental authority; (x) funding a ransom, human trafficking or exploitation, vigilantism, bribes or bounty; (xi) pornography or other sexual content; (xii) offensive, graphic, perverse or sensitive content; (xiii) the sale of items before the seller has control or possession of the item; (xiv) collecting payments on behalf of merchants by payment processors or otherwise; including but not limited to self-payments on campaigns or an attempt to bypass or otherwise circumvent the designated method of payment as designated by Popcornopolis; (xv) credit repair or debt settlement services; (xvi) the receipt or grant of cash advances or lines of credit to yourself or to another person for purposes other than those purposes clearly stated in the fundraiser; (xvii) publication or removal of content (such as mug shots), where the primary purpose of posting such content is to cause or raise concerns of reputational harm; (xviii) sale or resale of a service without added benefit to the buyer; resale of government offerings without authorization or added value; (xix) aggregation of funds owed to third parties, factoring, or other activities intended to obfuscate the origin of funds; (xx) counterfeit music, movies, software, or other licensed materials without the appropriate authorization from the rights holder; (xxi) products or services that directly infringe or facilitate infringement upon the trademark, patent, copyright, trade secrets, or proprietary or privacy rights of any third party; (xxii) unauthorized sale or resale of brand name or designer products or services; (xxiii) sale of goods or services that are illegally imported or exported; (xxiv) processing where there is no bona fide donation accepted; cash advance; card testing; evasion of card network chargeback monitoring programs; (xxv) collecting or providing funds for any purpose other than as described in a campaign description; (xxvi) any other activity that we may deem in our sole discretion to be in support of individuals and/or entities associated with alleged financial crimes including but not limited to corruption, bribery, tax evasion, fraud, and activities of a similar nature; or (xxvii) any other activity that we may deem in our sole discretion to be unacceptable;

B. transmit or otherwise upload any content that (i) infringes any intellectual property or other proprietary rights of any party; (ii) you do not have a right to upload under any law or under contractual or fiduciary relationships; (iii) contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (iv) poses or creates a privacy or security risk to any person; (v) constitutes unsolicited or unauthorized advertising, promotional materials, commercial activities and/or sales, "junk mail," "spam," "chain letters," "pyramid schemes," "contests," "sweepstakes," or any other form of solicitation; or (vi) in our sole judgment, is

objectionable or which restricts or inhibits any other person from using or enjoying the Services, or which may expose us or our users to any harm or liability of any type;

C. interfere with or disrupt servers or networks connected to the Services, or disobey any requirements, procedures, policies or regulations of networks connected to the Services;

D. harvest or collect email addresses or other contact information of other users from the Services by electronic or other means; or

E. raise funds for a minor without the express permission of the minor's parent or legal guardian unless the funds are transferred into a trust account for the sole benefit of the minor.

Additionally, with respect to all donations you make or accept through the Services, you agree:

A. not to make or accept any donations that you know or suspect to be erroneous, suspicious or fraudulent;

B. not to use the Services in or for the benefit of a country, organization, entity, or person embargoed or blocked by any government, including those on sanctions lists identified by the United States Office of Foreign Asset Control (OFAC);

C. to maintain reasonable and standard security measures to protect any information transmitted and received through the Services, including without limitation by adhering to any security procedures and controls required by us from time to time;

D. to maintain a copy of all electronic and other records related to campaigns and donations as necessary for us to verify compliance and make such records available to us upon our request. For clarity, the foregoing does not affect or limit your obligations to maintain documentation as required by applicable laws, rules, regulations, or governmental authority; and

E. at our request, including without limitation in case of investigations by us, a payment processing partner, or a regulatory or governmental authority, fully cooperate in the auditing of such records, investigation of the relevant circumstances and remedy of any uncovered violation or wrongdoing.

We reserve the right to refuse, condition, or suspend any donations or other transactions that we believe in our sole discretion may violate these Terms and Conditions or harm the interests of our users, business partners, the public, or us, or that expose you, us, or others to risks unacceptable to us.

6. Procedures.

As a part of the Services:

A. The Organizer will receive a sign-up link by email to share with potential Buyers. Buyers will click on the link to buy products from the Store;

B. We will use the information you provide to: (i) manage your account; (ii) provide you and your contacts with customer support; (iii) process payment for any purchases made; and (v) manage our business; and

C. We also may disclose your information (i) in response to a subpoena or similar investigative demand, a court order, or a request for cooperation from a law enforcement or other government agency; to establish or exercise our legal rights; to defend against legal claims; or as otherwise required by law. In such cases, we may raise or waive any legal objection or right available to us; or (ii) when we believe disclosure is appropriate in connection with efforts to investigate, prevent, or take other action regarding illegal activity, suspected fraud or other wrongdoing; to protect and defend the rights, property or safety of our company, our users, our employees, or others; to comply with applicable law or cooperate with law enforcement; or to enforce these Terms and Conditions or other agreements or policies. This information may include information about you, your account, your donors, your donations, and transactions made through or in connection with your use of the Services.

D. We will not share, sell, use or otherwise distribute the contacts or communicate with the contacts you provide us other than for providing the Services or if we give you an opportunity to opt out of having your information shared.

7. Payments.

A. If you are a Buyer, you agree to pay in full the prices (and all applicable taxes and any applicable shipping and handling costs) for any product purchases you make either by credit / debit card concurrent with your online order or by other payment means acceptable to us. If payment is not received by us from your credit or debit card issuer or its agents, you agree to pay all amounts due upon demand by us.

B. When a Buyer purchases products online from a Store, a Buyer must remit payment to Popcornopolis for the products' item price, and all applicable taxes, and any applicable shipping and handling costs. We will ship the products to the Buyer. We are responsible, where required, for submitting any collected sales tax to the applicable tax collection agencies. We will pay a predefined percentage of the purchased products' item price (which, for the avoidance of doubt, does not include any taxes, shipping and handling costs, returns, or other fees) (the "Payout") to the Organizer responsible for the Buyer who made the purchase (the "Attributable Buyer").

C. The Payout is currently calculated as 50% of the purchased products' item price. This percentage is subject to change upon notice to the Organizer.

D. We generally remit payment of the Payout to the Organizers by check at the end of the Organizers' fundraiser campaigns.

E. The Attributable Buyer is identified by the landing page he/she first views upon entering the Store. An Attributable Buyer is attributed to a particular Organizer based on his/her landing on the Organizer's personalized fundraising page. The URL for this page is provided to the Organizer prior to the start of the fundraiser. Any purchases made by an Attributable Buyer are then used to determine the Payout. However, if a Buyer purchases items without initially viewing the Organizer's personalized landing page would not be attributable, and the Organizer's Payout would not incorporate those sales, whether or not the Buyer was referred to the Store by the Organizer. Additionally, any Buyer whose page views and/or landing page cannot be tracked or recorded accurately by our platform, for any reason, will not be considered an Attributable Buyer.

F. If an Organizer disputes any payment of a Payout, including, without limitation, if an Organizer claims that a payment was owed but not paid or that a Payout was not paid in full, the Organizer must notify us of the dispute in writing within six (6) months of when the payment was made or allegedly should have been made. Such notice must include identifying information of the Organizer, fundraiser, payment amount, payment due date, and an explanation of any alleged discrepancies. If such notice is not timely provided, the dispute is deemed null and void and the Organizer waives any right to collect the alleged underpaid amount.

8. Claw-backs.

If any charge-backs, returns, Buyer-side payment cancellations, disputed credit card / debit card charges, voided transactions, insufficient funds/bank-refusals to pay, or similar situations arise, where we are not fully compensated for our products or services ("Buyer Non-Payment"), we reserve the right to treat such transaction as void and deduct any uncollected amounts from the Organizer's sales .

9. Buyer Returns.

All order cancellations must be made by Buyers within forty-eight (48) hours of making a purchase. If your product arrived damaged or contaminated in any way, please contact us directly at customerservice@popcornopolis.com. All damaged goods or product quality claims must be made within seven (7) days of delivery, otherwise we shall have no obligations to refund purchase price or replace product. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, WE DO NOT ISSUE REFUNDS AND WE DO NOT ACCEPT RETURNS.

10. Site Restrictions.

We may, in our sole discretion, without notice or liability, suspend, terminate, limit, or otherwise restrict Organizer accounts and/or Buyer accounts, as well as the use of the Services for any conduct we reasonably determine warrants such suspension, termination or restrictions, including but not limited to a violation of these Terms and Conditions, illegal activity, damaging or harassing conduct, or any other such user, Buyer or Organizer actions that cause difficulty or burden to us in rendering efficient and effective Services.

11. Communications.

By using the Services and by providing personal contact information to us, you (whether a Buyer, Organizer or otherwise) consent to and authorize us to contact you and to communicate with you via e-mail, physical mail, text messaging, phone calls and other means. You may opt out of communications by contacting us by e-mail with "opt out" in the subject line.

12. User Submissions.

You agree that any information you provide through the Services ("User Content ") will be truthful, accurate and complete. For illustrative purposes, User Content may be provided in account information, in Stores and in chats. We have no obligations regarding User Content except as specifically agreed to in a separate writing or required by law. You acknowledge and agree that you will not provide any User Content to us that is defamatory, threatening, obscene, harassing, or otherwise unlawful, or that incorporates the proprietary material of another person or entity. By uploading the User Content, you hereby grant us and our affiliated companies a nonexclusive, worldwide, royalty free, fully paid up, transferable, sublicensable, perpetual, irrevocable license to copy, display, upload, perform, distribute, store, modify and otherwise use the User Content in connection with the operation of the Services or the promotion, advertising or marketing thereof, in any form, medium or technology now known or later developed. Without limiting the foregoing, if any User Content contains your name, image or likeness, you hereby release and hold harmless us and our affiliated companies, contractors and employees, from (i) all liability and claims for invasion of privacy, publicity or libel, (ii) any liability and claims by virtue of any blurring, distortion, alteration, optical illusion, or other use or exploitation of your name, image or likeness, and (iii) any liability and claims for claims made by you (or any successor to any claim you might bring) in connection with your User Content, name, image or likeness. You waive any right to inspect or approve any intermediary version(s) or finished version(s) of the results of the use of your User Content (including your name, image or likeness). Further, if any person (other than you) appears in your User Content, you represent and warrant that you have secured all necessary licenses, waivers and releases from such person(s) for our benefit in a manner fully consistent with the licenses, waivers and releases set forth above. You further acknowledge that your participation in the Services and submission of User Content is voluntary and that you will not receive financial compensation of any type associated with the licenses, waivers, and releases set forth herein (or our use thereof), and that the sole consideration is the opportunity to use the Services. You further acknowledge and agree that we may preserve User Content and disclose User Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to (a) comply with legal process, applicable laws or government requests; (b) enforce these Terms and Conditions; (c) respond to claims that any content violates the rights of third parties; or (d) protect the rights, property, or personal safety of us , our users or the public. By using the Services, all users consent to our inclusion of such User Content in our marketing and advertising materials.

13. Limited Access.

From time to time, the Services may be inaccessible or inoperable for various reasons, including equipment malfunctions, updates, maintenance and repairs and causes beyond our control or those that are not reasonably foreseeable. We are not obligated to compensate you for these conditions.

14. WARRANTY DISCLAIMERS.

THE INFORMATION AND DESCRIPTIONS CONTAINED AS PART OF THE SERVICES ARE NOT INTENDED TO BE COMPLETE DESCRIPTIONS OF ALL TERMS, EXCLUSIONS AND CONDITIONS APPLICABLE TO EVERY PRODUCT OR SERVICES WE OFFER BUT ARE PROVIDED FOR GENERAL INFORMATIONAL PURPOSES. WE MAKE NO REPRESENTATIONS OR WARRANTIES THAT SUCH CONTENT IS SUITABLE FOR YOUR NEEDS, COMPLETE, TIMELY OR RELIABLE. ALL TEXT, IMAGES AND OTHER CONTENT ON THE SITE ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, AND/OR NON-INFRINGEMENT. WE DO NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR FREE OF ERRORS, VIRUSES OR OTHER HARMFUL CODE, OR THAT ANY ERRORS OR DEFECTS WILL BE CORRECTED, AND YOU HEREBY ACKNOWLEDGE THAT SUCH DOWNTIME MAY AFFECT YOUR USE OF THE SERVICES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES. ACCORDINGLY, SOME OF THE LIMITATIONS SET FORTH ABOVE MAY NOT APPLY TO YOU.

15. LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER POPCORNOPOLIS, NOR ANY OF ITS AFFILIATES, NOR ANY OF THEIR RESPECTIVE OWNERS, MEMBERS, MANAGERS, OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES (COLLECTIVELY, THE "POPCORNOPOLIS PARTIES"), SHALL HAVE ANY LIABILITY FOR ANY LOSSES OR DAMAGES, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, CONSEQUENTIAL, COMPENSATORY, SPECIAL, PUNITIVE, OR INCIDENTAL DAMAGES, OR DAMAGES ARISING OUT OF LOSS OF REVENUE, LOST PROFITS, OR LOSS OF DATA (EVEN IF POPCORNOPOLIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) ARISING OUT OF OR RELATING TO (A) THE USE OF, RELIANCE ON OR INABILITY TO USE THE SERVICES; (B) ANY CONDUCT OR CONTENT OF ANY THIRD PARTY USING THE SERVICES; (C) THE CONTENT OR SERVICES PROVIDED ON OR RECEIVED FROM THE SERVICES; OR (D) UNAUTHORIZED ACCESS, USE OR

ALTERATION OF USER CONTENT. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE AGGREGATE LIABILITY OF POPCORNOPOLIS TO YOU FOR ALL DAMAGES, LOSSES (INCLUDING CONTRACT, NEGLIGENCE, STATUTORY LIABILITY OR OTHERWISE) OR CAUSES OF ACTION EXCEED THE GREATEST OF (1) THE AMOUNT YOU HAVE PAID POPCORNOPOLIS IN THE SIX (6) MONTHS PRIOR TO A CLAIM ACCRUING, (2) THE AMOUNT YOU HAVE SOLD IN A STORE FOR SUCH SIX-MONTH PERIOD, OR (3) ONE HUNDRED DOLLARS (\$100). SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR CERTAIN OF THE FOREGOING. ACCORDINGLY, SOME OF THE LIMITATIONS SET FORTH ABOVE MAY NOT APPLY TO YOU.

16. Indemnity.

You agree to indemnify and hold the Popcornopolis Parties (described above) harmless from any loss, liability, claim or demand, including reasonable attorneys' fees and costs, due to or arising out of (a) your breach of these Terms and Conditions; (b) your violation of any third-party rights; and (c) your illegal conduct.

17. Reservation of Rights.

We specifically reserve all rights that we do not expressly grant in these Terms and Conditions.

18. Severance and Waiver.

In the event any provision of these Terms and Conditions is held by a court to be invalid, unlawful, or unenforceable, you and we agree that the validity, legality, and/or enforceability of the remaining provisions contained in these Terms and Conditions will not in any way be affected or impaired. Our failure to exercise or enforce any right or provision under these Terms and Conditions will not constitute a waiver of such right or provision by us.

19. Venue and Choice of Law.

IMPORTANT NOTICE: ARBITRATION, JURY TRIAL, AND CLASS ACTION WAIVER: EXCEPT AS OTHERWISE DESCRIBED IN THIS SECTION 19, BY USING THE SERVICES, YOU AGREE THAT DISPUTES BETWEEN US WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO A JURY TRIAL OR TO PARTICIPATE IN A CLASS ACTION. PLEASE REVIEW THIS SECTION 19 CAREFULLY.

You acknowledge and agree that: (a) the Services shall be deemed solely based in California; and (b) the Services shall be deemed not to give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than California. These Terms and Conditions are governed by the laws of the State of California, without regard to its conflict of laws principles. Any case, controversy, suit, action, or proceeding arising out of, in connection with, or related to these Terms and Conditions or the Services shall be settled by binding individual arbitration in Los Angeles, California. The arbitration shall be conducted on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The party seeking to initiate arbitration must notify the adverse party in writing of a Demand for Arbitration. If the parties cannot mutually agree on an acceptable arbitrator within twenty days after the adverse party has received the Demand for Arbitration from the initiating party, the parties shall submit a joint-request for arbitration to the American Arbitration Association ("AAA"), and shall allow the AAA to select the arbitrator. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such arbitration shall be conducted by a panel of three (3) arbitrators each experienced in commercial contract disputes for at least seven (7) years and each having presided over at least five (5) previous arbitration matters and shall include a written record of the arbitration hearing. The parties reserve the right to object to any potential arbitrator who is employed by or affiliated with a competing organization or entity thereby resulting in a conflict-of-interest. An award of arbitration may be confirmed in a court of the State of California, and in the event of non-compliance with the arbitration ruling, the prevailing party may seek to enforce the arbitration decision in the California courts.

Notwithstanding the foregoing provisions of this Section 19, (a) we shall be entitled to obtain injunctive relief and specific performance from any court of competent jurisdiction, for example, to stop you from using the Services in a manner that violates these Terms and Conditions, and (b) you shall be entitled to bring an individual action in small claims court.

ARBITRATION MUST BE INITIATED BY THE AGGRIEVED PARTY WITHIN ONE (1) YEAR OF THE ALLEGED CONDUCT THAT MAY GIVE RISE TO ANY CAUSE OF ACTION OR DISPUTED MATTER TO BE ARBITRATED THAT ARISES OUT OF OR IS RELATED TO THE SERVICES AND/OR THESE TERMS AND CONDITIONS. IF ARBITRATION IS NOT INITIATED WITHIN ONE (1) YEAR OF A DISPUTE OR CAUSE OF ACTION COMING INTO EXISTENCE, SUCH CAUSE OF ACTION CANNOT BE PURSUED AND IS PERMANENTLY BARRED FROM ARBITRATION AND LITIGATION.

20. Prevailing Parties.

In the event of any action to enforce or interpret any provision of these Terms and Conditions, including arbitration proceedings, the prevailing party is entitled to recover, in addition to other costs, reasonable attorney fees in connection with the suit, action, or arbitration, and in any appeals. The determination of who is the prevailing party and the amount of reasonable attorneys' fees to be paid to the prevailing party will be decided by the tribunal in which the matter is heard, tried, or decided, including any arbitration panel, court(s), or appellate court(s).

21. Entire Agreement.

You agree that these Terms and Conditions constitute the entire agreement between you and us with respect to your use of the Services. You agree that these Terms and Conditions supersede any other agreements between you and us with respect to your use of the Services.